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Ze'ev Maghen

Virtues of the Flesh

*Passion and Purity in Early
Islamic Jurisprudence*

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VIRTUES OF THE FLESH – PASSION AND PURITY
IN EARLY ISLAMIC JURISPRUDENCE

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VIRTUES OF THE FLESH – PASSION AND PURITY IN EARLY ISLAMIC JURISPRUDENCE

BY

ZE'EV MAGHEN



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To Anita

*for whose kiss I would climb down
a hundred wells*

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PREFACE

This book is about the interaction of law, lore and life in the highly significant corner of Muslim experience where human sexuality meets ritual purity. Part One examines the attitudes to sexual desire and its satisfaction evinced by Qur'ān, Ḥadīth and the legal literature proper; probes certain underlying principles of *fiqh al-ṭahāra* (purity jurisprudence); and confronts the scholarly research relevant to both. This section describes the unique and, indeed, striking juxtaposition of piety and carnality found in the earliest Islamic sources, and assigns a central role to elements of the purity code in providing for this comfortable coexistence. The investigation of such matters, valuable in itself, is undertaken primarily in order to erect the theoretical framework necessary for the analysis that follows.

That analysis is the burden of Part Two, which focuses on the extensive inter- and intra-scholastic disputes concerning *mulāmasa*, cross-gender contact that leads to ritual impurity or preclusion. Here we join the Muslim jurists as they debate the definitions and elaborate the prescriptions of this sub-precinct of *ṭahāra* law, observing their methodologies of Qur'ān interpretation, Ḥadīth utilization and inductive and deductive reasoning, as well as the way in which these disciplines contribute, together and separately, to the construction of positive law. A penultimate chapter advances tentative claims regarding the effects of *mulāmasa* on the social dynamics of pre-modern Muslim communities, and speculates on the potential uses of legal literature in general as a spade for the unearthing of social history.

Given the sensitive nature of the subject matter discussed in this work, the following clarification is probably in order. It is news to no one that religion and sex are an explosive combination—to no one, that is, except the *fuqahā'* (Muslim jurists). One of the central arguments of this book is that the positive and even playful treatment of sexually explicit material in the traditional texts of Islam promoted a remarkably easygoing attitude to the body and its urges among learned Muslims of earlier generations. The sources I have utilized for my study of this topic are more-or-less identical to the sources that *they* utilized for

their study of the same, and much of what is found in those sources is saturated with sexual vivacity.

It is not easy to do justice to such warmth and ardor in the sober tones of academia. Following the lead of the *fuqahā'*, then, and of the ḥadīth reports they drew so heavily upon, I have endeavored to articulate my findings in a professional but relaxed manner. While I have done my best to steer clear of sensationalism, I have also been unwilling to suppress the enthusiasm and frequent humor of the original texts in the name of a scientific stolidity. Most of all, I have tried to let the sources speak for themselves.

I wish to extend my gratitude to Professor Eliezer Tauber, without whose encouragement and support this book would not have been written; to Professor Ya'akov Lev, for sharing with me his expertise on matters medieval and socio-economic; to Professor David Powers, who read the entire manuscript and offered numerous suggestions and insights that have improved it considerably; to Professor Bernard Weiss, who also braved his way through this volume and helped me polish its final form; to Ms. Trudy Kamperveen at Brill, whose kindness and diligence saw this project through to its completion; to Mr. Boris van Gool at Brill, who patiently and professionally prepared the proofs and index; to Professor Richard Bulliet, under whose tutelage I was fortunate enough to begin my studies of the Middle East and whose wisdom and intellectual example continue to guide me; and most of all to my family—past, present and future—who are the genuine motivation for, and purpose of, everything.

PART I

LUST AND LUSTRATION

CHAPTER ONE

SEPARATE BUT EQUAL: THE EROTIC *AḤDĀTH* AS DESIDERATA

Human attitudes to the natural appetites of the flesh may be said to have followed a bell-curve from pre-history to the present. From an evolutionist perspective it seems reasonable to assume that the earliest hominids, much like the animals from which they descended, were chiefly preoccupied with the various bodily cravings, in the satisfaction of which they saw the best part of fulfillment. Even at its most developed, this worldview envisioned no real bifurcation between the material enjoyments of the body and the spiritual pleasures of the soul—much less the superiority of the latter over the former—but rather perceived the individual creature as an indivisible whole, aspiring to ‘blessings of breast and womb, soil and cattle, herd and flock, basket and kneading bowl.’¹

Long before the onset of written history, however, a trend must have set in to ruminate upon, and communicate about, matters beyond the immediate carnal necessities and physical predilections, for ‘man does not live by bread alone, but by everything that proceeds from the mouth of the Lord.’² This trend matured and metamorphosed, helped found (and was filtered through) civilizations, religions and philosophies, and eventually reached its most extreme conclusion with the widespread devaluation of the needs and desires of ‘this body of death.’³ From Aristotle’s asseveration that ‘sensuousness is bestial and a source of reproach,’⁴ to Paul’s confidence that ‘nothing good dwells in my flesh,’⁵ to Chuang Tzu’s exhortation to ‘smash the bonds of the physical and wander alone with the *Tao* in the Kingdom of the Great Void,’⁶

¹ A paraphrase and concatenation of Genesis, 49:25 and Deuteronomy, 28:3–5.

² Deuteronomy, 8:3.

³ Romans, 7:24.

⁴ *Ethics*, 3:10 (Becker no. 1118b1).

⁵ Romans, 7:18. Similar sentiments may be found throughout this and the remaining Epistles.

⁶ Arthur Waley, *Three Ways of Thought in Ancient China* (Stanford: Stanford University Press, 1982), 40.

to the world renunciation and ‘self-naughting’ of the Jain and *Jnana* Yogi, ethereality was severed from corporeality across the high cultures of classical and medieval orient and occident, and varying degrees and styles of asceticism were prescribed in order to maintain this segregation. Man was but ‘a little soul bearing up a corpse,’⁷ his fleshly frame ‘lifeless ... so little valued,’⁸ and it became the business of the truly pious (and the truly intellectual) to scale the heights of transcendence by ‘joining the soul to the Ideas which are separate from matter’⁹—on the one hand—and ‘tethering away brother ass’ (as St. Francis styled his body)¹⁰—on the other. Enmity was sown between mind and matter, spirit and flesh, piety and passion.

After having risen from the ‘depths’ of brutish instinct to the ‘heights’ of immateriality, the aforementioned bell-curve is now nearing the completion of its downturn. Due to factors ranging from the retreat of religion to the advance of technology to the spread of democracy, the nineteenth and especially the twentieth century has witnessed the reunification of the physical with the metaphysical—or at least of the physical with the intellectual/emotional—after millennia of formal separation. Fields like biology, psychology, anthropology, history and literature have seen a marked ‘return’ to more holistic views of the human phenomenon, views which not only elevate the material and sensual to the status of equal partner with the sentient and sentimental, but just as often subordinate the latter to the former. The West has proceeded, since the onset of modernity, from the notion of *mens agitat molem* (spirit moves body); to that of *mens sana in corpore sano* (a healthy spirit in a healthy body); to that of *molem agitat mens* (body moves spirit). Thomas Hobbes’ declaration that ‘all that exists is body’ has been the battle-cry of science for centuries, and is increasingly the motto of mass culture, as well. In popular entertainment and fashion, no less than in scholarship and *belles lettres*, the demotic common denominator of carnal instinct has grabbed the spotlight from the elitist pursuit of rarefied

⁷ Epictetus, quoted in Marcus Aurelius, *Meditations* (Toronto: Dover Publications, 1997), 25 (4:41).

⁸ Nathaniel Hawthorne, *The Blithedale Romance* (New York: Norton Press, 1958), 157.

⁹ Moses Maimonides, ‘Hilchot Yesodei HaTorah,’ *Yad HaHazaka* (Jerusalem: Mosad HaRav Kook, 1987), 2:22 (4:9).

¹⁰ Thomas Stratman, ‘St. Francis of Assisi: Brother to All Creatures,’ *Spirituality Today*, vol. 34, no. 3 (Fall 1982), 225.

idealism. The body has reclaimed center stage, its flagrant sexuality bared for all to see. Once we were naked and unashamed—and now we are again.

Islamic religion and civilization has largely avoided the pendular dynamic characterizing the historic confrontation with this question in many other cultures and confessions. Islam has, instead, been privileged—especially in its formative stages—by a unique and fascinating balance between the two poles described above. Of course, there was no shortage in Muslim history of *mutakallimūn* (scholastics, theologians) who followed Aristotle and Plotinus up the numinous ladder to the disembodied spheres; or of Sufi *zuhhād* (abstainers, relinquishers) who afflicted the flesh and sought egress from this world and its material rewards and pleasures. But salient aspects of the religious system in which both these sets of thinkers were rooted limited the extent and effect of their preaching, much more so than was the case with their counterparts in other faiths. One of these mitigating factors was the pervasive Islamic outlook reflected in Qur’ānic statements like ‘O you who believe! Do not prohibit the good things which God has permitted you!’ (Q. 5:87), and ‘Say: “Who has forbidden the beautiful gifts of God which He has produced for His servants?”’ (Q. 7:32), as well as in the Prophet Muḥammad’s widely circulated pronouncement, *‘lā rahbāniya fi’l-Islām*—there is no monasticism (or celibacy, or asceticism) in Islam.¹¹ Another factor, certainly related to the first, was the blatantly

¹¹ Though cited by the *Tāj al-‘Arūs* (see E.W. Lane, *An Arabic-English Lexicon* [London: Williams and Norgate, 1863], 1:1169) and many other sources, this exact formulation does not appear in any of the canonical collections of Ḥadīth. Aḥmad b. Ḥanbal does record an exchange in which Khawla bint Ḥakīm, wife of ‘Uthmān b. Maz‘ūn (the leader of the First Emigration to Abyssinia), complained that her husband was neglecting her sexually, and the Apostle admonished him: *‘rahbāniya* was not prescribed for us’ (*Musnad Ibn Ḥanbal*, 4:226; see also Bukhārī, 67:8; Abū ‘Abd Allāh Muḥammad b. Sa‘d, *Kitāb al-Ṭabaqāt al-Kabīr*, ed. E. Sachau [Leiden: E.J. Brill, 1908], 3:286–291. Muslim’s version reads: “‘Uthmān b. Maz‘ūn desired to live in celibacy [*arāda an yatabattala*] but the Messenger of God forbade him to do that”—Muslim, *Nikāh*, 2:8 [1402]). See also Abū’l-‘Abbās Aḥmad b. Muḥammad al-Qaṣṭallānī, *Irshād al-Sarī fi Sharḥ al-Bukhārī* (Cairo: Dār al-Kutub, 1325 AH), 7:3: “Those who die celibate are the lowest of the low (*ardhal*).” *Rahbāniya* appears as a *hapax legomenon* in the Qur’ān, 57:27: “We sent after [the previous Semitic prophets] Jesus the son of Mary, and bestowed on him the Gospel; and we ordained in the hearts of those who followed him compassion and mercy. But the monkery (*rahbāniya*) which they invented for themselves—this We did not prescribe for them” (see Edmund Beck, ‘Das Christliche Mönchtum im Koran,’ *Studia Orientalia* 13 [1946]). The Prophet is depicted as censuring those ‘who placed hardships upon themselves, and Allāh consequently placed hardships upon them; and this refers to their seclusions in their convents and cells (*baqāyahum fi’l-ṣawāmī*’

sensual nature of paradisiacal recompense, long lampooned by the West and firmly rooted in seminal sources like the fifty-fifth chapter of the Qurʾān.¹² The anticipation of such material satisfactions in the supernal future could not help but influence religious attitudes in the

waʾl-dīyār—Mawlāna Faḍl al-Karīm’s modern arrangement of Walī al-Dīn’s *Mishkāt al-Maṣābīḥ* [Lahore, Mālik Sirāj al-Dīn, n.d.—itself a later medieval edition of Abū Muḥammad al-Ḥusayn b. Masʿūd al-Baghawī’s (d. 1122) *Maṣābīḥ al-Sunna*, 8:66]. This work will henceforward be referred to as ‘Baghawī’. Cf., however, the appreciation of the Qurʾān for the positive qualities of people who appear to be Christian monks—*qīssāsīn*—in Q. 5:82, and al-Ṭabarī’s commentary on this verse, which includes an expression of respect for those who ‘live lives of abstinence in their convents and cells’ (*tarḥīb fīʾl-dīyārāt waʾl-ṣawāmīʿ* – Muḥammad b. Jarīr al-Ṭabarī, *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān* [Beirut: Dār al-Fikr, 1995], 7:7. See also Q. 22:40, where cloisters are mentioned positively). Jacques Waardenburg notes other tentatively positive Qurʾānic references to monasticism in ‘The Early Period: 610–650,’ in Waardenburg (ed.), *Muslim Perceptions of Other Religions* (Oxford: Oxford University Press, 1999), 8, col. 2, bottom. (I have yet to come across—and so offer here—the speculation that the ‘*rāhib*’ of Islamic tradition, traditionally derived from the root *r.h.b.* indicating ‘fear,’ is perhaps also distantly related to the ‘Rechabites’ described by Jeremiah, who were commanded by their ancestor Jonadab son of Rechav: ‘You shall never drink wine, neither you nor your children, nor shall you build houses, sow fields or plant vineyards, nor shall you own such things, but you shall live in tents all your days ...’ [Jer. 35:6–7]. Although this may be a pro-nomadic, anti-agricultural statement, ‘Rechabite’ eventually became synonymous with ‘monk.’ And although it is a little ways, etymologically speaking, from the Hebrew letter ‘kāf’ to the Arabic letter ‘hā,’ the distance can be traversed).

¹² According to this chapter, for the God-fearing are stored up—*inter alia*—‘two gardens ... containing all kinds [of trees and delights] ... in each [garden] two springs will flow freely ... in them will be fruits of every kind ... [the righteous] will recline on carpets the inner linings of which will be rich brocade. The fruit of the gardens will be easy to reach ... and in [the gardens] will be chaste maidens, restraining their glances, whom no man or jinn has touched, [whose complexions] will be like unto rubies and coral ... recumbent on green cushions and beautiful tapestries ...’ (Q. 55:46–56, 74–76). We read elsewhere that the deserving shall ‘loungue on thrones set in lines’ (Q. 52:20), ‘wear fine and thick silk’ (Q. 44:54), and that ‘round about them shall go ever-blooming youths bearing goblets and ewers, and cups of pure drink; [the righteous] are not affected by headache thereby, nor are they intoxicated. [And there will be] fruits that they choose, and flesh of fowl that they desire, and fair ones with wide, lovely eyes, like unto hidden pearls’ (Q. 56:17–23). The Muslim attribution of this-worldly voluptuousness to the other world (the *ākhirā*) provoked an uncharacteristically violent outburst from the Jewish *mutakallīm* Moses Maimonides: ‘[Heaven forbid that one should imagine] that the reward for obedience to the commandments and perfect adherence to the way of truth is none other than that [in the afterlife] he will eat and drink fine foods and beverages, copulate with fair creatures, wear delicate linens and embroidery, dwell in tents of ivory, dine with silver and gold utensils, and other such notions, as is imagined by the stupid, foolish Arabs who are drenched in lechery (*ha-aravim ha-tipshim ha-evilim ha-shtufim be-zīma*) ...’ Maimonides, ‘Hilchot Teshuva,’ *Yad*, 2:249 (8:6). Already in the Talmud [Kiddushin 49b] we read that ‘ten measures of fornication came down to the world—nine of them were taken by Arabia’ (Anas b. Mālik, in what may be a modified echo of this rabbinic statement, declared that ‘nine

profane present, deflecting them from extramundane trajectories and tying them down to the terrestrial. Finally, a third feature of the Muslim way of life and sacred law that helped to extenuate, if not forestall, the thoroughgoing bifurcation of piety and carnality was *tahāra*, the deeply-entrenched and omnipresent Islamic code of ritual purity.¹³

tenths of all jealousy in the world rests with the Arabs, and the remaining one tenth with the other peoples' [Suliman Bashear, *Arabs and Others in Early Islam* (Princeton: The Darwin Press, 1997), 13]). About a century after Maimonides, a text known as *The Travels of Sir John Mandeville*—while actually praising many Muslim beliefs and institutions—describes the Islamic notion of Paradise with an unmistakable hint of derision: '... They say it is a place of delights, where a man shall find all kinds of fruit at all seasons of the year, and rivers running with wine, and milk, and honey, and clear water; they say they will have beautiful palaces and fine great mansions, according to their desserts, and that these palaces and mansions are made of precious stones, gold and ivory. Every man shall have four score wives, who will be beautiful damsels, and he shall lie with them whenever he wishes, and he will always find them virgins ...' C.W.R.D. Moseley, *The Travels of Sir John Mandeville*, cited in Daniel J. Vitkus, 'Early Modern Orientalism: Representations of Islam in Sixteenth-and-Seventeenth-Century Europe' in David R. Blanks and Michael Frassetto (eds.), *Western Views of Islam in Medieval and Early Modern Europe* (New York: St. Martin's Press, 1999), 223.

¹³ A quick run-down of the essentials of the *tahāra* system will facilitate a better understanding of what follows. Muslims can become ritually 'polluted' in two primary ways: 1) by coming into, and remaining in, contact with a set of substances or animals possessing a status known—by relatively late authorities—as *najāsa ḥissiyya/ḥaqīqiyya* or 'tangible impurity,' for example: urine, feces, blood, semen, pigs, dogs, carrion, wine, pre-ejaculatory fluid, a 'marred egg' (containing a blood-spot); and 2) by experiencing certain occurrences or committing certain acts, including a) those designated as 'minor events' (*al-ahdāth al-ṣuḡhrā*, sing. *ḥadath*) such as urination, defecation, bleeding, regurgitation, ejaculation of 'pre-ejaculatory fluid' or 'prostatic fluid' (*madhī*, *wadhī/wadī*), flatulence, laughing, sleeping, fainting, touching the genitals, palpating women, ingesting camel flesh; and b) those designated as 'major events' (*al-ahdāth al-kubrā*), consisting of menstruation, sexual intercourse, ejaculation of actual semen (*manī*) and childbirth. In contradistinction to the 'tangibly' contaminating *substances* enumerated in clause 1, these latter *acts* or *occurrences* are classed together—again, only by comparatively late authorities—under the rubric of *najāsa ma'nawiyya/ḥukmiyya*, meaning something like 'abstract impurity.' Many of these items are subject to juristic disputes. Some, like the pollutive capacity of laughter and consuming camel meat, have been essentially overturned.

In all cases of ritual 'pollution' (a usage we shall challenge and qualify—but nevertheless continue to employ—below), whether due to 'tangible' or 'abstract' impurity, a situation has arisen for the Muslim believer which precludes prayer and certain other obligatory or meritorious activities (however, unlike the case in all other purity systems the world over, this 'contaminated' individual cannot, for the most part, transmit his impurity onward to other persons, places or things). If a Muslim encounters impure matter (*najāsa ḥissiyya*), that matter and its residue should be neutralized through various types of directed cleansings, subsumed under the heading *izālat al-najāsa* (removal of impure entities). In order to exit the more 'serious' predicament incurred as a result of a 'minor event,' an alleviation of the state of ceremonial

At first glance, this last claim appears highly counter-intuitive. Laws of ceremonial pollution and purification are normally associated with the very dichotomy between existence and essence we have been discussing: the filth-ridden body, on the one hand, versus the unsullied soul, on the other. And indeed, when various ablution procedures are prescribed—as they are in Islamic law—for the sake of ‘lifting’ prayer-preclusive states induced by minor and major ‘events’ (*aḥdāth*) such as urination, defecation, regurgitation, ejaculation, extravasation, flatulence, parturition and menstruation, there is certainly a case to be made for a perceived polarity between corruptible flesh and immaculate spirit.¹⁴ The specifically *libidinal* ‘violators of prayer fitness’ (*nawāqid al-wuḍūʿ*), including *mulāmasa* or contact with members of the opposite sex and *janāba* or impurity in the wake of cohabitation, may also be understood as institutions that pit hedonism against idealism and animal passion against angelic devotion. It is not difficult to see in the pure and impure states envisioned by Islamic law two antithetical and fundamentally antagonistic modes.

uncleanness (*rafʿ al-ḥadhath*) must be effected through the stylized series of ablutions known as *wuḍūʿ*. ‘Major events’ are the most problematic of all, inducing as they do the more consequential defilement of *janāba* or ‘distancing,’ and must be dealt with by means of the full body washing called *ghusl*. In either case, if water is not found, clean earth or sand may be substituted (*tayammum*). Until the given ritual ‘problem’—contact with *najāsa*, occurrence of a *ḥadhath* or incurrence of *janāba*—is solved via the appropriate type of lustration, the believer’s prayers will be invalid (*la ṣalāt li-man la wuḍūʿ la-hū* [Dāraquṭnī, *Bāb al-Tasmiya ‘alā al-Wuḍūʿ*, 5–8; other versions of this statement appear in Bukhārī, *Bāb La Tuḡbal Ṣalāt bi-ghayr Ṭahūr*, 4:2; Muslim, 2:223–225; Abū Dāʿūd, 1:31, 48; Dārimī, 1:21–22; and elsewhere]). Depending on the level of contamination, s/he may also be prohibited from engaging in other religiously significant acts (entering a mosque, fasting during Ramaḍān, performing the pilgrimage, handling—perhaps even reciting—the Qurʾān).

More in-depth mappings of the Islamic purity code may be found in A.K. Reinhart, ‘Impurity/No Danger’ in *History of Religions* 30/1 (1990); G.H. Bousquet, ‘La Pureté rituelle en Islam,’ *Revue de l’histoire des religions* 138 (1950), 53–71; and the present author’s ‘Close Encounters: Some Preliminary Observations on the Transmission of Impurity in Early Sunni Jurisprudence’ *Islamic Law and Society*, 6, 3 (1999), 348–392. For informative surveys of some of the early debates regarding *wuḍūʿ*, see John Burton, ‘The Qurʾān and the Islamic Practice of Wuḍūʿ’ in *BSOAS* 51 (1988), 21–58; and Marion Holmes Katz, *Body of Text* (Albany: State University of New York Press, 2002), especially chapter two.

¹⁴ There is also, of course, a case to be made for the influence of concepts like ‘liminality,’ ‘boundary crossing’ and ‘matter out of place,’ and it has been made, quite famously, by the anthropologist Mary Douglas. Many have accepted Douglas’s theories, others have criticized them. The present author has adopted the latter stance, both in ‘Much Ado about *Wuḍūʿ*,’ *Der Islam*, Bd. 76, 1999, p. 21, n. 42, and especially in ‘First Blood: Purity, Edibility and the Independence of Islamic Jurisprudence,’ *Der Islam*, Bd. 81, 2004.

Nevertheless, I will argue that the laws of *ṭahāra* in general, and those involving erotic arousal and its consummation in particular, far from epitomizing and perpetuating the polarity of existence and essence, have rather helped to preserve an *affinity* between the material and spiritual in the Islamic ethos, and this in a number of different ways. First, the vast and intricate network of purity-for-prayer laws has bound anatomy to theology forever in the consciousness of the Muslim intellectual elite. The greatest minds of every Islamic age, from followers to *fuqahāʾ*, from *murābiṭūn* to *mutakallimūn*, have had no choice but to do what Socrates inveighed so heavily against: ‘to associate with the body and care for it and love it, to be beguiled by the body and its passions and pleasures.’¹⁵ They must needs delve into, and discuss unabashedly, the kisses and caresses and foreplay and coition, the manifold secretions and excretions and fluids which form the visceral and unmediated physicality of man. They must be no more prudish or squeamish about such matters than the *salaf al-ṣāliḥ* (their righteous predecessors), such as the Companion Sālim b. ‘Abd Allāh who reputedly would ‘insert his fingers into his nostrils during prayer (*yudkḥilu aṣābi’hu fī anfihī wa-huwa fī’l-ṣalāt*), twist them round and extract them stained with blood,¹⁶ or the Successor Saʿīd b. al-Musayyab, who would ‘thrust all ten fingers up his nose, and pull them out drenched in blood’ (*dasara aṣābi’ahu al-‘ashara fī anfihī wa-akhrajahā mutallatakhatan bi’l-dam*),¹⁷ in both cases in order to check for the defiling ‘event’ of exsanguination. Muslim thinkers of every era must be no more embarrassed about such subjects than ‘Alī b. Abī Ṭālib, who did not hesitate to declare: ‘I am a man who suffers from premature ejaculation’ (*rajulan madhan*),¹⁸ or ‘Umar b. al-Khaṭṭāb,

¹⁵ Phaedo, 81b. All translations from Plato’s *Dialogues* are taken from Edith Hamilton and Huntington Cairns (eds.), *The Collected Dialogues of Plato* (Princeton: Princeton University Press, 1982).

¹⁶ Saḥnūn b. Saʿīd al-Tanūkhī, *al-Mudawwana al-Kubrā* (Beirut: Dār al-Kutub al-‘Ilmiya), 1:141.

¹⁷ Muwaffaq al-Dīn b. Qudāma, *Kitāb al-Mughnī al-Muḥtaj*, ed. Muḥammad Rashīd Riḍāʾ (Cairo: Dār al-Manār, 1367h), 1:185. In the same connection, and for the same purpose, ‘Umar b. al-Khaṭṭāb is shown here squeezing pimples.

¹⁸ Muslim, *Kitāb al-Ḥayḍ*, *Bāb al-Madhī*, 4:17; Bukhārī, *Kitāb al-Ghusl*, 13:269; Mālik b. Anas, *al-Muwattāʾ* (Cairo: Dār Iḥyāʾ al-Kutub al-‘Arabiya, 1918), 2:13 (53). *Madhī* or ‘pre-ejaculatory fluid’ refers to the barely perceptible drops that often emerge at the onset of erotic excitement (‘Alī was either easily or highly aroused, or had a medical condition,— which is why instead of dripping this fluid ‘flowed readily’ from his organ). *Madhī* is most commonly defined as ‘a thin, sticky, white liquid which emerges in the process of foreplay, or upon the recollection of, or desire toward, intercourse’ (*māʾ abyad lazij raqiq yakhruju ʿinda al-mulāʾaba aw tadhakkur al-jīmāʿ aw irādatihi*—Aḥmad

who remarked: ‘I find that semen gushes forth from me like flour soup (*yataḥarrar minnī mithla al-ḥarīra*),¹⁹ both in the context of the phallic *aḥdāth*. And they must be no more ashamed or ‘repressed’ than the *uswa ḥasana*, the Excellent Exemplar himself,²⁰ whose every voluntary and involuntary move, genuine or imagined, was duly recorded for posterity:

From Thawbān ... that the Messenger of God would vomit and then perform ablutions.²¹

From ‘Ikrima, that the Messenger of God vomited but did *not* perform ablutions.²²

b. ‘Alī b. Muḥammad b. Ḥajar al-‘Asqalānī, *Subul al-Salām: Sharḥ Bulūgh al-Murām* [Cairo: Al-Maktaba al-Tijāriya al-Kubrā, n.d.], 1:64); see also *Mughnī*, 1:170: ‘*Madhī* violates prayer-purity, and it is that which comes out smooth and flowing when one is aroused’ (*yakhruju zalijan mutasabsiban ‘inda al-shahwa*); and Abū Ishāq Ibrāhīm b. ‘Alī al-Shīrāzī, *Al-Muḥadḍḥab fī Fiqh al-Imām al-Shāfi‘ī* (Beirut: Dār al-Qalam, 1992), 1:117, where *madhī* is defined as ‘the fluid which emerges at the earliest point of passion’ (*al-mā‘ alladhī yakhruju bi-adnā al-shahwa*). Other versions of the anecdote to which this note is appended have ‘Alī complain that he ‘performed so many full body washings during the winter due to [the impurity induced by such sexually induced excretions] that my back broke! [either from hauling the water or from its cold temperature]’ (*ja‘altu aghtasilu minhu fi’l-shitā’ hattā tashaqqqaqa zuhrī*). When ‘Alī shared his problem with the Prophet—or informed him of it anonymously through a go-between (embarrassed only because the Prophet’s own daughter was involved)—Muḥammad eased his son-in-law’s burden, instructing him to desist from performing the greater purification (*ghusl*) and instead ‘wash your penis and perform the *minor* ablution for prayer’ (*lā tafal—idhā ra’ayta al-madhī fa’ghsil dhakaraka wa-tawadda’ wuḍū’aka li’l-ṣalāt—Abū Dā’ūd, Sunan* [Cairo: Maktabat Muṣṭafā, 1952], 1:48).

¹⁹ Muḥammad b. Yazīd al-Qazwīnī b. Māja, *Sunan* (n.p.: ‘Īsā al-Bābī al-Ḥalabī wa-Shurakā’uḥu, n.d.), *Ṭahāra*, 70 and 72. There may be a play on words here between *yataḥarrar* and *ḥarīra*. In two other versions of this ḥadīth found in the *Mudawwana* (1:120), the second of the *khulafā’ al-rāshidūn* offers a more moderate estimate of his seminal vigor, remarking that ‘it drips from my member like beads (*kharīza*—it is possible that the above *ḥarīra* is the result of a scribal error in vocalizing this word, or vice versa). In the *Mudawwana*’s alternate recension, the simile employed is ‘*kharaz al-lu’lu’*,’ the latter being a Persian loan-word meaning ‘pearl’ and—coincidentally—also an ingredient in the *kunya* of the Iranian slave-prince who assassinated this same caliph: Abū Lu’lu’a Fīrūz.

²⁰ ‘Verily ye have in the Apostle of God a beautiful model [of conduct] for any whose hope is in God and the Last Day’ (*la-qad kāna lakum fī rasūl Allāhi uswatun ḥasanatun li-man kāna yarjū Allāha wa’l-yawm al-ākhirā—Q. 33:21*). ‘Say: “If you love God, follow me”’ (*qul: in kuntum tuḥibbūna Allāha fa’ttabi’ūnī—Q. 3:31*).

²¹ Muḥammad b. Rushd, *Bidāyat al-Muḥtāhid wa-Nihāyat al-Muqtaṣid* (Fez: al-Maṭba‘ al-Mawlawiyya, 1909), 1:33.

²² Kamāl al-Dīn Muḥammad b. al-Humām al-Siwāsī al-Iskandarī, *Sharḥ Faṭḥ al-Qadīr ‘alā al-Hidāya* (Bulāq: Al-Maṭba‘a al-Amīriyya, 1315 AH), 1:26: ‘*ruwiya annahu ‘alayhi*

From Abū Bakr b. Abī Shayba ... from ‘Abd Allāh b. ‘Umar, who said: I went up to the roof of my sister Ḥafsa’s house [in Madīna], and saw the Messenger of God squatting on two bricks answering the call of nature (*qā’idan li-ḥājatihi ‘alā libnatayni*), with his face toward Syria [other versions: Jerusalem] and his back toward the *qibla* [the direction of prayer, Mecca].²³

From Abū Wā’il ... Ḥudhayfa said ... the Messenger of God and I walked together until we came to a place where refuse is thrown behind a wall, and he stood just as one of you stands, and he urinated (*qāma kama yaqūmu aḥadukum fa-bāla*).²⁴

Umm Kulthum told me from ‘Ā’isha, that someone asked the Messenger of God about a man who was having intercourse with his wife and then withdrew [*yuksil ‘anhā*, inivit sed non emitit]—is he obligated in the major purification (*ghusl*)? And ‘Ā’isha was sitting there with them, and [the Prophet]—upon him be peace—said: ‘We do just that, she and I, and then we perform the full body washing’ (*wa-‘Ā’isha jālisa, fa-qāla ‘alayhi al-salām: innī naf’al dhālika anā wa-hādhīhi, thumma naghtasilu*).²⁵

From ‘Ā’isha, who said: The Messenger of God used to bathe (*yaḡhtasilu*) in order to exit the state of sexual impurity [after the two of us had had intercourse], and then he would warm himself with my body (*thumma yastadfī bī*) before I myself would perform *ghusl*.²⁶

al-salām qā’a fa-lam yatawadḡa’. See, for the question of regurgitation and its effect on ritual fitness, Abū’l-Ḥasan ‘Alī b. Abī Bakr al-Farghānī al-Marghinānī, *al-Hidāya sharḥ Bidāyat al-Muḡtabadī* (Cairo: al-Maktaba al-Tawfiqiyya, n.d.), 1:213ff.

²³ Muslim, *Ṭahāra, Bāb al-Istiḡāba*, 61:266. Ḥafsa, daughter of ‘Umar b. al-Khaṭṭāb, was one of Muḡammad’s wives. Proper evacuation etiquette—including posture and orientation—is also subsumed under the rubric of *ṭahāra* in the law texts. It is in these chapters, also, that much material is found depicting the Prophet in the privy requesting and receiving various materials, usually bones and pebbles, for the purpose of cleansing himself.

²⁴ Muslim, *Ṭahāra, Bāb Mash’ alā’ l-Khuffayn*, 22:273. This tradition is invariably found in *ṭahāra* contexts, and is related to an old Islamic (and pre-Islamic) debate regarding the proper posture for urination: standing or sitting? Urine being an ‘*ayn al-najāsa*—a ‘tangibly’ impure and contaminating substance—one should beware of bespattering oneself with it. Muḡammad’s nocturnal method of passing water is also described in the Ḥadīth: ‘From Umayma bint Ruḡayya, that the Prophet had a wooden bowl under his bed into which he would urinate at night’ (*qadaḡ min ‘ūdān taḡta sarīrihi yabūlu fihi bi’l-layl*—Baghawī, 8:66).

²⁵ Abū Ja’far Muḡammad b. Ya’qūb b. Ishāq, *Al-Uṣūl min al-Kāfi*, (Beirut: Dār al-Ta’rīf, 1401), 1:49; *Mudawwana*, 1:135. It is in the context of the elaboration of the proper steps of *ghusl* that the Prophet is also shown washing his genitals (e.g., Bukhārī, *Ghusl*, 11:266).

²⁶ Baghawī, 7:142. See Abū Bakr ‘Abd Allāh b. Muḡammad b. Abī Shayba, *Al-Kūṭāb al-Muṣannaf fi’l-Aḡdāth wa’l-Aḡḥār* (Beirut: Dār al-Fikr, 1989), 1:97–98 (95:1–14) for examples of Companions and Successors who would do the same. These latter exempla may have been subsequently ‘raised’ and attributed to the Prophet.

The submission that is Islam is most manifest, and most frequently expressed, in prayer;²⁷ prayer is eternally interlocked with *ṭahāra*; *ṭahāra* is inextricably bound up with the physical and sensual side of the human condition. Thus it was that not only the *fuqahā'* (jurists), the *muhaddithūn* (transmitters of traditions), the *mufasssīrūn* (scriptural exegetes), the *shurrāh* (ḥadīth interpreters) and the *muftiyyūn* (renderers of responsa), but also high-flying *luftmenschen*—Sufis and *mutakallimūn* such as al-Ḥasan al-Baṣrī, Abū Ḥāmid al-Ghazālī, Muḥammad b. Rushd, Fakhr al-Dīn al-Rāzī, 'Abd al-Qādir al-Gīlānī, Muḥyi al-Dīn b. Arabī and many more—were regularly and willingly brought back down to earth from the heights of their abstract esoterica by the all too human discipline of *fiqh al-ṭahāra*.²⁸

²⁷ '... *al-ṣalāt allatī hiya ra's al-'ibādāt ...*'—Abū'l-'Abbās Muḥammad b. Aḥmad al-Anṣārī al-Qurtubī, *Al-Jāmi' li-Aḥkām al-Qur'an* (Cairo: Al-Maktaba al-Tawfiqiya, n.d.), 5:174.

²⁸ Al-Ghazālī in *Kitāb al-Wajīz fī Fiqh Madhhab al-Imām al-Shāfi'ī* (Beirut: Dār al-Ma'rifa li'l-Ṭibā'a wa'l-Nashr, 1979); Ibn Rushd in *Bidāyat al-Mujtahid wa-Nihāyat al-Muqtasid* (Fez: al-Maṭba' al-Mawlawiya, 1909); Fakhr al-Dīn in *Al-Maḥṣūl fī 'Ilm Uṣūl al-Fiqh* (Riyād: Jāmi'at al-Imām Muḥammad b. Sa'ūd al-Islāmiya, 1979), as well as in his famous *Tafsīr—Maḥāṭib al-Ghayb*—which, though brimming with *falsafa*, cannot ignore *fiqh*. For Ibn 'Arabī's interest in *fiqh al-ṭahāra*, which elicited an expression of unpleasant surprise from Franz Rosenthal, see below, p. 125. The Successor al-Ḥasan al-Baṣrī wore many hats—mystic, theologian, ethicist, rhetorician—but his presence in the transmission chains of legal (and specifically purity-related) *aḥādīth* is ubiquitous. 'Even the great medieval mystics were usually trained jurists,' explains Christopher Melchert, 'for example, 'Abd al-Qādir al-Jīlānī (d. Baghdad, 561/1166), to whom goes back the earliest Sufi order, was also a jurist of the Ḥanbali school ...' (Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* [Leiden: E.J. Brill, 1997], xiii). 'Many of the most important saints of early Moroccan Sufism were legal specialists,' writes David Powers. 'In Fez the earliest saints were a group of ascetics trained in the law who were known as "anchors of the earth" (*awṭād al-arḍ*) ... it was not uncommon to find Mālikī jurists teaching law in sufi *zāwiyyas* and sufi masters teaching mysticism in *madrasas*. Similarly, the social boundaries between mystics and jurists dissolved: circles of Sufis and legists overlapped either entirely or in part' (Powers, *Law, Society and Culture in the Maghrib, 1300–1500* [Cambridge: Cambridge University Press, 2002], 16). Josef Horowitz points—from the opposite angle—to the widespread coexistence of lyrical and juridical interests among the same intellectual elites, when he states that an anecdote he has just adduced 'shows us again how in the circles that were devoted to *fiqh* and *ḥadīth*, poetry also was in no way neglected.' (Lawrence I. Conrad, ed., Horowitz, *The Earliest Biographers of the Prophet and their Authors* [Princeton: The Darwin Press, 2002], 47). 'Sober' Sufis like the famed Abū'l-Qāsim b. Muḥammad al-Junayd, *Sulṭān al-'Arifīn*, could declare that 'I need sex like I need food' (G.H. Bousquet, *L'ethique Sexuelle de l'Islam* [Paris: G.-P. Maisonneuve et Larose, 1966], 111).

‘It is not an exaggeration to say,’ writes Laleh Bakhtiar, ‘that no other religion has given such importance to prescribed purity as Islam.’²⁹ While this may indeed be an exaggeration—the massive purity codes of Judaism, Hinduism and especially Zoroastrianism come to mind as serious competitors—Bakhtiar is on the mark in that Islam is, and always has been, the only world religion in which every adherent is required to undergo ritual purification procedures on a quotidian basis, normally several times a day. The laws of *ṭahāra* accordingly comprise a major facet of Muslim life and legal literature; as the saying of the Prophet goes, ‘purity is half of faith’ (*al-ṭahāra shaṭr al-īmān*).³⁰ It is at least partially for this reason that while we are never presented with portraits of Moses micturating, Mary menstruating or Zoroaster copulating in Jewish, Christian or Zoroastrian literature respectively, Muḥammad’s bodily fluids and amorous encounters are a ubiquitous presence across the pages of Ḥadīth and *fiqh*, and the menstrual blood of his wives is regularly depicted and discussed.³¹ All of this uninhibited explicitness is occasioned by the need to work out the purity code. ‘Your Prophet has taught you everything,’ gibed an unidentified interlocutor at the Companion Salmān al-Fārisī, ‘even how to defecate’ (*qad ‘allamakum*

²⁹ Laleh Bakhtiar, *Encyclopedia of Islamic Law: A Comparison of the Major Schools* (Chicago: Kazi Publications, 1996), 3.

³⁰ Muslim, *Ṭahāra*, 2: 1; Ibn Ḥanbal, 4: 260; Ibn Māja, *Ṭahāra*, 226; and elsewhere. Similar hyperbole is employed regarding a number of other areas of Islamic law, from prayer to inheritance to marriage to *zakāt*.

³¹ E.g., Muslim, *Ḥayḍ*, 1: 293–295; Bukhārī, *Ḥayḍ*, 24: 320; Abū Dā’ūd, *Kitāb al-Ṭahāra, Bāb al-Fāda min al-Najāsa takūn fi’l-Thawb*, 1: 115; Abū Bakr Muḥammad b. Ibrāhīm b. al-Mundhir al-Naysābūrī, *Al-Awsaf fi’l-Sunan wa’l-Ijmā’ wa’l-Ikhtilāf* (Riyāḍ: Dār al-Ṭayba, 1993), 1: 298. The menstrual blood of the wives of other important figures is also on display: from Abū Zubayr, for instance, we learn that ‘Abū Mā’iz ‘Abd Allāh b. Abī Sufyān was once sitting with ‘Abd Allāh b. ‘Umar, when the latter’s wife came to ask her husband’s opinion on a legal matter (*jā’at tastafīhi*), saying: ‘I went to perform the circumambulation around the house [the *Ka’ba*], and when I reached the door of the mosque [the *Masjid al-Ḥarām*] I “spilled” (*ahraqtu*), and I returned home and waited till it passed (*hattā dhahaba ‘annī*), then I went back, and I “spilled” again—and this happened three times. Ibn ‘Umar said: ... perform *ghusl*, stop up your vulva (*istathfarī*) with a garment, and execute the circumambulation’ (*Muwatta’*, *Kitāb al-Ḥajj*, 1: 266). The Book of Samuel does show Saul stepping aside to urinate in a cave (I Samuel, 24: 4)—and the Book of Genesis Onan son of Judah ‘spilling [his seed] on the ground’ (Genesis, 38: 9)—but these are isolated incidents (the latter of which is itself euphemistic) and neither of the figures in question is a hero of the stature of Muḥammad. The Talmud once or twice mentions the physical manifestation of arousal of important biblical figures (e.g., Joseph) and the menstrual flow of heroines (Rachel, Bathsheba), as well as occasionally waxing graphic about the bodily fluids of certain rabbis. Ovid, across the Mediterranean, never even goes this far.

nabīyyukum kulla shayʿin ḥattā al-khirāʿa).³² The glandular and the peristaltic, the sensual and the passionate, the intimate and the orgasmic—all of these are a part of religion, all of this has a place in high culture, and there is no escaping it.³³

Husn al-Ishra

Nor is there, from the pristine Muslim perspective, any reason to escape it. The comparatively stable Islamic balance between flesh and spirit is evinced not only by the body's pervasive presence in the texts, but, even more significantly, by the atmosphere of easy nonchalance, relaxed playfulness and even hearty approval that surrounds graphic descriptions of the sort excerpted above from the classical literature. This positive outlook is particularly manifest with regard to the sexual side of the 'accidents which overtake the physique.' Here we must note an important distinction between the attitude to the body's reproductive or hormonal functions, on the one hand, and the perception of most other anatomical operations or substances, on the other (a dichotomy by no means accepted by, let alone obvious to, many cultures and religio-philosophical systems in history). We read, for instance, in a widely accepted interpretation of Qurʾān 2:25—'And give glad tidings to those who believe and do good works, that theirs are gardens beneath which rivers flow ... and in which they will have pure wives (*azwājun muṭahharatun*)'—that the other-worldly partners of the righteous will be unsullied by the various befoulments that plague the physiology of earthly women (*annahun ṭahharna min kuli qadhā mimmā yakūnu fī nisāʾ ahl al-dunyā*). They will be free of menstruation, post-partum bleeding, defecation, urination, mucous and even spittle.³⁴ But while

³² Muslim, *Ṭahāra*, 17:262.

³³ Or as Gustave von Grunebaum put it, somewhat less sympathetically, 'the Muslim's life was hallowed down to its most irksome and repulsive episodes.' Grunebaum, *Medieval Islam* (Chicago: Chicago University Press, 1946), 105.

³⁴ Ṭabarī, *Jāmiʿ al-Bayān*, 1:253. See also Q 3:14 and 4:57. Cf. the commentary of Abū'l-ʿĀliya on Q 2:35 (in which the first man and woman are warned against eating the forbidden fruit): 'Adam and Eve ate of the tree. It was a tree which made whoever ate from it defecate, but feces were not allowed in the Garden of Eden, so God drove Adam and Eve out of Paradise' (cited and translated in Brannon Wheeler, *Prophets in the Qurʾān: An Introduction to the Qurʾān and Muslim Exegesis* [London: Continuum, 2002], 23). Katz has also noted this anecdote and variants (Katz, *Body*, 179). In her later comment that 'urination, like the other bodily functions requiring *wuḍūʿ*', is emblematic of the

there is some debate in the sources as to whether these desiccated ladies will be purged versions of the pious man's spouses from the mundane sphere or, alternately, newly created heavenly houris, there is no question about the services they will render. The nubile lovers reserved for the God-fearing in Qur'ān 56:22 ('females with big and lustrous eyes'), 56:37 ('companions virgin pure and undefiled') and elsewhere in scripture will, explain the traditional commentaries, burn passionately for their husbands (*'ushshaqan li-azwājihinna*), desire them (*yashtahīna*) and crave them (*yashtāqna*).³⁵ Their skin will be as delicate and diaphanous as the inner membrane of an egg (*ka-riqqat al-jild alladhī yakūnu fī dākhil al-bayḍa*),³⁶ and their faces so beautiful that when one of them removes her veil the sun will pale in comparison to her radiance (*law akhrajat naṣṣifahā la-kānat al-shams 'inda ḥusnihā mithla al-fatīla*).³⁷ They will be endowed with round, swelling breasts (*ku'b*), upon one of which will be inscribed the name of Allāh and upon the other the name of the houri's husband,³⁸ and they will excite the carnal urge through a lascivious motion of the hips (*ghunj*).³⁹ They will 'love their spouses and always long to cohabit with them.'⁴⁰ After each sexual encounter they will be re-created virgins, so that their husbands may perpetually deflower them (*kullamā atāhunna azwājuhunna wajadūhunna abkārān*).⁴¹ Thus, while in the ideal conditions of the after-life the irksome phenomena associated with (at least female) fleshly existence are done away with, sexual activity and satisfaction are not. These alone among the *aḥdāth*, the ritually defiling 'events' comprising the *ṭahāra* system, are deemed worthy of survival in the world

condition of the *fallen* body' (Katz, *Body*, 186, emphasis in original), Katz chose her words carefully: for the *nāqiḍ al-wuḍū'* of *mulāmasa* is not, properly speaking, a bodily *function*, and is the only *ḥadath* not banished from heaven (as we shall see immediately below). Interestingly, some Muslim exegetes averred that 'Adam used to have sex with Eve in Paradise *before* committing the sin' (Ibn Ishāq, cited by Wheeler, *Prophets*, 39. Emphasis added).

³⁵ Tabarī, *Jāmi' al-Bayān*, 27:243–244.

³⁶ 'Imād al-Dīn Ismā'il b. 'Umar b. Kathīr, *Nihāyat al-Bidāya wa'l-Nihāya* (Riyāḍ: Maktabat al-Naṣr al-Ḥadītha, 1968), 2:284.

³⁷ *Ibid.*, 2:289. A *fatīla* is the wick of a candle.

³⁸ *Encyclopedia of Islam*, second edition (henceforth *EI*²), s. v. 'Ḥūr' (A.J. Wensinck and C. Pellat).

³⁹ Tabarī, *Jāmi' al-Bayān*, 27:244–245.

⁴⁰ Abū Ḥāmid al-Ghazālī, *Ihyā' 'Ulūm al-Dīn*, cited in 'Umar b. Muḥammad al-Nafzāwī, *The Glory of the Perfumed Garden: The Missing Flowers* (trans. 'H.E.J.') (London: Neville Spearman, 1975), 198.

⁴¹ Qurṭubī, 17:160–161.

to come. The ‘purity’ characterizing the ‘pure wives’ of Paradise exists in harmonious accord with their vigorous sexuality.

On earth as it is in heaven: so splendid in the beyond, sex could never be seen by Muslim sources as dirty or contemptible in the here and now. Neither condemnation nor inhibition characterizes the treatment of matters intimate by the early Islamic canon. To the contrary: such subjects are dealt with comfortably, even casually, and almost invariably in a positive spirit. The Messenger of God, his favorite wife ‘Ā’isha reported, *kāna yaṭūfu ‘alā nisā’ihi fi’l-layla al-wāḥida*, would ‘make the rounds’ of all his wives in a single night, performing *wuḍū’* (the minor ablution)—or *ghuṣl* (the major ablution)—or neither—in between each amorous encounter.⁴² Another version of the same tradition is related by a man, and is nothing if not a macho boast:

Hishām from Qatāda, that Anas b. Mālik [Muḥammad’s personal attendant] said: ‘The Prophet used to make the rounds of his wives (*kāna al-nabī yadūru ‘alā nisā’ihi*) in the space of a single day or night—and they [his wives] were eleven in number.’ I [Qatāda] asked Anas: ‘Did he really have the stamina for that?’ (*a-wa-kāna yuṭīquhu?*). Anas replied: ‘We used to say that he had been given the strength of thirty men’ (*kunnā nataḥaddathu annahu u’ṭiya quwwata thalāthīn*).⁴³

The same servant summed up his master’s merits in the following words: ‘The Messenger of God, may God’s peace and blessings be

⁴² Bukhārī, *Ghuṣl*, 13:268; Muslim, 3:28 (309); Abū Dā’ūd, 85:215 (*Bāb fi’l-Junub Yā’ūd*); Bukhārī, *Ghuṣl*, 24:284; and elsewhere. Whether or not he performed the ablution, and which ablution he performed, depends on the version of the ḥadīth consulted, as well as on the opinions of the different *fuqahā’*. What is most important to notice, for our purposes, is that the occasion for the appearance of this cycle of reports is a legal question regarding *ṭahāra*. As we shall see, this is the case with a large portion of the sexually explicit material found in the legal literature of Islam.

⁴³ Zayn al-Dīn Abū’l-Faraj b. Rajab al-Ḥanbalī, *Fath al-Bārī: Sharḥ Ṣaḥīḥ al-Bukhārī* (Madīna: Maktabat al-Ghurabā’ al-Athariyya/Maktabat Taḥqīq Dār al-Haramayn, 1996), 1:298 (al-Sarakhsī’s recension of this report speaks of ‘*quwwat arba’in rajulan*’—Mabsūt, 1: 73). Anas b. Mālik was the Prophet’s personal servant in the years after the *hijra*. Here, too, the ḥadīth is adduced in the context of a debate surrounding ritual purity, as ammunition for one of the contending positions. It shows that one need not perform the full body washing between successive sexual encounters, for if one were required to do so, Allāh’s Apostle would have had to take ten showers in a row, and this is not plausible (... *istidlālān ‘alā takrār al-jimā’ bi-ghuṣl wāḥid: inna al-nabī, ṣalla Allāhu ‘alayhi wa-sallam, law iḡhtasala min kulī wāḥidatīn min nisā’ihi la-kāna qad iḡhtasala tis’a marrāt, fa-yab’ad ...*). ‘The Prophet,’ we read elsewhere, ‘would have intercourse with his wives and would not touch water afterwards [that is, would not ritually purify himself], and when morning came, if he wished to have sex again he did so, and if he did not, then he performed *ghuṣl*’ (*kāna al-nabī yujāmi ‘nisā’ahu thumma lā yamussu al-mā’, fa-in aṣbaḥa fa-arāda an yu’awwid ‘awada, wa-in lam yurid iḡhtasala*—Ibn Ḥanbal, 6: 109).

upon him, surpassed all others in four things: generosity, courage, fierceness, and frequency of intercourse' (*fudḍila 'alā'l-nās bi-arba'a: bi'l-sakhā' wa'l-shajā'a wa'l-batṣh wa-kathrat al-jīmā*).⁴⁴ (When, on the other hand, the Prophet once experienced impotence, this was blamed on the Jew Labīd b. Aṣ'am of the Banū Zurayq, 'who bewitched the Apostle of Allāh so that he could not come at his wives').⁴⁵ Muḥammad said: 'I fast, and I break the fast, I pray, I sleep, I go in unto women; beware! Whoever deviates from my custom is not among my followers' (*man raghiba 'an sunnatī fa-laysa minnī*).⁴⁶ With Walt Whitman, the Messenger of God could confess himself 'turbulent, fleshy and sensual, eating, drinking and breeding ... no stander above men or women, or apart from them, no more modest than immodest.'⁴⁷ After his death, 'Ā'isha would testify that her husband's 'three favorite things in this world had been food, women and perfume—he received two of these, but not the third: he was given women and perfume, but not food.'⁴⁸

⁴⁴ Shams al-Dīn Abū Bakr Muḥammad b. Qayyim al-Jawziyya, *Ẓād al-Ma'ād fī Hadī Khayr al-'Ibād* (Beirut: Iḥyā al-Turāth al-'Arabī, n.d.), 3:147.

⁴⁵ Alfred Guillaume, *The Life of Muhammad: A Translation of Ibn Ishaq's 'Sirat Rasūl Allah'* (Oxford: Oxford University Press, 1955), 240; Abū Muḥammad 'Abd al-Mālīk b. Hishām al-Mu'āfirī, *Al-Sira al-Nabawiyya* (Cairo: Maktabat al-Kulliyāt al-Azhariyya, n.d.), 2:117. Some say it was Labīd's daughters who cast the spell—by procuring a lock of the Prophet's hair and tying eleven knots in it—and make this act the referent of Q 113:4: 'Say: I seek refuge with the Lord of the Dawn from ... the mischief of those who expectorate on knots' (e.g., Qurṭubī, 20:215). Al-Ṭabarī reports that for an entire year after their arrival at Madīna, no children were born to the *muhājirūn* (or perhaps to all of the Muslim families, *anṣār* included). The rumor spread that this was due to the sorcery of the Jews. Finally, al-Zubayr's wife was delivered of a son, and the spell was broken (Ṭabarī, *Annales*, 1:1263–1265).

⁴⁶ Bukhārī, *Kitāb al-Nikāh*, 7:62 (1), cited in Bousquet, *L'ethique Sexuelle*, 112, and in Cyril Glasse, *The Concise Encyclopedia of Islam* (San Francisco: Harper, 1989), 357.

⁴⁷ Walt Whitman, *Leaves of Grass* (Philadelphia: David McKay, 1900), 'Song of Myself,' 24.

⁴⁸ Baghawī, 1:52: '*kāna rasūl Allāh yu'jibuhu min al-dunya thalāthun: al-ṭa'ām wa'l-nisā' wa'l-ṭīb, fa-aṣāba ihnayn wa-lam yuṣīb wāḥidan: aṣāba al-nisā' wa'l-ṭīb, wa-lam yuṣīb al-ṭa'ām.*' Her assertion that he did not receive food probably refers to the relative poverty in which Islam's first family is said to have lived ('Months would pass,' attested 'Ā'isha on another occasion, 'when no fire was lit in Muḥammad's house either for baking bread or cooking meat'). It is interesting in this connection that the 'Abbāsīd courtier 'Alī b. Rabbān al-Ṭabarī, seeking to discredit the Umayyad caliphs, should write that they had 'lived in pleasure and had their satisfaction in everything associated with food, drink, dresses, perfumes and passion' (Camilla Adang, *Muslim Writers on Judaism and the Hebrew Bible* [Leiden, E.J. Brill, 1996], 27, n. 24). 'Having one's satisfaction' of such pleasures is not—if we judge by the Prophet's example—in itself Islamically objectionable.

Ibn ‘Abbās affirmed simply: ‘The chiefest among the Muslims was also the foremost among them in his passion for women.’⁴⁹

The Prophet’s earliest biographer, Muḥammad b. Ishāq, recounts the following:

Muḥammad b. Ja‘far b. al-Zubayr from ‘Urwa b. al-Zubayr, from ‘Ā’isha, who said: When the Apostle distributed the captives of Banū al-Muṣṭaliq [after the raid on that tribe in 627 CE, a female captive later re-named] Juwayriya fell to the lot of Thābit b. Qays b. al-Shammās, or to a cousin of his, and she gave him a deed for her redemption. She was a most beautiful woman. She captivated every man who saw her. She came to the Apostle to ask his help in the matter. As soon as I [‘Ā’isha] saw her at the door of my room I hated her, for I knew that he, may God’s peace and blessings be upon him, would see her as I saw her (*w’Allāhi mā huwa illā an ra’aytuhā ‘alā bāb hujratī fa-karāhtuhā wa-‘arāftu annahu sa-yarā minhā, ṣallā Allāhu ‘alayhi wa-sallam, mā ra’aytu*). She went in and told him who she was—daughter of Hārith b. Abū Dirār, the chief of his people. ‘You can see the state to which I have been brought. I have fallen to the lot of Thābit—or his cousin—and have given him a deed for my ransom, and I have come to ask for your help in the matter.’ He [Muḥammad] said: ‘Would you like something better than that? I will discharge your debt and marry you.’ And she accepted.⁵⁰

Maxime Rodinson, writing late enough (in 1961) to assess the Prophet of Islam sympathetically, but early enough to avoid the rampant apologetic trend of recent decades, captures the spirit of the sources’ unself-conscious portrayal of the Apostle’s predilections in this sphere:

The men and women taken in the first forts [after the battle of Khaybar, 628 CE]⁵¹ were kept as prisoners, among them a beautiful girl of seventeen named Ṣafiyya, whom Muḥammad took for himself after killing her husband for concealing his goods. He persuaded her to embrace Islam and, being violently attracted to her, took her into his bed that very night. By so doing he was violating his own previous commands, according to which his supporters had to wait until the beginning of the next menstrual cycle before having intercourse with their captives. But

⁴⁹ Sir William Muir, *The Life of Moḥammad* [revised edition by T.H. Weir; Edinburgh: John Grant, 1923], 515. Muir is, with certain exceptions, highly sympathetic to the Prophet of Islam.

⁵⁰ Ibn Ishāq-Guillaume, 493; Ibn Hishām, 3:186. The remaining prisoners of the Banū Muṣṭaliq were freed without ransom as Juwayriya’s ‘dowry.’

⁵¹ After weighing the advantages and disadvantages of adding the Islamic date to the Gregorian, I have reluctantly concluded that it is best—especially in a work designed primarily for a Western audience—to avoid the confusion and cumbersomeness occasioned by two sets of numbers and employ the Christian calendar alone.

she was so very beautiful! When she mounted her camel for the return journey, the Prophet of Allāh went down on one knee so that she might use the other as a step.⁵²

The Prophet was growing old. At the time of the expedition of Tabūk [631 CE] he must have been in his sixties. Even so, he had not lost his fondness for women ...⁵³

One may object to Rodinson's presumption to read Muḥammad's thoughts ('but she was so very beautiful!'), or to his disregard of the justifications offered in the sources for the apparent self-contradiction at Khaybar.⁵⁴ But the basic contours of the stories are correct, and the Prophet was indeed characterized, like most men, by a 'fondness for women.'⁵⁵ As Nabia Abbott, a past master of Muḥammad's relationships with the opposite gender, impartially explains (while discussing the institution of *ḥijāb*):

There has been an unhappy tendency among some Western biographers of Mohammed to credit this particular institution largely, if not indeed solely, to his pronounced and avowed weakness for the fair sex. *That this weakness played an important part is not to be denied*; that it played the sole or even the major part is to be questioned. [Emphasis added].⁵⁶

Muḥammad's 'weakness' for women should not be confused with intemperance or profligacy: the same 'Ā'isha upon whose candor we rely for information about her husband's sensual side, may certainly be believed when she asks rhetorically: 'Which of you can control his sexual desire (*irbahu*) as the Prophet could?'⁵⁷ Nevertheless, if the

⁵² Maxime Rodinson, *Mohammed* (New York: Penguin Books, 1971), 254.

⁵³ *Ibid.*, 279. Rodinson is not being derogatory. In a later publication, in fact, he castigates the famous orientalist Henri Lammens for harboring 'a holy contempt for Islam, for its "delusive glory," for its "dissembling" and "lascivious" Prophet, for the Arabs of the desert who in his judgement were cowards and swaggerers ...' (Maxime Rodinson, 'A Critical Survey of Modern Studies of Muhammad' in Merlin L. Swartz [ed. and trans.], *Studies on Islam* [New York: Oxford University Press, 1981], 26).

⁵⁴ See al-Nawawī's running commentary to the ḥadīth recorded in the fourteenth chapter of *Ṣaḥīḥ Muslim's Kitāb al-Nikāḥ*. While rationalizing the contradiction, al-Nawawī takes for granted the erotic attraction.

⁵⁵ We need not, however, go as far as Alfred von Kremer, who—though not generally unsympathetic to the Prophet of Islam—makes Muḥammad's 'boundless enjoyment of the Harem' one of the causes of his death (Kremer, *The Orient under the Caliphs* [trans. Khuda Bukksh. Philadelphia: Porcupine Press, 1920], 4).

⁵⁶ Nabia Abbott, *Aishah: The Beloved of Mohammad* (Chicago: University of Chicago Press, 1942), 23.

⁵⁷ Bukhārī, *Ḥayd*, 7:299. Even this statement was geared towards encouraging sexual activity and discouraging unwarranted abstinence, as is clear from another version of

‘Perfect Man’ (*al-insān al-kāmil*), ‘Beloved of God’ (*ḥabīb Allāh*) and ‘Key to Paradise’ (*miftāḥ al-janna*) is shown to have been possessed of—and regularly and vigorously to have acted upon—what we today would call a powerful sex-drive, then it is impossible that sensuality *per se* should be perceived by Muslim law and lore in anything but a positive light. ‘The faultless Prophet had a particularly active sex life’ writes a sympathetic George Henri Bousquet. ‘He never ceased urging others to imitate him in this regard.’⁵⁸

Many important Muslim figures did indeed follow in their master’s footsteps in matters carnal, and the statements and exploits attributed to them in the Ḥadīth literature and other classical texts portray them in a thoroughly human light.⁵⁹ As should be expected given the uncensored coverage of the Prophet himself, these sources do not balk at displaying the sensual side of the remaining venerated (not to say beatified) figures of Islam’s ‘sacred time.’ ‘Abd Allāh b. Ḥasan quoted his grandfather, ‘Alī b. Abī Ṭālib, to the effect that ‘[o]ur family [the *ahl al-bayt*] has been endowed with unparalleled eloquence, generosity, pulchritude ... and sex appeal.’⁶⁰ ‘Abd Allāh b. Zam‘a, a close blood rela-

the same ḥadīth: ‘The Messenger of God would both kiss and sleep with his wives while he was fasting—and he could reign in his male member better than any of you!’ (*kāna amlakukum li-irbihi*—Māwardī, 3: 295).

⁵⁸ Bousquet, *L'éthique Sexuelle*, 45: ‘Le Prophète impeccable eut une vie sexuelle particulièrement active ... Il n’a cessé d’inciter les autres à l’imiter.’ Bousquet quotes Muḥammad Rashīd Riḍā as excusing the Prophet’s polygamy on the grounds, *inter alia*, that he was ‘un homme au tempérament ardent qui n’entendait nullement refouler ses instincts’ (*ibid.*, 131).

⁵⁹ The Prophet’s immediate predecessors were similarly endowed by the classical texts with robust libidos. Ibn Ishāq’s account of Muḥammad’s own conception exhibits the characteristic combination of haloes and hormones that will become increasingly familiar to the reader of the current work: ‘My father Ishāq b. Yasār related to me that he was told that ‘Abd Allāh [b. ‘Abd al-Muṭṭalib] went in to a woman he had besides Āmina bint Wahb (*dakhala ‘alā imra’a kānat lahu ma’ Āmina bint Wahb*) after having worked with clay, and he had traces of clay on his person. He called her in to him, but she put him off because of the clay. So ‘Abd Allāh left her and washed and bathed himself (*tawadda’a wa-ghasala*) from that clay, and then headed for the abode of Āmina. On the way there, he passed by the quarters of [the first woman] and she invited him to come in to her, but he refused. He continued on to the house of Āmina, and he went in to her and had intercourse with her (*dakhala ‘alayhā wa-aṣābahā*) and she conceived Muḥammad. Then ‘Abd Allāh left, and passed by the tent of that other woman, and he said to her: “May I come in to you?” (*hal laki?*). “No,” she replied. “When you passed by before, you had a white blaze between your eyes” (*bayna ‘aynayka ghurra bayḍā*)’—Ibn Hishām, 1:145).

⁶⁰ Al-Jāhīz, cited in Nafzāwī, *Glory*, 226. (I have been unsuccessful in obtaining the Arabic original to see what has been translated here as ‘sex appeal’). This, despite

tive and brother in law of Muḥammad (sibling of his wife Sawda) and a famously righteous Muslim, ‘could not wait to have intercourse at any time of the day or night.’ He consequently chased away a long series of exhausted wives until one Zaynab, daughter of ‘Umar b. Abī Salama—a woman ‘full in the buttocks and well-endowed between the thighs’—married him and they lived happily ever after (and produced many children).⁶¹ The ‘saintly and ascetic’ Abū Dharr al-Ghifārī, according to some reports the fifth or even fourth convert to Islam, would think not-so-ascetic thoughts—or do not-so-ascetic deeds—while off pasturing the camels far away from the camp, and would as a result ‘encounter sexual impurity’ (*kāna ya‘zubu fi’l-ibīl wa-tuṣībuhu al-janāba*). The only thing that worried him about such libidinal activity was the lack of sufficient liquid in the desert with which to execute the appropriate purification procedure (*ghuṣl*, a full body shower) when prayer time arrived. (In another version of this anecdote, Abū Dharr specifies that his wife was with him, uses the same root—‘*z.b.*—to indicate the want of water, and implies that he slept with her: *kuntu a‘zab ‘an al-mā wa-ma‘ī ahlī fa-tuṣībunī al-janāba*).⁶² He informed the Apostle of this ritual predicament, and the latter responded by paraphrasing a revelation already received, which provided for the substitution of sand if liquid abstersion was impossible: ‘Good, high ground is the ablution of a Muslim, even if he doesn’t find water for ten years running.’⁶³ None of the

other well known reports in which ‘Alī b. Abī Ṭālib describes himself as short, fat and bald, with sickly eyes and spindly legs. In general, Shī‘ī sources ascribe to the Imams of the *ahl al-bayt* a strong inclination toward the amassing of numerous concubines. When the Caliph al-Ma‘mūn’s daughter and Ninth Imam’s wife endeavored to create enmity between her father and husband by accusing the latter of associating with slave girls, the Imam rebuked her for ‘making unlawful what God had made lawful’ (Dwight Donaldson, *The Shi‘ite Religion* [London: Luzac & Co., 1933], 192. ‘Alī himself included among the ‘five things that go to waste ... a beautiful woman given in marriage to an impotent man, for he derives no benefit from her’ (*imra‘a ḥasnā‘ tuza‘ffa ilā ‘anīn fa-lā yanfa‘u bihā*—Muḥammad Bāqir al-Majlisī, *Biḥār al-Anwār* (Beirut: Mu‘assasat al-Wafā’, 1983), 68:47.

⁶¹ Nafzāwī, *Glory*, 235.

⁶² Abū l-Ḥasan ‘Alī b. Muḥammad b. Ḥabīb al-Māwardī, *al-Hāwī al-Kabīr* (Beirut: Dār al-Fikr, 1994), 1:304. The recension in ‘Abd al-Razzāq al-Ṣan‘ānī, *Muṣannaḥ* (Beirut: Al-Majlis al-‘Ilmī, 1970), 1:84–85 (no. 912) explicitly confirms that Abū Dharr had intercourse with his wife. This anecdote appears in many versions and features a variety of protagonists.

⁶³ Abū Zakariyā‘ Yahyā Muḥyī al-Dīn al-Nawawī, *Kitāb al-Majmū‘* (*Sharḥ al-Muḥadhdhab*) (Cairo: Al-Azhar, n.d.), 2:208. The verse paraphrased is Q. 5:6, which includes the ‘concession’ of *tayammum* or sand-rubbing when water is unavailable.

protagonists in these anecdotes had the slightest problem with overt discussion of his or her own sexual activity or that of others.

On one of the nights of Ramaḍān, ‘Umar b. al-Khaṭṭāb returned home after conversing into the small hours with the Prophet (*raja‘a min ‘inda al-nabī dhāta layla wa-qad samara ‘indahū*). His wife was already fast asleep, but he wanted her (*arādahā*) and proceeded to wake her up. ‘But I have slept!’ she protested (*innī qad nīmtu*—by which she meant that cohabitation was permitted during the holy month only from sunset to slumber, which was the belief among most members of the Muslim community at the time. Once one dozed off, all of the prohibitions of Ramaḍān—against eating, drinking and sexual relations—were reactivated until the following evening). ‘Well, I haven’t slept!’ ‘Umar retorted—and he took her (*fa-qāla: mā nīmtu! thumma waqa‘a bihā*).⁶⁴ After showering ritually in the wake of intercourse, ‘Umar—wrecked with guilt over his violation—burst into tears (*fa-lammā ighṭasala akhadha yabkī wa-yalūmu nafsahu ka-ashaddi mā ra‘ayta min al-malāma*). He wept his way over to the Prophet’s house, where he confessed his misdeed: ‘My wife appeared beautiful to me and I lay with her!’ (*innahā zuyyinat lī fa-wāqa‘tu ahlī*—perhaps an allusion to Qur’ān 3:14: ‘Decked out fair to men is the love of lusts ...’ [*zuyyina li’l-nāsi ḥubb al-shahawāt*]).⁶⁵ He begged forgiveness for his awful sin and, according to one version of this report, even went so far as to plead: ‘Might you find me some sort of indulgence, O Messenger of God?’ (*hal tajidu lī min rukṣa yā rasūl Allāh?*). A new revelation descended shortly thereafter:

It is made lawful for you to go in unto your wives (*al-rafthu ilā nisā’ikum*) on the night of the fast. They are a raiment for you and you are a raiment for them. God is aware that you have been betraying yourselves (*‘alīma Allāhu annakum kuntum takhtānūn anfusakum*) [by refraining from sexual relations after sleep], and He has turned in mercy toward you and pardoned you (*tāba ‘alaykum wa-‘afā ‘ankum*). So from now on have intercourse with them (*fa’lāna bāshirūhunna*) and seek that which God has ordained for you, and eat and drink until the white thread becomes distinct from the black thread at dawn.⁶⁶

⁶⁴ Since the text is not vocalized, ‘Umar’s retort to his wife’s claim that she had slept might just as plausibly be rendered: *mā nīmtī*—‘you did *not* sleep!’

⁶⁵ The translation is Arberry’s (A.J. Arberry, *The Koran Interpreted* [New York: Macmillan, 1955], p. 74).

⁶⁶ Q. 2:187. What Western polemicists have often mocked as Muḥammad’s ‘convenient revelations’—the type of timely divine dispensations concerning which ‘Ā’isha herself once quipped sardonically at her husband: ‘Verily, your Lord hastens to do your pleasure!’ (Ibn Ḥanbal, 6:158)—may be viewed, from a different angle, as the divine

Note that nocturnal abstinence from marital relations during Ramaḍān as practiced by the fledgling *umma* is termed a ‘betrayal’ which needs to be ‘forgiven.’ ‘Umar’s act with his wife was no sin, but unnecessarily denying oneself the finer things in life—those delicious *ṭayyibāt* that God has made lawful for His servants (Q. 5:87)—most certainly is.⁶⁷

‘Umar’s son, ‘Abd Allāh, is rightly described by L. Veccia Vaglieri as ‘one of the most prominent personalities of the first generation of Muslims’ whose ‘high moral qualities compelled the admiration of his contemporaries’ and who ‘followed the precepts of Islam with such scrupulous obedience that he became a pattern for future generations.’⁶⁸ What kind of example did this deputy ‘object of imitation’ set in matters sexual? It may be said that he took full advantage of the dispensation obtained by his father:

‘Abd Allāh b. ‘Umar had a voracious sexual appetite. He would break his [Ramaḍān] fast on sexual intercourse (*kāna yaftūru bi’l-jimāʿ*), and sometimes he would even have intercourse *before* the Sundown Prayer, perform the greater ablution, and then pray. Once he cohabited with three of his concubines in one night during the month of Ramaḍān—in other words, between sunset and the last meal (*saḥūr*) before beginning the fast of the following day.⁶⁹

Dozens of similar stories about the Prophet and his Companions display an uninhibited and, indeed, encouraging and enthusiastic attitude toward human sexuality. Far from being ‘uptight’ about the amatory relations between men and women, the early Muslim writers and recorders emphatically enjoyed and even celebrated them (as long as such relations remained within the bounds of the licit),⁷⁰ granting the most sacred figures of the faith leading roles in the illustrative anecdotes on the subject.

fatāwā of a uniquely responsive religion, with God Himself as archetypal (and eminently malleable) Muftī On High, handing down indulgences in response to, and in compassion for, the endemic weaknesses of human flesh.

⁶⁷ The story of ‘Umar and his somnambulant spouse is found in several versions in Ṭabarī, *Jāmi‘ al-Bayān*, 2:225ff.

⁶⁸ *ET*², s. v. ‘‘Abd Allāh b. ‘Umar’ (L. Veccia Vaglieri).

⁶⁹ Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *Iḥyā ‘Ulūm al-Dīn* (Cairo: Mu’assasa al-Ḥalabī li’l-Nashr wa’l-Tawzī‘, 1967), 1:184.

⁷⁰ Nothing we have said thus far, or will say in the remainder of this work, should be construed as portraying Islam as in any way permissive of illicit sexual adventures. While the early sources condone and even extol sexual activity within the proper bounds, those same sources condemn and threaten with dire retribution—in this world and the next—those who allow their desires to get the better of them and lead them

To the manifold examples derived from the *experiences* of the men and women of Islam's greatest generation may be added a plethora of *statements* emanating from those same figures and evincing a highly favorable assessment of carnal desire and the activities to which it leads. Al-Nawawī chose to include the following tradition in his *Arbaʿīn* or collection of forty favorite *aḥādīth*:⁷¹

to commit fornication, incest, adultery, etc. *Sūrat al-Mu'minūn*, 23:4–5, declares: 'Success invariably accrues to ... those who guard their private parts (*alladhīnahum li-furūjihim ḥāfiẓūn*), except before their spouses and those that their right hands possess [maids, concubines] ... and whoso seeks other than that, they are the transgressors.' Comments al-Ṭabarī: 'Those who seek for their genitalia a sexual outlet other than their wives or lawful concubines, they have transgressed the boundaries of God, crossing over from that which God has permitted to that which He has forbidden' (*man iltamasa li-farjīhi mankaḥan siwā zawjatahu wa-mulk yamīnihi, fa-hum al-ʿādūn ḥudūd Allāh, al-mujāwazūn mā aḥalla Allāhu la-hum ilā mā ḥarrama ʿalayhim*—Ṭabarī, *Jāmiʿ al-Bayān*, 18:7). While passing through the fifth heaven during his celebrated *miʿrāj* or miraculous ascension, Muḥammad beheld 'men with delicious plump meat beside them, side by side with lean and putrid meat. They gorge upon the latter and leave the former. Said Gabriel: these are those who neglect the women Allāh has made lawful for them and go after those He has forbidden' (Ibn Ishāq-Guillaume, 186). The Qurʾān (24:32) urges 'the believing men' to 'lower their eyes and restrain their appetites. This is better for them ...' One of the seven whom Allāh 'will shade under His shade on the Day on which there will be no shade save His shade' will be he whom a young girl of exceptional breeding calls for intercourse and who replies 'I fear God!' (*akhāfu Allāha*—Baghawī, 1:223). The introduction of the veil and its accompanying exhortations (e.g., Q. 24:31) is only one indication of the importance of modesty in Islamic tradition. Many other institutions, declarations and episodes attest to this attitude (including the rupture with, and attack upon, the Jewish tribe of the Banū Qaynuqāʾ, which was purportedly precipitated by a joke played on a Muslim woman by a Jewish goldsmith, who tied her skirt to a post so that when she stood up her legs were exposed [Rodinson, *Mohammed*, 172]). Islam considers chastity a fundamental virtue. What is so striking is the ability of Muslim classical tradition to maintain the vehemence of both extremes simultaneously: the unabashed joy of sex in *licit* frameworks, on the one hand, and the fierce anathema of erotic adventures under illicit circumstances, on the other. God, it is true, 'created [male and female] from a single being, and of the same kind did He make man's mate that he might incline to her' (Q. 7:189). At the same time, however, the Prophet was wont to warn: 'Be wary of the world and be wary of women ... for I have left behind me no source of temptation to men more detrimental than women' (Lois Anita Giffen, *Theory of Profane Love among the Arabs: The Development of the Genre* [New York: New York University Press, 1971], 55). 'Islam sought to provide as much scope as possible *within* the household,' writes Glubb Pasha, 'but prohibited any form of sexual indulgence outside the home' (John Bagot Glubb, *Haroon al-Rasheed and the Great Abbasids* [London: Hodder and Stoughton, 1976], 238). Context, in short, is everything.

⁷¹ The Prophet is reported to have said: 'He who preserves for my *umma* forty traditions regarding matters of its religion, God will resurrect him a wise man, and I will be for him at that time an intercessor and a witness.' Baghawī, 1:98. Many scholars put together compilations of this sort.

From Abū Dharr, may God be satisfied with him, that some people from among the Companions of the Messenger of God, may God's peace and blessings be upon him, said to the Prophet: 'O Messenger of God! The rich have made off with all the rewards! (*dhahaba ahl al-duthūr bi'l-ujūr*). They pray just as we pray, and they fast just as we fast, [but] they are also able to give charity with their surplus wealth (*yataṣaddaqūn bi-fuḍūl amwālihim*) [whereas we are not able to do so, and thus their heavenly recompense will be greater than ours].'⁷² [The Prophet] replied: 'Has Allāh not made for you a means by which you may give charity [i.e., act virtuously]? Verily, in every proclamation of "Praised be the Lord!" is a virtuous act, and in every exclamation of "God is Great!" is a virtuous act, and in every declaration of "Glory be to God!" is a virtuous act, and in every affirmation of "There is no God but Allāh!" is a virtuous act, and in "commanding the good and forbidding the evil" is a virtuous act, and in sexual intercourse is a virtuous act (*wa-ḥi budʿi aḥadikum ṣadaqa*).' They said: 'O Messenger of God! Shall one of us satisfy his passion (*shahwatahu*) and receive a reward for this?' He answered: 'What do you think: were he to do so in forbidden circumstances, would this not obligate him in punishment? In the same fashion, if he does so in permitted circumstances, should this not bring in its train a reward?' (*a-raʿaytum law waḍaʿhā fī ḥarāmin a-kāna ʿalayhi wizrūn? Fa-ka-dhālika idhā waḍaʿhā fīʾl-ḥalālī a-lā kāna lahu aḡrun?*).⁷²

After the marriage of Jābir b. ʿAbd Allāh, he met Muḥammad on the street. 'O Jābir, have you wed?' inquired the Prophet. 'Yes,' answered Jābir. 'Is she a virgin or a previously married woman?' (*bikr am thayyib*). 'A previously married woman.' 'Why not a virgin with whom you can frolic?' continued his interlocutor (*hallā bikran tulāʾibuhā*—in other versions: 'Why not a young girl [*jāriya*] so that you can dally and make merry with her, and she with you?' [*tulāʾibuhā wa-talāʾibuka wa-tuḍāḥikuhā wa-tuḍāḥikuka*]). Jābir explained that he feared friction between such a juvenescent maid and his many sisters—or, alternately, that he had married a matronly woman who could help look after those same siblings since his father had just recently been killed at Uḥūd—after which Muḥammad congratulated him, invoked God's blessings upon him and presented the newlyweds with a camel and some carpets. Al-Nawawī, this time in his capacity as Ḥadīth interpreter, lays down the lessons that may be gleaned from this tradition, one of which

⁷² Abū Zakariyāʾ Yaḥyā Muḥyī al-Dīn al-Nawawī, *Matnuʾl-Arbaʿin al-Nawawīya fīʾl-Aḥādīth al-Ṣaḥīḥa al-Nabawīya* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī wa-Awlāduhu, n.d.), 29, no. 25. A similar version may be found in al-Nawawī's *Riyāḍ al-Ṣāliḥīn* (Beirut: Dār al-Kutub al-ʿIlmiya, 1999), 52 (13:120). Note, yet again, the strident censure of fornication side-by-side with the equally enthusiastic approval of licit sexual relations.

is that ‘a man should engage in foreplay with his wife, caress her and amuse her’ (*fihī mulā‘abat al-rajul imra‘atahu wa-mulā‘afatuhu la-hā wa-mudā‘ahakatuhā*). Another essential notion conveyed by this report, continues the commentator, is ‘the excellence of intercourse’ (*ḥusn al-‘ishra*).⁷³

In the *Muwatta‘*, Mālik transmits a ruling of Allāh’s Apostle regarding remarriage to a woman one has divorced (an act which Muslim scripture declares permissible only after she has wed, slept with, and been divorced by another man, Q. 2:230).⁷⁴ Rifā‘a b. Simwāl had put away his wife, and ‘Abd al-Raḥmān b. al-Zubayr had then married her, but the latter was unable to consummate the marriage and therefore left her (*lam yastati‘ an yamassahā fa-fāraqahā*). Rifā‘a wanted to marry her again, but Muḥammad admonished: ‘She is not permitted to you until she has tasted the sweetness [of sex]’ (*lā taḥillu laka ḥattā tadhūqa al-‘usaylata*).⁷⁵ In a more graphic and humorous version of this ḥadīth recorded by Muslim, it is the wife who approaches the Prophet and appeals to him: ‘O Messenger of God! I was married to Rifā‘a, and he divorced me thrice [making the divorce irrevocable]. So then I married ‘Abd al-Raḥmān b. al-Zubayr, but by God, what *he’s* got resembles nothing so much as a tassel!’ (*innahu w’Allāhi mā ma‘hu illā mithlu al-hudba*). The Messenger of God laughed heartily and said, ‘I suppose you want to go back to Rifā‘a? Sorry—not until he [*viz.*, Ibn al-Zubayr] tastes your sweetness and you taste his’ (*lā—ḥattā yadhūqa ‘usaylataki wa-tadhūqi ‘usaylatahu*).⁷⁶ Elsewhere we hear the Prophet proclaim, ‘Every activity

⁷³ Nawawī, *Sharḥ Ṣaḥīḥ Muslim, Kūtāb al-Riḍā‘, Bāb Istiḥbāb Nikāḥ al-Bikr*, 16:54–56 (1466). Glubb Pasha locates this conversation on the raid to *Dhāt al-Riqā‘* in 626 CE (John Bagot Glubb, *The Life and Times of Muḥammad* [London: Hodder and Stroughton, 1970], 227), as does Muir, citing al-Wāqidi (Muir, *Life of Mohammad*, 287–288).

⁷⁴ An institution know as *taḥlīl*. The commentaries assert that this Qur’ānic clause—the mirror image of its Biblical counterpart (Deut., 24:1–4)—was enacted to prevent frequent and/or thoughtless divorce. The desire to get around it led, in later days, to the phenomenon of the *muḥallil* or *mustahill*, a poor and preferably unattractive local man who was hired to spend the night with a woman too hastily put away by her husband, thereby allowing the latter to take her back. The negative side of this precept—and of divorce in general—was also emphasized (see, e.g., Baghawī, 8:15: ‘Cursed be the second husband who makes the wife lawful for her first husband, and cursed be the first husband for whom she is made lawful’).

⁷⁵ *Muwatta‘*, 28:7 (17). ‘*Usayla* is the diminutive of ‘*asal*, honey.

⁷⁶ Muslim, *Kūtāb al-Nikāḥ*, 17:111 [1433]. Though one might be tempted, in light of the information contained in this ḥadīth, to read Zubayr b. ‘Awwām’s given name as the diminutive of *zubr* (penis)—and thus to speculate that this trait ran in the family—this rendering of ‘*zubr*’ seems to be a more modern usage, and most authorities explain the famous Companion’s name to mean ‘a strong man’ (perhaps from *zubra*, a piece of

by which a man may amuse himself is worthless, save three: shooting his bow, training his horse and engaging in foreplay with his wife' (*kullu shay'in yalhū bihi al-rajulu bāṭilun illā ramaytuhu bi-qawsihī wa-ta'dībuhu farasahu wa-malā'ibatu imra'tahu*).⁷⁷ Abdelwahab Bouhdiba's remarks on Islamic attitudes to the sex act are, then, only slightly hyperbolic:

Love is not to be performed in sadness or gloom. It is not a painful duty. It is the most joyful gift of heaven. It is one of those 'good things' (*tayyibāt*) that God lavishes on existence. It is pleasure. Indeed it is the highest form of pleasure. It is the royal way to eudemony.⁷⁸

Together with exhortations to connubial enjoyment came admonitions against its prevention or postponement, usually directed at the fairer sex. Muḥammad thought men should go to sleep satisfied: 'When a husband calls his wife to bed and she refuses, causing him to pass the night in an angry mood (*bāta ghaḍbāna*), the angels hurl down curses upon her until the break of dawn.'⁷⁹ Conjugal duties were granted top priority: 'If a man summons his wife to fulfill his needs, she must come to him, even if she is at the oven' (*idhā da'a al-rajulu zawjatahu li-ḥājatihī fa'l-ta'tihī, wa-in kānat 'alā tanūr*).⁸⁰ Especially accursed by God's Prophet were the *maswifa*—she whose response to her husband's amorous ad-

iron—see *Lisān al-'Arab*, s. v. z.b.r.) or even 'the casing of a well with stones.' In other versions of this tradition, Ibn al-Zubayr is accused of beating his new wife, possibly in frustration at his impotence.

⁷⁷ Baghawī, 2:76.

⁷⁸ Abdelwahab Bouhdiba, *La Sexualité en Islam* (Paris: Presses Universitaires de France, 1975), trans. Alan Sheridan, *Sexuality in Islam* (London: Routledge and Kegan Paul, 1985), 95.

⁷⁹ Baghawī, 2:54. 'A whole host of angels,' complains Khaled Abou El Fadl, clearly in reference to this ḥadīth, 'are aggrieved by the frustration of a man's libido. This only raises the question: what is it about a man's sexual urges that make them so fundamental to the pleasure of the heavens?' (Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* [Oxford: One World Press, 2001], 214). Abou El Fadl critiques such sentiments as part of what he sees as a deviant trend in the Muslim classical literature—taken to extremes by modern day fundamentalists—toward the degradation and suppression of women. He would return us to the true Islamic outlook on the subject, *inter alia*, by means of what was originally Nabia Abbott's method: the delegitimization of Abū Hurayra, who transmitted so many of the 'misogynist' reports (the basis in the sources for such delegitimization is traced by G.H.A. Juynboll, *Muslim Tradition: Studies in Chronology, Provenance and Authorship of Early Ḥadīth* [Cambridge: Cambridge University Press, 1983], 190ff.).

⁸⁰ Nawawī, *Riyāḍ al-Ṣāliḥin*, 35:284. Surely this is evidence enough of the importance of marital relations in the Islamic worldview without translating the tradition as Bouhdiba (relying on the slightly varied recension of al-'Aynī: *wa-in kānat 'alā ra'si tanūrin*) has done: 'A woman must never refuse her husband, even on the topmost edge of a burning oven' (!). Bouhdiba, *Sexuality*, 89.

vances begins with the future tense particle *sawfa*: ‘We *will* have sex’—and the *mughallisa*—she who, under similar circumstances, falsely claims to have her period (and therefore to require *ghusl*, the full body ritual immersion, before she may give herself to her mate).⁸¹ The prominent Companion Nu‘mān b. Bashīr was approached by a female petitioner who complained of her husband’s hyper-sexuality and his overly frequent demands upon her (his sole wife) in this area. Nu‘mān told her: ‘God permits your husband four wives. You are therefore bound to oblige him four times—twice during the night and twice during the day.’⁸² When a man of the *muhājirūn* (Qurashite ‘Emigrants’) married a woman of the *anṣār* (Yathribian ‘Supporters’) and made motions to copulate with her from behind (*atā min duburihā fi qublihā*), she protested that such was not the manner of love-making in Madīna. ‘Your wives are a tillage for you,’ came the revelation to Muḥammad after the husband had complained to him of his new bride’s recalcitrance. ‘Plough as you please.’⁸³

A scene recorded by the Ḥanbalite ‘Abd al-Raḥmān b. ‘Alī al-Bagh-dādī (‘Ibn al-Jawzī’) in his *Dhamm al-Hawā* (Censure of Love) has a passing woman tantalize the ‘Alid ‘Abd Allāh b. Ḥasan b. Ḥasan while he is circumambulating the *Ka‘ba*, after which he approaches her and recites the following lines:

*Ahwā hawā al-dīn wa’l-ladhdhātu tu’jibunī,
Fa-kayfa lī bi-hawā al-ladhdhāt wa’l-dīn?*

I have a great passion for religion,
But pleasures also excite me –

⁸¹ Abū Muḥammad Maḥmūd b. Aḥmad al-‘Aynī, *‘Umdat al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī* (Istanbul: n.p., 1308 AH), 9:483.

⁸² Nafzāwī, *Glory*, 235.

⁸³ Muslim, *Kūṭab al-Nikāḥ, Bāb Jawāz Jīmā‘at Imra‘atu fi Qublihā min Quddāmihā wa-min Warā‘ihā*, 39:2592; Baghawī, 27:83; Q: 2:223. This verse is taken to permit any posture in vaginal intercourse (*min qublihā*). ‘Abd Allāh b. ‘Alī reported that a group of the Prophet’s companions were sitting around one day, and a Jew was nearby, and one of the Companions said to the others: “I have sex with my wife lying down.” Another said: “I have sex with her standing.” A third said: “I take her while she’s on her side or on all fours” (*‘alā jambahā wa-bārikatan*). The Jew came over and said: “You people are no better than animals! (*mā antum illā anthāl al-bahā‘im*)... we Jews have intercourse in only one position.” Allāh revealed in response: “Your wives are a tilth for you ...” (Ṭabarī, *Jāmi‘ al-Bayān*, 2:534). The same verse was employed by several authorities to permit anal intercourse, one of them even describing his method of lubrication (*ibid.*, 2: 535–542). Anal sex is, however, generally considered beyond the pale: ‘God will turn His face from he that goes in unto another man, or into a woman via her rear’ (*vajul ... atā imra ‘a fi duburihā*—Baghawī, 25: 112).

How can I have a passion for pleasures
As well as for religion?⁸⁴

Although the moral and theological current represented by the question—and by the temptress's answer: 'Leave the one, and you will have the other'—has undeniably been strong during certain periods of Muslim history and among certain elements of the Muslim elite (for no civilization of the size and duration of Islam can lack such diversity), still, the theoretical and practical mainstream of the religion introduced by Muḥammad has never required the believer to make such a choice. The *tullāb* (students) of Shī'ite *madāris* (seminaries), described so well by Roy Mottahedeh as they unwind after a long day of intense religious studies with an officially sanctioned *mut'a* or 'temporary marriage' (the roots of which stretch as far back as Qur'ān and *Sunna*), represent only the most extreme modern-day illustration of this historic coexistence between reverence and dalliance.⁸⁵

This coexistence was evident from the outset. Perhaps nothing better captures the smooth integration of sensuality and religion already in the earliest period of Islam than the ubiquitous image in the classical literature of the Prophet lying with his head on his wife 'Ā'isha's lap or exposed thigh—by far his preferred mode of relaxation—and reverentially reciting the Qur'ān.⁸⁶ This (to some) jarring juxtaposition of

⁸⁴ Abū'l-Faraj 'Abd al-Raḥmān b. al-Jawzī, *Dhamm al-Hawā* (n.p.: Dār al-Kutub al-Ḥadītha, n.d.), 24.

⁸⁵ Roy Mottahedeh, *The Mantle of the Prophet* (New York: Pantheon Books, 1985), 182 and elsewhere. Though long prohibited by Sunnī jurists, *mut'a* (or *ṣiḡheh*, as Iranians are wont to call it) is alluded to, and perhaps approved of, in Qur'ān 4:24 (see the readings of Ubayy b. Ka'b and 'Abd Allāh b. 'Abbās in al-Ṭabarī's commentary to this verse). It is also attested in manifold traditions, one of which shows the Apostle himself taking advantage of this privilege (see Ṭabarī, *Annales*, 1:1775; Arthur Gribetz, *Strange Bedfellows: Mut'at al-Nisā' wa-Mut'at al-Hajj* [Berlin: K. Schwartz, 1994]; also Powers, *Law, Society and Culture*, 62–65, and Avraham Hakim, 'Conflicting Images of Lawgivers: *Sunnat 'Umar and Sunnat Muḥammad*' in Herbert Berg [ed.], *Method and Theory in the Study of Islamic Origins* [Leiden: E.J. Brill, 2003]). It is certainly significant that the Iranians refer to what Westerners would call the 'house of ill repute' where these ladies-of-the-evening lodge as *bayt al-afafa*, 'the house of chastity.' Obvious irony aside, the appellation is indicative of the deeply-rooted religious sanction enjoyed by the institution.

⁸⁶ E.g., Muslim, *Kūṭab al-Ḥayḍ*, 3:15 (301); Ibn Rushd, *Bidāya*, 1:44; Ṭabarī, *Jāmi' al-Bayān*, 5:149 (no. 7617); Muslim, *Kūṭab al-Ḥayḍ*, 28:108 (367). A suggestively similar erotic element already accompanied the inaugural revelation of the Qur'ān. Khadija, who was (according to this version of events) together with Muḥammad in the cave of Ḥirā' when he first perceived the angel Gabriel, casually disrobed with the Prophet in her lap (*taḥassarat wa-alqat khimārahā wa-rasūl Allāh jālisa fī ḥijrihā*) in order to test the apparition's character. The heavenly being vanished at the sight, and Khadija

eros and theos re-emerges in numerous guises and contexts in the early sources, as if to make a deliberate statement. Indeed, holiness comes so hard on the heels of carnal knowledge that it is easy to forget in which mode one currently is:

‘Abd Allāh b. Muḥammad ... from Abū Hurayra, who said: Prayers were announced and the rows were straightened, and the Messenger of God came in [to the mosque to lead the service]. And when he stood up at his place of prayer, he suddenly remembered that he was sexually impure (*fa-lammā qāma fī muṣallāhu dhakara annahu junuban*). ‘Stay in your places!’ he ordered us, and he ran home and performed *ghusl*, and came back in with his head dripping wet. Then he called out ‘God is Great!’ and we prayed together with him.⁸⁷

thereupon reassured her husband: ‘Rejoice, for by the Lord, it is an angel and no devil!’ (Ibn Hishām, 1:223. In another version cited by the same source, Allāh’s new Apostle crawls inside Khadija’s shift [*baynahā wa-bayna dir’ihā*], which scenario is then employed in a dissenting contextualization of what many consider to be the second scriptural revelation: ‘O thou, *covered up*, arise and warn ...’ [Q 74:1–2]—that is, come out from behind your wife’s skirts and get to work! [This is one of many minority opinions regarding the referent of this verse. Most commentaries connect it to the Prophet’s depression during the relatively lengthy *fatra* or period between the first and second revelations, which induced him to lie in bed wrapped in his cloak]). Once again, we see the characteristic offsetting of licit from illicit sexual situations (see above, notes 70 and 72), with a fine line drawn between them: there was nothing improper about Khadija’s uninhibited exposure of herself in the presence of her husband—even on so sacred an occasion as *laylat al-qadr*—but it would have been inappropriate for Gabriel to have stayed around to witness the same. Similarly, while praying over the grave of al-Aswad, the Khaybarite shepherd who joined the Muslim besiegers against his Jewish masters, the Prophet suddenly averted his eyes. Asked about this, he explained that ‘the two black-eyed houris of Paradise are with the martyr now’; their manner of comforting the dead shepherd was strictly a private affair, and as such none of Muḥammad’s business (Muir, *Life of Mohammad*, 383). ‘Ā’isha is said to have remained unveiled in her house under which the Prophet was buried, and to have continued thus when her father Abū Bakr was interred next to him. When ‘Umar’s body was added, however, she began covering up even at home (*ibid.*, 506).

⁸⁷ Bukhārī, *Ghusl*, 17:275. If, as is probable, this event took place in the Prophet’s Mosque, Muḥammad would not have had very far to run: his ‘home’—i.e., the quarters of any one of his wives—directly adjoined that house of worship. The mosque itself was not entirely off-limits to the libido. Ibn ‘Abbās explained that Q 15:24—‘We know those among you who go forward and those among you who go back’—was revealed in reference to a beautiful woman who used to pray with the Companions (*kānat tuṣallī ma’hum imra’a jamīla*). Some of them would move forward so as not to see her during their devotions, while others would move back the *better* to see her during their devotions (*kāna ba’dhum yataqaddamū li-kay lā yarāha wa-yata’akhhharū ‘anhā ba’dhum li-yarāhā*). ‘The Prophet,’ concludes this ḥadīth, ‘did not invalidate the prayer of those who moved back, nor did he require them to repeat it’ (Māwardī, 2: 258).

These and dozens of other anecdotes—some showing venerated Companions stopping on their way to prayers to kiss and embrace wives and concubines encountered on the street, others depicting ‘Ā’isha chasing after her husband to wipe semen off of his garment as he hurries from their bed to the mosque⁸⁸—combine to create the unmistakable impression that ‘Madīna was for lovers,’ that the model Islamic community of the first half of the seventh century was one in which sensuality surrounded liturgy and physical intimacy alternated with worship. At the helm of this whole oscillating enterprise was Allāh’s Apostle, moving with ease between osculation and obscuration, making love, making his devotions, then making love again. ‘I scented the Prophet’s person,’ ‘Ā’isha reports, ‘then he made the [sexual] circuit of his wives (*tāfā ‘alā nisā’ihī*), then he assumed the *ihlām* [the pure state in preparation for circumambulating the *Ka’ba*], with the fragrance of musk still exuding from his body.’⁸⁹ Women and worship; *ṭawāf* and *ṭawāf*.

The preponderance of graphic and ludic reports illustrating this unique proximity of flesh and spirit are to be found, as we have pointed out, in the chapters on *ṭahāra* in the canonical and other collections of Ḥadīth, and it is (we shall now proceed to argue) the institution of *ṭahāra* and the rituals connected with it that have been largely responsible for the possibility of such smooth transitions between these two realms.

Sā’tan wa-Sā’tan

In view of the overwhelmingly approbatory attitude to sexuality in the seminal texts of Islam, it is worth suggesting that in the context of *ṭahāra*, those among the prayer-precluding ‘events’ (*aḥdāth*) which are specifically erotic in nature in fact carry positive, not negative, connotations. Touching or sleeping with a member of the opposite sex violates prayer fitness (*yanquḍū al-wudū’*) not because these acts represent internal urges that are fundamentally antithetical to holiness or to the proper mindset for worship, but rather (I would argue) because they

⁸⁸ Muslim, *Kūtab al-Tahāra, Bāb Manī al-Adamī wa’l-Hayawān*, 32:109 (290) and *Bāb Ḥukm al-Manī*, 32:106. See also below, p. 64.

⁸⁹ Bukhārī, *Ghusl*, 12:267. This ḥadīth is employed, *inter alia*, to show that the Prophet performed only one *ghusl* for a series of sexual encounters, and not a *ghusl* after each, because had he done the latter, there is no chance the perfume would have remained potent after so many baths.

represent—from the Islamic point of view—an *intrinsically similar* and perhaps even *equally laudable* set of drives or sentiments. The reason why erotic excitement is problematic for prayer is due not to the dirtiness, shamefulfulness or any other negative quality of arousal (for we have just seen that sexuality was in no way perceived thus in the early legislative and hagiological literature), but instead, perhaps, due to its very power and beauty. According to such a conception, these two equally valid and comparably commendable passions—the passion for man and the passion for God—cannot (or should not) co-exist in the same heart at the same time, specifically because of their underlying *similarity* and consequent *competition* with one another for the upper hand in the mind and soul of the devotee:

Abū Mu‘āwiya ... from Ibrāhīm, that he said to his wife: ‘Praise God, Ḥunayda—were I not in a state of *wuḍū’*, I would kiss you!’ (*law lā an akhadhtu wuḍū’an li-qabbaltuki*).⁹⁰

A Muslim should actively (and spiritually) love Allāh, as well as actively (and physically) love his or her spouse—after all, this was the practice of the Prophet—just *not at the same time*. Experiencing these urges simultaneously diminishes the energy of both, whereas exclusive focus on each in turn facilitates optimal levels of achievement and relationship. A barrier therefore needs to be set up between the two modes, and this barrier must have a door. The defiling ‘events’ and purifying ablutions combine to create a two-way portal, as it were, through which the believer passes many times daily between a condition appropriate to the bodily and a condition appropriate to the disembodied; between awareness of the tangible present and awareness of the incorporeal absent (*ghayb*); between the sensual human and the psychic divine. These two states may be separate, but they coexist side by side within the same sacred space and under the same religious rubric, as is amply evident, for instance, from the ease with which Muḥammad—in the ḥadīth of Abū Dharr cited by al-Nawawī, above—juxtaposed the various encomia of the deity with sexual intercourse as virtuous acts one and all. ‘God has made dear to me from your world women and fragrance,’ enthused the Prophet on one occasion, ‘and the joy of my eyes is in prayer.’⁹¹

⁹⁰ Ibn Abī Shayba, 1:62 (55:10). This is evidently Ibrāhīm al-Nakha‘ī.

⁹¹ Annamarie Schimmel, *And Muḥammad is His Messenger: The Veneration of the Prophet in Islamic Piety* (Chapel Hill: University of North Carolina, 1985), 51, where the source is not cited; the original reads: ‘*ḥubbiba ilayya min dunyākum al-ṭīb wa’l-nisā’, wa-ju‘lat*

Despite the ritual fence set up between these good neighbors—or, rather, because of this fence—one can more-or-less ‘hop’ back and forth between their domains via the simple conduit known as *ḥadath* (in one direction) and *wuḍūʿ* (in the other): kissing or caressing one’s wife introduces an aura conducive to romance; washing face, hands and legs in the prescribed manner introduces an aura conducive to worship. Both of these ways to be Muslim are proper, even excellent, and each is indispensable to the overall Islamic lifestyle. Their very bisection is what leads to, and allows for, their inseparability: an ever-present duality in unity. This is the framework in which, and the expedient by which, a Muslim can succeed (where Christ’s Apostles avowedly failed) in ‘serving two masters’ without ‘being devoted to one and despising the other.’⁹² This is how s/he can fully experience the ‘fleshly lusts’ without allowing them to ‘war against the soul.’⁹³ This is how s/he can ‘harbor a passion for pleasures, as well as for religion.’⁹⁴ The compatibility within the same system of these two alternating states is nicely encapsulated in the following anecdote, canonized by Muslim b. al-Ḥajjāj:

Yahyā b. Yahyā ... from Ḥanzala al-Uṣaydī—one of the amanuenses of the Messenger of God—who related: Abū Bakr met me on the street one day and inquired: ‘How are you, Ḥanzala?’ I replied, ‘Ḥanzala is a hypocrite!’ (*nāfaqa Ḥanzala*). ‘Praise be to God, what are you saying!?’ asked Abū Bakr. I explained: ‘We are often with the Messenger of God, may God’s peace and blessings be upon him, and he preaches to us of the Fire [of Hell] and of the Garden [of Eden] with such vividness that one’s eye can see it. Afterwards, I go back to my house and play with my children and dally with my wife (*adḥaku al-ṣibyāna wa-alʿabu al-marʿa*).’ Abū Bakr responded: ‘Why, I have done the same myself!’

As we continued walking along, we encountered the Messenger of God. I exclaimed: ‘O Messenger of God—Ḥanzala is a hypocrite!’ and I told him [what I had told Abū Bakr]. And Abū Bakr backed me up, saying: ‘I, too, have done the like.’ [The Prophet] responded: ‘O Ḥanzala! By Him in whose hands lies my life, were you to remain constantly in the state in which you find yourselves when you are with me or when you mention [God], the angels would take your hands as you lie in your beds and as you walk by the way (*law tadūmūna ʿalā mā takūmūna ʿindī wa-ḥʿl-*

qurraṭ ʿaynī al-ṣalāt (Nasāʿī, *Kitāb ʿIshrat al-Nisāʿ*, *Bāb Ḥubb al-Nisāʿ*, no. 3878; Ibn Ḥanbal, *Bāb Musnad Mālik b. Anas*, 11845–846).

⁹² Luke 16:13.

⁹³ 1 Peter 2:11.

⁹⁴ Ibn al-Jawzī, 25 (see above, p. 28).

dhikri, la-ṣāfahatkum al-malā'ikatu 'alā furūshikum wa-ḥī ṭuruqikum). But rather, O Ḥanzala: now this and now that, now this and now that, now this and now that' (*wa-lākin, yā Ḥanzala, sā'tan wa-sā'tan (thalātha marrāt)*).⁹⁵

This world and the next world, Ḥunayda and God, human love and divine love: there is room for both and a time for each. One of the main routes by which Ḥanzala (and all Muslims) may easily alternate between these two essential poles of being is through the offices of the combination buffer-adhesive known as *tahāra*. Āqā Najafī Quchānī, a Shī'ite *tālib* studying at a *madrasa* (a theological seminary) in Najaf at the end of the nineteenth century, was pressed for money of an evening, when

I saw something shining in the dust on the street. It felt as if the whole world had been given to me. I almost died of happiness. Even Pharaoh could not have been as thrilled by his sovereignty as I was with this *qeran*. Fortunately, the woman was at home and I married her for a while. When I had quitened my desire and enjoyed the pleasure of the flesh from my lawful income, I gave the woman the *qeran* so that she could take her twelve *puls* for the last time and twelve *puls* for this time and give me back the remaining sixteen *puls*. She asked me to leave the rest with her on account for the next week or the next month. I replied: 'Woman, I have many plans for the remaining sixteen *puls*.' There was a cold pond in that house where I performed my obligatory ablutions after the act by dipping myself into the freezing water. From there I went straight to the Shrine of Imām 'Alī (peace be upon him) to say my prayers.⁹⁶

The indispensable agent of this smooth transition between separate but equally legitimate modes of being Muslim is here, again, the water of *wuḍū'* and *ghuṣl*.

Support for this positive—or at least non-valenced—interpretation of the eros-related *aḥdāth* may additionally be garnered from the fact that the defiling 'events' of the Islamic purity code never constitute proscribed or reprehensible phenomena, and the actual term for 'impurity,' 'uncleanness' or 'defilement' in the legal literature—*najāsa*—is seldom applied to the *aḥdāth*, being reserved for ritually contaminating and/or viscerally disgusting *matter*. Thus, while it could be argued that

⁹⁵ Muslim, *Kitāb al-Tawba*, 49:2 (2748). The phrase 'the angels would take your hands'—or 'graze against you'—is somewhat cryptic. It may indicate death, or an overly angelic/ascetic existence in this world. At any rate, it is seen as undesirable. (It may also be remotely connected to the divine threat to 'make among you angels to be vicegerents in the land'—Q. 43:60).

⁹⁶ Baqer Moin, *Khomeini: Life of the Ayatollah* (New York: St. Martin's Press, 1999), 30. We stress once more that *mut'a* marriage is currently acceptable only in Shī'ism.

one should avoid unnecessary contact with ‘tangibly impure’ (*najis*) substances or organisms such as urine, feces, blood, semen, dogs or pigs—‘Thy Lord magnify, thy raiment purify, filth (*rujz*) shun!’ (Q. 74: 3–5)⁹⁷—it certainly cannot be argued that one should distance oneself from urination, defecation, cupping or seminal discharge, which are either value neutral or, indeed, praiseworthy acts. Moreover, as Kevin Reinhart has correctly pointed out, the Islamic notion of ‘impurity’—as it concerns the *aḥdāth*—is best thought of not as an actual defilement of the person, but rather as a temporary preclusion from prayer.⁹⁸

Thus we may all the more justifiably pose the question whether the specifically libidinal *muḥdīth* (one who has undergone the *ḥadath* of *mulāmasa*—i.e., has kissed or caressed a member of the opposite sex—or incurred *janāba* through cohabitation) has in any way ‘demoted’ himself due to the accidents of his physicality, or whether, on the contrary, his preclusion from prayer is actually the result of an *ascent* on his part in the parallel realm of passion and the body; and whether what is often designated or translated as ‘sexual pollution’⁹⁹ is not, in truth, ‘pollution’ at all, but rather represents an equally valid, and indeed, equally essential and meritorious mode of being.¹⁰⁰ The very neutrality of the nomenclature—*ḥadath* literally means ‘occurrence’—may support this conception, and the lumping together of affectionate petting and/or ejaculation with other, *involuntary* human operations like urination, defecation, regurgitation, bleeding and sleeping (all of them prayer-precluding *aḥdāth*), implies a certain recognition that amatory activities between human beings are no less inevitable than the *automatic* incidents associated with the anatomical functions.¹⁰¹ One becomes fatigued, falls

⁹⁷ *Rujz* = *rijs* = *najis*: these roots are used in a related manner throughout Qur’an and Hadith. Semen is a pure substance according to the Shāfi‘iya.

⁹⁸ Reinhart, 15. I have elaborated on the inability of any substance or event to change the ritual status (or even, in a sense, the ritual state) of a person, place or thing in ‘Close Encounters ...’.

⁹⁹ E.g., Katz, *Body of Text*, 60 and *passim*.

¹⁰⁰ Indeed, when water cannot be found to perform *ghusl* (major purification) in order to exit the state of *janāba*, we are left with a toss-up (by those authorities who reject the substitution of sand rubbing for such immersions): either avoid relations with your spouse or avoid prayer. It is by no means clear that the former option was consistently chosen over the latter, even by pious Companions. See, e.g., Ṭabarī, *Jāmi‘ al-Bayān*, 5:159, no. 7650.

¹⁰¹ It is interesting in this connection to note the word choice in ‘Ā’isha’s synopsis of her husband’s nocturnal habits: ‘The Messenger of God would sleep during the first part of the night and rise during the second, at which time if he was *in need* of [sexual congress with] one of his wives, he would satisfy that need (*thumma in kānat lahu*

asleep, and thereby moves from a pure to an impure state; one's bladder fills up, he empties it, and he thereby metamorphoses into a *muhdith*; similarly, one works at one's job, prays in the mosque, talks with friends, and then returns home and kisses or sleeps with his wife—and thereby crosses over into the prayer-preclusion zone. These things *happen*, simply by virtue of being human. They are a part of the natural order; and the natural order, as Sachiko Murata and William Chittick have cogently argued, *is* Islam, in the most fundamental sense of the term.¹⁰²

Have you not seen how to God bow all that are in the heavens and all that are on the earth, the sun and the moon, the stars and the mountains, the trees and the beasts, and many of mankind? (*al-Hajj*, 22: 18).

That the celestial bodies orbit as they do is their 'submission' (*islām*) to God. That the mountains loom and the trees grow and the animals follow their instincts—all of this represents the running of Allāh's inexorable program. Of God's myriad creatures, human beings alone are equipped with the ability to defy this 'natural law' (which is why 'many' of mankind—not all of them—bow down to God in the passage just cited), but they are equipped to do so only in certain areas: in matters of faith, morality, courage and the like.¹⁰³ When it comes to the involuntary functions of the body and the basic animal instincts, all people are, willy-nilly, Allāh's servants. *Ṭahāra* law would appear to presuppose the idea that erotic attraction is also largely involuntary and instinc-

ḥāja ilā ahlihi qaḍā ḥājatahu). Then, he would go back to sleep ...' (Muslim, *Kitāb Ṣalāt al-Musāfirīn wa-Qaṣrūhā*, *Bāb Ṣalāt al-Layl wa'l-Witr*, 17:129 [739]). Similarly, as we have already seen, '*idhā da'a al-rajulu zawjatahu li-ḥājatihī fa'l-ta'tihī ...*'. The term *ḥāja* is even more commonly used to indicate the need to urinate or defecate.

¹⁰² 'Simply by existing, all creatures demonstrate their Creator's glory and perform acts that acknowledge God's mastery over them.' Sachiko Murata and William C. Chittick, *The Vision of Islam* (London: I.B. Tauris & Co., 1996), 4-5. On the most basic level, Islam and *fiṭra*—the natural, innate disposition of all things (and the generically proper behavior of all human beings)—are synonyms. See also Camilla Adang, 'Islam as the Inborn Religion of Mankind: The Concept of *Fiṭra* in the works of Ibn Ḥazm,' *Al-Qantara*, XXI (2000).

¹⁰³ See also Q. 33:72-73: 'Verily, we offered the Trust [i.e., the power to choose between good and evil, freewill] to the heavens and the earth and the mountains; but they refused to undertake it, being afraid of it. But man undertook it; for verily, he is rash and foolish—so that God should punish the evil-minded men and women and the idolators and idolatresses; and so that He may be turned graciously unto the believing men and women, for He is gracious, merciful' (see the insightful comments of Yusuf Ali on this passage). We must ignore, in this context, the complex question of *qadar* or predestination, although these issues certainly bear upon it.

tual, and, as such, is part and parcel of the service of God (provided, of course, that it stays within the proper bounds, as we have stressed above: urination is involuntary and inevitable, but urinating in the central square—as, for instance, the Sufi *Malāmātīya* were reputed to have done¹⁰⁴—is subject to the will and represents the wrong choice. Similarly, the sex drive should not and, indeed, cannot be extinguished, but it can certainly be channeled *away* from one's neighbor's spouse). Ablutions are commanded by God, and must be willfully carried out by the believer; the *aḥdāth*, sexual or otherwise, are not commanded by God, and concomitantly require no act of will. They are, rather, every bit as inevitable—and, therefore, every bit as praiseworthy and *Islamic*—as a sunrise.¹⁰⁵

Although the early *fuqahā'* rarely turned aside from their dialectical labors to discuss the underlying assumptions of the purity code (even when questions of this sort were raised, they were more often than not nipped in the bud by the invocation of 'ta'abbud,' the notion that certain modes of worship—the cult of *ṭahāra* premier among them—are ultimately inscrutable and must be accepted *bilā kayfa*, 'without asking how'), nevertheless, hints regarding such fundamental conceptions can occasionally be gleaned from brief digressions and allusions in the text. Such a hint, in the matter of the non-valenced, natural and inevitable rotation of pure and impure states—and the lack

¹⁰⁴ They did this deliberately, in order to incur public opprobrium and erase all vestiges of ego and self-pride. The 'mocking jurist,' Mūsā b. Yamwīn al-Haskūrī (14th century CE), reportedly urinated in a Moroccan mosque and then tried to justify this act with a Prophetic ḥadīth (which we will adduce below in another context, see p. 58). Powers, *Law, Society and Culture*, 87.

¹⁰⁵ As we shall see in chapter ten, there is a major disagreement between the Mālikite and Shāfi'ite *madhāhib* regarding the preconditions of *mulāmasa*, the former requiring 'intent to obtain erotic pleasure' (*qaṣd al-ladhdha*) in order for ritual fitness to be violated, the latter not. Nevertheless, the Mālikite position does not deny the inevitable (or, at least, essential and indispensable) nature of sensual and sexual activity. It merely seeks to establish whether a particular act is indeed sensual/sexual, or whether it is of another sort (e.g., platonic or unwitting). Moreover, all agree—including the Mālikīya and even the Ḥanafīya—that nocturnal emissions induce *janāba*, and that ejaculation of *madhī* in the midst of erotic excitement constitutes a *ḥadath*, and such emissions and ejaculations in such circumstances are unquestionably involuntary (as al-Nawawī confirms: *wa'l-iḥtilām bi-ghayr qaṣd wa-ikhtiyār, wa-amara al-nabī, ṣalla Allāhu 'alayhi wa-sallam, fi'l-madhī bi'l-wuḍū'*, *wa-huwa yakhruju bilā qaṣd*—Nawawī, *Majmū'*, 2: 63). Al-Buhūī states the general principle: '*mūjib al-ṭahāra lā yashtarītu fīhi al-qaṣd*' (1: 143).

of preference among Muslim jurists for the former over the latter—may perhaps be extracted from the following passage in al-Nawawī's *Majmū'*, even though it is concerned, strictly speaking, with a semantic issue:

Abū'l-'Abbās b. al-Qāṣṣ in his *Talkhīs* has said: 'There is no ritual which is nullified after it has been fully executed other than purification (*lā yabṭūlu shay'un min al-'ibādāt ba'd inqidā' fi'lihā illā al-tahāra*), for [even] when ablutions have been completed, as soon as [the believer] experiences a defiling event or commits a defiling act, [his ablution-based purity] is nullified.' Al-Qaffāl, in his commentary on the *Talkhīs*, corrected his master: 'It is not as Abū'l-'Abbās [has said]. We do not say, "the pure state has been nullified," but rather "the pure state has come to an end"' (*lā naqūlu baṭalat al-tahāra bal naqūlu intahat nihāyatuhā*)—and many others besides al-Qaffāl [continues al-Nawawī] have pointed this out. The preponderant opinion¹⁰⁶ among the Shāfi'ites is that the proper terminology is 'has come to an end' and not 'has been nullified,' just as people normally say: 'the sun has set, the fast has come to an end' (*gharabat al-shams intahā al-ṣawm*), and they do not say 'the fast has been nullified.' And when the term of leasing has expired, we say 'the lease has come to an end' not 'the lease has been cancelled.'¹⁰⁷

What is this argument about? While the *fuqahā'* frequently appear to debate and elucidate linguistic usage for its own sake, or in order to define their terms before embarking on an investigation (the better to ensure reader comprehension), a little probing can usually uncover the relevance of such lexicology to substantive aspects of the legal issue under scrutiny. In this case, I would venture to say that what exercised al-Qaffāl (and al-Nawawī and the Shāfi'iya) about Ibn al-Qāṣṣ's diction was that it implied two related premises with which they were in disagreement: (1) that a state of purity, once violated by the occurrence of a *ḥadath*, becomes as if it had never been, and (2) that a state of purity can be said to have been 'interrupted' at all by the occurrence of a *ḥadath*. Taken together, we may say that those

¹⁰⁶ See Wael Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001), 153, for this meaning of 'al-*aḥar*.'

¹⁰⁷ Nawawī, *Majmū'*, 2:63. After this digression on his word choice, al-Nawawī goes on to address Ibn al-Qāṣṣ's original point, qualifying it by reminding his readership that there are indeed instances in which rituals (*'ibādāt*) are retroactively 'scratched off the record'—apostasy on one's deathbed (*al-riḍḍa al-muttaṣila bi'l-mawt*), for example, erases all the merits racked up by ritual performance throughout one's life—but *naqd al-wuḍū'* is obviously not among such instances.

opposed to Ibn al-Qāṣṣ's usage rejected the notion implicit in it that by urinating, sleeping, bleeding or caressing one's spouse a believer was deviating from a course that was meant to be stayed, or suspending a state that was designed to be maintained, and that consequently—because the 'mission' to remain pure had been prematurely aborted—the heavenly remuneration for steadfastness in this area became forfeit. Not so, explains al-Nawawī. Rather, just as a rental has a term beyond which it is no longer in force, and just as the sun does not stand still in the sky but eventually sinks below the horizon, so the state of prayer-preparedness (*wuḍūʿ*) must sooner or later come to an end, and such a *denouement* is not an 'interruption' of the proper proceedings, but is rather right and natural and just as things should be. No heavenly 'points' can be retroactively lost in the wake of *naqḍ al-wuḍūʿ* (a phrase which might be better translated, following this outlook, as 'the conclusion of *wuḍūʿ*'), because no points were gained in the first place by being '*alā wuḍūʿ*'. Both of these modes of being are as inescapable in the lives of the sons and daughters of Adam and Eve as the sunrise and sunset are in the career of the sky, and they succeed one another with even greater frequency than the circuit of night and day. To everything a season: there is a time to be a *mutawaddiʿ* and a time to be a *muḥdith*. Neither state is preferable in the eyes of Islamic law.

Indeed, sexual intimacy and the pursuant state of *ḥadath/janāba* are occasionally given precedence over prayer and its prerequisite state of *ṭahāra*. The wife of Safwān b. al-Muʿaṭṭal al-Duwalī (a Companion credited elsewhere with the creation of Arabic grammar) once hauled him in front of the Prophet and complained: 'My husband beats me while I pray and forces me to eat when I'm fasting' (*zawjī yaḍribunī idhā ṣalaytu wa-yufattirunī idhā ṣumtu*). Muḥammad turned to Safwān for an explanation. The latter replied: 'O Messenger of God! As for her statement, "He beats me while I pray," this is because she recites two chapters [of the Qurʾān in her prayers, instead of just the requisite *Fātiḥa*] ... and as for her statement, "He forces me to eat when I'm fasting," this is because she goes on fasting for a long time—and I am a young man and I haven't the patience!' (*wa-anā rajulun shābbun fa-lā aṣburu*). While Ṣafwān's wife prayed or fasted, he could not have intercourse with her, and his passion burned unquenched. What was the verdict? In the matter of sexual desire versus liturgical devotion (or gastronomical abstinence), the Prophet decided emphatically in favor of the former, instructing the lady of the house not to exceed the

minimum amount of praying and fasting from that point forward.¹⁰⁸ It is, one could argue based on this passage, often better to be *junub* than *ṭāhir*!

The alternative conception of *ṭahāra* that we have advanced in this chapter may necessitate a new nomenclature, especially in order to describe the sexual and sensual *aḥdāth*. Such a shift in terminology, however, would complicate more than it clarified and sever communications with previous scholarship. Therefore, in the remainder of this work we shall continue to use the terms ‘impurity,’ ‘defilement,’ ‘contamination’ and ‘pollution’ (and shall use them more-or-less interchangeably)—just as we shall persist in employing descriptions such as the ‘violation’ or ‘cancellation’ of *wuḍū*—to describe the effects of the *aḥdāth*. But it should be ever borne in mind (and the reader will be regular reminded) that the negative notions usually associated with such terminology have no place in the context of *fiqh al-tahāra*.

¹⁰⁸ Baghawī, 2:72. The prayers and fasts referred to here were probably supererogatory, and the Prophet’s decision may have been influenced by the need to assert the authority of the husband. Still, the general inclination is clear. Allāh and His Apostle are fully cognizant of man’s nature and needs in this area, and avowedly strive to accommodate them. Commenting, for instance, on Q 4:25–28: ‘And whoever among you cannot afford to marry a free believing woman, [let him marry] such of your believing maidens as your right hands possess ... God desires to lighten your burdens, for man is created weak’ (*yurīdu Allāhu an yukhaffifa ‘ankum wa-khuliqa al-insānu ḍa‘īfan*), al-Ṭabarī explains that this leniency was enacted because ‘you [men] were created without the capability of abstaining from intercourse with women, and with a strong impatience for it’ (*‘ajaza ‘an tark jīmā’ al-nisā’ qalīlī al-ṣabr ‘anhu—Ṭabarī, Jāmi‘ al-Bayān, 5:42*). The debate over the the Islamic attitude to the beating of wives, especially surrounding Q 4:34, is ongoing, but with regard to something similar to Safwān’s scenario we do at least have Muḥammad’s injunction that ‘you must not thrash your wife like a slave and then have intercourse with her at the end of the day’ (*lā yajlidu aḥadukum imra’tahu jald al-‘abd thumma yujāmi‘uhā fi ākhar al-yawm*). Baghawī, 1:50.

CHAPTER TWO

DEVIL MAY CARE: ABDELWAHAB BOUHDIBA AND THE DEMONIZATION OF IMPURITY

So far we have sought to demonstrate that the early Muslim approach to human sexuality was a positive and often playful one, and that—following this—the fundamental Islamic attitude to the minor and major prayer-precluding ‘events’ of *mulāmasa* and *janāba* is that they are not only necessary but desirable, not only *fiṭra* but fine. This, however, is not the view of the lone scholar who has researched and written directly on this subject to date, and before proceeding we must address some of his claims.

Abdelwahab Bouhdiba published his pioneering study of eros and the Islamic world in 1975. *La Sexualité en Islam* is first and foremost a sociological and psycho-analytical enterprise, offering glimpses into the problematic role of matters carnal in a variety of Arabo-Muslim communities and contexts and weaving such glimpses together to forge a theory of Islam and sex that envisions a potential—but does not see an actual—state of balance between these two powerful forces. A ḥadīth that Bouhdiba adduces more than once has it that ‘when husband and wife look at one-another, God looks at them both with compassion (*nazrat rahmatin*),¹ and this ‘sexual-sacral’ love triangle serves as the author’s elusive ideal throughout the entirety of his thought-provoking study.

Bouhdiba devotes a chapter of his work to sexual purity. He is the first scholar to have done so, and his has remained the sole treatment of the subject for a quarter of a century, until the recent publication of Marion Holmes Katz’s *Body of Text* (her analysis of this topic will be

¹ Bouhdiba has ‘*madhara rahmatin*’ (p. 123). The continuation of this ḥadīth would have served Bouhdiba’s purpose even better: ‘and when they [husband and wife] take each other’s hand, their sins slip through their fingers; and when they have intercourse, angels envelope them all around. Voluptuousity and desire are the beauty of the mountains.’ Bousquet, *L’ethique Sexuelle*, 46.

consulted below, in Part Two).² Bouhdiba's discussion of sexual purity, however, is an anomaly: the manifold rules and regulations of *ṭahāra* as delineated in the law texts do not jibe well (to his mind) with his overall effort to harmonize the sensual and the spiritual in Islam, and he can only make this enormous dimension of the Muslim outlook on sexuality fit his general thesis by propounding (or encouraging) a non-traditional, 'metaphysical' interpretation of ritual pollution and purification.³

I strongly disagree with Bouhdiba's portrayal of Islamic purity law, a portrayal which, among other things, describes the *ṭahāra* code as perpetuating and deepening the conflict between existence and essence, rather than reconciling the fleshly/earthly/existential with the spiritual/heavenly/essential and allowing them to coexist comfortably within the confines of the same legitimate framework (as we ourselves have been arguing that it does). In describing the phenomenon and outlining his position, Bouhdiba relies on only two primary sources: al-Ghazālī's *Ihyā' Ulūm al-Dīn* (The Revival of the Religious Sciences) and the *Fatāwā Hindīyya*, i.e., Awrangzeb's *Fatāwā 'Ālamgīrīya*, a massive compendium of Ḥanafite responsa/law commissioned by the seventeenth century Mughal ruler. Both of these works are highly problematic for the purpose, as we shall presently show. Based on this material, Bouhdiba reaches a number of interrelated conclusions about *aḥkām al-ṭahāra*, the long and short of which is a view of the *aḥdāth* in particular—and of the Islamic purity code in general—as decidedly negative phenomena.

First, Bouhdiba associates impurity with evil and danger (perhaps following Mary Douglas, although Bouhdiba's emphasis is slightly different).⁴ He states that '[t]he impure man comes dangerously close to evil ... It is the devil, the *Shaitān*, that presides at the *ḥadath* ... The

² Katz has two highly suggestive sub-chapters on *mulāmasa* (87–96 and 149–155).

³ Even in this chapter—'Purity lost, purity regained'—Bouhdiba has much to say that is on the mark. He affirms that 'purity is not an end in itself' but only a means toward prayer and other important ritual activities (44); that it 'cannot be reduced to mere hygiene' (55); that human beings are originally—i.e., fundamentally—pure creatures according to Islamic law (43–44); and that impurity is not in itself sinful or even connected to the commission of sins (44, 51). Nevertheless, the chapter's central thesis needs challenging.

⁴ See above, chap. 1, note 14.

angels who normally keep watch over man and protect him leave him as soon as he ceases to be pure ... his security, his *ḥasāna*, is seriously in question.⁵ The correlary is that '[p]urification is a security system' and '[p]urification is in the full sense of the word an end to that most dangerous of alienations: *janāba*.'⁶ The Islamic purity code is tied to repellant and even fear: it partakes of, and indeed severely exaggerates, the 'universal horror at the sight of any rottenness, putrefaction or defecation.'⁷

Physiological events 'sully the body.' The individual who has experienced a *ḥadath* is yanked out of the sphere of the angelic and eternal and thrust into the mire of the animal and transitory, brought down to the profane reality of generation and decay: 'In him existence precedes essence, making essence secondary, denying it in some sense, if only temporarily.' He is 'despiritualized, even dehumanized.' He is 'not worthy' of meeting God in prayer. 'Organic life is loss, despiritualization. Ritual purity is restoration and resacralization.' Purification is 'a permanent, private quest for spirituality.'⁸

That which is so threatening, frightening, corrupting and unholy should obviously be avoided, and so Bouhdiba's second conclusion is that 'Islam teaches the art of remaining pure as long as possible and of expelling impurity as soon as one becomes aware of it.' 'The Muslim,' he repeats, 'owes it to himself to be pure for as long as possible.'

This way of spying on one's own body is an admirable training in will and self-control. The training of the sphincters is carried very far, more perhaps than in any other culture. Some people manage to control themselves when in continuous pain. For it is not easy to spy on one's own organism without falling into excess.⁹

And fall into excess they do: 'Perhaps more than any others, Muslim societies have produced men and women who are sick with cleanliness.' The multiple regulations governing ablution procedures 'come very close to obsession.'¹⁰

⁵ Bouhdiba, *Sexuality*, 44-45.

⁶ *Ibid.*, 45 and 57.

⁷ *Ibid.*, 45.

⁸ *Ibid.*, 43, 44, 44, 45, 57, 55.

⁹ *Ibid.*, 43, 49, 49.

¹⁰ *Ibid.*, 56, 56.

This unhealthy fear and mistrust of uncleanness in every form and especially the meticulous and excessive attentions that one lavishes on one's body in the form of minor purification, all this points directly to anality.¹¹

Anality and, of course, anxiety: 'The Islamic doctrine of purity seems to me to be fundamentally anxiety inducing.'¹²

Although Bouhdiba is entitled to his adverse opinion of the *ṭahāra* system as it stands (that is, unreformed by his own psycho-spiritual vision for it—inspired by al-Ghazālī, Durkheim and Freud—as a vehicle for the 'overcoming of anxiety'), none of his determinations or interpretations is supported by the evidence. His misconceptions are at least partially a result of the meager quantity and singular quality of the sources he consulted. Al-Ghazālī's *Ihyā'* is more than anything a mystical work. It treats legal and ritual issues accordingly, teaching (to a degree) their transcendence, or at least the location of their genuine significance in more profound and celestial spheres:

The act of purification is—at every level—only half the work required (*nusf al-'amal alladhī fihā*), as the ultimate goal is that the majesty and magnificence of God be revealed unto the believer ... Indeed, he who is blind to these differentiated stages, will grasp only the lowest degree of purity, which is like the outer husk in relation to the sought-after kernel (*allatī hiya ka'l-qishra al-ākħira al-zāħira bi'l-idāfa ilā'l-lubb al-maṭlūb*).¹³

This added symbolic-metaphysical dimension renders al-Ghazālī's *magnum opus* unrepresentative of the vast majority of early works of *fiqh* (Islamic jurisprudence), which display no such metaphorical or allegorical tendencies and conduct no searches of any kind for the 'deeper meaning' of purity provisions.¹⁴ Their authors were kept quite busy

¹¹ Ibid.

¹² Ibid., 49.

¹³ Ghazālī, *Ihyā'*, 1:223.

¹⁴ Statements intended to minimize the ceremonial and emphasize the ethical aspect of *ṭahāra* were not entirely unknown in the early literature. Echoing Jesus in Mark, 7:15 ('Nothing outside a man can make him impure by going into him; rather, it is that which comes *out* of a man [i.e., his evil speech] that makes him impure'), Ibn Mas'ūd declared: 'Far preferable is it to me to perform the ablution on account of wicked words [which I have uttered] than because of tasty food [which I have eaten]' (*li-an atawaḍḍa'a min al-kalima al-khabūtha aḥabb ilayy min an atawaḍḍa'a min al-ṭa'ām al-ṭayyib*—a statement made in response to a party of jurists that held that ingesting cooked food and/or camel flesh led to ritual contamination—Muḥammad al-Manṣūr al-Itḥiyātī, *Muṣjam Fiqh al-Salaf* [Mecca: Jāmi'at Umm al-Qurā: al-Markaz al-'Ālamī li'l-Ta'lim al-

elaborating the complicated legalistics governing the incidents and procedures which bring about the termination and reinstatement of prayer-readiness, and found sufficient majesty indeed in this pursuit of God's law, as well as in the (at least hoped for) scrupulous application thereof in the daily life of Muslims. Al-Ghazālī's emphases, as compelling as they may have been to many (in our time no less than his), necessarily distort the image of purity law put forth in the classical texts, creating as these emphases do the impression that the thousands of pages of *fiqh al-ṭahāra* and their accompanying *aḥādīth* represent a hollow shell just waiting to be filled by all types of 'inner content'—content of the sort furnished, for instance, by Bouhdiba.

The second source Bouhdiba employs, the *Fatāwā 'Ālamgīriya*, is also largely unhelpful for understanding the genesis and underlying presuppositions of the purity code. This voluminous reference work was com-

Islāmī, n.d.], 1:80). Ibn Sa'd complained of one whose religiosity was confined to ritual minutiae: 'He is too pious to drink out of a glass, but not too pious to kill 'Ammār.' A.S. Tritton, *Muslim Theology* (Bristol: Luzac and Co., 1947), 27. Ibn 'Abbās is reported to have said: 'There are two types of defiling events: that of the genitals and that of the tongue. And the more serious of them is that of the tongue' (*al-ḥadath ḥadathān: ḥadath al-farj wa-ḥadath al-lisān, wa-ashaduhumā ḥadath al-lisān*—Nawawī, *Majmū'*, 2:62). A series of ḥadīths grant absolution to any limb washed in ablutions for sins it has committed (e.g., Muslim, *Ṭahāra, Bāb Isbāgh al-Wuḍū' wa'l-Salāt al-Ṣaḥīḥa Kaḥāra Li'l-Dhunūb Illā'l-Kabā'ir*, 5:228ff.). Such sentiments may have occasionally had their place as counterbalances to the tendency to focus on formality at the expense of morality, but in terms of legal effect they were never more than pleasant maxims, upon which even their own authors did not act. Ibn Qudāma puts the point to rest by adducing a number of conclusive rulings to the effect that 'neither calumny, nor false words, nor prevarication, nor backbiting obligate one in purification or violate *wuḍū'*" (*Mughnī*, 1:177). Bouhdiba himself stresses that 'pollution has nothing to do with sin' (*ibid.*, 44), but nevertheless goes on to quote al-Ghazālī (himself sounding like Jesus in Luke 11:40: 'Now do ye Pharisees make clean the outside of the cup and the platter; but your inward part is full of ravening and wickedness'), who excoriates those who 'spend most of their time polishing their fingernails [one of the *fiṭar* or fundamentally proper behaviors enjoined in the context of purity law] as a beauty specialist might for a bride preparing for her wedding night, while the inside is stuffed with vices!' Bouhdiba, 54. Not just in terms of purity, but also in terms of the sexual side of our subject, al-Ghazālī departs from the juristic norm. We find him, for instance, 'recommend[ing] that the [Sufi] neophyte abstain [from intercourse] at the outset of his marriage, if possible, and that he overcome his passion by fasting. However, if he cannot control his eye, and *a fortiori* if he cannot control his male member, he will do well to consummate the marriage in order to quench his desire' (Bousquet, *L'ethique Sexuelle*, 44, n. 3). This quasi-Pauline 'better to cohabit than to burn' conception is hardly the sort of sentiment one encounters in the writings of most founding *fuqahā'*.

piled by a committee of scholars in the latter half of the seventeenth century. The late date is part of what accounts for the accretion of popular ideas, like the association of angels with the pure state and the connection of evil and danger with its violation.¹⁵ It also explains the exten-

¹⁵ It is probable that a similar evolutionary tendency informs the glaring contrast between an early set of *tahāra* ḥadīths that depict the Prophet engaging in physical expressions of endearment with his female children upon returning from a journey (e.g., ‘... *annahu qadama min safarin fa-qabbala Faṭmata* ...’, *Mughnī*, 1:193), and rulings like the following one, from a sixteenth century text: ‘It is additionally necessary to guard against coming into contact with a minor [female] child [the adjective is in masculine form because it modifies *ṣabī*, here meaning simply child and not indicating its gender], for this act cancels one’s pure state ... and similarly, one must be on one’s guard against touching or hugging [the female child] when he returns from a journey’ (*yanbaghī ayḍan al-taḥaffuz min muṣafahatīhi wa-mu’anaqatīhi idhā qadama min safarin*—Abū ‘Abd Allāh Muḥammad b. Aḥmad b. ‘Uthmān al-Bisāṭī, *Mawāhib al-Jalīl fī Sharḥ Mukhtaṣar al-Shaykh Khalīl* [Cairo: Mujtama‘ Majlis Dā’irat al-Ma’ārif, 1972], 1:48). That which the Prophet consistently and demonstrably did—and against which no counter-traditions are anywhere adduced—is specifically discouraged by this later authority, who employs a formulation jarringly obverse to that of the original ḥadīth. As we shall see below, contrary to Bouhdiba’s belief, there is no reason in Islamic law, nor in the overall Islamic *Weltanschauung*, to refrain from becoming impure. Thus, even according to the very few early jurists (such as Ibn Ḥazm) who held that contact with a minor of the opposite gender cancels *wuḍū’*, one should still embrace and kiss one’s children upon returning home without giving a second thought to the matter, simply purifying oneself later when the time for prayer arrives. The Prophet was extremely affectionate with his offspring and preached such parental tenderness to others. In one tradition we read that he kissed his grandson Ḥasan b. ‘Alī in the presence of al-Aqra‘ b. Hābis. Al-Aqra‘ expressed surprise: ‘I have ten children, and I have never kissed even one of them!’ Muḥammad remonstrated with him: ‘He who is not compassionate will not receive compassion’ [meaning from God, or from other people—*man lā yarḥamu, lā yarḥamu*] (Baghawī, 4:478:41. Other reports locate the Prophet’s statement at the bedside of his dying son, Ibrāhīm). Al-Bisāṭī’s admonition to refrain from touching one’s own female children for fear of incurring impurity is a major deviation from the earlier mainstream of Muslim thought and legislation on such matters. (Nor is it even certain that the Prophet confined his contact with females to members of his own family. Although we do have one ḥadīth to the effect that ‘the Prophet would accept the oath of allegiance from women verbally ... and he did not touch the hand of a woman whom he did not possess’ [*kāna al-nabī, ṣallā Allāhu ‘alayhi wa-sallam, yubāyī‘u al-nisā’a bi’l-kalām ... wa-mā massat yaduhu yad imra’a illā imra’a yambikuhā*], we have other reports which indicate that Muḥammad did indeed clasp the hands of women on such occasions. Thus, for instance, we read that a group of women approached the Prophet to offer the *bay‘a* at the Second Pledge of ‘Aqaba, but when informed that under Islam women were denied the right to rule, ‘one of them withdrew her hand’ [*qabaḍat imra’a minnā yadahā*], which implies that the others clasped Muḥammad’s hand [so argues the Islamist theoretician Taqī al-Dīn al-Nabhānī, founder of the conservative-revivalist *Ḥizb al-Tahrīr*, in his essay *al-Khilāfa* (Aman: Ḥizb al-Tahrīr, n.d.), p. 23. He concludes that Muslim leaders must shake the hands of women in the *bay‘a*]. See, in this connection, the commentaries to Q 60:12).

Another instance of this latter-day tendency to ‘valence’ *tahāra* may be seen in a

sive coverage of operations like *istibrā'* (cleansing the penis after urination)¹⁶ and *istinjā'* (cleansing the anus after defecation) which Bouhdiba excerpts at length before speaking of *ṭahāra* practices as 'com[ing] very close to obsession' and complaining about the 'excessive attentions that one lavishes on one's body' and even 'the eroticization of the anal zone.'¹⁷ While the earliest *fiqh* literature did not desist from delving into the minute particulars of many such ritual observances, no ninth century text can compete with Awrangzeb's compendium for sheer wealth of detail.

recent *fatwā* from the keyboard of the famed cyber-muftī Ebrahim Desai. Asked about the legality of fellatio, the Shaykh opens his response with the following preamble: 'Oral sex between a husband and wife is considered as Makruh Tahrīmi by the jurists, since there is strong possibility that by ejaculation, Mazi (semen) [he should say: pre-ejaculatory fluid: the Shāfi'īya consider actual semen pure—Z.M.] comes out and enters the mouth of the partner. There is consensus amongst the Fuqahaa that Mazi is Najis (impure)' (Islam Q & A Online, at www.islam.tc/ask-imam/index.php). Now, *madhī* is indeed a universally recognized '*ayn al-najāsa*, but the idea that one should change one's behavior in bed in order to avoid contact with a *najis* substance is belied by a great many early anecdotes and rulings, a number of which we shall encounter below. One of these is the express permission granted by the Prophet to practice '*ʿazl*—coitus interruptus followed by ejaculation outside of the vagina (e.g., Abū Dā'ūd, *Nikāh*, 1:501)—in the course of which one or both parties to the sexual encounter will almost certainly come in contact with either *madhī* or *manī* or both. Another is Ibn Hāzim's ruling (which we will discuss below) that a believer may sleep with a non-Muslim woman, even though this jurist considers her skin and bodily fluids *najis* without exception. Yet another is the ubiquitous scenario in Ḥanafī *fiqh* known as *mubāshara fāhisha*, which—despite the adjective—comprises a completely legitimate fully nude embrace *without* intercourse but *with* ejaculation of *madhī* (especially according to the interpretation of the Shaybānī faction). There is nothing the least bit wrong with this act, which involves the emission of pre-ejaculatory fluid onto one's own and/or one's partner's body; indeed, the Prophet and important Companions are shown engaging in it, and Muḥammad is specifically depicted in such contexts with *manī* on his person. (Moreover, since according to *ṭahāra* principles the *inside* of the body is not susceptible to *najāsa*, if the male ejaculate is *ingested* in fellatio, then no impurity is contracted at all). The 'remedy' for the ritual effects of *mubāshara fāhisha* is a rinsing of the affected area (if the *madhī* is still wet) or a scraping of the same (if it has dried)—both procedures known as *izālat al-najāsa*—followed by a minor ablution (*wuḍū'*) prior to the next prayer service. If actual semen (*manī*) is ejaculated outside of the vagina, the major ablution or *ghusl* is required for the male (as it would be for him also, together with the female, if the discharge occurred *inside* the vagina). There is no opprobrium associated with any of these acts in the early sources. Since that time, however, notions have evolved. Bouhdiba has clearly been exposed to such evolved notions.

¹⁶ Not to be confused with the institution of the same name which involves granting a brief period of 'liberation' to a manumitted female slave before marrying her.

¹⁷ Bouhdiba, *Sexuality*, 56.

Moreover, we are dealing here with a Ḥanafite handbook (indeed, together with al-Marghīnānī's *Hidāya*, it is *the* Ḥanafite handbook of Indian Islam). As we shall see in the following chapter, the Ḥanafīya diverged from the other three schools of Sunnī law in the matter of *mulāmasa* (ritual defilement through trans-gender contact), more-or-less ruling this *ṭahāra* precept out of existence. This would explain Bouhdiba's pronouncement: 'This [*viz.*, the Islamic notion of] pollution concerns the functions of elimination and excretion, and nothing else.'¹⁸ When one ignores the fact that some three quarters of Muslim jurists throughout history have considered kissing or caressing one's wife or husband a *ḥadath*, it is easier to come to the conclusion that Islam's purity laws reflect the 'universal horror at the sight of any rotteness, putrefaction or defecation.' (Nor does the Ḥadīth or legal literature evince any such 'horror' even of these last three phenomena, as we shall see momentarily). Especially when discussing the intersection of purity and sexuality, as Bouhdiba is doing in this chapter, the complete omission of the multifaceted precept of *mulāmasa* is a serious drawback.

Having noted the deficiencies of his primary sources, let us confront Bouhdiba's claims themselves. In no early *fiqh* text I have encountered is there any mention of danger or evil accompanying the occurrence of a *ḥadath* or the contraction of *janāba*. This does not mean such statements do not exist, but it does mean that they are not characteristic of the genre. Angels also do not show up—let alone depart—in the prophetic exempla or juristic discussions surrounding the *nawāqīd al-wuḍū'* (violators of post-ablution status).¹⁹ As for the devil, who supposedly 'presides

¹⁸ *Ibid.*, 43.

¹⁹ There is, however, a lone canonical ḥadīth which depicts *major* defilement (*janāba*) to be an angel deterrent: 'Angels do not enter a house wherein is a picture, a dog or a sexually impure person,' or, in another version, 'wherein is an infidel's corpse, a person covered in *khulūq* [a saffron-based fragrance] or a sexually impure individual before s/he performs *wuḍū'* [= *ghusl*].' Both versions are recorded by Abū Dā'ūd alone (90:224). While this tradition seems to evince a negative attitude toward *janāba*, it is important to point out that—unlike the overwhelming majority of purity-related *aḥādīth*—it is never adduced by the jurists in any context (similarly ignored in the *fiqh* texts are, for instance, traditions describing the morally curative properties of various lustrations, see above, chap. 2, n. 14 and below, chap. 9, n. 72). Islamic classical literature, whether legal or legendary, is quite multifaceted and has room for a vast range of views. Nevertheless, this particular notion, because it was rarely if ever drafted into service by the *fuqahā'* or made the basis for any regulation, may be said to have been 'stillborn.' Whatever resonance it may have had for the circle in which it emerged, it was, as we shall show below, almost immediately 'drowned out' by the overall current

at the *ḥadīth*: I am familiar with only two instances in which the Evil One is mentioned in relation to such defiling ‘events.’²⁰ The first concerns flatulence:

of Islamic legal and theological (and Muslim psycho-social) sentiment, which did not view the sexually impure state as deficient or problematic in any way.

More than this: al-Nawawī, commenting on this very *ḥadīth*, issues two qualifications: (1) he confirms that the angels who do not visit the home wherein is a *junub* are specifically angels of mercy and blessing (*al-malā’ikatu alladhīna yanzilūn bi’l-rahma wa’l-baraka*), whereas angels of anger (*hiḡḡā*) ‘do not differentiate between a *junub* and anyone else.’ In other words, *pace* Bouhdiba, *janāba* may block blessing, but it is avowedly unconnected with danger to one’s security. More importantly, (2) al-Nawawī explains that ‘by the term *junub* [the Prophet in this tradition] did not have in mind one who contracts *janāba* [i.e., has sex] and then postpones performing *ghusl* until the arrival of prayer time; rather, [he intended] the *junub* who is lax about [or: belittles] major purification and regularly neglects it’ (*lam yurid bi’l-junub man aṣābathu janāba fa-akkhara al-ighḡisāl ilā ḡuḡūr al-ṣalāt, wa-lākinuhu al-junub alladhī yataḡānu bi’l-ghusl wa-yattakhidhu tark-ihī ‘ādatan*). Al-Nawawī’s proof for the accuracy of this distinction is the fact that the Prophet would have intercourse and then either sleep or engage in other activities without giving a further thought to *ghusl* until prayer time arrived (Nawawī, *Majmū’*, 2:157–158). In other words, the only type of *junub* who keeps angels away is one who violates the law: angels avoid sinners, not those who have just had sex.

²⁰ We do have a well known report of Ḥamna bint Jaḡsh, the sister of the famous Zaynab, according to which the Prophet told her regarding extra caution in the matter of menses that *innamā hiya rakḡa min al-shayḡān*, which means either ‘it [the extra precaution] is a running from the devil’ or ‘it [the menstrual flow] is a “gush” from the devil’ (see Ibn Rushd, *Bidāya*, 1:43). The menses, however, are in a class all by themselves for a variety of reasons, including the fact that the Qur’ān calls the monthly period ‘harm’ or ‘damage’ (*adhī*—2:222). The fear of menstrual blood and of contact with the menstruant’s body is common to almost all pre-modern societies. Nevertheless, the Prophet himself demonstrably displayed no such fear. On one occasion he ‘instructed ‘Ā’isha, while she was menstruating (*wa-hiya ḡā’id*), “Uncover your thigh!” (*ikshafī ‘an fakhḡhik*). She said: And I did so, and he placed his cheek and his chest against my thigh. I leaned over him until he warmed up, for he ached from the cold’ (*kāna qad awja’hu al-bard—*Ibn Rushd, *Bidāya*, 1:44). A plethora of *aḡādīth* show the Apostle fondling and lying in naked embrace with his menstruating wives (e.g., Muslim, *Ḥayḡ*, 1:293; Bukḡhārī, *Ḥayḡ*, 24:320; Ibn Ḥanbal, 6:336). Here, as elsewhere, however, there are reports which contradict the mainstream, such as the tradition quoting the Prophet to the effect that ‘when a woman is menstruating, one must not look at any part of her save her face and palms’ (*idḡā ‘arakat al-mar’a fa-lā yaḡillu an yanzura ilā shay’an minḡā illā wajḡhā wa-kaffayḡā—*Māwardī, 1:364). Interestingly, these are the same body parts of a prospective bride that Muḡammad permits a man to look at (Muslim, *Nikāḡ*, chapter 12), and would eventually constitute the *zīnāt* or areas which the *ḡijāb* needn’t cover.

The devil also shows up in a report of Ibn ‘Abbās: ‘The Prophet said: If, when one of you goes in unto his wife (*atā aḡlahu*), he recites: “O God, help us, and that which has been bestowed upon us, to avoid the devil” (*Allāḡumma, jannibnā al-shayḡāna wa-jannib al-shayḡāna mā razaqna*), then you will have offspring that will not be harmed’ (Bukḡhārī, 4:8). This report is not connected to purity, of course, and even though it *is* connected to sex—and employs the root *j.n.b.* which is superficially reminiscent of sexual impurity

The Prophet said: if Satan comes to one of you and blows into his buttocks and says: you've committed a *ḥadath!* You've committed a *ḥadath!* (*in ya'ti al-Shaytānu aḥadakum fa-yanfakhu fī ilyatihi wa-yaqūlu: aḥdathta! aḥdathta!*). He should nevertheless not leave [the mosque and repeat his *wuḍū'*] unless he hears a noise or detects a smell.²¹

Far from the malevolence and unholy dread which Bouhdība associates with the *aḥdāth*, Satan's attempted deception in this passage symbolizes the *benign* nature of such bodily events in the eyes of the Muslim jurists. The 'work of the devil' in this case is indeed the doubt and disquiet—the *anxiety*—which sometimes arises in the mind of the devotee about whether gas may have been passed during prayer and purity consequently lost. But such agitated uncertainty, insinuated into the worshipper's consciousness by the 'slinking prompter who whispers in the breasts of men' (*al-waswās al-khannās alladhī yuwaswisu fī-ṣudūr al-nās*—Q 114:5), is depicted here as nothing but a bluff to be brushed off.²² The message of Islamic purity law is that the believer is to err, in such circumstances, not on the side of caution—which would unquestionably

(*janāba*)—still, it is legally and in every other way irrelevant to our subject (it is, in the end, a request from God for assistance in conceiving and protecting children). The Prophet also compared a woman passing by a man to the devil—*al-imra'a taqbilu fī ṣūrat shaytānin wa-tadbīru fī ṣūrat shaytānin*—because he longs to look at her from the front and from behind. The antidote to this 'devil' is to head home to one's own wife and have intercourse with her (*fa-la-ya'midu ilā imra'atihi fa-la-yuwāqī'hā*—Baghawī, 27:80). Of late, cyber-space has been filled with ideologically motivated statements, invariably based on distortions of secondary sources, to the effect that (for instance) 'In Islam, males are taught to control desire (*shahwa*). Women are the incarnation of *shahwa*. *Shahwa* comes from the devil.' (Jamie Glazov, 'Atta's Rage Rooted in Islam's Misogyny,' *FrontPageMagazine.com*, October, 2001). Although the classical sources certainly worry, as we have seen, about the ease with which the sexual urge can lead (especially male, but also female) believers down the road to debauchery and fornication ('hell is surrounded by desires' said the Prophet—Majlisī, *Bihār*, 68:62), *shahwa* in a licit context is not only an integral facet of purity legislation (as will become clear in chapter ten), but is attributed as an internal motivation to all of Islam's greatest figures (as we have seen and will continue to see) in narratives that carry not even a hint of censure, and that, indeed, were recorded for the sole purpose of providing examples of model behavior, to be emulated by Muslims everywhere and forever.

²¹ *Mabsūṭ*, 1:83. See also Tirmidhī, *Ṭahāra*, 56. The devil spends his eternal days trying to trip-up believers in this fashion (he blows into other orifices as well—see, for example, Ibn Ḥanbal, 3:449). For a thorough exposition of the *ikhṭilāfāt al-fuqahā'* regarding this *ḥadath* when it is experienced during prayer in the mosque, see Marghinānī, *Hidāya*, 1:307ff.).

²² Bouhdība is well aware of the need to 'banish the obsessional *waswās*'—he quotes al-Ghazālī accordingly (p. 56)—although he does not make the connection between it and the devil, nor does he seem to realize that al-Ghazālī was (at least in this matter) faithfully *echoing* the attitude of the traditional legal literature, not standing in opposition

be the case if we were dealing with a grave and frightening (or evil) phenomenon—but on the side of laxity. When in doubt, take the easy way out.²³

The second appearance of Satan in connection with *ṭahāra* begins in the Qurʾān. The eleventh verse of the eighth chapter (*al-Anfāl*, the Spoils) reads as follows:

When He caused slumber to overcome you (*idh yughashshikum al-nuʿāsa*) as a security from Him, and sent down upon you water from heaven to purify you thereby and put away from you the defilement of Satan (*li-yuṭahhirakum bihi wa-yudhhiba ʿankum rijz al-Shayṭāni*), and to strengthen your hearts, and to confirm your feet.

This is Arberry’s translation, which understandably renders ‘*rijz*’ as defilement. The root *r.j.z.* is used more-or-less interchangeably in Qurʾān, Ḥadīth and *fiqh* with the roots *r.j.s.* and *n.j.s.*, the latter employed solely in order to indicate ritually impure substances. The most basic meaning of *rijz* is probably ‘filth,’ and this is how Dawood, Yusuf Ali and Zohurul Hoque translate it in our verse: ‘... to purify you of Satan’s filth’ or ‘from the stain of Satan’ or ‘from the filthiness of the Evil One.’²⁴ Now, these phrases would certainly appear, at first glance, to support Bouhdiba’s linking of the devil with defilement. However, as anyone who works with Muslim classical literature knows, little can be discerned about the norms and conceptions of Islam from the literal reading of a Qurʾānic verse. Before impacting on law and doctrine, such verses must be ‘processed.’ One of the many forms this processing takes is the activity/genre known as *asbāb al-nuzūl* or ‘circumstances of revelation,’ which associates anecdotes culled from the Ḥadīth with passages found in the Qurʾān so as to furnish the often obscure and seemingly detached scriptural statements with narrative context. In the

to it or even modifying it. ‘*Waswās*’ is even more onomatopoeic and wind-like than the English ‘whisper’ and may be partially responsible for the picture of the devil ‘blowing into the buttocks.’

²³ Māwardī, 1:229: ‘*al-wuḍūʿ lā yalzamuhu biʿl-shakkʿ*’; Shīrāzī, 1:117: ‘*al-ghuṣl lā yajibu biʿl-shakkʿ*’; Nawawī, *Rawḍat al-Ṭālibīn*, 1:186: ‘*wa-law shakka hal huwa lāmis aw malmūs—fa-huwa malmūs; aw hal lamasa maḥraman aw ajnabiyatan—fa-maḥraman*,’ and the same author’s transcription of al-Shīrāzī in the *Majmūʿ*, 2:62: ‘*wa-man tayaqqana al-ṭahāra wa-shakka fiʿl-hadath, banā ʿalā yaqīn al-ṭahāra, li-anna al-ṭahāra yaqīn fa-lā yazālu dhālika biʿl-shakkʿ*.’ Cf. *Mughnī*, 1:196, where one is to opt for certainty over doubt whether this leads to leniency or to stringency.

²⁴ N.J. Dawood, *The Koran* (London: Penguin Books, sixth edition [1990]), 177. Abdullah Yusuf Ali, *The Holy Qurʾan: Text, Translation and Commentary* (Elmhurst: Tashrike Tar-

present case it is not so much the circumstances of the verse's revelation as the phenomena to which the verse *refers* that are of interest to the commentators.

How, then—in what narrative framework—does Muslim tradition read *al-Anfāl* 8:11? To answer this, the famed Qur'ānic exegete al-Ṭabarī takes us to the outskirts of Madīna on the eve of the Battle of Badr (624 CE). The Muslim forces faced three major problems that night: (1) the terrain separating them from the enemy camp consisted of soft and shifting sand dunes (*ramla da'ṣa*), difficult to traverse, while the Meccans awaited them on firm soil;²⁵ (2) the Qurashite army had seized the nearby wells, and the believers suffered from thirst; and (3) many of the Muslim fighters had become sexually impure through nocturnal emissions (or possibly through intercourse—*aṣbaḥū yawm'idhin mujnibūn*), and were unable to exit this preclusive state in time for *ṣalāt al-fajr* (the dawn prayer) due to the lack of water. Seeing an opportunity to sow despair in the ranks, the devil approached the believers one by one and 'whispered to them that which dampened their spirits' (*waswasa lahum bi-mā ḥazanahum bihi*), to wit: 'You claim to be men close to God, and to harbor in your midst His prophet, while in the meantime the polytheists have seized the water sources, and you are all about to pray though affected by major and minor impurity!' At this point, Allāh moved to kill three birds—and foil one devil—all with the same stone. He sent down a driving rainstorm, which (1) washed away the sand-dunes and leveled off the terrain (*labbadahā al-maṭar*) allowing Muḥammad's troops to advance more easily; (2) quenched the thirst of the Muslim warriors; and (3) enabled the men to perform *ghuṣl* and *wuḍū'*, which in turn facilitated the performance of a proper morning prayer just prior to the fateful battle.²⁶

site Qur'an, 2001), 417; Dr. Zohurul Hoque, *Translation and Commentary on The Holy Qur'an* (Centerville: Holy Qur'an Publishing Project, 2000), 291.

²⁵ See Glubb, 185–186.

²⁶ Ṭabarī, *Jāmi' al-Bayān*, 9:257–261. An anecdote incorporating some similar motifs is related in connection with the expedition to Tabūk (631 CE). Having reached a station on their northward march known as the valley of Ḥijr, Muḥammad's massive army (reputedly 30,000 strong) alighted and refreshed themselves at the locality's many gushing streams and fountains. Soon, however, a proclamation was circulated throughout the ranks that the water was neither to be drunk nor used for purposes of ablution. It had been discovered that this site was none other than the erstwhile home of the ill-fated Thamūdites (see, e.g., Q. 15:80ff.), of which Revelation had warned: 'Enter not the houses of the transgressors except with lamentation, lest that overtake you which overtook them.' The host quickly pulled up stakes and moved on, and the follow-

What is important for our purposes in this account, and in the connection it weaves between text and context, is its impact on our understanding of the words ‘*rijz al-Shayṭān.*’ Arberry, Dawood, Yusuf Ali, Muir and Zohurul Hoque were all translating literally when they rendered this phrase ‘the defilement of Satan,’ ‘Satan’s filth,’ ‘the stain of Satan,’ ‘the uncleanness of Satan’ and ‘the filthiness of the Evil One’ respectively, but they probably also had the above story in mind. After all, one plausible way to understand the relationship of the scriptural passage to the ‘fleshing out’ afforded it by tradition is to parse it thus: ‘When God caused slumber to overcome you’ on the night before Badr, you all experienced nocturnal emissions brought on by a Satanic succubus who visited you as you slept; God therefore ‘sent down upon you water from heaven to purify you thereby and put away from you the defilement/filth of Satan,’ that is, he caused the rain to fall in order that you might cleanse yourselves from the sinful state or substance (*janāba* or semen) which resulted from the orgasmic event, thereby ‘strengthen[ing] your hearts, and confirm[ing] your feet’ on the road to victory in battle by removing the demonic stain of sexuality from your bodies and souls. This interpretation identifies seminal impurity with the evil machinations of the Tempter—and with weakness and vulnerability—and thus supports Bouhdiba’s perception of the minor and major *aḥdāth* as devilish and dangerous, as events which banish guardian angels and ‘place [the believers’] security, [their] *ḥaṣāna*, seriously in question.’

But this is not the most compelling interpretation, nor is it the one adopted by Islamic tradition (among other reasons, because the slumber which overcame the warriors is specifically declared “a *security* from Allah” by Q. 8:11). Scrutiny of the language employed and order of events delineated in the variant versions of our anecdote adduced by al-Ṭabarī shows clearly that the devil’s role in this story was not to induce wet dreams. He had nothing to do with those individual erotic experiences, which appear, at any rate, to have been regular occurrences whenever Muslim men ventured far from home, especially on campaign.²⁷ Satan’s function in this narrative was rather to insinuate

ing morning a heavy rain-shower, sent down by Allāh in response to His Apostle’s entreaties, slaked the people’s thirst and allowed them to perform their ablutions (Ibn Ishāq-Guillaume, 605).

²⁷ See, e.g., Bukhārī, 1:93, *Bāb al-Ṭayammum li’l-Wajh wa’l-Kaffayn*: ‘... kannā fi sariyatīn fa’jñabnā ...’; Māwardī, 1:287: ‘*an Aslā’, qāla: kuntu ma’ rasūl Allāh fi ghaḥāt al-Marīsa’ fa-*

into the hearts of the heretofore intrepid Muslim fighters nothing less than the false thesis of Bouhdiba: that impurity is a thing to be feared, that its contraction represents a deeply distressing circumstance, that it is dangerous and detrimental, a ‘despiritualization,’ perhaps even

aṣabatnī janāba ...; Abū Dāʿūd, *Tahāra, Bāb Idhā Khāfa al-Junub al-Bard a-Yatayammum*, no. 334: ‘*an ‘Amru b. al-‘Āṣī, radiya Allāhu ‘anhu, qāla: iḥtalamtu fī layla bārīda fī għazwat Dhāt al-Salāsīl ...*’; Ṭabarī, *Jāmi‘ al-Bayān*, 5:149 and 159: ‘*ba‘athanī rasūl Allāh fī ḥāja fa-ajābtu fa-lam ajid al-mā ...*’; see also Māwardī, 1:304; Muslim, *Kitāb al-Ḥayḍ, Bāb al-Tayammum*, 28:110 (368); and *ibid.*, *Kitāb al-Tahāra, Bāb Manī al-Adamī wa’l-Ḥayawān*, 32:109 (290). Although the Muslims did sometimes take their women folk along on campaign (even—or, perhaps, especially—as far as Bukhārā and Ifriqiya [see William Muir, *The Caliphate: Its Rise, Decline and Fall* (Beirut: Khayats, 1963), 350 and 397], they appear to have done so to a lesser degree than the *jāhili* Arabs, among whom the female contingent formed a sort of cheerleading squad, urging the warriors on with well known lines like: ‘Daughters of Tāriq fair are we, / Advance—we’ll give our kisses free, / Our perfumed beds will ready be. / But we’ll desert you if you flee; / Our love for braver men will be.’ (Hind and her handmaids at Uḥud, Glubb, 207; Ibn Ishāq-Guillaume, 374). Apparently as a result of this shift in policy, the Muslim warriors frequently suffered from sexual frustration at the front (*ishtahaynā al-nisā’ wa-ishtaddat ‘alaynā al-‘uzba*—Abū Dāʿūd, *Kitāb al-Nikāh*, 1:501). Ibn Mas‘ūd: ‘We would raid alongside the Prophet, and we had not [our] women with us; so we said, “O Messenger of God, may we not castrate ourselves?”’ But he forbade us to do so’ (*kunnā nagħzū mā’ al-nabī laysa lanā nisā’un, fa-qulnā yā rasūl Allāh a-lā nastakhṣi? Fa-nahānā ‘an dhālika*—Bukhārī, 67:6; Muslim, *Nikāh*, 3:11 [1404]). Abū Sa‘īd al-Khudrī: ‘We were lusting after women and abstinence had become too difficult for us, yet we desired the ransom money for the prisoners (*aḥbabnā al-fadā’*). We therefore wanted to employ ‘*azl* [coitus interruptus, so as not to impregnate the female captives and thereby lower their worth] ... We asked the Prophet about this, and he said: “You are not under any obligation to forbear from that (*mā ‘alaykum an lā tafalū*) ...”’ (Abū Muḥammad b. ‘Umar al-Wāqidī, *Kitāb al-Maghāzī* [ed. Marsden Jones. London: Oxford University Press, 1966], 413). Many authorities maintain that it was this same sexual frustration on campaign that caused *mut‘a* (‘temporary marriage’ for purposes of pleasure) to be permitted to those traveling abroad—but not to those remaining at home—until shortly before the Prophet’s death (*rawā ḥadīth ibāhat al-mut‘a jamā‘a min al-ṣaḥāba ... wa-laysa fī ḥādhihi al-aḥādīth kulluhā innahā kānat fī’l-ḥaḍar wa-innamā kānat fī asfārihim fī’l-ghazw ‘inda ḍurūratihim wa-‘adam al-nisā’*—Abū Zakariyā’ Yahyā Muḥyī al-Dīn al-Nawawī, *Sharḥ Saḥīḥ Muslim* [Beirut: Dār al-Khayr, 1994], 3:528). Muḥammad himself regularly experienced wet dreams: ‘Umm Salama and ‘Ā’isha reported that the Prophet, may God’s peace and blessings be upon him, would incur major impurity both through intercourse and through nocturnal emissions’ (*kāna yuṣbīhu junuban min jimā’ lā min iḥtilām wa-min iḥtilām lā min al-jimā’*—Māwardī, 1:260). The phenomenon of so many adult men ejaculating involuntarily in their sleep—if it has any historical basis and is not solely the product of *fiqh* debates—certainly invites study. It leads one to suspect that *iḥtilām* may often have functioned as a euphemism for *istimnā’*, masturbation, an act the prohibition of which arrived somewhat late in the literature and remains on shaky ground (al-Shāfi‘ī explains without further comment that ‘*in istamnā’ fa-lam yanzil lam yajib ‘alayhi ghusl*’—*Umm*, 1:53 [this does not, however, in itself indicate approval, and Ibn Kathīr credits al-Shāfi‘ī with a condemnation of onanism, see his commentary to Q. 23:4-5]; centuries later al-Qārī al-Harawī can still illustrate a point of purity law by casually and non-judgmentally

an offense against God. Just as when he ‘blows into the buttocks’ of a worshipper in order to create an unwarranted purity panic, so here, Iblīs strives to foment obsession (through *waswasa* or insinuation) and then manipulates that obsession in order to cause anxiety (‘You claim to be men close to God,’ he taunted them, ‘and yet you are all about to pray though affected by major and minor impurity!’).²⁸ The Evil One comes bearing not an erotic but a neurotic temptation, a temptation to malaise or hysterical compulsiveness regarding the preservation of purity. His job is to make the Muslim nervous and agitated—or depressed and despairing—over *ṭahāra* issues. Marmaduke Pickthall understood this. He translates: ‘[God] sent down water from the sky upon you, that thereby He might purify you, and remove from you the *fear* of Satan (*rijz al-Shayṭān*).’²⁹

referring to ‘*man istamnā bi-kaffihī wa-amsaka dhakarahu ḥattā sakanat shahwatuhu*’—Faḥ Bāb al-‘Ināya, 1:92. Ibn Ḥazm, for his part, simply declared masturbation *mubāḥ*).

²⁸ The devil specializes in such discouragement: at the Battle of Uḥud, he purportedly appeared in the form of one Ju‘āl b. Surāqa and sought to depress the Muslim ranks by shouting thrice that Muḥammad had been slain (Wāqidi, 232 and 295).

²⁹ Al-Wāqidi understood it, as well: ‘*wa-yudhhiba ‘ankum rijza al-shayṭāni’—yaqūlu: yuṣallī wa-lā yaḡhtasil!*’—Wāqidi, 132. Most interesting in this connection is Alfred Guillaume’s comment on Ibn Ishāq’s description of an oath taken by Zayd b. Ḥāritha—Muḥammad’s manumitted slave and adopted son—while he was on campaign in Wādi al-Qurā. After an unplanned skirmish with a detachment of the Banū Fazāra, in which a number of his companions were killed and he himself wounded, Zayd ‘swore that he would use no ablution (so Guillaume; the original reads: *nadhara an lā yamussu ra’sahu ghusl min al-janāba*—‘swore that no water of purification from sexual defilement would touch his head’) until he raided the Banū Fazāra.’ When he recovered from his injuries, Zayd was sent with a large military force on an expedition against the offending tribe and revenge was taken (*inter alia* upon one Umm Qirfa, ‘a very old woman’ who was torn apart by camels—Ibn Ishāq-Guillaume, 664–665). In a footnote to the phrase ‘use no ablution’ Guillaume explains: ‘i.e., abstain from sexual intercourse. The Semites, like other ancient peoples, tabooed intercourse during war. Cf. I Sam. 21. 5, 6 and Robertson Smith, *Religion of the Semites*, 454 *et passim*.’ Smith’s discussion—which includes David’s assurance to the priest of Nob that ‘women are forbidden to us, as has always been my rule when I go on an expedition’ (I Samuel, 21:6), as well as the verses in Deut. 23 that culminate in the divine demand to ‘keep your camp holy’ and were interpreted by the rabbis to refer to nocturnal emissions—responsibly concludes that ‘the taboo on sexual intercourse applied to warriors in old Israel cannot be positively affirmed, but it is probable’ (W. Robertson Smith, *Religion of the Semites* [New York: Schocken, 1972], 455–456). Whatever the case may be regarding the Biblical Israelites, however, it is certainly strange that Zayd’s pledge should have prompted Guillaume to project this purported pan-Semitic antipathy to the simultaneous engagement in love and war onto the Muslims. After all, Zayd was evidently referring to the interregnum *between* campaigns, during which time he would deny himself sexual satisfaction *at home* until he was afforded the opportunity to wreak vengeance on the march (and, if anything, this is evocative of a different incident in I Samuel, in which Saul ‘laid an oath

It is not, then, as Bouhdiba would have us believe, Islamic purity law that is anxiety- or obsession-inducing, but rather the *enemy* of Islamic purity law: Satan. It is the *tahāra* code itself that urges the believer to disregard the devil's scare tactics, to defeat him by remaining entirely unperturbed about the *aḥdāth*.³⁰ Qur'ān, Ḥadīth and *fiqh* fight hard to ensure that Muslims never become 'sick with cleanliness,' and, at least as far as the evidence in the literature itself is concerned, this fight is generally won. The devil does not 'preside at the *ḥadath*': if ritual preclusion is handled in the prescribed and proper manner, he is summarily impeached. The provisions of the purity code are indeed to be kept, but without any apprehension or worry. In *tahāra*, there is truly nothing to fear but fear itself.

This untroubled, almost nonchalant attitude to the defiling events pervades all of the important material on purity law, the generative verse of which is also the occasion for one of the principal affirmations of the central Islamic tenet of *rukḥṣa* (relaxation): '... Allāh would not place constraints upon you, but He would purify you and would perfect His grace upon you, that you may give thanks' (Q. 5:6).³¹ Purity law was intended to be anything but obsessive or burdensome.³² A few

upon the troops: "Cursed be the man who eats any food before night falls and I take revenge on my enemies" [14:24]. It is even more reminiscent of Abū Sufyān's vow after Badr: 'I swear I will not come near women, nor use the water of purification [perhaps a prolepsis—on possible *jāhili* purification procedures, see Ze'ev Maghen, "Strangers and Brothers: The Ritual Status of Unbelievers in Islamic Law" forthcoming in *Medieval Encounters*, Fall, 2004], until you destroy the tribes of Aws and Khazraj ...' [Ibn Ishāq-Guillaume, 362—his wife Hind took a similar oath]). Even were we to understand Zayd as having undertaken to remain celibate *while on campaign*, this would, of course, prove the opposite of what Guillaume asserts. For what would such an oath mean if sex at the front was banned anyway? This is important, for it removes what might be another justification for stigmatizing the nocturnal emissions at Badr—or anywhere else. Neither semen, nor sex, nor the impurity they both induce, is in any way of the devil.

³⁰ In general, it is the job of good Muslims everywhere to 'struggle against Satan by rejecting his insinuations' (*jāhidū al-shayṭāna fi radd waswasatihi*—Qurṭubī, 12:83).

³¹ For *rukḥṣa* see M.J. Kister, 'On "concessions" and conduct: A study in early *ḥadīth*,' reprinted in M.J. Kister, *Society and Religion from Jāhiliyya to Islam* (Aldershot: Variorum, 1990), 1–37.

³² "Urwa al-Faqīmī said: We were once waiting for the Prophet, may God's peace and blessings be upon him, and he emerged [from his domicile] with his head dripping either from *wuḍū'* or from *ghusl*, and then he prayed, and when he had finished praying, the people asked him: 'Shall we strain/constrain ourselves in such matters?' (*a-'alaynā min ḥarajīm fi kadhā?*). And he—may God's peace and blessings be upon him—responded: 'No, O people! For the religion of Allāh is one of ease, the religion of Allāh is one of ease, the religion of Allāh is one of ease!' (*inna dīn Allāhi fī'l-yusr*—Ibn Ḥanbal, 5:68).

examples from among a great many will suffice to demonstrate that Muslim tradition loyally carried out this scriptural mandate to ‘take it easy’ when it came to *ṭahāra*.

Certain ‘sticklers’ from among the Companions tried to infuse Islamic observance with a number of real or imagined Israelite purity stringencies (the amelioratory trend often employs such purportedly Judaic provisions as jumping-off points and foils):

Abū Mūsā used to behave stringently in the matter of urination (*yushaddidu fi’l-bawl*), and would urinate into a bottle, and say: ‘If the skin of one of the Banū Isrā’īl was bespattered with urine, he would excise [the affected portion] with a cutter’ (*qaraḍahā bi’l-maqārīḍ*). Ḥudhayfa said: Would that your companion [Abu Mūsā] did not act so severely (*lā yushaddidu hādihā’l-tashḍīd*) for you know that the Messenger of God and I once walked together until we came to a place where sweepings and filth are thrown behind a wall, and [the Prophet] stood just as one of you stands, and he urinated [without any such precautions].³³

Needless to say, Islamic law preferred the Prophet’s example to that of Abu Mūsā, and Muslims never bottled their urine. Commenting on *al-A’rāf* 7:157—‘Those who follow the Messenger ... [God] will make lawful for them all good things’—al-Ṭabarī explains that these words refer to ‘the unlettered prophet’ (Muḥammad) who will ‘put away the covenant which God had made with the Children of Israel concerning the obligation to fulfill the laws of the Torah, including a number of stringencies such as the cutting of the skin because of [its having been bespattered by] urine (*al-a’māl al-shadīda ka-qaṭ’ al-jild min al-bawl*) ... and all like manner of difficult acts that were imposed upon them [by the Torah], and he [Muḥammad] will replace them with the [more lenient] law of the Qur’ān’ (*nasakhahā ḥukm al-Qur’ān*).³⁴ The easygoing

³³ Muslim, *Ṭahāra, Bāb al-Mash’ alā’l-Khuffayn*, 22:273. This and other *aḥādīth* of its ilk partake of an old Islamic (and indeed pre-Islamic) debate about whether a man should urinate in a standing or sitting position (see also *Mudawwana*, 1:131).

³⁴ Ṭabarī, *Jāmi’ al-Bayān*, 9:115. This is an ‘abrogation’ of one sacred scripture by another. It should be remembered, however, that *fiqh* is not monolithic, and Ḥadīth is even less so. Especially in the latter literature, almost every position on almost every issue taken up may be found if one looks long enough. In the matter currently under consideration, the following anecdote might easily be construed as reflecting ‘anxiety’ about urinal purity: ... from Ibn ‘Abbās: The Prophet once passed by two graves, and said: ‘These two are undergoing torture, and they are not being tortured for a major sin (*kabīra*). Rather one of them did not shield himself (*lan yastatir*) from urine, and the other went around spreading calumnies.’ Then the Prophet took a green palm leaf, broke it in twain and planted one piece on each grave. They said: ‘Oh, Apostle of

attitude encouraged by Islam in matters of urine impurity (as well as in matters of common consideration) is well illustrated by the following anecdote:

... from Abū Hurayra, who reported: A bedouin [*a'rābī*] entered the mosque, and said: Have mercy upon me and upon Muḥammad! And do not bestow mercy on anyone but us two! (*irḥamnū wa-Muḥammadan, wa-lā tarḥam ma'nā aḥadan*). The Messenger of God responded: You have made exclusive to the two of us what is deserved by everyone [lit. 'You have made narrow that which was wide'—*la-qad taḥajjarta was'ān*]. [Abū Hurayra] said: [Well, this bedouin] proceeded without much ado to urinate on the side of the mosque (*fa-mā labitha an bāla bi-nāḥiyat al-maṣjid*), and [the Companions] were about to rush at him, but [the Prophet] ordered: Leave him be until he is finished! (*da'ūhu ḥattā idhā faragha*—other versions: *lā tazrumūhu*, 'don't interrupt him!'). And when he was finished, the Prophet directed [them to fetch] a bucket full of water (*dhanūb min mā' aw sajl min mā'*), and he spilt it out onto [the urine-affected area]. Then the Prophet said: Watch and learn—take it easy and do not burden yourselves! (*yassirū wa-lā tu'assirū*).³⁵

A little urine on the side of the mosque is nothing to get upset about, even though the venue of worship (*muṣallā*) is one of the premier 'targets' susceptible to ceremonial defilement, and urine is exactly the type of *'ayn al-najāsa* (ritually contaminating substance) that defiles it. No

God! Why have you done this?' He replied: 'Perhaps [their suffering] will be eased as long as these remain fresh.' Bukhārī, *Wuḍū'*, 59:217; Muslim, *Ṭahārah*, 34:292.

³⁵ Māwardī, 1:367. Variants of this tradition may be found in Muslim, *Ṭahārah*, 2:284 [99]; Nasā'ī, *Ṭahārah*, 1:47–48; Bukhārī, *Ṭahārah*, *Bāb Ṣabb al-Mā' 'alā'l-Bawḍ fī'l-Maṣjid*, 1:323; and elsewhere. In Muslim's version the Companions exclaim, '*mah, mah!*' (or: *mih, mih*), regarding the meaning of which the *shurrāḥ* are in conflict, some contending that this is an expression of censure (*zajr*), others claiming that it indicates praise (? *ta'zīm al-amr* might mean the opposite: an expression of how terrible it is) and comparing it to *bakh, bakh!* (for the intent of which see, e.g. Wāqidi, 265, where 'Amrū b. Jamūḥ, a lame father of four who longed to participate in the battle of Uḥud but whose sons endeavored to prevent him, complained: *Bakh! Yādhabūna ilā'l-janna wa-ajlisu anā 'indkum?*). As this phrase (*mah, mah!*) probably derives from the Persian exclamation of delight or satisfaction (*bah, bah!*), and especially because the commentators do not know whether the first letter takes a *fatha* or *kasra*, we may have here the old Persian word for 'good': *meh* (synonymous with *beh*). It is, therefore, possible (though difficult) to read the Companions' response as positive or jocular, or at least ironic (Nawawī, *Sharḥ*, 1:526).

This would not be the sole instance of Persian parlance among the *ṣaḥāba*. The Prophet himself once saw Abū Hurayra lying face down on the ground and asked him, in what sounds like pigeon Persian: '*a-shakamat dard?*'—does your stomach hurt? See the variants adduced by the modern editor in the margins of Ṭabarī, *Jāmi' al-Bayān*, 1:381. The inroads of the Sassanid Empire into Arabia in the period just prior to the rise of Islam are a matter of history, as are also, of course, the Iranian surroundings in which many such *aḥādīth* later emerged.

matter: just pour some water over the affected spot and forget about it! The Prophet's concluding exhortation echoes, and embodies the spirit of, *al-Baqara*, 2:185: 'God desires facility for you; He does not desire difficulty for you' (*yurīdu Allāhu bikum al-yusr wa-lā yurīdu bikum al-'usr*).

Scores of *ahādīth* evince the Prophet's exemplary lenience and lack of concern in the face of even the most serious purity infractions, causing confusion to readers raised on the idea of religion as a doctrinaire and unshakeably consistent institution. For instance, the consensus of Muslim jurists declares the act of wittingly performing prayer before alleviating a *ḥadath* by means of ablutions a 'mighty rebellion' (*ma'ṣiya 'azīma*), and Abū Ḥanīfa goes so far as to rule that such a *ṣalāt* 'makes a mockery of God and thereby renders the perpetrator an infidel' (*yakfuru li-istiḥzā'ihī*).³⁶ The famous Companion Abū Dharr, for one, was well aware of the gravity of such an intentional misdeed. He had been out pasturing camels (the reader will recall) when 'sexual impurity befell [him]' (*aṣābatnī al-janāba*—he had intercourse with his wife).³⁷ Some time afterward, lacking water for ablutions but unwilling to skip his devotions, he prayed while impure (*fa-usallī bi-ghayr ṭahūr*). Returning to Madina, he sought out the Prophet. 'I have perished!' he cried (*halaktu, yā rasūl Allāh!*). Muḥammad was used to Abū Dharr's melodramatics: 'And what has "annihilated" you this time?' he inquired (*wa-mā ahlakaka ḥādhihī'l-marra?*). Abū Dharr confessed his deadly sin. Was the Apostle appalled by this dreadful transgression, by this 'mighty rebellion' and 'mockery of God' committed by a particularly pious Companion? Did he enjoin painful acts of penance on Abū Dharr, or rebuke him, or at least commiserate with him over the fact that he had 'perished' (or, according to Abū Ḥanīfa, even apostasized)? Not in the least. 'O Abū Dharr,' the Prophet exclaimed (and one imagines the sigh of benevolent exasperation): 'Just use sand next time!'³⁸

³⁶ Nawawī, *Majmū'* 2:67. 'And when [the insincere believers] meet those who believe, they say: "We believe." But when they are alone with their devils [i.e., false gods, idols—*shayātinihim*] they say: "We are really with you—we were just mocking [when we professed belief in Allāh—*innamā nahnu mustahzi'ūn*]." Allāh will make a mockery of them (*yastahzi'u bihim*) and leave them stumbling blindly in their trespasses' (*al-Baqara*, 2:14–15). Mockery is associated with unbelief, *kufū*.

³⁷ The version of this anecdote in 'Abd al-Razzāq, 1:84–85 (no. 912) confirms this: '*wa-kānat janābat Abī Dharr min jimā'*.'

³⁸ '*Yā Abū Dharr, inna al-ṣa'd ṭahūr in lam tajid al-mā'!*' Māwardī, 1:304. The reference is to the substitute procedure of *tayammum* or sand-rubbing permitted to the Muslims by a revelation lodged in *al-Mā'ida*, 5:6. See, as well, 'Abd al-Razzāq, 1:184 (912). Others also came to Muḥammad claiming to have been 'destroyed' by particular misdeeds,

In a similar vein, we read that ‘Umar b. al-Khaṭṭāb and ‘Ammār b. Yāsir were once out with the herd, and the latter ‘contracted sexual impurity.’ When prayer-time arrived ‘Ammār, short on water but (unlike Abū Dharr) aware of the option to perform *tayammum* (the substitute sand-ablution) even for *janāba*, got down on all fours and ‘rolled around in the dust’ (*tama‘ktu fi’l-turāb*). He had evidently made the logical deduction that since the ersatz purification procedure for *minor* ablutions involved daubing dust on the face and hands—motions and limbs reminiscent of *wuḍū’*—then the sand-based replacement for *major* ablutions should be a full-body dust-bath, corresponding to the total head and torso shower of *ghusl*. Be that as it may, when ‘Ammār later related this incident to the Prophet, Muḥammad laughed (*fa-ḍahika*) and said: ‘It would have been sufficient for you to do *this* with the dust!—and he patted the earth with his hands, blew [off the excess soil from] them, and wiped his face and arms [with the residue].’³⁹ Extenuation is stronger than logic; overzealousness is funny.⁴⁰

Another occasion for moderation-cum-humour was provided by the well-known Companion and future conqueror of Egypt, ‘Amr/ū b. al-‘Āṣī,⁴¹ who furnishes in the following anecdote an early sample of the sharp wit that would eventually earn him the nickname ‘sly fox of the Arabs’ (*dāhiyat al-‘arab*):

Abū Dā’ūd narrated from ‘Abd al-Raḥmān b. Jubayr from ‘Amrū b. al-‘Āṣī, may God be satisfied with him, who said: I had a nocturnal emission on a cold night (*iḥṭalamtu fi layla bārīda*) during the expedition

and elicited a similarly unworried response from God’s Messenger. ‘Abd al-Raḥmān b. ‘Awf, for instance, beat his breast in the Prophet’s presence and wailed that he had been ‘burnt’—*uḥriqtu*—by the sin of having intercourse with a spouse during the fast. Soon afterward, someone placed a basket of dates in front of Muḥammad. ‘Where is the “burnt” man?’ he asked, with evident but benevolent sarcasm. ‘Abd al-Raḥmān presented himself. ‘Give these dates to charity,’ Muḥammad instructed, ‘[and all will be well]’ (Bukhārī, *Ṣawm*, 31:156).

³⁹ ‘Abd al-Razzāq, 1:186 (no. 915).

⁴⁰ Ibn Rushd mentions the practice of certain early Muslims who ‘went so far’ as to commission persons to keep watch over them while they slept, and inform them upon awakening whether they had experienced an ‘event’ (in this case, flatulence—*ḥatta anna ba’ḍ al-salaf kāna yuwakkil bi-nafsihi idhā nāma man yatafaqqad ḥālahu, a’nā hal yakūmu minhu ḥadath*—Ibn Rushd, *Bidāya*, 1:27). I have been unable to find other references to such a practice, but if and when they are found, it is highly probable that they will be accompanied by the traditional derision for, and ridicule of, such excess. Ibn Rushd’s own usage: ‘went so far as to ...’ or ‘to such an extent that ...’ (*ḥatta anna*) certainly points to this, as does the fact that the practice was utterly abandoned.

⁴¹ The letter waw is appended to ‘Amr’s name in many texts in order to distinguish it from that of ‘Umar, which is spelled with the same letters. The waw is not pronounced.

against Dhāt al-Salāsil [in 629 CE, of which he was the commanding general].⁴² I was afraid that if I performed the full body washing [in order to purify myself from this] I would meet my death (*fa-ashfaqtu in ihtasalt an ahlaka*).⁴³ So [the following morning] I performed *tayammum* [rubbing with sand in place of *ghusl*], and prayed the dawn prayer with my comrades [according to another version ‘Amrū told his officers of his involuntary ejaculation, but justified his unwillingness to shower by exclaiming ‘By God, I have never experienced cold like this! Has its like ever blown across your faces?’ (*w’Allāhi la-qad ihtalamtu al-bāriḥa wa-lākinnū w’Allāhi mā ra’aytu bardan mithla hādihā! Hal marra ‘alā wujūhikum mithluhu?*)]. They admitted it had not, but nevertheless proceeded to inform on their commander to Muḥammad]. They reported my actions to the Prophet, who later confronted me: ‘O ‘Amrū! You performed the *ṣalāt* with your comrades while you were a *junub*!’ [*tayammum* is not authorized—and does not alleviate impurity or permit prayer—when water is available, no matter how cold the liquid or the weather may be]. So I [*vi.z.*, ‘Amrū] explained to him [*vi.z.*, Muḥammad] what had prevented me from executing an acceptable *ghusl*, and I added that I had heard that God, greatly may He be praised, had directed His believers [*Surat al-Nisā’*, 4:29]: ‘Do not kill yourselves, for God is ever merciful unto you!’ (*lā taqtulū anfusakum innā Allāha kāna bikum raḥūman*). And the Prophet laughed, and said nothing (*wa-ḍaḥika al-nabī wa-lam yaqul shay’an*).⁴⁴

The relaxed approach preached and practiced by the Prophet in these and countless other *ahādīth*—combined with the avowed inclination of God Himself toward leniency⁴⁵—left a deep impression on the sub-

⁴² W. Montgomery Watt, *Muḥammad at Medina* (Oxford: Clarendon Press, 1962), 53 and 89. The raid reached southern Syria, which is why it was so chilly.

⁴³ Unlike the more metaphysical-minded Abū Dharr, above, ‘Amr uses this term to indicate not a spiritual but a corporeal demise.

⁴⁴ Abū Dā’ūd, *Ṭahāra, Bāb Idhā Khāfa al-Junub al-Bārid a-Yatayammum*, 334 and 335. ‘Amrū’s adduction of this verse was doubly clever because ‘*lā taqtulū anfusakum*’ really means, in this particular scriptural context, ‘do not kill *one-another*.’ Nor was the Apostle’s light response connected to any change of heart on his part—or on the part of God or the later *fuqahā*—about the necessity of the regulation itself: at the official level, *rukḥṣa* in this regard was almost unequivocally denied (see, e.g., ‘Abd al-Razzāq, 1:189 [no. 927] and Ṭabarī, *Jāmi’ al-Bayān*, 5:159 [no. 7649]; cf., however, Marghinānī, *Hidāya*, 1:237: ‘*wa-law khāfa al-junub in iḡhtasala an yaqtalahu al-bard aw yumarridahu, yatayammumu bi’l-ṣa’id*’). Despite this hard and fast rule, Muḥammad let his general slide, and enjoyed the joke to boot. (Lest ‘Amrū himself be perceived as a libertine, or as lackadaisical with regard to ritual matters, it should be noted that the Prophet was forced on a number of occasions to remonstrate with him for ‘fasting all day and keeping the vigil all night’ [*a-lam ukhbira annaka taṣūmu al-nahār wa-taḡūmu al-layl?*—see the various versions in, e.g., Muslim, *Kūṭab al-Ṣawm*, chapter 32]. ‘Your body has a claim upon you,’ he lectured ‘Amrū, ‘and your eyes have a claim upon you [to shut themselves in sleep], and your wife has a claim upon you [to enjoy your company and carnal attentions] ...’).

⁴⁵ Aside from the verses already quoted in this connection (5:6 and 2:185), see 4:28,

sequent development of Islamic jurisprudence, both *uṣūl* and *furūʿ*.⁴⁶ Later scholars enshrined, standardized and applied the notions of *rukḥṣa* (extenuation), *ʿudhr* (exemption), *takhfīf* (reduction), *istiḥsān* (discretion), *istiṣlāḥ* (considerations of public weal), *ʿumūm al-balwa* (hardship due to ubiquity) and many related concepts, creating a legal system shot through with forbearance and pliability.⁴⁷ That this loose interpretation of the rules and coolheaded outlook on their consequences characterized the specifically *sexual* provisions of the purity code we have seen more than once, including directly above with Abū Dharr, ʿUmar b. al-Khaṭṭāb and ʿAmr b. al-ʿĀṣī. Muḥammad himself ‘took another wife [Maymūna bint al-Ḥārith], an act that was, according to one report, consummated while the Prophet was in a state of *iḥrām* or ritual purity [for the *ḥajj*], when normally all sexual acts were forbidden.’⁴⁸ The following is a further example of such *tahāra* temperateness, in which Abū Hurayra (like Abū Mūsā micturating into the bottle, Abū Dharr agonizing over unwashed worship and ʿAmmār b. Yāsir rolling in the dust) plays the hyper-fastidious, overly anxious pietist—this time in matters of *janāba*—and is duly reprimanded:

3: 159, 33: 50, 18: 81, and *passim*. For ‘God’s *rukḥṣa*’ see Maghen, ‘After Hardship Cometh Ease: The *Banū Isrāʾīl* as Backdrop for Muslim Moderation,’ submitted to *Jerusalem Studies in Arabic and Islam*.

⁴⁶ Of course, one could reverse this statement, and say that the ameliorative tendencies of the early *fuqahāʾ* left a distinct impression on the formation, or even fabrication, of *aḥādīth*. Most probably both of these processes took place in tandem. Since, however, it is avowedly not our purpose in this study to delve into what is, in the final analysis, the insoluble chicken-and-egg conundrum of Ḥadīth-*fiqh* chronology, the present phraseology will suffice.

⁴⁷ Not all of these processes lead to leniency in every case. *Istiḥsān*, for instance, can be deployed in the direction of severity, as well. If, for example, the requisite four individuals testify that they witnessed an act of adultery, but each locates the act in a different room of a house, Abū Ḥanīfa relies on the principle of *istiḥsān* to rule that the *ḥadd* punishment (stoning) must nevertheless be carried out (see Wael Hallaq, *A History of Islamic Legal Theories* [Cambridge: Cambridge University Press, 1997], 107ff.). Thus, institutions like *istiḥsān* and *istiṣlāḥ* might be more accurately described as injecting not necessarily leniency, but a general flexibility into the jurisprudential process. *Rukḥṣa*, *ʿudhr*, *takhfīf* and *ʿumūm al-balwa* are, of course, invariably extenuating. It should also be remembered that there is a difference between *rukḥṣa*, which often involves a *permanent* alteration of the law and appears to be primarily the prerogative of Allāh, His Apostle and a few important *ṣaḥāba* and *tābiʿūn*, and the tendency of the later *fuqahāʾ* and *quḍāh* to *temporarily* suspend or reinterpret certain regulations due to changed or mitigating circumstances.

⁴⁸ F.E. Peters, *Muhammad and the Origins of Islam* (Albany: State University of New York Press, 1994), 230; see also Hallaq, *Authority*, 130. Other versions have him marry her at Sarif, some fifteen kilometers outside of Mecca, after the pilgrimage was over.

... from Abū Rāfi‘ from Abū Hurayra, that the latter met the Prophet on one of the paths of Madina while in a state of major ritual impurity (*wa-huwa junub*—he had just come from engaging in sexual intercourse). Abū Hurayra slinked away (*insalla*—in other versions: *inkhanasa*, shrank back) and went off to ceremonially bathe himself (*fa-ighatasala*), after which ... he came to the Prophet, who queried: Where were you, Abū Hurayra? Abū Hurayra answered: O Messenger of God! When you came upon me I was *junub*, and I was loathe to join you (*karihitu an ujālisaka*) until I had taken the ritual bath. The Messenger of God exclaimed: Praise the Lord! A believer never contaminates! (*subhāna Allāh! Inna al-mu‘min lā yanjus!*).⁴⁹

There is no trace here of what Bouhdiba calls ‘that most dangerous of alienations: *janāba*.’ No anxiety is evident at the prospect of ‘despiritualization,’ ‘dehumanization,’ the ‘sullyng of the body’ or the ‘exchange of existence for essence.’ No ‘unhealthy fear and mistrust of uncleanness’ is discernable in the Prophet’s words, the utterance of which may well have been accompanied by a roll of the eyes.

A similar spirit—of compassionate aggravation in the face of excessive or ignorant piety—is detectable when the Prophet asks his wife to bring him a prayer mat. ‘Ā’isha protests: ‘But I’m menstruating!’ Muḥammad replies (rolling his eyes): ‘For God’s sake, ‘Ā’isha—your

⁴⁹ Muslim, *Ḥayḍ*, 29:371. The Prophet is famous for embracing and being physically affectionate with everyone he came across, and this might have added to the fear of Abū Hurayra. Compare *aḥādīth* describing similar encounters between the Apostle and other Companions, e.g., Bukhārī, *Ghusl*, 1:45 and Shams al-Dīn al-Sarakhsī, *Al-Mabsūṭ* (Beirut: Dār al-Fikr, 1989), 1:47. It is, for multiple reasons we cannot delve into here, impossible to know how we should vocalize and annotate the ultimate verb: *yanjus?* *Yanjīs?* *Yunajjis?* Does it perhaps mean that a believer *is* never contaminated? What is certain is that this ḥadīth is considered by almost all Sunnī jurists to be the foundation (al-Nawawī calls it an ‘*aṣl* ‘*aẓīm*’) of the widely accepted idea that all human beings—not just ‘believers’—are permanently pure and in no way ritually threatening (see the present author’s ‘Strangers and Brothers ...’). Note the following Shī’ite parallel to our ḥadīth, which stands in direct and perhaps deliberate contrast to the attitude of the latter: ‘Abū Baṣīr reported: I visited Medina and I had a young slave girl. I had intercourse with her and then I headed toward the baths. But I met some of our colleagues of the Shī’a who were on their way to visit [the sixth Shī’ite Imam] Ja’far al-Ṣādiq, peace be upon them. I was afraid that they would get there before me and I would miss visiting him, so I went with them to the house. When I stood before Abū ‘Abd Allāh [i.e., Ja’far], peace be upon him, he looked at me and said: Abū Bāsīr, don’t you know that the houses of prophets and the children of prophets are not suitable places to enter for those who are ritually impure? I was ashamed and said: Son of the Apostle of God, I met our companions and I was afraid that I would miss visiting you with them. I will never do the same thing again.’ Shaykh al-Mufīd, *Kitāb al-Irshād*, trans. I.K.A. Howard (London: Balagha Books, 1981), 413.

menstruation is not in your hand!’ (*inna ḥayḍataki laysa fī yadiki!*).⁵⁰ By the time of her widowhood, ‘Ā’isha certainly seems to have absorbed her husband’s unagitated attitude toward the *aḥdāth*. ‘Abd Allāh b. Shihāb al-Jawlānī had a wet dream while lodging at her house one night, and stained his shirt (*kuntu nāzilān ‘alā ‘Ā’isha fa-ra’aytu mā yarā al-nā’im fī manāmihi fa’ḥtalamtu fī thawbī*). When his hostess found him on the morrow by the well, furiously scrubbing the soiled garment (‘out, damn spot!’), she gently chided him that he really needn’t expend so much effort. After all, she herself ‘used to scratch dried semen off of the garment of the Messenger of God with my fingernails [as he left for the mosque, after they had had intercourse]’ (*wa-innī la-aḥukkuku min thawbi rasūl Allāhi yābisān bi-zufri*).⁵¹ This is hardly the sort of disclosure normally associated with a shameful or frightful taboo, nor is it what one would expect from a literature squeamish about sexuality or fanatical about the sterilized image of its religious heroes. Indeed, far from ‘anxiety,’ ‘obsession,’ ‘fear’ or ‘horror,’ casual jocularity was often the order of the day in exchanges about purity law. When Sa’d

⁵⁰ Muslim, *Kitāb al-Ḥayḍ*, 3:298. In general, what were perceived to be the overly strict Judaic regulations regarding contamination and separation during menses, as well as the extension of menstrual (i.e., vaginal) impurity to the entire body of the woman, were greatly attenuated. See, e.g., Jalāl al-Dīn al-Suyūṭī, *Al-Durr al-Manthūr fī-l-Taḥṣīn bi-l-Ma’thūr* (Cairo: n.p., 1314 AH), 1:258; Ibn Ḥanbal, 6:336; Abū Dā’ūd, *Kitāb al-Ṭahāra, Bāb Fī Mu’ākalat al-Ḥā’id wa-Mujāma’atihā*, 1:59.

⁵¹ Muslim, *Kitāb al-Ṭahāra, Bāb Manī al-Adamī wa-l-Ḥayawān*, 32:109 (290). In alternate rescensions: ‘I used to scrape semen (*kuntu afruku al-manī*) from the shirt of the Messenger of God as he left for prayer.’ Muḥammad b. Idrīs al-Shāfi’ī, *Kitāb al-Umm* (Beirut: Dār al-Fikr, n.d.), 1:72; Muslim, *Ṭahāra, Bāb Hukm al-Manī*, 32:106; Sarakhsī, *Mabsūt*, 1:81. The fact that she needed only to scrape or scratch off the semen, as opposed to washing it off (or laundering the entire garment) attests to the mild nature of seminal impurity. Al-Shāfi’ī uses this ḥadīth to argue that semen is not *najis* at all. The *Muwatta’* records an episode in which ‘Umar b. al-Khaṭṭāb—who was, by his own admission, highly prone to nocturnal emissions (see *Muwatta’*, 2:20 [81])—had set off with a party of riders that included ‘Amrū b. al-‘Āṣi. Stopping along the way to rest for the night, not far from an oasis, ‘Umar slept and had a wet dream. Rising prior to dawn, he searched the saddlebags of his entourage for water but found none. Taking his garment, he mounted and road to the oasis, where he washed the affected area of his clothing. His company caught up with him, and ‘Amrū b. al-‘Āṣi said: ‘It is morning, and we have many extra garments with us—send yours to be laundered’ (*da’ thawbaka yughsalu*). ‘Umar responded: ‘I am surprised at you, ‘Amrū! Even if you have clothes to spare, do you think that all the people do? For were I to do [what you suggest], it would become the established practice (*la-kānat sunnatan*). Rather, I wash what I see [of the seminal residue] and then I [symbolically] sprinkle the rest’ (*Muwatta’*, 2:20 [83]).

b. Abī Waqqāṣ was asked whether touching the penis violates *wuḍūʿ*, he shot back at his interlocutors: ‘If you think it is contaminating, cut it off!’⁵²

A wonderful example of the relaxed and even humorous attitude of the early texts to issues of sexuality and sexual purity may be had from a ḥadīth recorded by al-Dāraquṭnī and cited by al-Qurṭubī. In it we read of ‘Abd Allāh b. Rawāḥa—signatory of the Second Treaty of ‘Aqaba, amanuensis of the Prophet, martyr at Mū’ta (629 CE)—who was lying in bed one night with his spouse. At a certain point he rose,

⁵² Sarakhsī, *Mabsūt*, 1:66; ‘Abd al-Razzāq, 1:93 (433). Arqam b. Shuraḥbīl said: ‘While I was praying once my groin [lit., my body—*jasadī*] started to itch. I reached down and scratched my penis. I [later] informed ‘Abd Allāh b. Mas‘ūd of this [asking if I needed to renew ablutions and repeat my prayers]. He laughed and said: “Cut it off! Whither will you flee from it? It is a part of you!”’ (*fa-ḏaḥika wa-qāla: iḡta’hu, ayna ta’zīluhu? Innamā huwa biḏ’atun minka*—‘Abd al-Razzāq, 1:92 [430]. See also Abū Dā‘ūd, 71:180 [1:312], where the Prophet explains to a bedouin who asks a similar question that ‘it is nothing but a chunk [*mudghatun*] of you’). Another ‘*istifā*’ of this sort receives the rejoinder (from Ḥudhayfa): ‘I don’t care whether you touched it [*viḏ.*, your penis] or touched my nose!’ (Ibid., [429]. Ibn Abī Shayba—1:61 [54:4]—has a similar formulation concerning kissing, in which Masrūq exclaims: ‘*lā ubālī qabbaltuhā aw qabbaltu yadī!*’). There are, however, few legal *aḥādīth* that do not have their diametrically antithetical counterparts: one of Sa’d b. Abī Waqqāṣ’s sons recounts that he was holding the text of the Qur’ān for his father, who was reading and memorizing [*yaqra’u wa-yastadhkiru*], when his member began to itch terribly (*akalanī dhakarī*). ‘I scratched it, and my father said: “Did you touch it?” [*a-masastahu?*]. I answered: “Yes.” He said: “Get up and redo ablutions.”’ ‘Abd al-Razzāq, 1:89 [414].

The Ḥadīth and *fiqh* literature abound in instances of Muslims—either eager to prove their piety or sincerely desirous of learning the law—who approach the Prophet and others with nitpicky purity questions. They are invariably rebuffed. Umm Salama, one of Muḥammad’s wives, herself almost sounds like she is trying to trip him up when she queries: ‘O Messenger of God! I am a woman who wears long, trailing dresses (*innī imra’a uḡlu dhaylī*) and I walk across filthy terrain [– does this not contaminate my clothing and thus invalidate my subsequent prayer in it?].’ The Prophet replied in a way that seems designed to match over-cleverness with over-cleverness: ‘Do not worry,’ he said. ‘What comes after it purifies it’ (*yutaḥhiruhu mā’ ba’duhu*), i.e., the impurities picked up by the hem of your dress are removed by the ‘good, clean soil’ which accumulates on that same hem as you continue to walk along (*Muwattaʿ*, 2:4 [16]; Ibn Rushd, *Bidāya*, 1:66). The heuristic (as opposed to legalistic) nature of this anecdote is also evident from the fact that the *fiqh* literature nowhere, as far as I can tell, takes up this ‘hem-trailing’ question. On another occasion, ‘Abd al-Raḥmān b. ‘Awf came to ‘Ā’isha to ask about coitus: ‘What obligates a person in *ghusl*?’ he queried. The import of the quip preceding ‘Ā’isha’s answer is not entirely clear to me, but it does appear to involve a gentle, humorous scolding for the superfluity of the question: ‘Do you know what you are like, O Abū Salama [‘Abd al-Raḥmān’s *kunya*]? You are like a chick that hears the cocks crowing and crows together with them! (*matal al-farrūjī yasma’u al-dikata taṣrukhu fa-yaṣrukhu ma’hā*). If the place of circumcision penetrates the place of circumcision, *ghusl* becomes obligatory’ (*Muwattaʿ*, 2:18 [72]).

betook himself to the adjoining cubicle of his maidservant (*jāriya lahu*), and mounted her (*waqa'a 'alayhā*—as she was one of those ‘whom his right hand possessed,’ this was probably a licit act of concubinage).⁵³ Sensing his absence, Ibn Rawāḥa’s wife awoke with a start, donned her robe and went out in search of him. Espying her husband in *flagrante delicto* with the girl, she returned to the house in a jealous rage, grabbed a kitchen knife and stormed back to the scene. In the meantime, Ibn Rawāḥa had satisfied his urge (*faragha fa-qāma*), and on his way out of the maidservant’s quarters encountered his knife-bearing wife. ‘What’s this?!’ he inquired (*mahyam?*). ‘I’ll tell you what this is,’ she responded. ‘If I had caught you now where I saw you before, I would have plunged this knife right between your shoulder-blades!’ (*law adraktuka haythu ra'aytuka la-waja'tu bayna katafayka bi-hādhihi'l-shufra*). ‘And where did you see me before?’ asked Ibn Rawāḥa, playing dumb. ‘Why, I saw you on top of the maidservant!’ cried his wife. ‘Nay!’ he replied, ‘You did *not* see me thus, [and I can prove it]: for the Messenger of God has forbidden us to recite the Qur’ān when we are sexually impure’ (*mā ra'aytanī, wa-qad nahā rasūl Allāh an yaqra'a aḥadunā al-Qur'āna wa-huwa junub*). ‘Very well,’ she demanded. ‘Recite!’ (Now—adds the narrator— Ibn Rawāḥa’s wife was not well acquainted with scripture [*wa-kānat lā taqra'a al-Qur'ān*]). So Ibn al-Rawāḥa recited:

Atānā rasūl Allāh yatlū kitābahu
Kamā lāḥa mashhūrun min al-fajr sāṭi'u
Atā bi'l-hudā ba'd al-'amā, fa-qulūbunā
Bihī mūqinātun anna mā qāla wāqī'u
Yābītu yujāfi janbahu 'an firāshihī
Idhā istathqalat bi'l-mushrikīni al-mudājī'u

The Messenger of God came to us
 declaiming his Book,
 Like the brilliant flash of the rising dawn,
 He came bearing guidance in wake of the darkness,
 And our hearts are sure
 that what he said is the truth,

⁵³ See Q. 23:4–5: ‘Success invariably accrues to ... those who guard their private parts (*alladhīnahum li-furūjihim ḥāfiẓūn*), except before their spouses and **those that their right hands possess** [maidservants, concubines].’ For excellent discussions of the laws pertaining to slave-ownership as they relate to sexual relations, see Baber Johansen, ‘The Valorization of the Human Body in Muslim Sunni Law’ in Charles Issawi and Bernard Lewis (eds.), *Interdisciplinary Journal of Middle Eastern Studies* 4 (Spring 1996); and Powers, *Law, Society and Culture*, chapters one and two.

All night long he lay uneasy on his mattress,
For polytheists are difficult bedfellows!⁵⁴

Convinced that her husband had declaimed genuine Qur'ānic verses—and that therefore he could not possibly have come from a sexual encounter—Ibn Rawāḥa's wife hung her head in shame. 'I believe in God!' she apologized. 'Mine eyes are belied!' (*amantu bi'llahī, wa-kadhhabat al-baṣar*). 'On the morrow,' the anecdote concludes, 'Ibn Rawāḥa went to see the Prophet and told him all that had transpired. The Messenger of God laughed so hard you could see his molars' (*fa-ḍahika rasūl Allāh ḥattā badat nawājīdhuhu*).⁵⁵ In terms of the comparatively carefree approach of early Islam to more than one significant sexual issue (let alone to the gravity of scriptural revelation),⁵⁶ this story speaks volumes. It takes a relaxed and jocular attitude to matters often perceived—in other religious systems and in later Islam itself—as

⁵⁴ Ibn Rawāḥa's extemporaneous poetry stretches the simile of Muḥammad's light banishing *jāhīlī* darkness, and may even—in the final couplet—contain a mischievous allusion to the poet's own actions immediately prior (these lines are difficult to decipher). Being one of the Prophet's amanuenses (*kuttāb al-wahy*), Ibn Rawāḥa was no doubt particularly familiar with the literary style of revelation. His poem may, however, have been intended as a deliberately poor parody of the same.

⁵⁵ Qurṭubī, 5:182–183. Interestingly enough, it was this same 'Abd Allāh b. Rawāḥa who had (according to a widely accepted report) once boasted of being even more pious than the Prophet himself, after interviewing some of the latter's wives about his connubial practices. 'As for me,' condescended Ibn Rawāḥa, 'I keep aloof from women altogether, and shall never marry!' (*anā a'tazilu al-nisā' fa-lā atazawwaju abadan*—Baghawī, 4:136). He was roundly scolded by Muḥammad for this, and clearly took the reproof to heart. Muḥammad himself was regularly embroiled in the complications and jealousies brought on by polygamy and concubinage, and—as we shall see below—'Ā'isha specifically suspected him, on more than one occasion, of leaving her bed at night and going to have intercourse with another wife/concubine. Moral questions about Ibn Rawāḥa having pulled the wool over his wife's eyes are not an issue we can take up here (he was, it should be noted, not the kindest of people: when the fate of the Qurashite captives was being debated after the Battle of Badr, it was he who suggested they be burned alive to a man—Ibn Ḥanbal, 1:383. His advice was not heeded. He also commanded a company that lured thirty unsuspecting Khaybarites—including the township's new chief [ʿUsayr or Yusayr]—out into the desert with false promises of peace and then slaughtered them [Ṭabarī, *Annales*, 1:1759–11]. On the other hand, when the same Jewish fortress was later subjugated, Ibn Rawāḥa was commissioned to be the appraiser of its annual tribute, in which capacity the local inhabitants are reputed to have greatly esteemed his justice).

⁵⁶ Specifically with reference to the employment of various ruses in order to circumvent the precepts concerning that proper treatment of wives, the Qur'ān warns: 'Do not make a game out of God's revelations' (*lā tattakhidhū ayāt Allāhi huzuwan*—Q. 2:231).

unrelievably serious, and portrays a thoroughly *human* Prophet, a man like other men of his (and our own) time.⁵⁷

Few *fuqahā* were stricter in general—and none more meticulous about purity law in particular—than the eleventh century jurist of the Zāhirite *madhhab*, Abū Muḥammad ‘Alī b. Aḥmad b. Ḥazm. As the foremost representative of a school that stood for an uncompromising literalism, Ibn Ḥazm was one of the handful of sages in Islamic history to take Muḥammad’s final line in the previously cited ḥadīth of Abū Hurayra—‘Praise the Lord! A *believer* never contaminates!’—at face value. Combining this reading with a no less literal understanding of *al-Tawba* 9:27 (‘The polytheists are unclean!’), he reached the legal conclusion that all non-Muslims are nothing less than *‘ayān al-najāsa*, physically impure and contaminating entities, transmitting potent ritual defilement to Muslim men and women, especially by means of their bodily fluids. Now, Ibn Ḥazm well knew that the Qur’ān permits marriage with the women of the *ahl al-kitāb* (People of the Book),⁵⁸ even if such women do not convert to Islam, and he imagines a challenge that might be raised to his ruling: how can non-Muslims be ceremonially defiling if God expressly permits us to marry them? After all, he admits, in any functional marriage, it will be quite impossible to avoid a wife’s saliva, sweat and tears! Ibn Ḥazm’s answer, like many other statements recorded so far in this chapter, may not ring pleasantly in the modern Western ear, but it is most helpful in pointing toward the true nature of ‘defilement’ in the *tahāra* system:

[Were such a question to be asked, writes Ibn Ḥazm], we would reply: this is a manifest error. Rather, [the idea is that] the Muslim should

⁵⁷ In his outline of ‘Mohammed’s Religious Message,’ Tor Andrae—summarizing only one side of what is in reality an everpresent *dialectic* in Muslim classical literature—makes a premier trait of the ‘godless’ according to the Islamic outlook that ‘they jest and play. Their hearts are filled with jovial levity ...’ (Tor Andrae, *Mohammed: The Man and His Faith* [trans. Theophil Menzel, London: George Allen & Unwin Ltd., 1936], 82). While statements unquestionably exist which decry excessive frivolity, hundreds of stories in the Ḥadīth portray playfulness and jocularitas as, in point of fact, a premiere trait of the *godly*—indeed, of the most godly. It is true that Allāh’s Apostle is reputed to have said, ‘If you knew what I know, you would laugh little and weep much’ (*law ta’lamūna mā a’lamu la-ḍāhikūm qalīlan wa-la-bakaytum kathīran*—Nawawī, *Riyāḍ al-Ṣālīhīn*, 54:447 [and see Q 9:82]). Nevertheless, he laughed much.

⁵⁸ See *al-Mā’ida*, 5:5. The term *mushrikūn*—polytheists—is considered by many jurists to encompass the People of the Book (Jews, Christians, Sabians, possibly Zoroastrians) for this and various other purposes. On interfaith marriage, see the thorough treatment in Yohanan Friedmann, *Tolerance and Coercion in Islam* (Cambridge: Cambridge University Press, 2003), chapter five.

perform the [sexual] act [with the Jewess or Christian woman], and afterward, whatever of her saliva or perspiration touched his body, let him do with it the same thing that he would do with her urine, her blood or her vaginal fluids [if he came in contact with them, i.e., ritually purify them via the various methods of *izālat al-najāsa*]. And there is nothing so difficult about that (*wa-lā ḥaraj fī dhālika*).⁵⁹

The hypothetical question, Ibn Ḥazm is saying, is based on a false premise, the same false premise upon which Bouhdiba builds his entire schema: that impurity is negatively valenced and should therefore be avoided. Not so. Rather, relations with an infidel woman may be enjoyed freely, and merely necessitate subsequent purification.

Now, it is true (as we pointed out earlier) that there is a distinction in this matter between *najāsa* ('tangibly' impure *substances*—blood, urine, feces, vomit, carrion, dogs, pigs, wine, etc.), on the one hand, and the minor and major *aḥdāth* ('abstractly' defiling *events*—bleeding, urination, defecation, regurgitation, flatulence, fainting, laughing, *mulāmasa*, menstruation, intercourse, ejaculation, childbirth, etc.), on the other. The former entities and organisms ought probably to be avoided and, at any rate, naturally *are* avoided by most human beings, for they are malodorous, dirty, sticky, or otherwise repellent to the senses or the mind. The latter episodes and acts, however, both *are* not and *should* not be avoided by Muslims (or anybody else).⁶⁰ Although Bouhdiba correctly clarifies at the outset of his treatment that 'it is the *ḥadath*, the event, rather than the "product" that makes impure,'⁶¹ he nevertheless proceeds to conflate these categories throughout the remainder of his discussion, stating, for instance, that 'the [*fiqh*] chapters concerning the *nawāqid al-wuḍū'* and the *nawāqid al-ghusl'* are designed to 'lay down the boundaries between *tāhir* and *khābiṭh*,' even though the latter term is interchangeable only with the category of *najīs* things, which require *izālat al-najāsa*, and is not connected to the *aḥdāth*, which necessitate *wuḍū'* or *ghusl*. He also treats *istibrā'* (cleansing the penis from traces of urine) and *istinjā'* (cleansing the anus from traces of feces) as antidotes for *aḥdāth*—and

⁵⁹ Abū Muḥammad 'Alī b. Aḥmad b. Ḥazm, *Al-Muḥallā* (Beirut: Manshūrāt al-Maktab al-Tijārī li'l-Tibā'a wa'l-Nashr wa'l-Tawzī', n.d.), 1:130. For Ibn Ḥazm's ideas about sex and romance, see his *Tawq al-Ḥamāma fī'l-Uḥfa wa'l-Ullāf* (full citation and information in Adang, *Muslim Writers*, 59–60, notes 264 and 268).

⁶⁰ This is true even in cases where such acts are avoidable. Many jurists opined, for instance, that laughing is a violator of *wuḍū'*. At the same time, however, no *faqīh* could be unaware of the regularity with which the Prophet Muḥammad was wont to chuckle.

⁶¹ Bouhdiba, 44.

uses their many sub-provisions to bolster his overall theory about the latter—even though *istibrā'* and *istinjā'* are, in fact, both forms of *izālat al-najāsa*. This is not a picayune distinction, for as we have just pointed out, *najāsa* can conceivably be saddled with negative connotations; the *aḥdāth* most certainly cannot.⁶²

Bearing this dichotomy in mind, a simple argument *a fortiori* strongly suggests itself: if Ibn Ḥazm, the severest of all scholars in matters of ritual purity, authorizes the Muslim to drop his ritual defenses and expose himself to a significant amount of *najāsa ḥissiyya* (in the form of his unbelieving wife's bodily fluids), even though this is the only type of impurity that anyone would claim should be avoided before the fact and eliminated as soon as possible afterwards—how much more should we expect the *mainstream* of Sunnī jurists to harbor neutral and unconcerned attitudes toward the *aḥdāth*, which are neither to be shunned ahead of time nor 'lifted' immediately subsequent to their occurrence? And that is, in fact, exactly what we do find: in the eyes of the Muslim jurists, as we have stressed previously, being in a state of minor or major impurity is no worse or better than being in a state of purity. Each has its appropriate time and place in the daily cycle. When one prays, circumambulates the *Kā'ba*, fasts, sequesters oneself in the mosque (*i'tikāf*)—these are times for being '*alā wuḍū'*'. When one kisses or makes love to one's wife, bleeds or has oneself bled (*ḥijāma*), sleeps or goes to the bathroom—these are times for being a *muḥdith*. Both sets of activities are necessary, even meritorious, and neither of them may be foregone. What of periods in which one is engaged neither in the one nor in the other type of pursuit? These are no-man's land. The believer is free to remain in *either* state for the duration of such intervals, and the legal texts evince no partiality whatsoever toward either option.

Thus, Bouhdiba's determinations that 'the Muslim owes it to himself to be pure as long as possible' and that 'Islam teaches the art of

⁶² G.H. Bousquet's entry 'Ḥadath' in *EI*² is misleading on this score. It opens by claiming that '[h]adath is incurred: 1—by contact with an unclean substance (*khathath, najās*), which soils the person or clothing ...' While there is occasionally some blurring of boundaries in the earliest works of *fiqh* (several authorities, for instance, send a worshipper back to the water source to renew his *wuḍū'* after encountering blood on his person, raiment or prayer venue), still, the overwhelming majority of jurists and classification systems uphold a clear and distinct division between *najāsa ḥissiyya*—'tangibly' impure *substances*, which need to be removed and nothing more, and which effect no change in the devotee's ritual state—and *najāsa ma'naviyya* (= *ḥadath*), 'abstractly' impure *occurrences* which rupture one's prayer fitness and require another round of lustrations.

remaining pure as long as possible and of expelling impurity as soon as one becomes aware of it' are inaccurate. The Prophet himself belies this notion cogently in the following widely-cited tradition:

We were told by Yaḥyā al-Tamīmī ... from Ibn 'Abbās, who said: We were at the Prophet's house, and he returned from the privy, and food was set before him. [Those around him] reminded him of the *wuḍū'*, whereupon he responded: 'What—am I going to pray that I should perform *wuḍū'*? (*wūdu an uṣalliya fa-atawadda'a*?).⁶³

Al-Nawawī, commenting on this ḥadīth, sums up this issue unequivocally: 'Know that the religious scholars rule unanimously that the *muḥdith* [one who has experienced, but not alleviated, a *ḥadath*] may eat and drink and mention the name of God, praised and exalted be He, and recite the Qur'ān and have sexual intercourse—and there is not the slightest thing wrong with any of that. All of this is demonstrated clearly by the proofs found in the sound and pervasively accepted traditions together with the consensus of the entire nation of believers.⁶⁴ Nor is al-Nawawī content to leave it at that. Elsewhere he asserts, in the name of 'the consensus of the Muslims,' that 'it is permitted to mention the name of God the Exalted in the exclamation 'Praise the Lord!'; in the first clause of the creed (*tahlīl*—'*lā ilāha illā Allāh*'); in the

⁶³ Muslim, *Kiṭāb al-Ḥayḍ*, 31:374. True, Q 9:108 reads: '... There is a mosque whose foundation was laid from the first day on piety; it is more worthy of your standing forth therein. In it are men who love to be purified, and God loves those who purify themselves' (*fīhi riḡal yuḥibbūna an yataṭahharū w'Allāhu yuḥibbu al-muṭṭahhirīn*). The purity spoken of in this verse is almost invariably seen by the commentators as figurative, and on the rare occasions when it is taken to refer to the practices of *ṭahāra*, it is employed to praise those who purify themselves **in preparation for prayer**: '*Qāla rasūl Allāh: yā ma'shar al-anṣār, imma Allāhu qad aṭhnā 'alaykum fī'l-ṭuhūr—fa-mā ṭuhūrukum? Qālū: natarwadḍa'u li'l-ṣalāt wa-naghtasilu min al-janāba*' (Baghawī, 7:72. Cf. Michael Lecker, *Muslims, Jews and Pagans: Studies in Early Islamic Medina* [Leiden: E.J. Brill, 1995], 63). While there may be a case to be made here—because of the preposition '*min*' in '*min al-janāba*'—for the idea that *major* impurity, at least, should be exited as soon as possible, the considerable evidence that we have brought to the contrary should be borne in mind (see especially, chap. 2, n. 19 above, as well as the following ruling by al-Sarakhsī: 'If a woman has an orgasm/nocturnal emission [*iḥṭalamat*] followed immediately by the onset of menstruation, then if she wishes she may perform *ghuṣl* at that time, and if she wishes she may postpone it until she ceases to menstruate. This is because *ghuṣl* is performed in order to procure a state of purification **for the purpose of engaging in prayer** [*li-anna al-ighṭisāl li'l-taḥīr ḥattā tatamakkanu bihi min idā' al-ṣalāt*], and a menstruant cannot pray until the conclusion of her flow'—Mabsūṭ, 1:70).

⁶⁴ Nawawī, *Sharḥ*, 3:31: '*a'lam anna al-'ulamā' majma'ūn 'alā anna li'l-muḥdith an ya'kula wa-yashriba wa-yadhkura Allāha subḥānahu wa-ta'āla wa-yaqra'a al-Qur'āna wa-yujāmi'a, wa-lā karāha fī shay'in min dhālika. Wa-qad tadhāharat 'alā ḥādḥā kullahu dalā'il al-sunna al-ṣaḥīḥa al-mashhūra ma' ijma' al-umma.*'

cry ‘God is great’; in His extollation (*taḥmūd*); and in all other circumstances ... [even] while one is in a state of *major* sexual impurity’ (*fi ḥāl al-janāba*).⁶⁵ Pace Bouhdiba, then, there is no need for the Muslim to circumvent states of impurity, nor is he urged to exit them until such time as he prepares to pray or fast.

Things begin to get suspicious when, as we have seen, Bouhdiba goes so far as to speak of the laws of *ṭahāra* as

an admirable training in will and self-control. The training of the sphincters is carried very far, more perhaps than in any other culture. Some people manage to control themselves when in continuous pain. For it is not easy to spy on one’s own organism without falling into excess.

Considering Bouhdiba’s extensive reliance on the *Fatāwā ‘Ālamgīrīya*, we may be witnessing in such statements the indirect influence of traditional Hindu-Muslim syncretism on the subcontinent. Although Awrangzeb’s reign was the signal for an official reversal of his predecessors’ conciliatory and cosmopolitan attitudes, and their replacement with more exclusivist Islamic policies,⁶⁶ still: the mingling and fusion between the two adjacent cultures had been proceeding apace for centuries, and there was no resolving the resultant mixture. Even the ‘reactionary’ ‘*ulamā*’ under Awrangzeb who sought to reverse the integrationist trend (and who composed the *Fatāwā ‘Ālamgīrīya*) were, in the final analysis, products of Indian religious hybridism. Be that as it may, such *ṭahāra-yoga* as described by Bouhdiba is not, and has never been, the fashion among most Muslims, nor is it in any way attested in the Ḥadīth and *fiqh*. Certainly, the ‘training of the sphincters’ (which ultimately leads, as Bouhdiba writes elsewhere, to nothing less than an ‘ethics of the sphincters’)⁶⁷ as well as ‘the meticulous and exces-

⁶⁵ Nawawī, *Sharḥ*, 4:53. It is true, however, that in the context of the extensive debate over whether one may go to sleep a *junub*, there is a dissenting opinion represented by a report in which the Prophet recommends that ‘it is best for [a believer] to spend the night [after engaging in intercourse] in one of the two states of purification [i.e., at least that effected by *wuḍū’* if not that effected by *ghusl*] for fear that he might die in his sleep’ (Nawawī, *Sharḥ*, 3:28). Also, reciting the Qur’ān while a *junub* is generally opposed: ‘The Messenger of God used to read the Qur’ān in every situation, except for when he was *junub*’ (Tirmidhī, *Ṭahāra*, 1:111)—though there are contrary *ahādīth*. See also Ibn Abī Shayba, 1:96 (94:1), where Abū al-Ḍuḥā includes ‘walking through the market place’ (*an yamsy fi’l-aswāq*) among the things permitted to a *junub*.

⁶⁶ Ira M. Lapidus, *A History of Islamic Societies* (Cambridge: Cambridge University Press, 1988), 463ff. See also Yohanan Friedmann, *Shaykh Ahmad Sirhindi: An Outline of His Thought and Study of His Image in the Eyes of Posterity* (Montreal: McGill-Queen’s University Press, 1971).

⁶⁷ Bouhdiba, 46.

sive attentions that one lavishes on one's body' cannot convincingly be described as a staple characteristic of Islamic religion or civilization 'more perhaps than in any other culture.'⁶⁸

In the end, it may be said that Bouhdiba superimposed three unwarranted assumptions on top of each other in order to build his argument: (1) that the *ahdāth* are bound up with evil, danger, and the gross physicality (and therefore the degradation and mortality) of the body; (2) that such defiling events should therefore be avoided whenever possible, or else 'remedied' immediately upon discovery when they cannot be avoided; and (3) that the constant struggle to keep track of, and heal the ritual breaches induced by, *ahdāth* of various kinds leads to obsession, anality and anxiety. We have endeavored to show that none of these assertions stands up to scrutiny. Indeed, it would be difficult to find any people in pre-modern history less anxious about ritual matters—or about sexual matters—than the heroes/exemplars of Islamic classical literature.⁶⁹

⁶⁸ There are a scant few cases recorded in the classical literature of individuals who undertook for pious purposes to remain '*alā wuḍū'*, and certain luminaries are on record as having 'observed ceremonial purity while teaching' (e.g., al-Baghawī, see his entry in *EI*²). Wāḥb b. Munabbih is said 'to have performed no *wuḍū'* between the '*ishā* and the *ṣubḥ* prayers' for forty years, by which Ibn Sa'd evidently means to convey that he did not engage in sexual activity at night—or perhaps at all—throughout that period [Horowitz, *Earliest Biographies*, 33]). Nevertheless, the practices of such *ṭahāra* Nazirites never penetrated the legal apparatus (although again, as part of the movement away from the original outlook and toward a more mystical and 'valenced' conception of purity, later Islam has seen the growth of the notion that it is a kind of supererogatory meritorious practice to remain '*alā wuḍū'*).

⁶⁹ None of this is to imply that the early Muslims—or their later co-religionists—did not or do not take the laws of purity seriously. A great many of them most certainly did and still do. One of the fascinating features of the observance of *ṭahāra* as presented in the classical Islamic sources, however, is the unusual combination of precision and relaxation characterizing the approach of the religious actors. Seriousness, it seems, need not always breed anxiety, nor must meticulousness invariably be accompanied by obsession.

CHAPTER THREE

ZAYD AND ZAYNAB REVISITED: BOWDLERIZING THE *USWA ḤASANA*

We have thus far striven to demonstrate that the ‘authentic’ Islam of the pious ancestors unabashedly embraced and celebrated what Plato believed should be transcended and looked down upon as ‘the mortal taint that haunts the frailer loveliness of flesh and blood.’¹ The individualism and inconsistency to which those born of woman are prone, the uncontrollable urges, irrational desires, unavoidable weaknesses and manifest inability to walk the straight and narrow—not only were these creaturely traits accommodated within Islamic law, and within the lore that surrounded and infused it, but it would not be an exaggeration to say that all of these manifold ‘frailties of the flesh’ were gathered together, injected directly into the personalities and curricula vitae of the faith’s most admired heroes, and ultimately made into the very building blocks of the Muslim legal system. The foundation of *fiqh* was laid—and the intricate edifice of *sharī‘a* erected—first and foremost with the materials of human *imperfection*. This blueprint involved a circular symbiosis of propositions: (1) the flesh is weak and erratic, it dips and bends, twists and turns; accordingly, (2) in order to govern fleshly existence, the law itself must be supple and elastic, must be alive; (3) to achieve a living law appropriate to imperfect beings, the best possible examples of such beings—the Prophet and his Companions—must be assembled and subjected to a lengthy barrage of ‘tests’ (how do they react to this? how do they react to that? ...) so as to cover the entire gamut of earthly endeavor and experience; and (4) because the reactions of these paragons, though exemplary, are at all times characteristically and representatively *human* (otherwise they would be of no use in creating laws for other human beings—otherwise they could not, indeed, be *exemplary*), the structure that ultimately emerges from all of this trial and error will itself be no less human: will be tender, pliant, adaptable, fit to inject a degree of order into the incorrigible chaos of mankind.

¹ Symposium, 211e.

The imperfection common to all children of Adam and Eve is, therefore, the irreplaceable cement binding the many materials employed in this juridical-architectural project, so much so that the paradoxical-sounding claim might fairly be made that imperfection is the perfect ingredient for the purpose. More than this: it could even be asserted that what has generally been perceived (and derided) throughout history as the seat of imperfection—those irrational predilections and affectional tendencies that consistently motivate the world's men and women—in fact constitutes, according to the outlook of *fiqh* and *sharī'a*, nothing less than an *indispensible element* of human and religious *perfection*. Remove the 'imperfect' component from even one stage or material in the Islamic legal building process described above, and the entire edifice will totter and collapse—or, at least, will eventually be deemed unsuitable for dwelling. Without the flexibility that even Plato regarded as a necessary accommodation to mankind's 'mortal taint,' the structure will go up too brittle and cold to house real people. Stripped of the earthiness envisioned in the original plans, the system loses its relevance to the human condition. Eventually, it is abandoned altogether.

There are few better show-rooms for the incorporation of such flesh-ridden flexibility into Islamic law than the phenomena we have reviewed thus far in the context of *fiqh al-ṭahāra*. The frank admission and undisturbed portrayal of the sexuality of the Prophet and his Companions discussed in chapter one, coupled with the regular readiness to bend the rules—and even chuckle while doing so—depicted in chapter two, represent those very elements of living elasticity so essential to (at least the formative stages of) a legal system forged on behalf of creatures of flesh and blood. Nevertheless, many have attempted, and continue to attempt, to throw a retroactive wrench of 'perfection' into the workings of that system, by excising or sterilizing the humanity of its original 'test-cases' and substituting an excessive other-worldliness, 'a monkery which they invented for themselves, and which We did not prescribe for them' (Q. 57:27). It was not independent Islamic thought and indigenous Muslim development that led to this *volte face*, but outside influences and outside pressure. Responding in both positive and negative ways to alien ideas and foreign censure, many Muslim thinkers gradually distanced themselves from the classical attitude to these matters so unmistakably and unashamedly bared for all to see in the original sources. The new, antiseptic perception of Islam's earliest period is partially responsible for misconceptions like that of Bouhdiba, and on the

whole makes difficult the reconstruction of the atmosphere and algorithms underlying the early development of Muslim law, as well as the classical Islamic outlook on sexuality and—in particular—the libidinal clauses of the Muslim purity code.

One narrative above all others symbolizes the retreat of Islam from its roots in this regard. This text has functioned for years on end as the lightning rod for Christian and Western attacks on what has been portrayed as the loose morals of the Muslim religion and the profligacy of its Prophet. Writing in the early 1930s, Tor Andrae rightly asserted that ‘this event in the private life of the Prophet has, perhaps more than anything else, provoked the unfavorable judgment of Mohammed’s personality which prevails to this day in the West.’² For centuries the champions of Islam, no less than the faith’s detractors, have perceived the story of Zayd b. al-Ḥārith and Zaynab bint Jaḥsh as the most vulnerable point along the Muslim ideological front-line, and both sides have accordingly concentrated massive forces there at different points in time. Over the last several decades the offensive bombardment, weakened by the transvaluation of Western sexual values and no longer considered politically correct in the post-modern era, has dwindled down to nothing.³ The defensive effort, on the other hand—at first feeble and easily overcome—has in recent years gained exponentially in size and momentum and taken on a life of its own. It now lashes out at antagonists that no longer exist, primarily for purposes of internal consumption. The age-old polemic is thereby put to work as a catalyst for promoting awareness and increasing affiliation: ‘Behold,’ the latter-day defenders essentially proclaim, ‘how our religion and its founder have been unfairly maligned; now come and learn the truth.’

It is this writer’s contention that by distorting the tale of Zayd and Zaynab almost beyond recognition (indeed, to a far greater extent than European authors did during the previous centuries), modern Muslim apologists not only obscure the traditional attitudes of Islam to sexuality and neutralize the indispensable *sharīʿa* ingredient of human imperfection, but do a great disservice to their own cause in the contemporary world, as well. Moreover, and what is of more immediate importance

² Andrae, *Mohammed*, 213–214. Muḥammad was frequently styled ‘the Old Lecher’ in post-Renaissance Europe (see W. Montgomery Watt, *Muhammad at Medina* [Oxford: Clarendon Press, 1956], 329).

³ Save in the case of occasional Muslim ‘renegades’ such as ‘Ibn Warraq’ (pseudonym)—see his *Why I am not a Muslim* (Amherst: Prometheus Books, 1995), 99–100.

for our purposes, such distortion makes the recovery of the original conditions surrounding the growth and consolidation of Islamic law at large—and *ṭahāra* law in particular—even more difficult than it would normally be.

Zayd b. Ḥārith (or ‘b. al-Ḥāritha,’ d. 630 CE at the Battle of Mūta/Mū’ta)⁴ was a slave bestowed upon Muḥammad by his first wife, Khadija, and afterwards, together with her, became one of the first two converts to Islam.⁵ Zayd demonstrated his loyalty to, and love of, his master by refusing to leave the Prophet’s service even when his long lost father arrived (still in the *jāhilī* period) and offered to buy his freedom.⁶ Shortly thereafter Muḥammad himself manumitted Zayd, and, with the Black Stone bearing witness, adopted him as his son. As this act indicates, the Prophet returned Zayd’s strong affection: he called him ‘*al-Ḥubb*,’ and his son Usāma ‘*ibn al-Ḥubb*.’⁷

Zaynab bint Jaḥsh was the Prophet’s maternal second cousin (*ibnat ‘ammatihi*), grand-daughter of ‘Abd al-Muṭṭalib,⁸ a woman of high social

⁴ See Ibn Ishāq-Guillaume, 535, and Aḥmad b. Nūr al-Dīn ‘Alī b. Ḥajar al-‘Asqalānī, *Al-Iṣāba fī Tamayūz al-Ṣaḥāba* (Cairo: Maṭba‘a al-Sa‘āda, 1328), 1:563–564.

⁵ Zayd was the son of Christian parents hailing from the Ghassānid-Arab tribal confederation of Southern Syria. The events leading to his enslavement at a tender age and eventual acquisition by Khadija’s family are the subject of dispute (see *EI*², s. v. ‘Zayd b. Ḥāritha al-Kalbī’ [M. Lecker]).

⁶ Abū ‘Abd Allāh Muḥammad b. Sa’d, *Al-Ṭabaqāt* (Beirut: Dār Ṣādir, n.d.), 3:42.

⁷ ‘Love’ and ‘Son of Love.’ Ibn Kathīr, *Tafsīr*, 3:490. Usāma was the product of Zayd’s first marriage, to Muḥammad’s one-time dry-nurse and *mawlāt*, Umm Ayman, who was so much Zayd’s senior that Muḥammad reportedly promised him Paradise for consenting to the union. Zayd’s deep devotion to his erstwhile master and foster father was demonstrated by the performance of many a selfless service, including the accompaniment of Muḥammad on his ill-fated mission to al-Ṭā‘if (620 CE) and the head injury he sustained on that occasion while protecting the Prophet with his body from the town’s stone-throwing rabble.

⁸ There appears, however, to be some confusion about this. While most sources know her as the daughter of Umayma bint ‘Abd al-Muṭṭalib (Ibn Kathīr is explicit about this—‘Imād al-Dīn Ismā‘īl b. ‘Umar b. Kathīr, *Al-Bidāya wa’l-Nihāya* [Beirut: Maktabat al-Ma‘ārif, 1966], 4:145—as is Ibn Sa’d (8:45–46), and see *EI*¹ [s. v. ‘Zaynab’] where V. Vacca confirms the same pedigree unequivocally, and *EI*² [ibid.] where M. Lecker does the same. Ibn Ḥanbal calls her *ibnat ‘ammatihi* [4:12513] and so does Muqātil [*Tafsīr Muqātil b. Sulaymān* (Cairo: Al-Hay‘a al-Miṣriyya al-‘Amma li’l-Kitāb, 1984), 3:491] and Tor Andrae, *Mohammed*, 214). Nevertheless, in Ibn Hishām’s notes to the *Sīra* she is listed separately from ‘the six Qurashite women among the Prophet’s wives,’ and defined, in opposition, as one of ‘the Arab women and others’ (*al-‘arabiyāt wa-ghayruhunna*) who married Muḥammad (Ibn Ishāq-Guillaume, 794 [no. 918]—although this probably refers to her paternal pedigree alone). Moreover, in al-Ḥalabī’s *Insān al-‘Uyūn* (also known as *al-Sīra al-Ḥalabiyya*) we read the following: ‘After Umm Salama, Muḥammad married Zaynab bint Jaḥsh. Her name had been Barra, but

standing and renowned for her piety. In or around the year 625 CE, Zayd and Zaynab were married.⁹ Nabia Abbott, navigating warily between the Scylla of Western exploitation and the Charybdis of Muslim propaganda, manages in her précis of this controversial story to preserve the original tenor of the tale:

Despite Zainab's reluctance, Mohammed arranged a marriage between her and his freedman and adopted son, Zaid ibn Ḥārithah, a former slave of Khadijah. Little or nothing is heard of her until several years later, when Mohammed, looking in vain for Zaid in his home, chanced instead to see Zainab in light disarray and went away murmuring, 'Praised be Allāh who transforms the hearts!' Zainab reported the incident to Zaid, who went to Mohammed and offered to divorce his wife should Mohammed wish to marry her. Mohammed, however, sent him away with, 'Keep your wife and fear Allāh.' But for Zaid, humble in origin and unattractive in person, there was now no peaceful living with the haughty and ambitious Zainab, whom, therefore, he presently divorced. When the usual four month period of waiting was over, Mohammed, on the strength of a specific permission from Allāh, married Zainab.¹⁰

he [Muḥammad] changed it and called her Zaynab. The reason for this was that his aunt Umayma, daughter of 'Abd al-Muṭṭalib, also had a daughter named Barra, and the Prophet was loathe that it should be said of him: "He has just come from being with Barra," and the hearer imagine that the reference was to his maternal cousin' (*fā-yatawawhamu al-sāmi' annahā bint 'ammatihi*). 'Alī b. Burhān al-Dīn al-Ḥalabī, *Insān al-'Uyūn fī Siyat al-Ma'mūn* [Beirut: Dār Iḥyā' al-Turāb, n.d.], 3:320). Elsewhere in this same source, we learn that two additional wives of the Prophet—Maymūna and Juwayriya—were also originally named Barra, as was Muḥammad's daughter by Umm Salama (whom he had married just before Zaynab bint Jaḥsh) whose name was changed to Zaynab as well (Ibid., 3:586). There may be some conflation here, especially since Muḥammad had another daughter named Zaynab born to him by Khadija, and another wife named Zaynab (bint Khuzayma), who was known as *Umm al-Masākin* for her charity to the poor, a trait for which Zaynab bint Jaḥsh was equally famous. To make matters worse, al-Nawawī records the opinion that Muḥammad's wife Ṣafiya was named Zaynab in her youth (Nawawī, *Sharḥ*, 3:560), and to add still further to the confusion, Ibn Ḥajar advances the proposition that Zaynab bint Jaḥsh and Zaynab's sister Ḥanna were both named Zaynab (*kānat kul wāḥida minhunna tud'a Zaynab*—Aḥmad b. Nūr al-Dīn 'Alī b. Ḥajar al-'Asqalānī, *Fath al-Bārī bi-Sharḥ Ṣaḥīḥ al-Bukhārī* [Cairo: Al-Maktaba al-Salafiya, 1980], 3:36).

⁹ Ibn Kathīr, *Bidāya*, 4:145. According to al-Ḥalabī's citation of Muqāṭil b. Sulaymān, Zayd was very enamoured of Zaynab and approached the Prophet with the request that he speak to her people and convince them to give her to him in marriage. Muḥammad was reticent and at first refused, but Zayd implored him and ultimately Muḥammad—with the assistance of 'Alī b. Abī Ṭālib (and a hefty dowry)—was able to procure their consent (Ḥalabī, 3:320). Al-Ḥalabī leaves out some key elements of Muqāṭil's narrative, as we shall see.

¹⁰ Abbott, *ʿĀ'isha*, 16–17.

Although Abbott successfully conveys the mood surrounding this episode in the early literature, she obviously cannot fold into this brief composite all of the variant and sometimes contradictory renditions of the story. For our purposes, it will suffice to mention two elements emphasized by alternate recensions but not given sufficient play in Abbott's summary. First, it should be noted that another version of what the Prophet 'went away murmuring' sounds much more like a petition than an encomium: *Yā muqallib al-qulūb, thabbit lī qalbī* ('O Overturner of hearts—strengthen mine!').¹¹ According to this formulation, Muḥammad was pleading for divine assistance in *overcoming* the problematic passion for his adopted son's wife that had just then flared up in his breast.

If so, however, then his prayer was not answered. On the contrary: God rebuked Muḥammad for trying to repress his desires in this matter, and then, as we shall see, personally took steps to see to it that those desires were fulfilled. Following the most widely accepted traditional *ta'wīl* (interpretation) of the verse that functions as the cornerstone of this narrative (*al-Aḥzāb* 33:37)—an interpretation that builds, *inter alia*, upon a ḥadīth of Aḥmad b. Ḥanbal—we may reconstruct the alleged chain of events as follows. One day, the Apostle of Allāh went over to Zayd's house to call upon him. Zayd was not at home, but while Muḥammad was standing by his domicile—or, according to alternate versions, after Zaynab had answered the door and invited him in and he had presumably demurred¹²—the wind gusted and lifted up the goat's hair curtain that served as an outside wall or inner partition, revealing what was behind it (*wa-ʿalā'l-bāb sitr min sha'r fa-rafaʿat al-rīḥ fa-inkashafa*). What was behind it was Zaynab, getting dressed in her room, wearing considerably less than she would have out of doors (*wa-hiya fī ḥujratihā ḥāsira*).¹³ Muḥammad caught sight of her (*abṣarahā*), and

¹¹ See Bukhārī, *Kitāb al-Tawḥīd*, 11 (in other versions: *Subḥān muṣrif al-qulūb!*). 'Ibn Warraq' renders Muḥammad's exclamation as: 'You Overturner of Hearts!' and cynically transforms it from an expression of feeling addressed to the Deity to a flattering comment addressed to Zaynab (*Why I am not a Muslim*, 99).

¹² Abū Ja'far Muḥammad b. Jarīr al-Ṭabarī, *Tārīkh al-Rusul wa'l-Mulūk* (Ed. M.J. de Goeje *et al*, Leiden: E.J. Brill, 1879–1901), 1:1462; *al-Sīra al-Ḥalabiya*, 2:214.

¹³ Ibn Ḥanbal, 4:12513. It is difficult to gauge the extent of Zaynab's undress from the term *ḥāsira*, which literally means 'one who has removed [something]' (this was the same root employed—*taḥassarat*—to describe Khadīja's similarly indeterminate exhibitionist trial of Gabriel [above, chap. 1, note 86]). Had Zaynab removed her clothes entirely? This rings a bit strong for *ḥāsira*. Had she merely removed her veil? There is little reason to assume she wore one (especially since her wedding day was,

‘admiration for her filled the heart of the Prophet’ (*fa-waqa‘a i‘jābuhā fi qalb al-nabī*).¹⁴ A spontaneous ‘*Subhān Allāh!*’ escaped his lips, and he hurried off.¹⁵

At this point the accounts diverge slightly, and we must choose between two possible descriptions commonly offered by exegetes and traditionists. One of these remains on the purely human plane, while the other involves direct divine intervention. According to the first version, Zaynab overheard the Apostle’s exclamation and informed her husband about it (*sami‘at Zaynab bi’l-tasbiḥa fa-dhakarāt li-Zayd*). Zayd immediately grasped the situation and no longer desired to remain in her company (*fa-fatāna li-dhālika wa-waqa‘a fi nafsihi karāhat ṣuḥbatihā*)—either because he saw how thrilled his wife was by another man’s response to her beauty, or because he would gladly sacrifice anything to make his foster father and spiritual leader happy, or for both these reasons.¹⁶ According to the second well-known rendition of this section

according to many sources, the occasion for the introduction of the *ḥijāb* in the first place—see Ibn Kathīr, 4:147, and Gertrude Stern, *Marriage in Early Islam* [London: G.P. Putnam’s Sons, 1939], chapter eight; on the other hand, Khadīja is represented—proleptically?—as removing her veil in the aforementioned anecdote [but note that this act was *in addition* to ‘*tahassarāt*,’ which means that the latter verb concerned other apparel]. In the end, Abbott’s ‘in light disarray’ seems the safest translation.

¹⁴ Ṭabarī, *Jāmi‘ al-Bayān*, 22:18. It is extremely significant that Muslim records a ḥadīth according to which the Prophet advised his followers: ‘If one of you is struck with admiration for a woman and she fills his heart (*idhā aḥadukum a‘jabathu al-mar‘a fa-waqa‘at fi qalbihi*), let him go home to his own wife and have intercourse with her; this will alleviate that which is in his soul (*dhālika yaruddu mā fi nafsihi*—see Nawawī, *Sharḥ*, 3:526). Other versions of the same statement in this second chapter of Muslim’s *Kiṭāb al-Nikāḥ* speak of ‘seeing’ (*idhā abṣartum*) such a woman. The presence of all of these expressions in this cycle of ḥadīths links it without question to al-Ṭabarī’s description of Muḥammad’s experience at Zayd’s house. Those who support the authenticity of Muslim’s *aḥādīth* will have trouble denying that these reports reinforce the legitimacy of the Zaynab anecdote as related by al-Ṭabarī and others.

¹⁵ According to at least one version of the story, Muḥammad proceeded directly homeward after this encounter and slept with his wife Zaynab bint Khuzayma. His choice of a consort bearing the same name as the woman who had just excited him echoes the Prophet’s advice in a ḥadīth: ‘When one of you sees [an unavailable] woman and is attracted to her, he should hurry home to his wife. With her it will be the same as with that other one’ (Fatima Mernissi, *Beyond the Veil* [Cambridge: Harvard University Press, 1975], 11). See, also, the Prophet’s similar counsel to men who encounter women on the street by whom they are aroused to head home to their own wives and sleep with them (*fa-la-ya‘midu ilā imra‘atihī fa-la-yuwāqī’hā*—Baghawī, 27:80; Muslim, *Nikāḥ*, 2:9 [1403]; see also previous note).

¹⁶ Nāsir al-Dīn Abū Sa‘īd ‘Abd Allāh b. ‘Umar al-Shīrāzī al-Bayḍāwī, *Tafsīr al-Bayḍāwī* (Beirut: Dār al-Kutub al-‘Ilmiya, 1988), 2:246–247. According to a version recorded in al-Ḥalabī and elsewhere, Zayd—informed by his wife of Muḥammad’s

of the narrative, it appears to have been God Himself who cast a strong loathing of Zaynab into the heart of Zayd, ‘since God knew what had stirred in the soul of His Prophet’ (*fā-ulqīya fī nafs Zayd karāhatahā lammā ‘alīma Allāhu mimma waqa‘a fī nafs nabīhi mā waqa‘a*).¹⁷ ‘Allāh turned Zayd’s heart away from me,’ Zaynab herself testified.¹⁸

Whether or not ‘the Transformer of Hearts’ was directly involved at this stage, however, the sources now reunite after their momentary parting of ways and agree unanimously that the Deity did indeed have a hand in what happened next. Zayd approached Muḥammad and offered to divorce his wife. The Prophet, for his part, tried to dissuade his adopted son (and perhaps himself) from such a drastic deed. It is here that Qur’ānic revelation enters onto the stage, and we integrate it into our narrative with the help of the foremost historian and scriptural exegete of early Islam, Abū Ja‘far Muḥammad b. Jarīr al-Ṭabarī (d. 923):¹⁹

Qur’ān (33:37): And when you [i.e., Muḥammad] said unto him whom Allāh has favored and you yourself have favored [i.e., Zayd], ‘Keep your wife to yourself, and fear God!’ ...

Al-Ṭabarī: ... whereas [in truth] he [Muḥammad] wanted nothing better than that *she* [Zaynab] should separate from *him* [Zayd] so that he [Muḥammad] could marry her (*wa-huwa yuḥibbu an takūna qad bānat minhu li-yankahūhā*) ...

Qur’ān: ... and you [Muḥammad] did hide in your heart that which Allāh would soon bring to light ...

Al-Ṭabarī: ... that is, you concealed inside yourself your desire that *she* should leave *him* so that you might [more easily] marry her, rather than *him* leaving *her*; and God will now disclose to all what you have been hiding in your breast (*w’Allāhu mubdī mā takhfī fī nafsiki min dhālika*) ...

Qur’ān: ... and you feared people, whereas Allāh has a greater right to be feared ...

reaction to her appearance—immediately proceeded to the Prophet and said: ‘O Messenger of God! Perhaps Zaynab has made an impression on you, in which case I will be glad leave her for your sake’ (*la‘alla Zaynab a‘jabatka fa-ufāriqūhā laka*), but Muḥammad urged him to ‘keep hold of your wife’ (Q. 33:37; Ḥalabī, 2:214)

¹⁷ Ṭabarī, *Jāmi‘ al-Bayān*, 22:17.

¹⁸ Ḥalabī, 2:214: ‘*ṣarafa Allāhu qalbahu ‘annī*.’

¹⁹ Jane Dammen McAuliffe calls al-Ṭabarī ‘the undisputed foundation upon which the edifice of classical *tafsīr* was erected,’ and quotes John Burton’s description of al-Ṭabarī’s *Jāmi‘ al-Bayān* as having ‘abruptly scaled heights not previously glimpsed and never subsequently approached’ (McAuliffe, ‘Christians in the Qur’ān and Tafsīr’

Al-Ṭabarī: ... you feared that people would say: ‘He has commanded a man to divorce his wife, and then married her after the divorce (*wa-takhāfu an yaqūla al-nāsu: amara rajulan bi-ṭilāqi imra’atihi wa-nakaḥahā ḥīna ṭallaqahā*) [and therefore you secretly hoped that Zaynab would take the initiative, for that would be more acceptable in the eyes of the believers]. But you should not fear people; you should fear God ...

Qur’ān: ... so when Zayd had divorced her, We gave her unto you [i.e., Muḥammad] in marriage, so that [henceforth] there may be no sin for believers in respect of the wives of their adopted sons, when the latter have released them. The commandment of Allāh must be fulfilled.²⁰

This last legislative consequence of the affair—the demotion of adoption from the status of real parentage that it enjoyed under paganism, and the resultant permission to marry former spouses of adopted children—was foreshadowed by another revelation to the Prophet, arriving either simultaneously or sometime earlier, which is construed to refer to his (or the people’s, or Zayd’s own) designation of his adopted son as ‘Zayd b. Muḥammad’: ‘Allāh has not ... made those whom you claim [to be your sons] your sons. This is but a saying of your mouths ... Proclaim their real parentage; that will be more equitable in the sight of Allāh ...’ (Q. 33:4–5). ‘Muḥammad is not the father of any man among you,’ confirmed another divine communiqué, ‘but he is the Messenger of God and the Seal of the Prophets’ (Q. 33:40).²¹ Following these revelations, Zayd changed his name back to Zayd b. Ḥāritha. In addition to this legal refinement, which had ramifications for the entire community, the Zaynab situation also spawned an exception to the general rule setting the maximum number of wives per believer at four (Q. 4:3)—a concession granted the Prophet alone, ‘a privilege for thee only, not for the [rest of the] believers’ (Q. 30:50).²²

It is hard to know from the terse allusions found in the classical texts what exactly prompted the split-up. Zayd and Zaynab’s relationship

in Jacques Waardenburg [ed.], *Muslim Perceptions of Other Religions* [Oxford: Oxford University Press, 1999], 107).

²⁰ Ṭabarī, *Jāmi‘ al-Bayān*, 22:17.

²¹ See Ibn Sa’d, 3:42–44. Muḥammad’s lack of male progeny—adopted or otherwise—is often connected with his status as *khātim al-anbiyā’*. See Yohanan Friedmann, ‘Finality of Prophethood in Sunnī Islām,’ in *Jerusalem Studies in Arabic and Islam* (7) 1986, 187–190. It is noteworthy that the *ukhuwwa* or *mu’ākhā*—Muḥammad’s pairing off of *muhājirūn* from different clans (or of *muhājirūn* with *anṣār*)—also appears to have lapsed not long after the *hijra*, and at any rate was given no weight in matters of inheritance.

²² This is claimed even though Zaynab bint Jaḥsh was Muḥammad’s sixth, not fifth, wife.

may well have been less than loving (although from the available evidence this cannot be shown conclusively). Zayd was not a very attractive man by the standards of the time and place: he was short, dark-skinned and pug-nosed.²³ He was also his wife's social inferior, as the modern apologists never tire of pointing out (somewhat strangely, since this fact certainly shouldn't have mattered to so pious a Muslim as Zaynab unquestionably was).²⁴ The significance of this 'class' problem, however, may well have been trumped up by Zayd in an attempt to make Muḥammad feel better about the whole business, convincing him that the marriage was faltering in the first place so that he would have less compunction about taking Zaynab.²⁵ After all, hard on the heels

²³ Andrae, *Mohammed*, 215. See the story in Ṭabarī, *Jāmi' al-Bayān*, 2:286, in which the sister of the leading *munāfiq* 'hypocrite' of Madīna, 'Abd Allāh b. Ubayy, approached the Prophet to complain of her husband, whom she had seen for the first time on their wedding day. 'I lifted up the tent flap and there he was ... the blackest, shortest and ugliest of men' (*innī rafā'tu jānīb al-khibā' ... fa-īdhā huwa, ashaddahum sawādan wa-aqṣarahum qāmatan wa-aqbahahum wajhan*). Muḥammad granted her request for a divorce, and this was the first instance of *khul'*—divorce at the behest of the wife—in Islam (on which institution see Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* [Berkeley: University of California Press, 1998], 95–100). On the other hand, it is related (albeit, Muir avers, on doubtful authority) that among the prisoners taken during the raid on the Banū Tamīm (630 CE) was 'a beautiful female to whom Muḥammad offered terms of marriage, which, however, she declined. When her husband arrived with the deputation [to ransom the captives], he turned out to be a black and ill-favored person; whereupon the Muslims were so displeased at her refusal of the Prophet that they began to abuse and curse her. But Muḥammad interfered to excuse her, and bade them refrain' (Muir, *Life of Mohammad*, 435, n. 1). Black was beautiful in the eyes of at least some Arabian beholders.

²⁴ For her piety, see D.S. Margoliouth, *Mohammed* (London: G.P. Putnam's Sons, 1906), 320–321. For Islam's well known rejection of geneology-based aristocracy, see, e.g., Q. 49:13 (the famous 'Shu'ūbī' verse): 'We have created you male and female, and divided you into nations and tribes that you might recognize one-another; but the most noble among you is the most devout ...'. The point is also driven home by numerous traditions, including the Prophet's famous declaration that '[pride in] descent is [herewith] replaced by [pride in] property, and nobility is replaced by piety' (*al-ḥasab al-māl wa'l karam al-taqwā*), as well as his deliberately crude metaphorical suggestion: 'If you place so much stock in your lineage, then sink your teeth into your father's penis!' (*'addū nawādhijukum fī dahin abūkum*). 'God,' said Muḥammad simply, 'does not judge a man by his pedigree' (John Wansbrough, *The Sectarian Milieu* [Oxford: Oxford University Press, 1978], 9). Still, al-Ḥalabī does not balk at having the Prophet advise Zayd against the match with Zaynab by warning him that 'she will not agree to it, for her ancestry is too noble [for her to marry you]' (*innahā akram min dhālika nasaban—Ḥalabī*, 3:320). The desirability of affiancing persons to their social equals remained alive under Islam.

²⁵ See Muqātil, *Tafsīr*, 3:494, where this is all but stated outright. To the best of my knowledge, in the earliest sources we do not hear of Zayd and Zaynab's problems of inequality until the former comes to the Prophet—*after* having been told of

of the divorce, Zayd married Durra bint Abī Lahab, a paternal first cousin of the Prophet whose social standing could not have been much inferior to that of Zaynab.

At the same time, it must be admitted that Zaynab herself is portrayed as more than sanguine about the switch, and even as having boasted that the Angel Gabriel had acted as go-between for herself and Muḥammad.²⁶ She is considered to be ‘the believing woman who gave herself to the Prophet’ referred to in Q. 33:49.²⁷ As for Zayd’s side of the story, while al-Suyūfī does report that he ‘came to the Messenger of God complaining of Zaynab bint Jaḥsh,’ the same commentator makes it quite clear that this complaint arose only *after* Muḥammad had visited the couple’s abode.²⁸ At any rate, whether that visit was the principle cause of Zayd and Zaynab’s separation, or whether it merely brought to a head—and ultimately was the vehicle for defusing—the domestic disharmony that had plagued their household from the beginning, one thing is eminently clear from both *tafsīr* and Ḥadīth: God overtly sanctioned Muḥammad’s romantic emotions and manly needs, and He made specific efforts (*viz.*, casting disdain of Zaynab into Zayd’s heart, sending down the validating revelation, perhaps even—as we shall see below—conjuring the gust of wind that lifted up the curtain in the first place) toward facilitating their satisfaction. As Zaynab herself would later say: ‘Allāh the Exalted was our matchmaker’ (*inna Allāha ta’āla tawallā inkāhā*).²⁹ Indeed, al-Ṭabarī reminds us that the primary

Muḥammad’s interest in his wife—and informs him of his desire to leave Zaynab. The Prophet protests: ‘What is it? Do you suspect her of something?’ ‘No, by God!’ responds Zayd. ‘But her social standing is so much higher than mine’ (*lā w’Allāhi ... wa-lākinahā la-sharafuhā tata’azzam ‘alayy*). Bayḍāwī, 2:247. It is possible that Zaynab, apprised of Muḥammad’s interest in her, began to despise her own husband, or raised her previous despidal of him to a fever pitch. For her part, however, Zaynab protested that it was Zayd who had lost his enthusiasm for *her* (although she no doubt knew that this would happen after she informed him of Muḥammad’s interest): ‘From the moment I sunk into the Prophet’s heart,’ she explained, ‘Zayd was incapable [of having sexual relations] with me. I, myself, did not refuse him’ (*lamma waqa’tu fī qalb al-nabī lam yastaṭīnī Zayd, wa-mā imtana’tu minhu—Ḥalabī, 2:214*).

²⁶ Peters, *Muḥammad*, 296, n. 16.

²⁷ Ibn Ishāq-Guillaume, 794. Alternately, the verse might have Umm Sharīk Ghaziya bint Jābir in mind (Ibn Sa’d, 8:197).

²⁸ Jalāl al-Dīn al-Suyūfī, *Asbāb al-Nuzūl* (in the margins of *Tafsīr al-Jalālayn*) to verse 33:37.

²⁹ Bayḍāwī, 2:247; Nasā’ī, *Nikāh, Ṣalāt al-Mar’a idhā Khaṭabat wa-Istakhāratha Rabbuhā*, 3:320: ‘*Kānat Zaynab bint Jaḥsh taḥkhar ‘alā nisā’ al-nabī, ṣalla Allāhu ‘alayhi wa-sallam, taqūl: inna Allāh ‘azza wa-jalla ankaḥnī min al-samā’.*’

purpose of the revelation of Q. 33:37 was nothing less than to reprove (*‘itāban min Allāh*) Muḥammad for *hesitating to act on his desires* for fear of what people would say.³⁰

Writing some three centuries after al-Ṭabarī, the renowned traditionist and Qur’ān commentator Abū ‘Abd Allāh b. Muḥammad al-Anṣārī al-Qurṭubī (d. 1272 CE) ties together the various strands of this story and sums it up as follows:

Qatāda, Ibn Zayd and a large group of exegetes including al-Ṭabarī and others have explained this verse [33:37] as referring to [the incident in which] the Prophet, may God’s peace and blessings be upon him, was smitten with admiration for the beauty of Zaynab bint Jaḥsh, who was bound in marriage to Zayd (*waqa’a minhu istiḥsān li-Zaynab bint Jaḥsh wa-hiya fi ‘iṣmat Zayd*). He [Muḥammad] desired that Zayd should divorce her so that he himself could marry her (*wa-kāna ḥarīṣan ‘alā an yuṭalliḡahā Zayd fa-yatazawwajaha huwa*). But when Zayd subsequently informed [Muḥammad] that he wished to leave Zaynab, and complained to him about her harsh speech, her disobedience, her insults and her boasts of nobility [as opposed to his own low lineage], he [the Prophet] responded: ‘Fear God’—that is, watch the way you speak about her—‘and keep your wife to yourself’; and he [Muḥammad] was hiding his desire that Zayd should divorce her (*wa-huwa yakhfa al-ḥirṣ ‘alā ṭalāq Zayd iyāha*). This is what he was hiding inside himself, but he was obligated [to say what he said to Zayd] by the principle of ‘commanding the good’ (*al-amr bi’l-ma’rūf*).³¹

Muqātil [b. Sulaymān] said: The Prophet, may God’s peace and blessings be upon him, affianced Zaynab bint Jaḥsh to Zayd, and she stayed with Zayd for some time (*makathat ‘indahu ḥinan*), until one day he [Muḥammad] went to seek Zayd [at his dwelling], and he saw Zaynab standing erect, and she was white of skin, beautiful and plump, among the most perfect of the women of Quraysh (*fa-abṣara Zaynab qā’imatan, kānat bayḡā’an jamūlatan jasīmata min atamm nisā’i Qurayshin*)—and he fell in love with her (*fa-hawīyahā*), and exclaimed ‘Praised be God, the Overturner of Hearts!’ ... And it is also said [al-Qurṭubī himself continues], that God sent a wind that lifted up the curtain (*inna Allāha ba’atha riḥan farafa’at al-sitr*) to reveal Zaynab wearing a single apron (? *mutafaddila*) in her quarters, and he saw Zaynab and she sank into his heart, and it did not go unnoticed by Zaynab herself that she had made such an impression on the Prophet, may God’s peace and blessings be upon him—and all of

³⁰ Ṭabarī, *Jāmi’ al-Bayān*, 22:17. Emphasis added.

³¹ Unlike al-Ṭabarī, al-Qurṭubī does not mention Muḥammad’s inner hope that Zaynab would be the one to instigate the divorce. On *al-amr bi’l-ma’rūf wa’l-nahy ‘an al-munkar* see Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000).

this happened [al-Qurṭubī reminds his audience] on the occasion when [Muḥammad] came looking for Zayd. Later, when Zayd came home, his wife told him what had happened, and Zayd became intent upon divorcing her. Ibn ‘Abbās said: [the scriptural statement] ‘and you hid in your heart’ [refers to the Prophet’s] love of her (*al-ḥubb la-hā*).³²

Attention should be paid here to al-Qurṭubī’s citation of the opinion that Allāh Himself sent the wind that lifted the curtain on Zaynab. Unless all that is meant by such a statement is that everything occurring in the world ultimately accords with God’s will, it is rather difficult. Whoever originally made this suggestion certainly did not intend by it that God desired to provide His Apostle with a titillating experience of an afternoon. However if, on the other hand, the idea is that the Deity sought to set in motion a chain of events that ultimately would lead to the break-up of a bad marriage, one may be permitted to ask why such a round-about method was required. But whatever Allāh’s motivation may have been in exposing Zaynab to Muḥammad (according to this source), one thing is clear: there was no doubt in His mind that *this method would work*. That is, God was well apprised of the inner inclinations of His Prophet—or at least of the fact that Muḥammad was a man like all other men in this regard—and relied on this knowledge for the success of His stratagem.

It is also noteworthy that the most straightforward and uninhibited account of the Prophet’s ardor in this passage is attributed to Muqātil b. Sulaymān (d. 767 CE). Although Muqātil’s trustworthiness as a transmitter and interpreter has often been challenged in the traditional sources, still, to the extent that he is considered acceptable (and al-Qurṭubī, for one, deemed his description worthy of space in his commentary), most modern scholars agree that Muqātil’s material is among the earliest extant.³³ Nor has al-Qurṭubī told the entire

³² Abū ‘Abd Allāh b. Muḥammad b. Abī Bakr al-Qurṭubī, *Al-Jāmi‘ li-Aḥkām al-Qur‘ān* (Beirut: Dār Iḥyā al-Turāth al-‘Arabī, n.d.), 14: 189–190.

³³ See Isaiiah Goldfeld, ‘Muqātil b. Sulaymān’ in *Bar-Ilan Departmental Researches*, 2 (Ramat Gan: Bar-Ilan University, n.d.); and John Wansbrough, *Qur‘ānic Studies: Sources and Methods of Scriptural Interpretation* (Oxford: Oxford University Press, 1977), section 4, *passim*. Muqātil is censured for being deficient in knowledge of *asānūd*. Whether or not this is true, the crimes of which he was additionally accused—including anthropomorphism, Zaydī tendencies and affiliation with the Murjī‘a—are not born out by the contents of his surviving works, and such accusations were probably motivated by increasing opposition to his pervasive use of *qisāṣ al-anbiyā’* material (see *EI*², s. v. ‘Muqātil b. Sulaymān’ [M. Plessner and A. Ripplin]). Indeed, it is possible that the antipathy toward Muqātil in later generations derived in no small part from his treatment of the Zayd-

story: in his *Tafsīr*, Muqātil goes into much greater detail, adding a number of intriguing elements. One of these is the claim that in the midst of brokering the marriage for his freedman, Muḥammad entered Zaynab's quarters and spoke to her face-to-face in order to overcome her objections to the match with Zayd. Already during this conversation, Muqātil avers, Muḥammad was impressed by her loveliness (*ḥusnuhā*), her beauty (*jamāluhā*) and her charm (*ẓarfuhā*), 'and this was a matter decreed by God, the Mighty and Exalted.' The Prophet thereafter 'maintained in his heart regarding Zaynab that which God wanted him to maintain' and regularly inquired of Zayd about the state of the marriage (*fa-kāna al-nabī, ʿallā Allāhu 'alayhi wa-sallam, yas'alu Zaydan ba'da dhālika: kayfa hiya ma'ka?*). When Zayd would respond by complaining about Zaynab's behavior, Muḥammad would urge him to 'keep your wife to yourself and fear God' (Q. 33:37). 'But in [the Prophet's] heart,' Muqātil assures us, 'was something else' (*wa-ḥi qal-bihī ghayr dhālika*).³⁴ After the incident at the couple's domicile (which al-Qurṭubī transcribes verbatim from Muqātil's narrative), Zayd approached Muḥammad and begged permission to divorce Zaynab for his foster father's sake. Again the Prophet protested that his adopted son should hold onto his wife, but at this point God remonstrated with His Messenger for 'concealing in your breast that which Allāh would reveal,' that is—explains Muqātil—'for hiding in your heart, O Muḥammad, [your genuine sentiment:] "If only he would divorce her!"' (*ya'nū wa-tusirru ḥi qalbika yā Muḥammad: layta annahu ṭallaqahā*).³⁵

Muqātil's summation of the whole affair is bolder still. It is presented in the context of his gloss to the following verse, Q. 33:38 ('There is no reproach for the Prophet in that which God has ordained for him. Such has been the way of God with those who have gone before. And the command of God is an absolute decree'). Commenting on the words 'Such has been the way of God (*sunnat Allāh*) with those who have gone before,' Muqātil explains:

This refers to the Prophet David, may God's peace and blessings be upon him, when he fell in love with the woman by whom he was enraptured (*hawā al-mar'a allatī futina bihā*). She was the wife of Ūriyā b.

Zaynab episode. According to Michael Lecker, 'Abd Allāh Maḥmūd Shihāta's edition of Muqātil's *Tafsīr* 'was quickly withdrawn from the shelves of Cairo bookstores' after being published in 1987 (Lecker, *Muslims*, ix, note 4). The Bar-Ilan University Library whisked their copy away in time, and we shall draw upon it briefly below).

³⁴ Muqātil, *Tafsīr*, 3:493.

³⁵ Muqātil, *Tafsīr*, 3:495.

Hanān [Uriah the Hittite]. And God brought about the union of David with the woman he loved. Similarly, God—the Mighty and Exalted—brought about the union of Muḥammad—may God’s peace and blessings be upon him—with Zaynab, whom he loved, just as He had done with David (*wa-kadhālika jama‘a Allāhu, ‘azza wa-jalla, bayna Muḥammadin, ṣalla Allāhu ‘alayhi wa-sallam, wa-bayna Zaynab idh hawayhā, kamā fa‘ala bi-Dā‘ūd*).³⁶

Muqātil may have overplayed his hand here. Not just from the later Muslim perspective—which condemns as distortion Biblical depictions of misbehavior on the part of those figures Islam considers prophetic³⁷—but from the earlier Judeo-Christian perspective as well, it is well-nigh impossible to argue that God sanctioned David’s deed (“Thus saith the Lord,” thundered Nathan the Prophet, ‘... You have put Uriah the Hittite to the sword; you took his wife and made her your wife and had him killed by the sword of the Ammonites! ... I will make a calamity rise against you from within your own house ...’).³⁸ Still, even in the purely Biblical context, it should be remembered that the union of David and Bathsheba was indeed sustained, and ultimately led to offspring that would rule over Judah for generations to come. From their line will (or did) issue the Messiah himself. Moreover, the Talmud emphatically denies that David committed adultery (or murder) in the

³⁶ Muqātil, *Tafsīr*, 3:496. The analogy between David and Muḥammad in this matter is perpetuated (and elaborated) by al-Qurṭubī himself, on the authority of several early transmitters. The terminology they chose to describe David’s attraction to Bath-Sheba’ is suggestively similar to that employed to describe Muḥammad’s reaction to Zaynab: “And David looked through the window and saw her standing naked by a pool, the most beautifully formed of women (*ajmal al-nisā’ khalqan*). She noticed his shadow and shook her hair so that it covered her body, and this attracted him even more (*fa-abṣarat zillahu fanafaḍat sha‘rahā fa-ghatiya badanahā, fa-zādahu iḥāban bihā* ... and he fell in love with her” (*fa-waqa‘at fī qalbihi*...). Since all this occurred on David’s semi-weekly “day dedicated to adoration” (*yawm al-‘ibadāt*) during which he practiced abstinence, al-Qurṭubī concludes his lengthy treatment of this episode with the advice—highly significant for our purposes in this study—that “a man should not neglect to engage in intercourse with his wives even while he is busy with worship” (*laysa li’l-insān an yatraka waṭ’ nisā’ihi wa-in kāna mashghulan bi’l-‘ibāda-Qurṭubī*, 15: 134–135).

³⁷ See Hava Lazarus-Yafeh, *Intertwined Worlds: Medieval Islam and Bible Criticism* (Princeton: Princeton University Press, 1992), 33ff. See the commentaries on Q 38:20–23, in which David is almost invariably exonerated of any wrongdoing. ‘Alī b. Abī Ṭālib is often quoted in such contexts expressing a sentiment reminiscent of that of the Talmud on the same subject (below, note 39): ‘Whoever relates the story of David as the story-tellers (*qasās*) tell it, I will give him 160 stripes, and this is the punishment of those who falsely charge the prophets.’

³⁸ See II Samuel, chapter twelve.

matter of Bathsheba.³⁹ Thus, the mysterious ways in which the Lord works, according to Muqātil, in order to obtain for His elect the objects of their desire, need not be seen as illegitimate.

Muqātil's early date may have much to do with the unselfconscious nature of his description of Zaynab's effect on the Prophet, whereas the tenth century al-Ṭabarī (who, in general, had no use for Muqātil)⁴⁰ was already more reserved (she 'delighted him'—*a'ajabathu*—and 'admiration for her filled his heart'—*waqa'a i'jābuhā fī qalbihi*).⁴¹ Al-Qurṭubī himself participates in this steady procession away from the original romantic-erotic character of the Zaynab story. After first citing at length, as we saw, the somewhat 'racier' versions of what had happened, the exegete tersely mentions another explanation of verse 33:37 ascribed to 'Alī b. al-Ḥusayn (the fourth Shī'ite Imām), according to which God had revealed to his Apostle that Zayd planned to divorce Zaynab (*kāna qad awḥā Allāhu ta'āla ilayhi anna Zayd yuṭalliqu Zaynab*) and that he, Muḥammad, was destined to marry her afterward. It was *this* that the Prophet had 'hidden in his heart' for fear of what people might say (i.e., that he had invented a revelation to get what he wanted, or that 'he had [earlier] prohibited marriage with the wives of one's children, and here he was marrying his son's wife!').⁴² He was guilty, that is, of concealing a divine revelation (although if so—it might be noted—then he *remained* guilty, for this revelation never found its way into the Qur'ān). Alternately, speculates al-Qurṭubī, God censured His Apostle for encouraging Zayd to 'keep his wife to himself' even though Muḥammad already knew from this revelation that the divorce was inevitable. This was fighting fate.

Absent from this interpretation is any element of amorous attraction between Muḥammad and Zaynab and indeed, much human volition at all: this version has an air of *qadar* (predestination) about it. It is, however, the interpretation al-Qurṭubī prefers:

Our sages, may God have mercy upon them, have said: this is the best among the various exegeses of this verse, and it is the one adopted by

³⁹ See Tractate Shabbat, 56a.

⁴⁰ See Adang, *Muslim Writers*, 14 and n. 89.

⁴¹ Ṭabarī, *Jāmi' al-Bayān*, 22:17. Recall 'Ā'isha's use of the same root to describe her husband's three favorite things in this world: *'kāna rasl Allāh yu'jibuhu min al-dunya thalāthun: al-ṭā'am wa'l-nisā' wa'l-ṭīb*. The root 'j.b. is frequently employed in connection with erotic arousal (see, e.g., Q 2:221, 33:51 and al-Jawzī's *'wa'l-ladhdhātu tu'jibunī*, above, p. 28).

⁴² Qurṭubī, 14:190.

the most exacting among the commentators and the most well-versed among the scholars (*ahl al-tahqīq min al-mufasssīrīn wa'l-'ulamā' al-rāsikhīn*). As for what is narrated to the effect that the Prophet, God's peace and blessings be upon Him, fell in love with Zaynab the wife of Zayd—and some shameless people have even employed the term 'loved passionately' [to describe Muḥammad's reaction and state] (*wa-rubbamā atlaqa ba'd al-majjān lafz 'ashiqa*)—notions of this sort emanate from such as are ignorant of the Prophet's immunity to the likes of that, or [from those] who would make light of the reverence due to him (*fa-hādhā innamā yaşduru 'an jāhil bi-'işmat al-nabī, şalla Allāhu 'alayhi wa-sallam, 'an mīthli hādhā aw mustakhiff bi-hurmatihī*).⁴³

Al-Ṭabarī did not acknowledge the Prophet's *'iṣma* (immunity, infallibility),⁴⁴ and spoke openly of Muḥammad's infatuation with Zaynab; Islam's greatest commentator therefore falls—together with the father of Qur'ānic commentary, Ibn 'Abbās himself⁴⁵—if not into al-Qurṭubī's category of 'shameless' then into his category of those who 'make light of the reverence due' to the Messenger of God.

Writing two generations after al-Qurṭubī, the eminent Ḥanbalī theologian and jurisconsult (and star pupil of Ibn Taymiyya), Shams al-Dīn Abū Bakr Muḥammad b. Qayyim al-Jawziyya (d. 1350 CE), intensifies the condemnation of those who subscribe to the amour-based interpretation of the Zaynab-Muḥammad affair, and raises his remonstrance to the level of a philosophy:

As for that which is asserted by some of those who did not properly esteem the Messenger of God (*man lam yuqaddir rasūl Allāh ḥaqqa qadrihi*), that he was deeply affected by the incident involving Zaynab (*innahu ubtuliya bihi fī sha'n Zaynab*); and that he saw her and exclaimed, 'Praised be the Overturner of Hearts!'; and that she captivated his heart (*akhadhat bi-qalbihi*); and that he at first advised Zayd b. Ḥāritha to 'Hold onto her!' until God revealed: 'And when you said unto him whom Allāh has

⁴³ Ibid., 14:191.

⁴⁴ See, e.g., his commentary to Q 17:79 (Ṭabarī, *Jāmi' al-Bayān*, 15:178) or to *sūra* 94 (ibid., 30:295) where God forgives Muḥammad his past sins (*ghafarnā laka mā salafā min dhumūbika*). Although these may have been committed before the first revelation in 610 CE, this is a far cry from the later notions which deny all wrong-doing on the part of the Apostle since birth, as reflected, for example, in al-Qurṭubī's statement (in another context) to the effect that Muḥammad 'did not sully himself with forbidden things [even] prior to his prophethood' (*lam yatadannis qabla al-nubuwwa bi-ḥarāmīn—Qurṭubī to Q 4:161 [6:12]*). See also, for this whole question, the commentaries to Q 48:2, as well as M. Zucker, 'The Problem of *'iṣma*: Prophetic Immunity to Sin and Error in Islamic and Jewish Literatures' (Hebrew), *Tarbiṭz*, 35 (1965).

⁴⁵ See Nabia Abbott, *Studies in Arabic Literary Papyri* (Chicago: The University of Chicago Press, 1957), vol.1, p. 9.

favored ...' (Q. 33:37); and the supposition among those who make such claims that these occurrences were connected with passionate love (*ʿiṣhq*); and the composition by some of them of books about passionate love, in which they record instances of such love on the part of prophets and mention this particular affair among them—all of this results from the fact that the foolish dolts (*al-sufahāʾ al-aghbiyāʾ*) who assert these things are ignorant of the Qurʾān and of the prophets, and [it results] from their ascription of spurious meanings to the Word of God (*tahmīlulhum kalām Allāh mā lā yahtamiluhu*) and their attribution to the Apostle of God [those appetites] from which God has made him innocent/immune (*nisbatulhum rasūl Allāh ilā mā barrāhu Allāhu minhu*).⁴⁶

⁴⁶ Ibn al-Qayyim, *Ẓād al-Maʿād*, 4:135–136 (*ʿSabab Ṭalāq Ẓayd li-Ẓaynab*). Were the prophets really unaffected by female beauty? When Bilqīs, Queen of Sheba, came to visit Solomon, the king decided to test her wits, just as she had earlier tested his. He commanded his demon-slaves to erect a great palace bottomed by a clear glass floor that stretched over a vast pool of water (*birka min māʾ ɗaraba ʿalayhā Sulaymān qawārīr albasahā*). He then sat on his throne in the midst of the edifice and invited the royal guest to enter, as it is written (Q. 27:44): ‘Enter the palace!’ Mistaking the transparent surface for the pond beneath it, Bilqīs hiked up her skirts, as scripture affirms (*ibid.*): ‘And when she saw it she deemed it a deep lake and uncovered her legs’ (*fa-lammā rāʾathu ḥasibathu lujjatan wa-kashafat ʿan sāqayhā*). And Solomon looked, and lo! Her legs were hairy (*wa-idhā humā shaʾrawān*). He turned to his most trusted *ifīṭ* advisors and asked: ‘Is there nothing that can remove that?’ (*a-lā shayʾ yudhhibu hādihā?*) They responded, ‘She could shave’ (*al-mūsā*). ‘No,’ said Solomon, ‘shaving leaves marks (*al-mūsā lahu athar*). How can I pluck out that hair without damaging the skin?’ (*kayfa lī an aqlaʾa hādihā al-shaʾr min ḡayr maɗarra biʾl-jasad?*). They answered, ‘With a quick-lime depilatory’ (*al-nūra*). So Solomon commanded her to use that depilatory, and she did so (inaugurating the practice), and Solomon married her, and they lived happily ever after. ‘And that,’ Muḥammad concludes this bedtime story, ‘is how Bilqīs became the woman with the most beautiful legs in the world (*aḥsan nisāʾ al-ʿālamīn sāqayn*), and merited to be among Solomon’s wives in Paradise.’ ‘Did she really have legs more beautiful than mine?’ pipes up ʿĀʾisha, the avid listener (*ḥiya aḥsan sāqayn minnī?*). ‘No,’ her husband reassures her, ‘your legs are even more beautiful than hers, in this world and in the next’ (Qurṭubī, 13:169; Ṭabarī, *Jāmiʾ al-Bayān*, 19:206–208. See the desperate attempt of Maulana Muhammad Ali to translate the scriptural phrase *ʿwa-kashafat ʿan sāqayhā* as ‘and she prepared herself to meet with difficulty.’ ‘Only crass ignorance of the Arabic language would make anyone adopt the literal significance’ he fumes [p. 735, n. 1855], indicting thereby almost every Qurʾān commentator who ever lived). Solomon, indeed, is granted even greater sexual potency than Muḥammad himself, who (as we saw) could have intercourse with all eleven of his wives in a single night: ‘Abū Hurayra related: Solomon b. David said, ‘I can stop by seventy women tonight, causing each to bring forth a son to fight in the way of Allāh.’ But Solomon neglected to add, ‘God willing,’ so only one of the women gave birth, and the child was a miscreant. The Messenger of God said: ‘If Solomon had just added “God willing,” then each one of the women would indeed have given birth to a son to fight in the way of Allāh’ (Wheeler, *Prophets*, 278; see Q. 18:23: ‘Say not of any matter, “I will surely do this tomorrow,” unless you add, “if God wills”’).

The man who is presented time and again by the classical sources as harboring the same urges and desires that activate all people, has now been stripped of those human traits. Ibn al-Qayyim goes on to argue that the sentiment which Muḥammad had hid in his breast and which is referred to in Q 33:37 ('... you did hide in your heart that which Allāh would soon bring to light ...') was not his love for Zaynab, but rather his plan to marry Zaynab after Zayd had divorced her, which he concealed for fear that people would say that he had wed his son's wife (*akhfā fi nafsihi an yatazawwajāhā in ṭallaqahā Zayd wa-kāna yakshā min qālat al-nās innahu tazawwaja imra'ata ibnihi*). Ibn al-Qayyim nowhere explains whence this problem arose in the first place, that is, why the Prophet wanted to marry Zaynab at all. Instead, he advises his readership to 'ponder the following defense (*dhabb*) of the Messenger of God and refutation of those who would defame him':

It is true that the Messenger of God, may God's peace and blessings be upon him, loved his wives, and that the wife he loved most was 'Ā'isha, may God be satisfied with her. With that, neither his love for her, nor his love for anyone else save his Lord, ever reached the highest level of love (*lam takun tablighu mahabbatuhu lahā wa-lā li-aḥadin sawā' Rabbihi nihāyat al-ḥubb*). Rather, it is rightly said that he declared: 'Were I to take from among the inhabitants of the earth a friend, I would take Abū Bakr as a friend' (*law kuntu muttakhidhan min ahl al-arḍi khalīlan li-attakhadhtu Abā Bakr khalīlan*) and in another version: 'Verily, your master [*viz.*, myself, Muḥammad] is the friend of the Merciful One [and of no-one else].⁴⁷ For [continues Ibn al-Qayyim] the passionate love of creatures (*'ishq al-suwar*) afflicts only those hearts that are empty of the love of the Creator, which counteracts [the love of humans] and compensates for it. If the heart is filled with the love of God and the powerful yearning to meet Him (*shawq ilā liqā'ihī*), this cures the heart of the sickness of the passionate love of human beings (*dafa'a dhālika 'anhu maraḍ 'ishq al-suwar*). Thus did the Exalted say regarding Joseph: '[And she in whose house he resided sought to seduce him, and made fast the doors and said: "Come hither!" He answered: "God forbid!" ... And he would have desired her, were it not that he had seen the evident demonstration of his Lord.] Thus We turned away evil and indecency from him. Surely he was one of Our wholehearted servants' (*innahu min 'ibādinā al-mukhlāṣīn—Q 12:24*).⁴⁷

⁴⁷ Ibid., 4:137. The vocalization 'mukhlīṣīn'—sincere, devoted—would perhaps be more convenient for Ibn al-Qayyim's employment of this verse than the Qur'anic text's 'mukhlāṣīn'—chosen, purified. Indeed, Sale and Arberry both translate this word as 'sincere.' To the best of my recollection, the Prophet's statement, 'Were I to take from among the inhabitants of the earth a friend, I would take Abū Bakr as a friend,' was made in the context of a purity problem: the need to reposition the domiciles of the believers so that *junubs* did not use the main mosque as a thoroughfare (on the strength

Ibn al-Qayyim sets up a zero-sum game: fervent—especially romantic-erotic—love of human beings detracts from love of God, and fervent love of God leaves little room for the love of human beings. As he himself epitomizes: ‘Sincere devotion to the Deity wards off passionate love [of people] and the evil and abomination that result therefrom’ (*al-ikhhlās sabab li-daf’ al-‘ishq wa-mā yatarattabu ‘alayhi min al-sū’ wa’l-faḥshā allatī hiya thamaratuhu wa-natījatuhu*). Joseph was liberated from natural human appetites and inclinations by virtue of his thoroughgoing immersion in the love of God (and note that Joseph’s religious devotion as perceived by Ibn al-Qayyim did not strengthen his resolve to *resist* his desire for his master’s wife, but rather saw to it that no such desire infused him in the first place). Similarly, Muḥammad could not (and, by extension, true believers *should* not) experience strong romantic or erotic attraction to denizens of this, our base world. We have thus come a long way from the emphatically human Prophet of the earliest texts, who balanced with such impressive ambidexterity his ‘passion for religion’ and his ‘passion for pleasures,’ his circumambulation of God’s House and his circumambulation of his own house: *sā’tan wa-sā’tan*. Indeed, especially when we consider Ibn al-Qayyim’s use of the term *suwar* to indicate those imperfect replicas or outer shells of the divine otherwise known as human beings, his outlook may be seen as approaching the perception of Plato, encapsulated in the diatribe of Diotima at the end of the Symposium, in which she describes the seeker’s arrival at the ‘final revelation of the mysteries of love’:

There bursts upon him that wondrous vision which is the very soul of the beauty he has toiled so long for. It is an everlasting loveliness which neither comes nor goes, which neither flows nor fades ... neither will his vision of the beautiful take the form of a face, or of hands, or of anything that is of the flesh ... and now that he has seen it ... he will care nothing for the beauties that once used to take his breath away and kindle such a longing in him ...⁴⁸

of Q 4:43: ‘... Draw not near unto [the place of] prayer ... when you are sexually impure ...’). Muḥammad excepted Abū Bakr (others say ‘Alī) from this injunction, and his expression of affection for him was a justification of this. If this is indeed the source of Ibn al-Qayyim’s citation, then he has left out its all important conclusion: ‘Were I to take from among the inhabitants of the earth a friend, I would take Abū Bakr as a friend; *but Islam has made a closer brotherhood of us all.*’ The quotation in full cannot, therefore, be used to prove the Prophet’s preference for divine over human companionship.

⁴⁸ Symposium, 211a-e.

It is only one step from Ibn al-Qayyim's portrayal of the Prophet to that of the Christian conception of the monastic—or certain Ṣūfī notions of the hybrid 'drunken-*zāhid*' exemplified by the likes of Rābī'a al-ʿAdawiyya—whose all-engulfing love of God ideally drowns out any possibility of *amour* for human beings (though it may leave room for *agape*, the Platonic-Christian form of love dispensed in equal measure to all). Muḥammad is on his way to becoming a monk.

Though ideologically opposed to the more traditional and more romantic version of the Zaynab story, Ibn al-Qayyim at least relates it in summary form (al-Qurṭubī before him had made sure to present it objectively and in full, indeed, in far greater detail than he did the interpretation he himself supported). Those who came afterward were less committed to 'the public's right to know.' Ibn al-Qayyim's pupil, the celebrated Syrian traditionist and historian, ʿImād al-Dīn Ismāʿīl b. ʿUmar b. Kathīr (d. 1373 CE), devoted a chapter of his *al-Bidāya wa'l-Nihāya* to 'The Prophet's Marriage to Zaynab bint Jaḥsh.' Already in the opening lines, he tantalizes his readership by announcing that he will be leaving some explosive information out of his story:

Many commentators, jurists and historians have adduced—in connection with the circumstances of his [Muḥammad's] marriage to her, may God's peace and blessings be upon him—a ḥadīth of Aḥmad b. Ḥanbal in his *Musnad*, which we have here deliberately refrained from mentioning (*taraknā ʿirādahu qaṣdan*) lest those lacking in understanding make improper use of it.⁴⁹

Ibn Kathīr was honest enough to admit that he was omitting. Not so the hyper-defensive Muslim material that arose in the wake of the blistering Western campaign of condemnation and ridicule which gathered steam from the Renaissance onward. In the vindicative literature of latter-day Islamic apologetics, the final legal consequence of the Zaynab incident—the clarification of the status of adopted childrens' spouses—is placed high on a pedestal as the underlying impetus for the entire affair, and the only desire allowed to have motivated Muḥammad in all of this is the ambition to put an end to the mutual misery that was Zayd and Zaynab's unsuccessful marriage (or, some say—strangely transferring Allāh's motivation to His Apostle—to set the record straight regarding the status of adopted children). The Prophet's passionate reaction upon sighting Zaynab and his ardent wish to marry her, both

⁴⁹ Ibn Kathīr, 4:145. Ibn Kathīr, like al-Qurṭubī, explains God's censure of the Apostle in 33:37 with the help of ʿAlī Zayn al-ʿAbidīn's interpretation.

unabashedly emphasized in the founding texts of the faith, are never so much as mentioned by such literature.

The modern bowdlerization begins with Mohammed Marmaduke Pickthall, the turn-of-the-twentieth-century English gentleman and accomplished novelist who converted to Islam and penned a justifiably influential translation of the Qurʾān. In his introductory remarks to *sūra* 33, he gives special attention to the notorious episode:

In v. 37 the reference is to the unhappy marriage of Zeyd, the Prophet's freedman and adopted son, with Zeynab, the Prophet's cousin, a proud lady of the Qureysh. The Prophet had arranged the marriage with the idea of breaking down the old barrier of pride of caste, and had shown but little consideration for Zeynab's feelings. Tradition says that both she and her brother were averse to the match, and that she had always wished to marry the Prophet. For Zeyd, the marriage was nothing but a cause of embarrassment and humiliation. When the Prophet's attention was first called to their unhappiness, he urged Zeyd to keep his wife and not divorce her, being apprehensive of the talk that would arise if it became known that a marriage arranged by him had proved unhappy. At last, Zeyd did actually divorce Zeynab, and the Prophet was commanded to marry her in order, by his example, to disown the superstitious custom of the pagan Arabs, in such matters, of treating their adopted sons as their real sons, which was against the laws of God (*i.e.*, the laws of nature); whereas in arranging a marriage, the woman's inclinations ought to be considered. Unhappy marriage was no part of Allāh's ordinance, and was not to be held sacred in Islam.⁵⁰

Pickthall's rewrite weaves a tangled web of speculations, half-truths, fabrications and presumptuous judgments—including the attribution of a vain motivation to the Prophet (the fear of being called a bad matchmaker), a claim that lacks any basis whatsoever in the sources; the modernish accusation that he 'had shown but little consideration for Zaynab's feelings'; and the only slightly less anachronistic 'whereas in arranging a marriage, the woman's inclinations ought to be considered'⁵¹—all of these machinations for the sole purpose, it seems, of

⁵⁰ Pickthall, 300.

⁵¹ This may not be entirely fair. There certainly do exist traditional sources urging consideration of women's wishes in marrying them off (see, e.g., the Prophet's statement that 'the widow shall not be married until she is consulted, nor the virgin until her consent is obtained'—*lā tunkaḥu al-ayyim ḥattā tusta'mara wa-lā tunkaḥu al-bikru ḥattā tusta'dhana*, Bukhārī, 67:42; see also Muslim, *Nikāḥ*, chapter 9). Pickthall's contemporary phraseology goes a bit far, however, and his claim that "The Prophet had arranged the marriage with the idea of breaking down the old barrier of pride of caste" is belied by all the sources.

circumventing the idea that the Apostle of Allāh might possibly become enamoured of a woman.

A more recent translation⁵² of the Qur'ān—published in the year 2000 by Zohurul Hoque—employs an even bolder expedient, involving a highly untraditional parsing of verse 33:37. Until now, almost all translations (as well as Arabic classical and modern interpretations) have closed quotation marks after the words ‘fear God,’ as follows:

And remember when you [i.e., Muḥammad] said unto him whom Allāh has favored and you yourself have favored [i.e., Zayd], ‘Keep your wife to yourself, and fear God!’ And you [i.e., Muḥammad] did hide in your heart that which Allāh would soon bring to light, and you feared people, whereas Allāh has a greater right to be feared. So when Zayd had divorced her ...

In his own, undeniably creative rendering—perhaps based on that of Fakhr al-Dīn al-Rāzī (who adopted the Mu‘tazilī belief in the *‘isma* of the prophets despite being a fierce adversary of Mu‘tazilism)—Zohurul Hoque removes words from God’s mouth and places them into the mouth of Muḥammad, closing the quotes further along in the passage:

And remember, you [i.e., Muḥammad] did say to him whom Allāh had favored [i.e., Zayd]: ‘Keep your wife with yourself, and revere Allāh; and you [O Zayd, continued Muḥammad] were concealing in your mind that which Allāh was going to disclose, and you were fearing people, while Allāh has a greater right that you should fear him.’ But when Zaid decided ...

Now it is no longer Allāh accusing Muḥammad of concealing something, but Muḥammad accusing Zayd of concealing something. In his running commentary on the text, Zohurul Hoque follows the words ‘and you were concealing in your mind ...’ with the gloss: ‘... the disagreement between your wife and yourself without exposing it to the public.’ Zayd has here been made to ‘take the fall’ in order to protect his foster father’s reputation: he is accused of having hidden from his fellow Muslims the truth about his failing marriage, information which would have made the ensuing events far easier to swallow. The Apostle, on the other hand, had nothing to hide, and God married him to

⁵² Although strictly speaking Islamic doctrine does not provide for the possibility of the Qur'ān being translated, this nicety is increasingly ignored even by Muslim scholars themselves. Abdullah Yusuf Ali’s well-known work was entitled *The Qur'an: Text, Translation and Commentary*. The publication we are currently discussing, written by a highly knowledgeable and religious Muslim, is nevertheless entitled *Translation and Commentary on the Holy Qur-an*.

Zaynab ‘because he became morally bound to comply with the wishes of the lady and her people’⁵³ who sought such a union.

In his famous biography of the Prophet, Muḥammad Ḥusayn Haykal takes a different tack. Rather than simply ignoring or glossing over the problematic aspects of the Zaynab episode, he confronts directly those ‘Orientalists in chorus with Christian missionaries’ who ‘pause in order to give full vent to their resentment and imagination’ through distortion of this narrative.⁵⁴ Haykal may be within his rights in objecting to (what he claims to be) the sensationalist rendering of this story by Muir, Dermenghem, Sprenger, Weil, Washington Irving, Lammens and others, in which Zaynab is portrayed (so he avers) ‘stretched out in her nightgown like a real “Madame Recamier”’ whose ‘every curve was full of desire and passion.’⁵⁵ But Haykal does not stop at condemning such perceived excesses, for he is no less incensed by the gall of such Western writers in passing on what were—according to most early sources—nothing more than the facts of the case:

Others relate that when Muḥammad opened the door of the house of Zayd the breeze played with the curtains of the room of Zaynab, thus permitting Muḥammad to catch a glimpse of her ... They then tell their readers that this view of her stormed the heart of Muḥammad ... They relate that Muḥammad had hidden his secret desire, though he could hardly bear it for long! ... The Orientalists and missionaries have mixed [the story of Zaynab bint Jahsh] with such products of vivid imagination that they have made of it a story of love and passion.⁵⁶

Haykal knows that the information that led European scholars to pen these descriptions emanates directly from al-Ṭabarī and other major *mufassirūn* and *muḥaddithūn*, but because he regularly advertises his work from the outset as a ‘critical history’ (even excusing thereby, in a preface to a late edition, his exclusion from it of all miraculous accounts), he is willing to dismiss such seminal sources out of hand: ‘It cannot be denied that these stories are based upon reports in fanciful Muslim biographies and Ḥadīth books. But these books are questionable. And it is extremely regrettable that our authors have used them without

⁵³ Zohurul Hoque, *Translation and Commentary on the Holy Qur-an* (Centerville: Holy Qur-an Publishing Project, 2000), 728–729.

⁵⁴ Muhammad Husayn Haykal, *The Life of Muhammad*, trans. Ismail Ragi A. al Faruqi (Delhi: New Crescent Publishing Co., 2000), 286.

⁵⁵ At least some of these authors are guilty of no such exaggeration.

⁵⁶ *Ibid.*, 287 and 294.

scrutiny.⁵⁷ More than this he does not say, offering no critical assessment or ‘scrutiny’ of such ‘fanciful’ literature, which includes some of the most revered texts of Islamic tradition. He rather counters these chroniclers, and the use made of their material by Western authors, by asserting that ‘Muḥammad was not a man given to passion and desire as the Orientalists and missionaries have pictured him. He did not marry his wives for lust, desire or love.’⁵⁸

In fairness, it must be said that unlike many other Muslim apologists, Haykal does attempt to make an argument against the plausibility of Muḥammad’s erotic or aesthetic attraction to Zaynab, perhaps following the annotation of Maulana Muhammad Ali in his translation of the Qur’ān.⁵⁹ This argument, however, is deeply flawed. After attributing the entire affair to the fact that ‘Muḥammad had made himself always the exemplar of his own legislation, especially of such laws as were intended to replace the traditions and customs of pre-Islamic Arabia’—that is, ‘Muḥammad married Zaynab in order to provide a good example of what the All-Wise Legislator was seeking to establish by way of rights and privileges for adoption’—Haykal goes on to argue that

For a repudiation of the whole story of Zaynab as reported by these [early Muslim] chroniclers or Orientalists and missionaries, it is sufficient to realize that the said woman [Zaynab] was the daughter of Umaymah and grand-daughter of ‘Abd al-Muṭṭalib the uncle of the Prophet of God—may God’s peace and blessings be upon him. It is sufficient to remember that this woman was brought up in the sight of Muḥammad and under his care, and on this account was regarded by him as a daughter or young sister; that he knew too well whether she was beautiful or not before she ever married Zayd; that he saw her and followed her growth from childhood to maturity and youth; and that it was he

⁵⁷ *Ibid.*, 287.

⁵⁸ *Ibid.*, 288.

⁵⁹ Maulana Muhammad Ali, *The Holy Qur’ān: Arabic Text, English Translation and Commentary* (Lahore: Ahmadiyyah Anjuman Isha’at al-Islam, 1998 [First Edition 1917]), 811–812. Muhammad Ali complains that ‘this simple story is made the basis of a mean attack on the Holy Prophet. It is stated that the Prophet, having seen Zaynab by chance through a half-open door, was fascinated by her beauty, and that Zaid, having come to know of this, divorced her, and then she became the Prophet’s wife.’ The amount of anxiety created by the polemic over the Zaynab affair is well evidenced in the willingness of Muhammad Ali (and others, as we have seen) to call the interpretations of Ibn ‘Abbās, al-Ṭabarī and al-Bayḍawī (to name just a few) ‘a mean attack on the Holy Prophet.’

who asked her hand for Zayd, his adopted son. Once the reader knows these historical data, then all the fictitious elements and tales spun about him ... must dissolve.⁶⁰

The claim that Zaynab was brought up in Muḥammad's care—whether or not it is relevant to the possibility of the latter being attracted to the former—has no basis in the sources. Moreover, it is remarkable that Haykal, in painting the picture of their close kinship and relationship, is relying on the same texts whose 'fanciful' accounts (of the Zaynab episode) he is striving to belie with the help of that very information. As for the fact that 'it was he who asked her hand for Zayd,' it should be remembered that Muḥammad did this against his will, and only after much prodding and pleading by his adopted son.⁶¹

Throughout five heavy volumes, the Egyptian editor of Muqātil b. Sulaymān's *Tafsīr*, the learned 'Abd Allāh Maḥmūd Shiḥāta, hardly ever appends more than three or four lines of footnotes per page. The Zaynab affair brings him to life, and on the pages that deal with it—in the third volume, published in 1984—there are more footnotes than text. 'This statement [of Muqātil's] is reprehensible,' the editor rails at one point, 'and is neither rationally acceptable nor in agreement with tradition' (*lā yaqbiluhu al-'aql wa-lā yuwāfiquhu al-naql*).⁶² 'God has preserved His Prophets from involvement in such forbidden things' he insists further on, adding that 'Muqātil got carried away by his love for the Messenger of God (*shatta bihi al-hawā ilā rasūl Allāh*)⁶³ and thus

⁶⁰ Haykal, 294–295. Similar assertions have been voiced by many others, including Muḥammad Zafrulla Khan in his *Muḥammad: Seal of the Prophets* (London: Routledge and Kegan Paul, 1980), 62. He introduces his argument with the declaration that 'All [Muḥammad's] subsequent marriages were with widows or divorced women, and personal desire played no part in the motive behind any of those marriages. An insinuation to that effect has crept into some accounts of his marriage with his cousin, Zainab bint Jahsh, after she was divorced by Zaid b. Haritha. The circumstances, however, do not lend the least support to any such insinuation.' Khan makes no mention of the incident at Zayd's house, but does argue—like Haykal and others—that Muḥammad knew Zaynab too well to be attracted to her, and that 'when Zayd, despite the Holy Prophet's urging that he cleave to his wife, made up his mind to divorce her [the impetus for this decision is nowhere discussed], the Holy Prophet felt himself under an obligation to provide her solace and comfort.' Khan concludes his terse treatment with the statement: 'There was thus nothing in the circumstances attendant upon this marriage which could justify the reflection that it had been inspired by passion or desire'—*lā samaḥa Allāh!*

⁶¹ See above, note 186.

⁶² Muqātil, *Tafsīr*, 3:493, n. 1.

⁶³ Reading 'rasūl' in place of the text's 'rusul,' which appears to be a misprint.

interpreted the Word of God incorrectly.⁶⁴ In the wake of Muqātil's determination (which does not differ from that of al-Ṭabarī and others) that Muḥammad had 'concealed in his heart [the wish:] "If only [Zayd] would divorce her!"',⁶⁵ Shihāta cannot resist turning and addressing the long dead *mufasssīr* directly: 'Fear God, O Muqātil, in the matter of the Messenger of God!' (*attiq Allāha, yā Muqātil, fi rasūl Allāh!*).⁶⁵

The words of Rodinson are appropriate here:

Present day Muslim authors, with whom on this point W. Montgomery Watt is curiously in agreement, have endeavoured to maintain the asexual nature of this episode. At thirty five, they say, Zaynab could not be desirable as a woman. What Muḥammad was really doing, therefore, was to contract a marriage for political reasons (to ally himself with the kin of Abū Sufyān) and also as a legal test-case directed against the accepted valuation or adoption. It is Western Christians (they continue) or Voltarians who have emphasized, with such heavy irony, the Prophet's highly inflammable passions. However, it is enough to read the sources, the Arabic histories and traditional texts, to realize that this interpretation was not a western invention. It is these texts which lay such stress on Muḥammad's disturbed state of mind after his glimpse of Zaynab in a state of undress; it is they that describe her remarkable beauty.⁶⁶

Alternately, given Muqātil's predilection for *qīṣaṣ al-anbiyā'*, I suppose the editor might have intended his 'love of the Messengers.'

⁶⁴ Muqātil, *Tafsīr*, 3:498, n. 1. In what way Muqātil's excessive love for the Prophet led him to misinterpret the verse, Shihāta does not say. The editor's choice of justification is, however, quite significant. Given that few are more intimately acquainted with Muqātil's writings than he, and also that in order to advance a convincing argument he must make an assertion about the commentator's character that is born out by those same writings, we can take his word for it that Muqātil harbored a deep affection for the figure of Muḥammad. That being the case, this much is certain: Muslims who loved and admired the Prophet (like Muqātil, Ibn 'Abbās, al-Ṭabarī, Aḥmad b. Ḥanbal, etc.) were once perfectly comfortable with depictions of him as a romantic, and did not see this as in any way undermining his *ḥurma* (sanctity); indeed, one might fairly say that they saw it as one of his *faḍā'il*.

⁶⁵ *Ibid.*, 3:495, n. 1.

⁶⁶ Rodinson, *Mohammed*, 206–207. Watt, however, deserves to be quoted at some length, for though he fails to convince, his is an undeniably eloquent counter—perhaps the only one extant—to much of what we have been arguing: 'The story of Muḥammad's meeting with Zaynab in Zayd's absence and being swept off his feet by her physical attractiveness must be taken with a grain of salt. It does not occur in the earliest source [Watt must mean Ibn Ishāq, and this is true. Muqātil is, however, at least as early as Ibn Ishāq, whose original text we do not even have—Z.M.]. Moreover, Zaynab was thirty-five or thirty-eight at the time of the marriage, and for an Arab woman of those days that was 'getting on.' All Muḥammad's other wives except Khadījah were younger when he married them, and most of them very much younger. Zaynab may have made the most of such beauty as she still had, but, even if there is a basis of fact underlying the story, one must suspect that it has been

More recent apologetic efforts have displayed even less compunction about twisting the truth. Al-Azhar's Muḥammad Gemeiah, in what purports to be an English translation of excerpts from Ibn Kathir's *Al-Bidāya wa'l-Nihāya*, explains how Muḥammad 'had watched Zayd and

touched up in the course of transmission. Later Muslims liked to maintain that there was 'no monkery in Islam' and their asceticism usually did not include celibacy. It would be in keeping with this to magnify the extent and romantic character of Muḥammad's relation with the fair sex. It is even boasted that his virility was such that he could satisfy all his wives in a single night. The theme of love at first sight seems to belong to this imaginative elaboration of Muḥammad's life-story. It is most unlikely that at the age of fifty-six such a man as he should have been carried away by a passion for a woman of thirty-five or more.' W. Montgomery Watt, *Muḥammad: Prophet and Statesman* (London: Oxford University Press, 1961), 158. With regard to the Muslim perception of the Prophet's sexual predilections and behavior, Watt here posits a chronological evolution directly opposite to the one we have been tracing. This aspect of his argument is far from compelling, especially since there is no rationale for dating the sources portraying the 'virile' Muḥammad later than those (indeed: which?) portraying the 'chaste' or 'asexual' Muḥammad. It should also be noted that, as we have seen, the anecdote about the Prophet sleeping with all of his wives on the same night shows up in the literature (in almost a dozen different recensions) in the context of *ṭahāra*, specifically in connection with the question whether or not *wuḍū'* or *ghuṣl* is to be performed between sexual encounters. If this ḥadīth was fabricated at all, it was fabricated for the sake of arguing a point of purity law, not in order to demonstrate how virile the Prophet was. If the ḥadīth was *not* fabricated in the process of purity debates, then—since it is already *adduced* by some of the earliest participants in these debates—it must be of some antiquity, and this supports the antithesis of Watt's theory. Whether there is any reason why 'such a man' of fifty-six years of age could not have been smitten by a woman in her mid-thirties, is a question we will leave open (except to remark that according to most classical sources, the *ḥūr al-'ayn*, those 'resplendent and ravishing girls of paradise' [Sale] and ideal incarnations of Arabo-Muslim erotic fantasy, are reputed to be at the time of their husbands' arrival in heaven—and to remain thereafter forever and always—exactly thirty-three years of age [see Qurtubī, 15:175: '*wa-qad tusāwūn fī'l-ḥuṣn wa'l-shabbāb banāt thalātha wa-thalāthim samma'*—thirty-three years young!]). Moreover, it certainly cannot be without significance that, according to the same literary tradition that recounts the Zaynab affair, the forty-year-old Khadija was considered quite beautiful and had many eager suitors among the men of Quraysh, and that Muḥammad at twenty-five not only married her [there is no basis for the imperceptive claim that his *sole* motivation for doing so was financial] but had six children by her [her sexuality even as she approached sixty was illustrated above, chap.1, n. 86]. The first woman the Prophet courted and married after Khadija's death was Sawda bint Zam'a, who was herself of mature age; his fifth wife was Umm Salama who, at the time of their marriage, 'though not young, was very beautiful' [Muir, *Life of Mohammad*, 290] and who, even several years after that, still felt the need to build a wall in front of her room 'to shut out the glances of men' [ibid., 534]. Finally, it should be recalled that one of the common practices of the *jāhiliyya* was for the eldest son to marry his father's widows, a custom which—though connected to issues of authority [*vide* Absalom and David's wives on the Jerusalem palace roof]—probably would not have taken root or maintained itself had there been no potential element of desire involved. All in all, the old Arab proverb is apt here: 'A beautiful,

Zaynab growing up and thought they would make a good couple’—alas, however, the two ‘could not overcome their incompatibility.’ Zayd happily divorced his wife, and Muḥammad ‘was ordered by Allah to marry Zaynab bint Jahsh.’⁶⁷ Such statements, which appear nowhere in Ibn Kathir’s account, sound suspiciously like Yusuf Ali’s note to verse 33:37 (where, not surprisingly, the Prophet’s passion for Zaynab is also absent). ‘The marriage [between Zayd and Zaynab] did not last long,’ explains a web-based Islamic encyclopedia. ‘It is possible that the Prophet felt some responsibility about the failed marriage and therefore under obligation to marry her.’⁶⁸ A different online author adds almost twenty years to Zaynab’s age, claiming she was ‘over fifty when she married Muḥammad.’⁶⁹ According to yet another cyber-source,

captivating woman has no age’ [*al-inva’a al-fattāna al-jamīla lā ‘umr lahā*]). Watt makes an even less convincing case in his *Muḥammad at Medina*, pp. 329–331, where he advances, among other claims, the proposition that the Prophet married Zaynab in order to get close to his inveterate adversary Abū Sufyān, as ‘her family were, or had been, confederates of Abū Sufyān’s father’ (this far-fetched argument’s plausibility is further compromised by the fact that the events culminating in the Prophet’s marriage to Zaynab took place around the same time [627–8 CE] that—according to al-Ṭabarī and others—Muḥammad was contracting to assassinate Abū Sufyān in retaliation for the latter’s having contracted to assassinate him [Ṭabarī, *Annales*, 1:1437]). Having done nothing more than speculate upon several possible strategic-political motivations for the marriage, Watt curiously concludes: ‘Despite the stories, then, it is unlikely that [Muḥammad] was swept off his feet by the physical attractiveness of Zaynab.’

⁶⁷ www.Islamic-paths.org

⁶⁸ ispi-usa.org/Muhammad/appendix2.html

⁶⁹ <http://www.almizan.org/Academic/many%20mariages> [sic]. The sources all describe Zaynab as in her early or mid-thirties at the time of her marriage to the Prophet. It is true, as contemporary defenders of Islam regularly point out, that a goodly number of the marriages contracted by the Prophet were motivated by either pity or politics. Others, however, were avowedly based on (or quickly assumed the character of) love-interest and physical attraction, including the unions with Juwayriya, Ṣafiya, Rayḥāna and Mary the Copt. The entrance of the latter into the harem, and the Prophet’s initial preference for her nocturnal company (even at the expense of the *dawla* or ‘turn’ of ‘Ā’isha and Ḥafṣa, the daughters of the two most influential Companions), caused the well-known crisis alluded to in *Sīra* 66:1–6 (of which Muir vociferates that ‘there is surely no grotesquer utterance than this in the “Sacred Books of the East”’—Muir, *Life of Mohammad*, 428). Ṣafiya’s story bears a certain telescoped resemblance to the Zaynab affair, especially in that another man gave her up for the Prophet’s sake. She was of the ill-fated Jewish tribe of Banū Qurayza on the side of her mother (yet another Barra—see above, note 8), and perhaps on the side of her father, as well, though he may have been from the Banū al-Naḍir. Together with many of the latter tribe, she migrated to Khaybar after the expulsion of 625 CE, where she married the chief, Kināna b. al-Rabi’. When their town was sacked by Muslim forces in 628 CE, Ṣafiya was one of many captives. One Daḥya or Diḥya (the Kalbite?) saw her first and took her (*waqa’at fi saḥmi Daḥya jāriya jamīla*), but word of her status and beauty

Muḥammad married Zaynab to Zayd ‘in order to show the equality between black people and white people.’ Because modern apologists strive to emphasize Islam’s social revolution and the Prophet’s battle against the entrenched institution of *ḥasab wa-nasab* (pride in aristocratic lineage), even the widespread claim that Zaynab was unhappy with Zayd due to differences in class background is no longer deemed presentable. Thus, according to this web-site, ‘Zayd admitted himself to be spiritually inferior to his wife. He realized through his insight

was conveyed to the Prophet. “Summon him along with her,” he commanded (*ud’ūhu bihā*). And Daḥya came accompanied by Ṣafiya [who was seventeen at the time]. And when the Prophet looked at her, he said [to Daḥya], “Take yourself a different slave-girl from among the captives.” And [Muḥammad] manumitted her and married her [after torturing and executing her husband for allegedly withholding booty]’ (*fa-lammā nazāra ilayhā al-nabī qāla: khudh jāriya min al-sabyi ghayrahā; wa-a’taqahā wa-tazawwajahā*—Muslim, *Nikāh*, 14:84 [1365]; echoes of Juwayriya, above, p. 18). Maurice Gaudefroy-Demombynes is thus somewhat disingenuous when he writes—in response to what he describes as the ‘loose talk’ surrounding the conjugal unions contracted by the Prophet—that ‘Muḥammad’s marriages were for the most part political ... Ṣafiya, the Jewess, was the daughter of a conquered chief, and therefore was assigned as legal booty to the victor’ (Gaudefroy-Demombynes, *Muslim Institutions* [trans. John P. Macgregor. London: George Allen & Unwin, 1950], 136). Interestingly, al-Nawawī, commenting on the ḥadīth about Daḥya, mentions the claim that Ṣafiya’s name was actually Zaynab, ‘but after captivity and [Muḥammad’s] selection [of her] she was renamed Ṣafiya (i.e., her new name was derived from the manner of her procurement for the Prophet: *fa-sumiyat ba’d al-sabyi wa’l-istiftā’*’ Ṣafiya—Nawawī, *Sharḥ*, 3:560).

Another suggestive similarity between the Ṣafiya and Zaynab stories is the emphasis placed on the the screen/curtain/veil. When the Prophet took Ṣafiya for himself, the people said: ‘We do not know whether he has taken her as a wife or a slave girl. If he screens her from the public gaze, then she is a wife, and if not, then she is a slave girl (*in ḥajabahā fa-hiya imra’a, wa-in lam yahjubhā fa-hiya umm walad*—Muslim, *Nikāh*, 14:86 [1427]). Muḥammad veiled her, took her to his tent and consummated the marriage. On the evening of Zaynab’s wedding, only a short time earlier, the guests had overstayed their welcome, and the timely revelation of Q 33:53—bidding the guests disperse early and instituting the *ḥijāb*—finally got the message across and allowed the impatient Prophet to be alone with his new bride (Ibn Sa’d, 8:173–174). Muir comments caustically regarding the introduction of the curtain on this occasion that ‘[Muḥammad] himself had proved in the case of Zeinab the danger that might arise from the too free admission of friends or strangers; and his followers could hardly expect to be freer from temptation than the Prophet’ (Muir, *Life of Mohammad*, 292). On the other hand, Ibn Sa’d records a ḥadīth which depicts Muḥammad as belittling the value of such modesty-motivated compartmentalization. According to this report, it was Umm Salama who added a barrier of unburnt bricks to her chamber while the Prophet was away at Tabūk. Upon returning he inquired about it, and Umm Salama explained that ‘I purposed, O Messenger of God, to shut out the glances of men thereby.’ Her husband responded, ‘O Umm Salama! Verily, the most unprofitable thing that eateth up the wealth of a believer is building’ (cited in Muir, *Life of Mohammad*, 534).

that Zaynab was a woman whose sublimity of character made her fit to be the wife of a far greater man than himself.⁷⁰ After the divorce, Muḥammad ‘had no choice but to wed Zaynab bint Jaḥsh.’

Although this marriage was very difficult for God’s Messenger to enter into, God had willed that through this marriage a false custom would be abolished and a new law and custom established through the ideal example of God’s Messenger, upon him be peace and blessings. Despite this, the enemies of Islam and hypocrites slandered God’s Messenger and unfortunately some of these slanderous ideas have found their way into some Qur’anic commentaries [!]. It should again be emphasized that any perverse allegation or slander has never had and will never have the least effect on his pure personality and world-admired chastity.⁷¹

We will probably never know for sure whether the explicit description of Muḥammad’s romantic-erotic-aesthetic attraction to his foster daughter-in-law constitutes the ‘truest’ version—or at least the earliest layer—of the Zayd-Zaynab story. At issue here, however, is not so much whether that version is the most authentic one, but rather, and more significantly: why has so much effort and energy been expended in the endeavor to strike it from the record? Why this frantic expurgation, when the venerated sources of Islam display not the slightest unease about reporting and, in most cases, upholding the version in which the Prophet was deeply affected by what he witnessed at Zayd’s house? Why this repeated and vehement denial that Muḥammad could be enchanted by female beauty, when Allāh Himself testified to his Apostle’s susceptibility to the same in no uncertain terms: ‘It is not allowed to thee [Muḥammad] to take additional wives after [the seventh year AH], nor to exchange [your current wives] for other wives, *even if their beauty fascinate you*’ (*wa-law aḥabaka ḥusnuhunna*—Q. 33:52)?

The widening halo over the heads of heroes is, of course, a well-known phenomenon in almost all religions and cultures, so much so that it appears to be an inevitable development. The real question, then, is not whether the founding figure of the faith will eventually evolve into *al-insān al-kāmil*, ‘the perfect man’—he will. The real question is: *how does the religio-cultural tradition in question define perfection?* If we

⁷⁰ This is truly desperate. Few Companions had the spiritual status of Zayd, the first male Muslim after Muḥammad, pious practitioner of religion, leader of important military expeditions *fi sabīl Allāh* and adopted son of the Prophet. Even Watt admits: ‘[Zaynab] can hardly have thought that [Zayd] was not good enough.’ Watt, *Muhammad at Medina*, 331.

⁷¹ www.islamanswers.net/

judge by the earliest sources, the Islamic ideal or model of perfection in this regard involves (as we have repeatedly seen) a unique combination and easy balance between piety and carnality. Zaynab herself, we are told, was so devout that she would tie ropes to the pillars of the mosque to support herself when she could no longer stand during the lengthy night prayer⁷² (and so charitable that all the income from the shoes she made and sold went to the poor),⁷³ but at the same time she certainly seemed to appreciate the effect of her beauty on the Prophet. Juwayriya, of whose incomparable attractiveness ‘Ā’isha was so jealous (‘By Allāh, I had scarcely seen her in the doorway of my room before I detested her, for I knew he [Muḥammad] would see her as I saw her!’) is said to have ‘become an excellent Muslim’ after her marriage to God’s Apostle.⁷⁴ The same is said of the reportedly stunning Ṣāfiya.⁷⁵ Now, since no one better epitomized this theos-eros alloy than the Prophet himself, the predictable tendency to amplify the merits of Muḥammad until they attained the level of perfection or infallibility (*‘isma*) ought naturally to have proceeded in the direction of laying even *more* stress on his exceptional ability to combine the sensual and spiritual in one exemplary and inspirational lifestyle (following in the footsteps, for instance, of Anas b. Mālik—who, it will be recalled, lauded his master for ‘surpassing all others in generosity, courage, fierceness and

⁷² Bukhārī, *Tahajjud*, 21:251: ‘inna al-nabī dakhala al-masjid yawman fa-idhā ḥabl mamdūd bayna sāriyatayni, fa-qāla: mā hādihā al-ḥabl? Fa-qālū: ḥabl Zaynab, fa-idhā fatarat ta’allaqat bihi ...’. See also Ibn Ḥanbal, 3:101; Ibn Ḥajar, 3:36; Nasā’ī, *Qiyām al-Layl*, *passim*; and elsewhere. This pious pennyhang was evidently a common practice, especially before Allāh eased the burden of lengthy nocturnal prayer during Ramaḍān (or throughout the year; see Ṭabarī to *al-Muzzammil*, 73:1–4 [*Jāmi‘ al-Bayān*, 29:155]).

⁷³ Ibn Sa‘d, 3:300 and 8:9.

⁷⁴ Ibn Ishāq-Guillaume, 793.

⁷⁵ Abbott, *Aishah*, 42. Ṣāfiya, the Jewish widow of the fallen king of Khaybar, converted to Islam (unlike Rayḥāna bint Zayd of the Banū Naḍīr—Muḥammad’s other partner of Jewish origins—who refused to renounce her faith and remained in the category of concubine). Soon after the Prophet brought Ṣāfiya back from Khaybar to Madīna, the rumours about her beauty led to a general convergence of the curious on the house of Ḥāritha b. Nu‘mān, where the exquisite captive and her new husband were celebrating their nuptials. ‘Ā’isha herself came round to investigate, covering her face and body with a veil so as to see but not be seen (according to other versions of this anecdote, no less than four of the Prophet’s wives resorted to this ruse). She peeked in and espied the couple, but was immediately recognized by Muḥammad despite her disguise. He followed her outside and asked, ‘Well, how does she look to you, ‘Ā’isha?’ ‘She looks like a Jewess,’ ‘Ā’isha responded sardonically. ‘Do not say thus, O ‘Ā’isha,’ the Prophet scolded, ‘for she has become a Muslim, and a good one at that!’ (*lā taqūlī hādihā yā ‘Ā’isha, fa-annah qad aslamat fa-ḥasana Islāmuhā*—Ibn Sa‘d, 8:126).

frequency of intercourse’—or of the Prophet himself, who ecstatically declared: ‘God has made dear to me from your world women and fragrance, and the joy of my eyes is in prayer’). Muḥammad’s appreciation of female beauty and his strong sex drive should have been touted without end, emphasized, even exaggerated. These qualities should have been made into an example for future generations to emulate.

Instead, the opposite has been the case: the criterion of perfection set up by foreign, often adversarial cultures—the Greco-Gnostic-philosophical and Christian-Western—has been adopted by an Islamic intelligentsia cowed into self-effacing imitation first by the one and then by the other. The result has been a quasi-Christ-like figure who has no need for, or interest in, that which all other men need and are interested in, a flaccid philosopher-king who ‘did not marry his wives for lust, desire or love.’ Following our argument at the outset of this chapter, we may say that by eliminating this salient dimension of the Prophet’s personality—the fleshly, passionate, sensual side emphasized repeatedly by early source after early source—one not only removes the common humanity that allows Muḥammad to function as the Excellent Exemplar for all Muslims everywhere, but one also deracinates both the legal and legendary branches of Islamic tradition, the very foundations of which are built on the unrepentant mortality of the Prophet and his Companions. More specifically, for our purposes, eliding or marginalizing the sexual-sacral nature of the Prophet’s lifestyle undermines the structure of, and seriously impedes research into, a vast region of Islamic jurisprudence and positive law: the code of *tahāra*. One of the chief purposes of our detour in this chapter, as well as of the analyses in the chapters that preceded it, has been to recover what we could of Muḥammad the man.

What is so ironic about the long-standing Islamist attempt to erase the romantic-erotic version of the Zaynab episode is that it was specifically to oppose ‘cover-ups’ of this sort that the Qur’ānic verse was (at least according to most interpretations) vouchsafed in the first place. For are these apologists not repeating the identical error and displaying the self-same lapse of faith for which Muḥammad himself was chastised in Q. 33:37? Do they not also fear, as he did, ‘what the people will say’? Are they not worried that Westerners—and Muslims affected by Western ideology—will whisper and scribble (as they have indeed been doing for centuries now, so the fear is certainly justified) that a Prophet, a man of God, has no business reacting with such passionate ardor to the enticements of the feminine form? Is not their anxious

and defensive whitewashing an indication that they are terrified of such accusations, that they are even, perhaps, embarrassed themselves by the original narrative? It was to confront and correct just such attitudes that Q. 33:37 originally came down to the Prophet, and through him to the entire *umma*: ‘You should not fear people; you should fear God!’

A modern-day Muslim may choose to feel comfortable or uncomfortable about the treatment of Zayd. Zayd’s separation from Zaynab may indeed have been a relief for both parties concerned, and ‘remedies’ of this sort by means of divorce appear to have been quite commonplace in seventh century Arabia. The Prophet’s daughters Zaynab, Ruqayya and Umm Kulthūm were thus extricated from problematic unions and eventually remarried;⁷⁶ their mother, Khadīja, was probably divorced from Abū Hālā al-Tamīmī before marrying Muḥammad;⁷⁷ Abū Bakr took and divorced three wives before the *hijra*; Zayd himself had previously wed, evidently kept this first wife through and beyond his short-lived union with Zaynab, and would divorce two of the three additional women he married over the following four years; Zaynab may also have had a husband before Zayd. The renowned commentator al-Zamakhsharī knows of a goodly number of *anṣār* hosts who divorced one or more of their wives as little more than a hospitable measure in honor of their *muhājirūn* guests, to whom the divorcées were subsequently joined in matrimony.⁷⁸ Muḥammad instructed Ghaylān b. Umayya al-Thaqafī, who converted to Islam with ten wives, to ‘choose four of them and leave the rest.’⁷⁹ Divorce in seventh century Arabia was not, at least in many cases, the serious, heart-rending affair it has since become in most of the world.⁸⁰

⁷⁶ Ibn Ishāq-Guillaume, 314. ‘Abd Allāh b. ‘Umar said: ‘I had a woman under me [that is, I was married to her] whom I loved but ‘Umar hated (*uhibbuhā wa-kāna ‘Umaru yakrahuhā*). He said to me: “Divorce her.” But I refused. Then ‘Umar mentioned this to the Messenger of God, who told me: “Divorce her.”’ Baghawī, 2:15.

⁷⁷ *EI*², s. v. ‘Khadīja’ (W. Montgomery Watt).

⁷⁸ Jār Allāh al-Zamakhsharī, *Al-Kashshāf ‘an Haqā’iq al-Tanzīl* (Cairo: Maṭba‘a al-Ḥalabī, 1966), commentary to Q. 33:36. ‘Abd al-Raḥmān b. ‘Awf was thus affianced to one of the wives of his Madīnan host and ‘brother’ Sa’d b. al-Rabī, later a martyr at Uḥud.

⁷⁹ Qurṭubī, 5:16: ‘*ikhtarr minhunna arba‘an wa-fāriq sā‘irahunna.*’ Other converts were similarly commanded when appropriate.

⁸⁰ To the extent, then, that women were ‘passed around’ (albeit, in many cases, with their consent, or even at their behest), one can better understand the atmosphere in which the Zaynab ‘exchange’ took place. Not only was Zayd’s ‘adoption’ by the Prophet largely a symbolic gesture—such that we should not really think of Muḥammad as having married his adopted *son’s* wife—but marriage itself at the time

It should also be remembered that the Prophet urged Zayd *not* to divorce Zaynab: despite Muqātil's aforementioned comparison, when Muḥammad was presented with a far easier, and far more legitimate, route to the satisfaction of his desires than that available to King David in the Book of Samuel, the Prophet of Islam was nevertheless loathe to travel it (unlike the Biblical monarch). Only after Zayd had left his wife in spite of the Prophet's admonition—and only once the three month waiting-period (*'idda*) had elapsed—did Muḥammad join Zaynab to himself. The issue of Zayd's fate and feelings is not, at any rate, entirely germane to our subject,⁸¹ nor is it the primary element of the Zayd-Zaynab story that most modern commentators strive to conceal.

The real question is, again: why would Muslim writers of the twentieth and twenty-first (and twelfth and thirteenth) centuries go to such lengths in order to erase all traces of the Prophet's attraction to Zaynab? Why would they struggle so hard to deny the indisputable evidence that fills Islamic lore (and law) that Muḥammad was a man with a strong carnal appetite—that he was, by his own admission, a

could be an ephemeral affair, often failing to establish a close connection between newlywed couples—and thus we should not really think of Muḥammad as having married his adopted son's *wife*, with all that this latter title implies for us. In order to avail themselves of such a claim, however, modern Muslim apologists would have to admit that marriage among the *ṣaḥāba* did not adhere to today's ideal.

⁸¹ That Islamic tradition may have felt somewhat badly for Zayd—or at least appreciative of his sacrifice—may be gathered from the heavenly compensation afforded him in the context of the famous 'Night Journey and Ascension' narratives. Having entered the sixth heaven and happened upon Moses, Muḥammad additionally encountered 'a pre-pubescent maiden with dark red lips. I asked her: "For whom are you destined?" She answered: "For Zayd b. Ḥāritha'." See Ibn Ishāq—Guillaume, 186 and John Alden Williams, *The Word of Islam* (London: Thames and Hudson, 1994), 46. In his short obituary ode to Zayd after the battle of Mu'ta, Ḥassān b. Thābit includes the suggestive line: 'Zayd's position with us was not that of a man deceived' (Ibn Ishāq—Guillaume, 539). The fact that, according to certain accounts, Zayd himself was deputized by Muḥammad to carry the news to Zaynab that 'God has joined her unto me in marriage' (according to others, it was the servant woman Salma who volunteered), may paint a pitiable picture, as well. In the words of al-Bayḍāwī (2:247): 'It is said that Zayd was the envoy sent to betroth her [to the Prophet], and this was a great trial [for him], and a shining testimony to the strength of his faith' (*wa-dhālika ibtilā' azīm wa-shāhid bayyin 'alā quwwat imānihi*). For a description of this difficult mission, see Muslim, *Nikāḥ*, 15:89. This fetching of Zaynab by Zayd is interesting in light of the fact that it was Zayd who was sent—only a few years earlier—to collect Muḥammad's daughter Zaynab from Mecca, where she had remained after the *hijra* with her husband, Abū'l-ʿĀṣ (he was eventually reunited with his wife at Madīna—see Ibn Sa'd 8:165ff.).

man like other men (*'anā basharun'*)⁸² Certainly it would be the worst kind of circular reasoning (and a classic example of *bid'a* besides) to answer: 'because it is not appropriate for Prophets to have strong carnal appetites.' This would be to accept the Western-Christian (or Hindu-Hellenistic-Manichean) definition of prophethood, and then to perform all types of unlikely intellectual acrobatics to show Muḥammad embodying it.

Islam possesses one paradigmatic Prophet above all others, one *uswa ḥasana* and Best of Men: it is, of course, solely *his* actions and reactions—together with occasional correctives from his Lord, as was the case in the present anecdote—that determine what is 'appropriate for Prophets' from an authentically Islamic point of view. 'Through Muḥammad alone,' affirms Mawlānā Mawdūdī, 'can we know the straight path of Islam.'⁸³ The Prophet Muḥammad was a consummate spiritual leader; he was also a man who loved women. God, according to the classical texts, supported him in both these endeavors. To lose sight of this fact or deliberately deny it is—among other things—to facilitate much wrong-headedness and misconception in the many areas of research related to Islam's views of sexuality, among them the field of *fiqh al-ṭahāra* and (as we saw in the case of Bouhdiba) specifically that of *mulāmasa* and *janāba*.

⁸² Baghawī, 1:100.

⁸³ M.A. Mawdūdī, *Towards Understanding Islam* (Lahore: Idārat Tarumūn al-Qur'an, n.d.), 57.

CHAPTER FOUR

THE STEAMING EAST: FRANZ ROSENTHAL AND THE LITERATURE OF SEXUAL SUBVERSION

Our burden so far has been to show that tendencies conceived by much of the world's religious and philosophical systems to be fundamentally adversarial—piety and passion—coexist rather comfortably in classical Islam, and that two of the premier factors facilitating this comfortable coexistence are the *mulāmasa* and *janāba* provisions of the Muslim purity code. There may be a clue in this to the modern West's own 'double vision' of the relationship between Islamdom and eros. On the one hand, the Near East has been perceived by many modern European and American writers as the home of unbridled sensuality and sexual license;¹ on the other, the region has long been seen in occidental eyes as the global headquarters of religious fanaticism and ecstatic otherworldliness. Any number of factors, many of them bogus and resulting from bias, have combined to create this dual and seemingly oxymoronic impression, but one may be permitted to wonder if at least one of these factors is that *the impression is accurate*—that at least some vestige of the traditional dialectic between robust sexuality and vigorous religiosity had remained vital in the Muslim societies of the North African, Egyptian, Ottoman, Qajar and/or Mughal empires, and had impressed (and confused) outside observers accordingly.

Today, as well, Western pundits make much of the hyper-modesty manifested in the Muslim world by *burqa*, *purda*, *ḥijāb*, *niqāb*, *khimār*, *naṣīf*, *qinā'*, *chador*, etc., while at the same time regularly adducing the noto-

¹ Edward Said, among others, has made much of this widespread perception in *Orientalism: Western Conceptions of the Orient* (London: Penguin Books, 1978). See also Bernard Lewis's response to Said's attack on his analysis of the root *th.w.r.* (Lewis, *Islam and the West* [New York: Oxford University Press, 1993], chapter six). The crass lumping of Islam with voluptuousness and promiscuity is as old as the Qurashite persecution of Mecca's Muslims. The polytheists tied a camel to each leg of Sumayya, mother of 'Ammār and one of the earliest martyrs in Islam, thrust a spear into her vagina and mocked, 'You became a Muslim for the men!' (*rubiṭat Sumayya bayna bā'rayn wa-wujj'a qubulhā bi-ḥarba wa-ḡila lahā: innaki aslamta min ajli al-rijāl*—Qurṭubī, 10: 148).

rious seventy-two red-lipped houris waiting to please the martyr in the after-life. Here, too, the contradiction may be unwittingly on the mark. Islam has room for both: black veils and red lips. An emphasis on modesty does not necessarily go hand in hand with repressed sexuality or negative attitudes to physical intimacy.² In the religion of the *salaf al-ṣāliḥ* (the earliest and best generations of Muslims), indeed, the opposite appears to have been the case: the two tendencies tended to complement one another. As the first Umayyad caliph Mu‘āwīya described the ideal female partner to his daughter on the occasion of her marriage: ‘A shy and comely girl is she, and to her it comes hard to do what’s forbidden; but she’ll eagerly yield to what’s permitted.’³ Nor should it be forgotten, in this connection, that the very same passionate houris in their alabaster castles in the after-life, owners of the ‘big, lustrous eyes’ and ‘round, swelling breasts’ who ‘know how to move their hips lasciviously’ and ‘long to cohabit with their husbands’ are described in the same breath by Qur’ān and *Sunna* as ‘virgins, pure and undefiled ... whom no man or jinn has touched’ and ‘chaste maidens, restraining their glances.’ The Islamic ideal combines passion with purity and carnality with modesty, a comfortable coexistence of which Zaynab bint Jaḥsh—whose character manages to fuse religious devotion with feminine allure and whose indisputably romantic marriage to Muḥammad seems to have occasioned the introduction of *ḥijāb*—is an excellent example.⁴ Indeed, it is—to this writer’s mind—one of the

² Thus, for instance, the same Muḥammad and ‘Ā’isha whose uninhibited sensuality is consistently on display in the Ḥadīth are depicted by that literature itself as regularly reprimanding women for laxity in veiling (see, e.g., Zayn al-Dīn Naḍīra, *Al-Sufūr wa’l-Ḥijāb* [Damascus: Dār Qutayba, 1998], 185–187). Muḥammad also admonished men about exposing body parts that ought to be covered, especially thighs—see, e.g., Māwardī, 2:218. Similarly, the Prophet, who so appreciated the feminine allure when encountered in acceptable contexts, was also wont to warn men against undue leering (see Muṣṭafā al-‘Adawī, *Jāmi‘ Ahkām al-Nisā’* [Cairo: Al-Maktaba al-Salafiya, 1999], 4:530). Muḥammad’s oft-repeated rule-of-thumb in this regard was, ‘The first glance is for you; the second is against you.’ (*al-ūlā laka wa’l-ākhirā ‘alayka*).

³ Nafzāwī, *Glory*, 125. Anecdotes like the following locate lust (and humor) within the bounds of the legitimate: ‘When ‘Ā’isha the daughter of Ṭalḥa was given in marriage to Muṣ‘ab, he said, “By God, this night I shall kill her with passion!” He took her once and then fell asleep and did not awaken till dawn, when she shook him and said, “Wake up, killer.”’ Shihāb al-Dīn Aḥmad b. ‘Abd al-Wahhāb al-Nuwayrī, cited in Bernard Lewis, *A Middle East Mosaic* (New York: Random House, 2000), 188.

⁴ See also above, chap. 3, notes 13 and 69. Indeed, according to the elaborations of certain commentators—as we saw—the houris themselves are veiled.

outstanding achievements of medieval Muslim religious literature that no less than it renders the sacred ludic, it renders the licit arousing.

This early Islamic approach, which regarded both divine worship and human sexuality in a positive light, came under internal attack long before the modern apologists arrived on the scene. Even earlier than al-Qurṭubī and Ibn al-Qayyim, a broad spectrum of voices from within the Islamic milieu challenged aspects of this unique—and, in the eyes of many, counterintuitive or even impossible—balance. But what untold mystics, philosophers, apologists, reformists and fundamentalists have sought for centuries to tear asunder, *fiqh al-ṭahāra* has played a central role in helping to maintain united. Since the fateful night of Ramaḍān in the year 610 CE, when the angel Gabriel appeared to the Prophet Muḥammad bearing not just the first revelation from Allāh, but also a bowl of water with which to teach his ward *wuḍūʿ*,⁵ purity law has ever been a central element of the Islamic educational curriculum.⁶ And because the deliberations surrounding the purity code (as we have seen, and will continue to see below) are the occasion for the emergence and/or setting down of an overwhelming percentage of the sexually explicit material found in the early sources—material invariably featuring the most venerated figures of the faith as they alternate easily between ethereality and corporeality—therefore devotion and desire cannot but be inextricably intertwined in the minds of the *ṭullāb* who have pored over these texts for generations. Especially as a result of *ṭahāra* (the primary position of which in the legal texts has often indicated chronological precedence in the order of study) *madrasa* students throughout history have been saturated from a relatively young age with erotic stories featuring religious heroes (the Prophet most of all), risqué poems purportedly from the *jāhili* period (employed by the *fuqahāʾ* in debates over legal terms connected to *mulāmasa* and *janāba*),

⁵ Ibn Abī Shayba, 1:168; Ibn Māja, 1:157 (462). According to Ibn Ishāq, Gabriel ‘dug a hole for him with his heel in the side of the valley from which a fountain gushed forth, and Gabriel performed the ritual ablution as the Apostle watched him. This was in order to show him how to purify himself before prayer.’ (Ibn Ishāq-Guillaume, 112 — here, however, the occasion is not necessarily the first revelation). Cp. Q. 38:42, where the Lord urges Job to ‘strike [the ground] with your foot: here is a cool washing place and a drink’.

⁶ Amir Taheri is exaggerating only slightly when he states that ‘it was not until the early fourteenth century that Mohaqeq Hel’li and Najm al-Din Kobra revived Shi’ite scholarship by tackling subjects *other than the traditional ritualistic questions concerning the “clean” and the “unclean”*’ (Amir Taheri: *The Spirit of Allah Khomeini and the Islamic Revolution* [London: Hutchinson Ltd., 1985], 178. Emphasis added). Taheri goes on to complain

graphic descriptions of human anatomy and variant modes of copulation, and much more, all in the context of the study of God's law. Similarly, it was a debate about the legality of tasting another's saliva while fasting that rescued from obscurity a Prophetic French kiss: 'It is related that the Messenger of God, may God's peace and blessings be upon him, would kiss 'Ā'isha during his fast and suck on her tongue' (*kāna yuqabbilu 'Ā'isha wa-huwa ṣā'im wa-yamuṣṣu lisānahā*).⁷

Such sexually implicit and explicit material was introduced, and preserved assiduously for posterity, not by preachers, poets, philosophers or mystics—that is, not by those elements within the Muslim intellectual elite most often (and in many cases justifiably) suspected of heterodoxy—but rather by the sole group in Islam ever and always identified with the straight path of orthodoxy and orthopraxy: the jurists. It was through *their* impetus and under *their* auspices that these romantic-erotic stories, songs, statements and images were brought to the fore, and it was *their* regular exploitation of such literary matter that hallowed it and granted it immortality—by carving it indelibly into the tablets of the law. Whoso busies himself with that law, learning it

that the seventeenth century Shi'ite scholar Muḥammad Bāqir al-Majlisī 'has left behind thousands of pages on the minutest details of copulation, including with wild and domestic animals' (all in the context of *janāba* discussions—Ibid., 179. 'Thousands' is an exaggeration, but 'hundreds' would not be). The subject of Taheri's study—Ayatollah Khomeini—himself regularly castigated his fellow clergy for 'sitting in some corner of Najaf or Qom, arguing questions of menstruation and parturition' (Ruhollah Khomeini, *Islam and Revolution* [Homid Algar, ed. and trans.; Berkeley: Mizan Press, 1981], 28). The Sunni world has been no less involved than the Shi'ī with the intensive study of *tahāra* in all its aspects. An episode involving the renowned reformer and Grand Muftī of Egypt, Muḥammad 'Abduh, sheds light on those elements of religion that still preoccupied traditional learned society in Muslim countries down to the twentieth century: 'Upon his return from the Sudan in 1905, 'Abduh was met by a throng of people. One of the Shaykhs came up to him and told him that a prominent Christian in the area had converted to Islam and he was teaching him the details of ablution. The Imam ['Abduh] asked what details he was referring to, and the Shaykh replied: "For instance, I explain the parameters of his face between the two ears widthwise, and from the forehead to the chin lengthwise" [in elaborating and applying Q. 5:6: "When you prepare to pray, wash your *faces* and your hands ..."]. The Imam frowned angrily and said: O Shaykh, every human being knows his face without the need of a surveyor!' Yvonne Haddad, 'Muhammad 'Abduh: Pioneer of Islamic Reform' in Ali Rahnama, ed., *Pioneers of Islamic Revival* (London: Zed Books, 1994), 62, n. 57.

⁷ Ibn al-Qayyim, *Ẓād al-Ma'ād*, 2:91. 'Umar once approached Allāh's Apostle and confessed that 'I got frisky and kissed [a woman] during the fast' (*hashashtu wa-qabbaltu wa-anā ṣā'im*). The Prophet compared the matter to gargling without swallowing (*al-madmaḍa bilā izdirād*), which is permitted during a fast, and thus reassured his right hand man (Māwardī, 3:295).

in earnest and in depth, living it and observing it and transmitting it onward to ensuing generations, cannot possibly escape the impact of the sensuality interspersed throughout the texts in which it is found. Thus, I would argue, contrary to popular (and not a few scholarly) conceptions, that the more pious and learned a Muslim was or is, the more s/he was or is exposed to, and necessarily felt or feels familiar with, matters carnal. Only a comparatively ignorant Muslim can be ‘uptight’ or sanctimonious about sexual issues (or can proclaim, as an Iranian ‘Hezbollahī’ reportedly did not long ago before publicly whipping a woman for immodesty in Tabriz, that “Alī b. Abī Ṭālib never saw his wife’s calves”).⁸

This is not to say that the elementary or advanced stages of a traditional Islamic education bred sexually-obsessed young people—on the contrary. *Fiqh al-ṭahāra* is far from the ‘theo-porn’ Ernst Gellner styled it after perusing a few pages of Khomeini’s *Risālat-i-Tawḍīḥ-i-Masā’il*.⁹ Pornography is tied, I think, to a sense of the forbidden, to the illicit if not to the perverted or obscene; it cannot thrive in the realm of the approved, let alone the sacred. The mood accompanying the study of legal texts like *ṭahāra* cannot be far removed from the mood that accompanied the writing of the same. This latter was never lewd or salacious or even particularly excited. It was calm and natural and matter-of-fact about sex: if the Prophet regularly engaged in, and manifestly enjoyed, carnal activity (as the proof-texts adduced by the jurists consistently

⁸ *Nimrūz*, 3/16/03.

⁹ Reinhart, *Impurity*, 1–2. Muir, writing at the height of Victorianism, complains: ‘Apart altogether from the tenor of these [marriage- and purity-related] precepts, the language in which they are expressed [in Muslim scripture] is offensive to the European ear. Making every allowance for the rudeness of speech and sentiment current in Arabia, much remains that cannot be so excused. Further, the legislation of the Ḳor’ān on relations between the sexes has given birth to endless volumes, by Jurists and Theologians, of interpretation, illustration, construction, corollary and supplement, which cannot but have a deteriorating effect upon Moḥammadan students of the law. To define the line between the forbidden and the lawful, ingenuity and labour have been expended lavishly in describing and solving cases the very mention of which is repugnant to modesty, in drawing elaborate distinctions and demonstrating points of casuistry within a domain of thought which cannot even be approached without moral injury and contamination. The Arabic language, as moulded by the system which grew out of the precepts of Islām, is itself evidence of this evil, for which, at the first remove, the Ḳor’ān is itself responsible ... This [*scil.*, that Arabic was infected by these pornographic deliberations] will be painfully evident from a glance into some of our Arabic dictionaries. As to the ‘Ḥadīth,’ I altogether fail to understand how any translator can justify himself in rendering into English much that is contained in the Sections on marriage, purification, divorce and female slavery.’ *Life of Moḥammad*, 334.

illustrate) then there is certainly no shame in discussing the same; *but neither is there the thrill of the forbidden*. Pursued within the proper bounds, sex is a normal and pleasant aspect of life, and nothing more. If anything, then, these texts inure the *ṭālib* to sexual explicitness and thus immunize him, at least to a degree, against sexual obsession.

The late Franz Rosenthal's otherwise intriguing and informative essay, 'Fiction and Reality: Sources for the Role of Sex in Medieval Muslim Society,' suffers from one gaping lacuna in this regard, which adversely affects both the usefulness of his methodology and the accuracy of his conclusions. Rosenthal opens his discussion by pointing out that '[o]ur knowledge of medieval Muslim society depends almost exclusively upon literary sources. Fortunately, they are plentiful and of a very wide range.'¹⁰ The same is true of the narrower topic of Islam and eros, but with a significant qualification:

The sources we have for learning about the way medieval Muslim society faced the demands of human sexuality are many and varied. At the same time, they leave us with an acute sense of dissatisfaction and uncertainty. The compass of time and space, of people and customs, is too large, and, as compared with it, the coverage provided by literature is too sparse.¹¹

Of the 'many and varied' sources available for the study of this subject, Rosenthal considers only four in this article, justifiably eliminating the first—Islamic philosophy—without much ado: 'The philosophical view of the fundamental undesirability of sexual expression rules out serious consideration of it as a factor determining society.'¹² Remaining are Arabic (and presumably Persian) poetry; prose romances; and 'the branch of *adab* literature most commonly understood by the term' consisting of 'topically arranged accumulations of aphorisms, prose mini-essays, and snatches of verse' and also 'the books more specifically dealing with sexual matters, even some of those by physicians.'¹³

Why are these the best—indeed, the only—sources for the examination of early Islamic attitudes to sexuality? Because they are anti-establishment:

¹⁰ Franz Rosenthal, 'Fiction and Reality: Sources for the Role of Sex in Medieval Muslim Society,' in Afaf Lutfi al-Sayyid Marsot (ed.), *Society and the Sexes in Medieval Islam (Sixth Giorgio Levi Della Vida Biennial Conference, May 13–15, 1977)* (Berkeley: University of California Press, 1979), 3.

¹¹ *Ibid.*, 7.

¹² *Ibid.*, 9.

¹³ *Ibid.*, 15.

Among the most promising sources for our quest are all those works which were not professedly ideological when they touched upon the subject of sex, and which were always tolerated as vehicles of unconventional thought. These works constitute the various genres of popular and entertaining literature.¹⁴

The relaxation offered by the *adab* romances was the public's 'principal line of defense against attacks on their right to exist in a world that gives man his only chance to work for eternal bliss and should therefore be soberly employed only for serious ends as determined by established societal norms.'¹⁵ 'We find the phenomenon of the people's poetry,' Goldziher is quoted, 'being for centuries a living protest against its religion.'¹⁶ 'Poets,' Rosenthal himself echoes, 'registered a protest against prescribed social attitudes.'¹⁷ *Adab* literature allows us to 'get behind official attitudes and gain an insight into what real people thought and how they judged their actions.'¹⁸

Rosenthal is too cautious to offer anything beyond the most general speculation about what can be learned from such behind-the-scenes information about the attitude of such 'real people' to sex—his mandate had been limited, after all, to arraying before the reader the available and potentially profitable sources. What is of concern here, however, is not so much Rosenthal's noncommittal conclusions as the implications arising out of his choice, and his manner of presenting, those same sources. Poetry, prose, *adab*: these are, he claims, our lenses—sometimes transparent, sometimes translucent—into the lives, the likes and the dislikes of the medieval Muslim masses, and specifically (for his purposes in this essay) into their experience of the libido. The reader will by now have noticed the conspicuous absence of certain major genres of Islamic literature: Qur'ān, Ḥadīth, *tafsīr*, *sharḥ*, *fiqh*, *fatāwā*. All of these, as receptacles and bearers of 'established social norms,' 'prescribed social attitudes,' 'official outlooks' or (in a word) 'religion,' are portrayed as the age-old enemies of what even Rosenthal himself admits to be the relatively 'restrained and prudish' sexual expression

¹⁴ *Ibid.*, 10.

¹⁵ *Ibid.*, 10. I do not fully understand this passage, but its general drift is clear: the romantic fringe literature was an escape from, even a rebellion against, life as it must be lived according to 'established societal norms'—read: the norms determined by Islam.

¹⁶ *Ibid.*, 11.

¹⁷ *Ibid.*, 12.

¹⁸ *Ibid.*, 15.

found in popular fiction.¹⁹ Rosenthal sets up a clear dichotomy: ‘The legalists, who were convinced that every societal and individual evil starts with the most innocent contact between the sexes, would, of course, have been shocked’ by the content of the poetry.²⁰ ‘Nearly all Arabic prose romances are concerned with heroic warfare. They were intended to give religious and political inspiration. Eroticism as such has little room in them.’²¹ The *fuqahā*, in other words, fear sex; eroticism and religion are antitheses. The catharsis (albeit subdued) of popular passion found a vehicle in literary genres which, to read Rosenthal, conducted a tempered but unremitting rebellion against the repression of sexual motifs by ‘establishment’ religious texts. Even when these latter deigned to entertain the erotic, it was a reluctant entertainment:

If paradise was depicted as the perfect repository of sensual pleasures, it was first and foremost an affirmation of their true role in human life. It was a recognition of the fact that, *no matter how desirable that might be, they could not be eradicated from it* ... Thus, the sensual paradise became to a large degree a symbol for society’s misapprehensions about sensual pleasure on earth. Such speculations imply an awareness of the disruptive potential of sexuality for the smooth functioning of the social order.²²

Rosenthal responsibly stipulates regarding the entire prose-poetic oeuvre he is discussing that ‘[i]t is all very chaste, no explicitness of any sort, hardly even in the vocabulary; it is fully appropriate even for young ears.’²³ ‘Galen had not deigned to discuss intercourse,’ writes a ninth century author, quoted as part of Rosenthal’s attempt to show that not only the *adab*, but even the medical material of the period was considerably reserved.²⁴ Cited for the same purpose is Avicenna (Ibn Sīnā) who, having discoursed on a matter related to gynecology, appends the following apology:

¹⁹ *Ibid.*, 21. Rosenthal strangely omits all mention of the extremely raunchy material found in works like al-Nafzāwī’s *al-Rawḍ al-‘Aḥīr*.

²⁰ *Ibid.*, 15. This statement echoes many others made by earlier Western scholars. See, e.g., the assertion by Alfred von Kremer that the ‘morose and fanatical legalists and theologians of Islam’ (Kremer, *Orient*, Appendix 8, p. 85)—as opposed to the gay and free-loving aristocrats and poets of Mecca and elsewhere—‘sought to plunge the whole world into the dark by-paths of ascetic seclusion.’ (*ibid.*, 44).

²¹ *Ibid.*, 12. Somewhat oddly, Rosenthal goes on to express surprise that ‘a large number of daring erotic episodes is [nevertheless] found incorporated in them.’

²² *Ibid.*, 6. Emphasis added.

²³ *Ibid.*, 14. Some *adab* texts are, however, quite graphic.

²⁴ *Ibid.*, 20.

It is by no means disgraceful for a physician to speak of the enlargement of the male organ and of the narrowing of the female who receives it and of her pleasure. Nay, rather it is eminently proper, for it is by these means that the act of birth follows.²⁵

As we shall see below, especially in chapter ten, the *fuqahā'* debating *tahāra* issues elaborated on erections and ejaculations (as well as on what they saw as the female counterparts of these) with the greatest ease and comfort.²⁶ Nor did they feel the need to excuse this explicitness, from which (Rosenthal concedes) even the *adab* literature largely shied away, by evoking the merits of reproduction. Indeed, this pretext was for the most part unavailable to the jurists: almost all such discussions concerned the ritually preclusive consequences of foreplay, not intercourse. (Even when intercourse *was* the subject, the accompanying seminal emission was associated with sheer sexual satisfaction as much as with impregnation. We read, for instance, of a man who approached the Apostle of Allāh and said: 'O Messenger of God! I have a concu-

²⁵ *Ibid.*, 21, note 50.

²⁶ 'If [a man] feels semen moving toward the tip of his member as a result of being sexually aroused,' explains Ibn Qudāma (*in aḥassa bi-intiqāl al-manī ilā tarāf al-ḥashafa 'inda al-shahwa*), 'but then takes hold of his penis (*amsaka dhakarahu*) and prevents ejaculation from taking place—most authorities opine that he must nevertheless perform *ghusl*' (*Mughnī*, 1:200. Al-Bukhārī, however, records a ḥadīth according to which the Prophet ruled: 'If you were hurried [and thus withdrew before orgasm] or you did not ejaculate [lit. "you were dried up," *uqḥitta*], then *ghusl* is not incumbent upon you.' *Fath al-Bārī*, 1:374). In the same chapter of the *Mughnī* we read of Umm Sulaym's interrogation of the Prophet: 'O Messenger of God—what if a woman sees in her sleep what a man sees [i.e., that which prompts, or is evidence of, ejaculation]?' (*al-mar'a tarā fi manāmihā mā yarā al-rajul*). Muḥammad responds: 'If a woman sees that, she should perform *ghusl*.' Umm Sulaym continues: 'I am embarrassed to ask—but is there such a thing?' (*hal yakūnu hādihā—Umm Sulaym was evidently inquiring into a phenomenon she had heard about but not experienced, or had experienced but not identified*). 'Of course!' replies the Prophet. "Otherwise whence the resemblance [of child to mother]?" (*nā'm, fa-min ayna yakūnu al-shabah?*). The fluid of the man is thick and white and the fluid of the woman is thin and yellowish-red (*asfar*), and whichever of the two overcomes the other, thence will derive the [child's] appearance' (*Mughnī*, 1:199). Elsewhere, Ibn Qudāma considers the following case: if a man has anal intercourse with his wife (a forbidden act according to most authorities) and ejaculates into her anus; subsequently, his semen emerges from her anus and 'creeps' into her vagina (*dabba mā'uhu ilā farjihā*); and finally that same semen drips back out of her vagina onto the ground—then, in addition to the other ritual obligations resulting from these activities/occurrences, must the woman perform *istinjā'* (purification usually reserved for urination and defecation) on both of her orifices? (*Mughnī*, 1:150). Countless examples of such explicit and graphic treatments may be adduced from the *mulāmasa* and *janāba* sections of this, as well as almost any other, *fiqh* text. Let it be noted that Ibn Qudāma was considered an ascetic by his contemporaries (see *EI*², s. v. 'Ibn Qudāma al-Maḥḍisi' [George Makdisi]).

bine, and I do not wish to get her with child, but I do want what every man wants [*urīdu mā yurīdu al-rijāl*—i.e., to reach orgasm], so I practice withdrawal [*aʿzal anhā*—and ejaculate outside her]. But the Jews say that the act of withdrawal is tantamount to burying an infant alive [*mawʿūdat al-ṣuḡhrā*].’ ‘The Jews lie,’ responded Muḥammad, and he sanctioned the practice).²⁷ The jurists were thus far freer in their treatment of the subject of erections and ejaculations than the early physicians or the poets and authors of *adab*. When proof-texts were needed by the *fuqahāʾ* in the framework of legal debates on *ṭahāra*, scores of anecdotes appeared in which those same erections, orgasms and ejaculations are ascribed to the Prophet, his wives, his Companions, and the *khulafāʾ al-rāshidūn* (the first four Righteous Caliphs). ‘Ā’isha herself did not hesitate to define *manī* for a group of male interrogators as ‘a thick, white substance by [the emission of] which the penis is “broken” (*abyaḍ thakhīn yankasiru minhu al-dhakar*),²⁸ or to explain to Abū Mūsā regarding the requirement of *ghuṣl* in cases of intercourse without ejaculation: ‘If circumcision penetrates circumcision, major purification becomes

²⁷ Abū Dāʿūd, *Kitāb al-Nikāh*, 1:501. True, the Prophet’s justification on this occasion was, ‘If God wants to create a child, no action of yours can prevent this’ (and indeed, another version of this report in the same source has the man’s concubine become pregnant despite his precautions), but the upshot of the tradition is permission to ‘spill the seed’ for the express purpose of enjoyment without impregnation. Such instances of *mukhālafā* or ‘conscious contrast’ to the laws and customs of Judaism often purport to oppose notions and institutions which in fact never existed among the Jews. In this case, however, it is quite possible that the referent is the Talmudic position that coitus interruptus or onanism—‘threshing inside but winnowing outside’ (*dash mi-bifnim ve-zoreh mi-bakhut*)—is a form of proto-murder. Jābir b. ‘Abd Allāh said: ‘We would practice withdrawal while the Prophet was alive and the Qur’ān was being revealed’ (*kunnā naʿzilu ‘alā aḥdī rasūl Allāh wa’l-Qur’ānu yanzilu*—Ibn Māja, *Kitāb al-Nikāh*, 4:132); divine silence is tantamount to divine sanction. A ḥadīth recorded by Muslim (*Kitāb al-Nikāh*, 24:141), while evincing a more ambivalent attitude to *ʿazl*—indeed, it is close to the aforementioned ‘Jewish’ attitude—at the same time provides further evidence of the Muslim approval of intercourse unconnected to reproduction: ‘From ‘Ā’isha, from Judāma bint Wahb the sister of ‘Ukāsha [b. ‘Abd al-Ṣamad?], who said: ‘I was present when the Messenger of God was entertaining some people, and he said: “I had considered forbidding sexual relations during pregnancy (*hamantu an anḥā ‘an al-ghīlati*), but then I looked into the customs of Iran and Byzantium, and discovered that they have intercourse while their women are with child, and this does not harm their children one bit.” They then asked [the Prophet] about *ʿazl*, and he said: “that is the hidden infanticide”’ (*dhālika al-wa’d al-khafī*—Muslim, *Nikāh*, 24:141 [1442]; cp. Wāqidī, 1:413). On *ʿazl* and birth control in general, see Basim Musallam, *Sex and Society in Islam* (Cambridge: Cambridge University Press, 1983); and earlier, G.H.A. Juynboll, ‘The Ḥadīth in the Discussion of Birth Control,’ reprinted in Juynboll, *Studies*, 1:374–379, as well as Graf’s article cited there.

²⁸ Al-Qārī al-Harawī, 1:92.

obligatory—the Messenger of God and I would do that [i.e., occasionally engage in cohabitation unaccompanied by seminal emission] and then we would perform *ghusl* (*fa'altuhu anā wa-rasūl Allāh, fa'ghtasalnā*).²⁹ Tradition even has the Prophet's favorite wife allude mischievously to the physical pain she experienced the first time she and her husband made love:

Umm Salama [another of Muḥammad's wives] asked the Messenger of God about [the Qur'ānic description of the heavenly houris, to wit:] 'Surely We have created them a new creation, and made them virgins ...' (Q. 56:34–35). The Messenger of God replied: 'O Umm Salama! In the mundane world women grow old and gray and contract eye disease (*'ajā'iz shamṭan 'umshan ramṣan*). In the afterlife, however, the women are (re)created by God to be boon companions of the righteous ... [and they are perpetually rejuvenated] such that whenever their husbands come to them [for intercourse] they find them virgins' (*kullamā atāhunna azwājuhunna wajadūhunna abkāran*). 'Ā'isha was present, and when she heard this [description] from the mouth of the Messenger of God, may God's peace and blessings be upon him, she said: 'Ouch!' (*wā, waj'āh!*).³⁰

Few subjects were considered beyond the pale in the Prophet's household, and inhibition or abashment was rarely in evidence. The words of Abū Ṭalḥa's wife, Umm Sulaym, when she approached Muḥammad to inquire about the ritual effects of female 'sperm,' are to the point: 'God,' she prefaced, 'is not embarrassed by the truth.'³¹

'Amr b. al-ʿĀṣ, together with all of the other Muslim military men who (as we have seen and will continue to see) 'encountered *janāba*' while on campaign *fī sabīl Allāh*, would have been particularly perplexed by Rosenthal's determination that 'eroticism has no room' in stories of 'heroic warfare.' So would Ḥanzala and Jamīla, believing progeny of

²⁹ Ibid., 1:95.

³⁰ Zamakhsharī on Q. 56:35. This is a fascinating piece of tragi-comic empathy, in which we are invited to view matters momentarily through the eyes of the houris themselves, who are condemned to an eternity of repeated hymen perforation. Muḥammad, however, reassures his child-bride that 'there is no pain in Paradise.'

³¹ Shīrāzī, 1:117: '*Yā rasūl Allāh, innā Allāha lā yastahyī min al-ḥaqq—hal 'alā al-mar'a min ghusl idhā ihtalamat?*' (On the same page, al-Shīrāzī compares the appearance of the clitoris to '*uḥf al-dūk*, the comb of a cock). Elsewhere, we read that Abū Mūsā prefaced his query to 'Ā'isha on the subject of *janāba* by saying, 'I wish to ask you something, but I am embarrassed.' 'Ā'isha responded, 'Do not be embarrassed to ask me anything that you would ask your own mother who bore you, for I am your mother' (*lā tastahyī an tas'alānī 'ammā kunta sā'īlan 'anhu ummaka allatī waladatka, fa-innamā anā ummuka*). Al-Qāṣimī al-Harawī, 1:94. Two pages further on, the same author discusses the *ikhṭilāf al-fuqahā* concerning the question whether inserting fingers into a partner's anus (for purposes of erotic pleasure) necessitates *ghusl*.

the ‘hypocrites’ Abū ‘Āmir and Ibn Ubayy, respectively, who (according to al-Wāqidi) celebrated their wedding on the eve of the battle of Uḥud:

In Medina that night Ḥanzalah and Jamīlah had consummated their marriage; and in her sleep, during the small hours, Jamīlah had a dream in which she saw her husband standing at the outside of heaven; and a door opened for him and he entered through it, whereupon it closed behind him. When she woke, she said to herself: ‘This is martyrdom.’ They performed their ablutions and prayed the dawn prayer together, after which he bade her farewell. But she clung to him, and would not let him go, and again he lay with her. Then he tore himself from her embrace, and—not even staying to repeat his ablution—he put on his coat of mail, seized his weapons, and hastened from the house.³²

Combined in this romantic passage are the passion of the wedding night and the piety of *jihād*, the ardor of the troubadour and the gallantry of the *caballero*, motifs glued together—and simultaneously demarcated from one another—by the requirement of ablutions, by *ṭahāra*. (Tradition did not forget that Ḥanzala had neglected his required second round of major purification. The tenth century Qur’ān commentator, Abū Bakr Aḥmad b. ‘Alī al-Rāzī al-Jaṣṣāṣ, includes this martyr in the short list of Companions who were afforded special dispensations [*khuṣūṣiyāt*]. The particular favor granted Ḥanzala was ‘the ritual washing of his body by the angels when he was killed in a state of sexual impurity’ [*ghuṣl al-malā’ikatu lahu ḥīna qutila junuban*]).³³

Unlike the Arabic romances which (according to Rosenthal) maintain a strict segregation between Eros and Mars, Muslim sacred sources

³² Muḥammad b. ‘Umar al-Wāqidi, *Kitāb al-Maghāzī*, cited and summarized in Martin Lings, *Muhammad: His Life Based on the Earliest Sources* (London: Allen and Unwin jointly with the Islamic Texts Society, 1983), 177. Ḥanzala’s father, the Madīnan Abū ‘Āmir, saw himself as a teacher of religion, having traveled widely in Syria and probably encountered Christian hermits there. He rejected Islam. Upon the Prophet’s arrival in Yathrib, he made a reverse *hijra* of his own to Mecca, together with some twenty followers, leaving his Muslim son behind. Abū ‘Āmir was fighting on the Qurashite side at Uḥud when his son Ḥanzala was killed on the same field battling for Islam (this is not the Ḥanzala whom we met above, who called himself a hypocrite and was reassured by the Prophet. Abū Sufyān also had a son named Ḥanzala, to complicate matters further).

³³ Abū Bakr Aḥmad b. ‘Alī al-Rāzī al-Jaṣṣāṣ, *Aḥkām al-Qur’ān* (Beirut: Dār al-Kutub al-‘Ilmiya, 1994), 2:256; see also Ibn Ishāq-Guillaume, 377–378. This is unconnected to the question of the purity of martyr’s corpses and their blood. A sixteenth century Ottoman representation of the Battle of Uḥud, a section of which (the upper right hand corner) shows Hanzala being ritually washed by angels (he is specifically named in the superior caption), is reprinted in Rudolph Peters, *Jihad in Classical and Modern Islam* (Princeton: Mark Wiener Publishers, 1996), 18.

easily mix the business of *maghāzī* with the pleasure of marital relations. Islam's greatest general, Khālīd b. al-Walīd, was famous for concluding and consummating nuptials on the battlefield,³⁴ and many a noted Companion married on the spot, and immediately 'enjoyed,' pulchritudinous captives taken in raids (as their Excellent Exemplar had done with the Jewess Ṣafiya).³⁵ The Muslim warrior who bested Hormuz, Prince of Persia, on the Plain of Qādisiyya sang paeans, as he wrangled with his foe, to 'the maid with hanging tresses and milk-white breasts' who awaited him back home.³⁶ Muḥammad apparently engaged in sexual intercourse in the midst of the conquest of Mecca: we read that during that invasion, Umm Ḥānī, daughter of Abū Ṭālib, hoping to receive a reprieve for her two polytheist brothers-in-law (whom 'Alī in his wrath had sworn to execute), ran to the Apostle 'and found him washing in a large bowl in which was the remains of dough while his daughter Fāṭima was screening him with his garment. When he had washed he took his garment and wrapped himself in it and prayed eight bendings of *ṣalāt al-fajr*.' Having performed *ghuṣl* from *janāba* and offered his morning devotions, the Prophet granted Umm Ḥānī's request.³⁷ Nor did he deny others what he allowed himself:

The father of Rabī'a b. Sabra, who raided with the Messenger of God at the conquest of Mecca, related: 'We stayed in Mecca for fifteen days, during which time the Messenger of God permitted us to contract temporary marriages with women (*adhīna lanā rasūl Allāh fī mut'ati al-nisā'*).³⁸ So I and a man from my clan went out for a stroll—and I was the handsomer of the two, he being rather ugly (*wa-lī 'alayhi faḍlun fī'l-jamāl wa-huwa qarībun min al-damāma*). Each of us had a cloak with us: my cloak was worn, but that of my cohort was brand new. When we reached the lower part of Mecca we met a girl who was like a young, long-necked

³⁴ The criticism leveled at Khālīd for such actions—by 'Umar b. al-Khaṭṭāb, among others—was directed at the callousness with which he was wont to marry the wives of enemy chiefs or commanders just minutes after having slain their spouses. Khālīd was not, at any rate, upbraided for the impropriety of combining amour with hostilities.

³⁵ See above, pp. 18, and chap. 3, n. 69.

³⁶ Muir, *Caliphate*, 117.

³⁷ Ibn Ishāq-Guillaume, 551–552. The Prophet's performance of *ghuṣl* indicates that he had engaged in sexual intercourse since the previous prayer period. Although what might be an alternate version of this account mentions that Muḥammad had arrived at his tent covered with dust (and thus it might be claimed that he was merely washing up before accepting visitors—see Muir, *Life of Mohammad*, 411, n. 3), the recension in Ṣaḥīḥ Muslim makes it plain that the Prophet was performing a formal *ghuṣl* in preparation for the dawn prayer (Muslim, *Kūṭab Ṣalāt al-Musāfirīn wa-Qaṣrihā*, *Bāb Istihbāb Ṣalāt al-Duḥā wa-Aqallahā Rak'atān*, 13:81 [336]).

³⁸ See above, chap. 1, n. 85.

she-camel [for loveliness] (*fatātun mithla al-bakrati al-‘anaṭnati*),³⁹ and we said to her, “Will you marry one of us for a while?” (*hal laki an yastamti‘a minki aḥadunā*). She asked, “What can you offer as a ‘dowry?’” Each one of us unfolded his cloak. She looked at my friend’s cloak and it pleased her; then she looked at me and I pleased her (*naẓarat ilā ridā‘i ṣāhibi fa-a‘jabahā, wa-naẓarat ilayya fa-a‘jabtuhā*). Then she said: “You and your ragged old cloak will do fine.” And I stayed with her for three nights.⁴⁰

Soldiers will be soldiers—Muslim or otherwise. These and numerous additional examples demonstrate that Rosenthal’s bifurcation between war and amour does not stand up to scrutiny.

Far from being ‘convinced that every societal and individual evil starts with the most innocent contact between the sexes,’ the ‘legalists’ of *fiqh* literature regularly encouraged their readership to follow the example of the *rasūl*, *ṣaḥāba* and *tābi‘ūn* and heartily enjoy licit sex. This encouragement was both indirect—through the persistent portrayal of the preeminent Muslim ‘foci of imitation’⁴¹ engaged in everything from tender kisses to full-scale cohabitation—as well as (occasionally) direct, in the form of unabashed instructions on how to get (and give) the most out of love-making. None of this material appears in the context of the fringe literary rebellion, of the underground sexual revolution of poetry, prose and *adab* barely tolerated by the religious establishment which is the subject of Rosenthal’s essay. All of it is found in the foreground of Ḥadīth and *fiqh*, surrounded by an atmosphere not just of legitimacy, but of sanctity.⁴²

³⁹ There is little reason to doubt the etymological-semantic connection between *jamal* (camel) and *jamīl* (beautiful). Not for nothing is the Bactrian dromedary declared ‘one of the most beautiful creatures that God had created’ in a narrative attributed to Wahb b. Munabbih (cited in Katz, *Body*, 179).

⁴⁰ Muslim, *Nikāḥ*, 3: 20 (1406).

⁴¹ To borrow a term from latter-day Shī‘ism.

⁴² Which is not to imply, again, any sort of libertinism, nor is it to claim that Islam and Muslims had no phobias about sex, or that they were not indeed aware of what Rosenthal calls the ‘disruptive potential of sexuality for the smooth functioning of the social order.’ The Prophet reportedly expressed concern about the ‘covert sensuality’ (*al-shahwa al-khafiya*) of the Arabs (Bashear, *Arabs and Others*, 13). As we have seen, he warned: ‘I have left no temptation behind me more harmful to men than women’ (*mā taktu ba’di fitnatan aḍarru ‘alā’l-rijāli min al-nisā’*—Baghawī, 2: 41). He also said the following: ‘Fear the world and fear women, for the first trial of the Israelites was by women’ (*attaqū al-dunyā w’attaqū al-nisā’ fa-inna awwala fitnati Banī Isrā’īl kānat fi’l-nisā’*—Baghawī, 2: 43); and ‘Do you know what will lead a man into the Fire? Two orifices: the mouth and the genitals’ (*a-tadrūna mā yudkhilu al-nāsa al-nār? Illā jawfān: al-fam wa’l-*

Rosenthal's omission of the Islamic religion's most important literary genres from a survey of 'Sources for the Role of Sex in Medieval Muslim Society'—especially considering the pervasive and unabashed confrontation of such genres with matters libidinous—is a serious and telling oversight. That it was indeed an oversight, and not a deliberate choice on Rosenthal's part, may perhaps be indicated by his sole reference to law (or *ṭahāra*) in this article, in which Rosenthal expresses his surprise

to find the great Ibn 'Arabī addressing a legal question to his infant daughter who was not yet able to speak and, lo and behold, he hears her talk and give the right answer to the astonishment of everybody present. It is not so much the miracle that seems strange but that Ibn 'Arabī should have asked the infant girl, of all things, about some problem of ritual purity resulting from sexual intercourse.⁴³

An appreciation for the centrality and sacredness of *ṭahāra* law in Islamic literature and life is not exuded by these lines. In truth, Ibn 'Arabī's daughter is merely a caricature of the same widespread phenomenon we have been discussing: the inevitable and normative exposure of pious Muslims from learned families at an early age to the sexual-sacral material pervading Islam's essential texts. The most direct and uncensored references to coition in the legal literature are, then, considered by the 'establishment' to be even more 'appropriate for young ears' (as Rosenthal described the euphemistic usages of the *adab*) than the oblique allusions found in love poetry and prose romance. True, the *fiqh*—while sexually explicit—is rarely if ever titillating or romantic. But the ḥadīth narratives consistently adduced by the *fiqh* are both of those things.

Finally, there seems to be an even more problematic assumption lurking behind Rosenthal's neglect of Islam's 'official' religious literature in this study. 'Real people,' this assumption goes, are more akin to—or *aspire* to be more akin to—the swash-buckling suitors of the *Arabian Nights* or the sex-offending paramours gracing sections of *Dhamm al-Hawā'*, *Yatīmat al-Dahr*, *al-Rawḍ al-Aṭīr*, *Manāzil al-Aḥbāb* or *Kitāb al-Aghānī*, than they are akin to—or *aspire* to be akin to—the obedient

farj—Baghawī, 4:91). *Iyāka wa'l-tana'um!* admonished the Prophet further: 'Beware of pleasures!' (Baghawī, 1:278). See above, chap. 1, n. 70.

⁴³ Rosenthal, 18. See *Mabṣūṭ*, 1:175 for another instance of discussing purity matters with a daughter.

believers and licit lovers of the canonical texts.⁴⁴ From Ḥadīth and *fiqh* (this approach would have it) we get pious theory: the out-of-touch, pie-in-the-sky, removed-from-reality ideal; from romantic ballads and debauched adventures we get profane practice: the day-to-day, nitty-gritty, uninhibited real. Religious laws and mores having forever been honored in the breach (this outlook seems to imply) the legal code is of little or no use to the social historian. To obtain insight into the predilections and practices of Muslim society in earlier centuries, we must consult the anti-code—and the anti-code alone.

If this notion does indeed inform Rosenthal's selection and suggestion of sources, then I would argue that it evinces an inversion of the very 'fiction and reality' ratio of the article's title. Rosenthal relies solely on what were recognized as works of *fiction*, in order to excavate what little can be discovered about the social *reality* of a distant age; whereas that which represented, and even helped forge, *reality* for so many millions of Muslims throughout history—the descriptions and prescriptions of Islam's sacred books—Rosenthal essentially considers *fiction*, a literature detached from historical reality and unable to tell us anything substantial about that reality.

There is no doubt that religious law has often been flouted; but it has frequently been observed, as well, by vast numbers of people, and in many fields of life—that of the relations between the sexes perhaps chief among them—with much meticulousness and vigilance. Tall tales may distract and thrill, but they neither reflect nor create a societal ethos. There were unquestionably more 'real people' in Muslim history whose daily personal lives were influenced by (and are therefore best reflected in) religious law and lore, than there were 'real people' whose daily personal lives were influenced by (and are therefore best reflected in) the values and exploits of 'underground' romantic literature. The venerated founders of their religion whom they saw as historical—and the ever-living God who communicated His will to those founders (and whose presence was, in many ways, more real and immanent than any other element in their lives)—left a deeper impression on the attitudes and behaviors of the believing denizens of *Dār al-Islām* than

⁴⁴ Unquestionably, a good deal of the *adab* literature on sexual matters derives from—or purports to be derived from—Ḥadīth itself. To the extent that the characters therein are portrayed as submissive to Allāh in their behavior, we certainly cannot describe such material as a 'protest against religion.' Goldziher was, at any rate, speaking primarily of wine (as Rosenthal himself reminds us).

the silk-garbed courtiers, fabulous fornicators and wandering wine-bibbers who grace the pages of *adab* literature, and with whom only a small percentage of the population, at any rate, had the leisure to become acquainted. More Muslims sought to emulate Muḥammad than Sinbad.

In any given society at any point in history, there will indeed be a small minority of outsiders and sophisticates whose lives bear some resemblance to those sung in Goldziher's so-called 'people's poetry' that functions as a 'living protest against its religion.' But the lives of the overwhelming majority of the populace of all classes and backgrounds will be better represented—because both more soberly surveyed *and* more strongly affected—by the 'establishment' literature of the very religion against which the poetry protests. In the case of their *sexual* lives, the foremost literature to be consulted in the Islamic milieu consists of the *mulāmasa* and *janāba* sections of *fiqh al-ṭahāra*, where we find—on top of the numerous Prophetic and Companion love-scenes culled by the jurists from the length and breadth of tradition—extensive analyses of the acts of endearment of the average couple down to their graphic particulars, leading to the promulgation of scores of regulations created specifically and avowedly with the inclinations of the general run of 'real people' in mind. Moreover, the legislation surrounding *mulāmasa* and *janāba* not only takes such inclinations into account; it also simultaneously seeks to have an effect upon them, both on the individual and collective plane.

When the eminent Ḥanbalī exponent, Ibn Qudāma al-Maqdisī (d. 1223 CE), justifies his *madhhab's* ruling that touching a women specifically over a *thin* garment constitutes a *ḥadath* (a prayer-precluding 'event') by explaining that 'not only does such a garment not prevent one from feeling the heat (*ḥarāra*) of a woman's body, but—because it is often made of silk (*ḥarīr*)—it arouses a man even more than her actual flesh,' we are listening to a thirteenth century man's estimation of what 'turns on' the general run of men in his day.⁴⁵ When Abū Sa'īd al-Istakhrī rules that an adult male who touches an *amrad jamīl* (a beautiful beardless boy) violates his *wuḍū'*, as this *faqīh* is of the (Mālikite and sometime Shāfi'ite) opinion that passion is a prerequisite of *mulāmasa* and 'the passions of a great many men today are inclined toward such,' we learn more about the homo-erotic preferences of (at least certain

⁴⁵ Mughnī, 1: 195. In this case things have not changed much over time: silk is still an aphrodisiac. Note the possible play on words involved (*ḥarāra*, *ḥarīr*).

classes) of ordinary people in the early Muslim *mashriq* (East) than we do from the many poetic paeans to *Yūsuf*—the lithe-limbed *ghulām* and pretty-boy *par excellence*—hailing from later periods (in this case, the latter oeuvre tends to confirm the former evaluation, but al-Istakhri’s terse sociological testimony is still a better and more inclusive barometer than any number of individual homo-erotic confessions or fantasies).⁴⁶ When the renowned tenth century Shāfi’ite jurist Abū Ishāq Ibrāhīm b. ‘Alī al-Shīrāzī—following the same criterion of popular predilection employed by Ibn Qudāma and al-Istakhri—explains that according to his *madhhab*, palpating a woman’s tresses (as opposed to other parts of her body) does *not* constitute the *ḥadath* of *mulāmasa* because ‘one obtains no erotic pleasure from touching hair, only from looking at it’ (*lā yaltadhdhu bi-massihī, wa-innamā yaltadhdhu bi’l-naẓar ilayhi*)—and when he is backed up in this assessment by an assortment of *fuqahā’* living before and after his time⁴⁷—we gain more insight into what did and did not stimulate the average man on the street (and the average scholar in the *madrasa*) than we do from the Balzacian strophes of an Arjī, al-A’shā or ‘Umar b. Rabī’a.⁴⁸ When al-Nawawī explains that ‘touching the penis with the hand induces erotic arousal [in the one doing the touching—*mass al-dhakar bi’l-yad fa-muthīr al-shahwā*], whereas touching it with [a part of the body] other than the hand does not; touching women, however, is sexually arousing with whichever limb it is done (*wa-lams al-mar’a yuthīr al-shahwā bi-ayy ‘uḍw kān*)’—we are made privy to the intimate inclinations and titillations of this great commentator and his contemporaries.⁴⁹ When the majority of Shāfi’ite, Mālikite and Ḥanbalite jurists rule that a ‘person of contingent or temporary propinquity’ (*maḥram bi-ishtirāṭ* or *maḥram ghayr ta’bīd*—a sister-in-law, for instance, who is forbidden to a man only so long as he stays married to her sibling) may not be touched without violating one’s *wuḍū’*, whereas a first degree blood relation (*dhāt raḥim maḥram*—mother, father, grandparents, sister, brother, aunt, uncle, niece, nephew, children and grandchildren, intercourse with whom will *forever* be forbidden) presents no purity problem whatsoever, one is at least on semi-solid ground in assuming that—as a *result* of this ruling—sisters-in-law, brothers-in-law, mothers-in-law and fathers-in-law were given a wider berth by many

⁴⁶ Māwardī, 1:227.

⁴⁷ See, e.g., Nawawī, *Majmū’*, 2:27; Naḥawī, 1:78; Jazīrī, 1:84.

⁴⁸ Shīrāzī, 1:98

⁴⁹ Nawawī, *Majmū’*, 2:34.

Muslims in history than were sisters, brothers, mothers and fathers.⁵⁰ Examples of this sort abound in the legal literature, which interacted with the reality of Muslim society on a great many levels, especially in the realm of ritual. The formulation in *fiqh* may be less fine than that found in *adab* and the descriptions less exciting or adventurous, but those who are interested in discovering as much as possible about the daily dealings of the ordinary Muslim man and woman of other places and times must proceed *first* to the canon of the 'establishment.' At any rate, they must not limit themselves solely to the canon of the 'anti-establishment.'

Rosenthal himself acknowledges, as we saw, that the evidence regarding sexual norms available from the *adab* material 'leaves us with an acute sense of dissatisfaction and uncertainty. The compass of time and space, of people and customs, is too large, and, as compared with it, the coverage provided by such literature is too sparse.' At the very least, *fiqh al-ṭahāra* may be employed to fill in some of these gaps; at most, it can furnish a representative cross-section of the popular outlook—which it both necessarily reflected and simultaneously helped fashion—on a variety of carnal matters. Since Rosenthal expressly sought not just illustrative material but specifically literature that functioned as 'a factor *determining* society,'⁵¹ the legal texts and their accompanying *aḥādīth* should have been all the more indispensable to his study.

Fiqh al-ṭahāra, then, can conceivably provide us with a great deal of information about Muslim popular attitudes to the needs and desires of the body during earlier centuries. Because it is connected so integrally with the *ṣalāt*—one of the oldest and sturdiest pillars of the Islamic religion and far and away the most oft-performed Islamic act, punctuating and dominating the believer's schedule from dawn to dusk—and with the *aḥdāth*—anatomical occurrences which take place as frequently, if not more so, than the five canonical prayer services themselves⁵²—the purity code has ever affected the daily, not to say the hourly, rhythm of Muslim life. Embedded, therefore, in the regulations of *ṭahāra* is at least a partial 'chronicle' of the demotic life and times of the observant Muslim in history. Moreover, because they were clearly

⁵⁰ Jazīrī, 1:84.

⁵¹ Rosenthal, 9. Emphasis added.

⁵² Questions like Ibn al-Qāsim's to Mālik b. Anas about an individual who experienced no defiling events over a twenty-four hour or even two day period are purely theoretical. Muḥammad b. al-Ḥasan al-Shaybānī, *Kūtab al-Asl* (Cairo: Mujtama' Majlis Dā'irat al-Ma'ārif, 1966), 1:106.

not ashamed of carnality, and especially because major elements of purity law depended for their proper execution on a minute dissection of the psycho-sensual and erotic experience, the earliest exponents of Islamic law delved unhesitatingly into the libidos and sexual practices of their co-religionists and of the human animal in general.

The framework for such investigations consisted of two sub-fields of purity law: (1) the eros-related ‘minor event’ (*ḥadath aṣghar*) or ‘ablution-breaker’ (*nāqid al-wuḍūʿ*) of *mulāmasa*, brought on (according to most authorities) by mere contact with members of the opposite sex, and (2) the eros-related ‘major event’ (*ḥadath akbar*) and ‘immersion-obligator’ (*mūjib al-ghuṣl*) of *janāba*, brought on by sexual intercourse. Inasmuch as coition is a slightly clearer criterion than ‘contact,’ *janāba* has for the most part constituted a less complicated (and less disputed) issue than *mulāmasa*. We shall therefore devote most of Part Two to the subject of *mulāmasa*, interspersing issues connected with *janāba* either for comparison purposes or when overlap with *mulāmasa* makes them relevant. Treating these two libidinal *ahdāth* side by side will be helpful in our quest to begin mapping out this as yet uncharted territory of Islamic law and life.

PART II

THE MEANING OF *MULĀMASA*

CHAPTER FIVE

‘... IF YOU HAVE TOUCHED WOMEN ...’: THE ROOT OF THE CONTROVERSY

The provision of the Muslim purity code known as *mulāmasa* (lit. ‘touching another’) stands out as unique, not only in the context of the remaining *ahdāth* or defiling events comprising the *tahāra* system, but in relation to the purity codes of other religions and cultures, as well.¹ Intended for the masses, and elaborated with the predilections of the masses in mind (and observed, more-or-less consistently, by the masses),² the precepts and principles of this branch of the purity code offer a unique window on gender relations and notions of sensuality at different places and times in *Dār al-Islām*, a wider and more representative (if sometimes less profound) panorama than that available from the picturesque stories of *adab* literature, each of which was written from a lone, limited angle, and all of which aim to entertain. Since, for example, the state of defilement or ‘preclusion’ did not ensue (according to most of the exponents of three out of the four Sunnī schools of law) unless *shahwa* or erotic arousal accompanied (or could potentially accompany) various types of male-female contact, the Muslim legists saw it as their duty to discover what arouses the general run of human beings. The jurisprudence and positive law of *mulāmasa* is therefore probably the best (and possibly the only) way to find out what the *fuqahā*’ of the early centuries of Islam—and, through them, what the average man (or average woman!) of the same period—found sexually appealing.³ Inasmuch as prayer and gender relations, together and sep-

¹ The topic of *mulāmasa* has been touched upon suggestively by Katz, *Body*, 86–96 and 149–155, and we shall draw on her scholarship in chapter ten. The present author’s ‘Close Encounters ...’ also grazed aspects of the subject (385–389). Bouhdiba, as we have seen, discussed sexual purity in general, but never mentioned *mulāmasa*. Other than these sources, no other studies of this extensive oeuvre (or of the vast primary literature on *janāba*) have been undertaken (Musallam’s *Sex and Society in Islam* deals exclusively with the question of prophylactics and birth control).

² See the beginning of chapter nine, where we endeavor to uphold this claim.

³ Indeed, *fiqh al-tahāra* is one of the few disciplines in Islamic law where one may find digressive flourishes like the following (in the midst of a discussion on the prerequisite of passion in *mulāmasa*): ‘It is said: There are four pleasures: (1) “the

arately, clearly play a salient role in the structure and character of any religious system, it is not surprising that the *fuqahā'* themselves grant the seemingly minor purity topic of *mulāmasa* major significance. The towering eleventh century Ḥanafite jurist, Shams al-Dīn al-Sarakhsī, calls the discussion and debate over this issue 'a weighty dispute of the first order, to such a point that it is said: he who leads the people must be extensively versed in it' (*ikhtilāf mu'tabar min al-ṣadr al-awwal yanbaghī li-man ya'umm al-nās an yaḥtāta fīhī*).⁴

The juristic disputes surrounding *mulāmasa*, like those pertaining to most Islamic legal issues and institutions, resemble a protracted argument between experts from diverse locations and generations, an extended conversation conducted across continents and centuries by 'ulamā' (scholars) who often perceived their predecessors as virtual present-tense participants in debate.⁵ In reconstructing these discussions and deliberations by assembling opinions from a variety of sources and acting as 'impresario' of the contest (or concert) between them, we have endeavored in what follows to preserve that same conversational spirit to the extent possible. While differences of place and time may have played some role in the disparity of opinions recorded in the sources concerning aspects of this purity provision, that role was negligible and its traces virtually undetectable. For this reason—and because we are interested in this material for its own sake, and not (in the Schachtian manner) as a mine of evidence for the re-chronologization of texts—we will survey the *ikhtilāfāt al-fuqahā'* (juristic disputes) concerning *mulāmasa* across the five hundred year period from the eighth

pleasure of an hour," and that is intercourse, (2) the "pleasure of a day," and that is the bath, (3) "the pleasure of Friday," and that is pubic depilation, and (4) the "pleasure of a year," and that is marrying a virgin. And the most pleasurable of all is sex between a woman on the day that she has her pubic hair plucked and a man three days after his own has been removed' (*qīla: al-ladhdhāt arba'a: ladhdhāt sā'a wa-hiya al-jimā', ladhdhāt yawm wa-hiya al-ḥammām, ladhdhāt jum'a wa-hiya al-nūra, wa-ladhdhāt ḥawl wa-hiya tazawwuj al-bikr; wa-aladhdh al-aḥwāl jimā' al-mar'a yawm intiṭāfihā wa'l-rajul ba'd thalāthat ayām min al-istiḥdād*). Sulaymān al-Jamal, *Hāshiyat al-Jamal 'alā Sharḥ al-Minhaj* (Cairo: Maṭba'at Muṣṭafā Muḥammad, n.d.), 1:70.

⁴ Sarakhsī, *Mabsūt*, 1:67. Whether al-Sarakhsī is referring here to the Imam who governs the people, or to the Imam who leads them in prayer, is difficult to establish, but I lean toward the former alternative.

⁵ Jane Dammen McAuliffe's observation regarding exegetical literature is no less applicable to *fiqh*: 'Having developed within the confines of a limited number of hermeneutical principles, Qur'ānic commentary is a remarkably uninterrupted craft, whose contemporary practitioners are fully conversant with their tenth-, twelfth- and fourteenth-century counterparts' (McAuliffe, 'Christians ...', 106).

through the thirteenth Christian centuries (and occasionally beyond) without confronting questions of the antiquity and authenticity of sources or proposing alternative theories of Islamic legal development (which are, at any rate, particularly inapplicable here).⁶

This choice requires at least a modicum of further justification. The classical Muslim juristic point of view often involves a telescoping, if not an outright collapsing, of the temporal relationship between preceding sources. There is an important sense in which from al-Nawawī's (13th century CE) perspective, 'Abd Allāh b. 'Abbās, al-Ḥasan al-Baṣrī, Abū Yūsuf, Abū Ja'far al-Taḥāwī and Shams al-Dīn al-Sarakhsī were all contemporary members of a coordinated team—the *opposing* team in the matter of *mulāmasa*—and the great Shāfi'ite grappled with their concerted assertions without any reference whatsoever to issues of earlier or later.⁷ In the ensuing pages we attempt, with occasional exceptions, to approximate this traditional juristic approach. We do so not

⁶ The long debated question, for instance, of whether Islamic jurisprudence and positive law regarding a given subject is originally derived from the Qur'an or not has been examined by many serious scholars (and by the present author in 'Dead Tradition: Joseph Schacht and the Origins of "Popular Practice,"' *Islamic Law and Society*, 10:3, Fall, 2003). The laws of *mulāmasa* are, indeed, one case where Schacht's theories break down—especially when those theories are amplified by Crone to the effect that 'Schacht underestimated the discontinuity to which he drew attention: of rules based on the Qur'an from the start we no longer possess a single clear-cut example' (Patricia Crone, 'Two Legal Problems Bearing on the Early History of the Qur'an' in *Jerusalem Studies in Arabic and Islam*, 18 (1994), pp. 10–11). There simply *are* no possible sources for *mulāmasa*, foreign or indigenous, other than the Qur'an itself, and the question we shall entertain over the ensuing pages demonstrates quite clearly that this purity provision could not have been retroactively superimposed onto scripture by jurists who had forged it *ex nihilo* or imported it from alien cultures: those same jurists were not even sure what the Qur'ānic clause meant—could not even agree, that is, on what *mulāmasa* was.

⁷ In a forthcoming article in *Islamic Law and Society* on the notion of privacy in Islamic legal thought, Eli Alshech also notes this phenomenon, aptly dubbing it a 'textual community,' the existence of which 'compensates for the geographical and temporal distances between [Muslim jurists/authors]' and therefore represents 'an entity which the modern scholar can legitimately study.' Alshech further points out that 'in their quest for knowledge, Muslim scholars typically traveled between various centers of learning across the Islamic world. Their particular places of birth are thus not necessarily the most important or influential facts about them with respect to the notions of privacy or any other legal ideas they may have held. For example, the social and/or religious ideas of a scholar who was born and raised in Egypt and studied in Iraq, Syria, and Medina most likely reflect the various cultural influences to which he was exposed. Thus the specific geographical location in which a scholar wrote does not necessarily reveal the source of his intellectual ideas, nor does it limit his scope of reference. My treatment of geographically [and temporally—Z.M.] dispersed scholars

only because accurately tracing the maturation of Islamic legal institutions from the earliest period has become, largely due to the ravages of higher and lower criticism, a daunting if not impossible task; but more importantly, because it was the jurists' own perception and handling of such early material—and not the (often tenuous) reconstructions of that material's evolution by Western scholars—that played the premier role in forging the Islamic legal system. In what follows we are interested in discovering the general form and probing the specific content of the *fiqh* arguments regarding *mulāmasa*, and both of these are based (with rare exceptions) on the jurists' 'horizontal' conception of the literature and luminaries that came before them. We shall therefore not be entertaining (admittedly important) questions concerning the evidence afforded by *asānīd* regarding questions of chronology, but only, occasionally, the question of how such evidence bears on the jurists' attempts either to bolster the believability of a given ḥadīth or defang the same by casting doubt upon its authenticity. Similarly, we will not be delving into (again, undeniably significant) issues such as which version of a particular tradition was put into circulation earliest and by whom; what relationship elements of *tafsīr* have to the production of particular ḥadīth variants; when *madhhab* formation and consolidation may be said to have taken place; and the like. We are consciously foregoing such avenues of investigation in favor of 'doing *fiqh*.'⁸

as though they all participated in a common discursive enterprise is thus supported by the fact that they did, in fact, participate in precisely such a system.' I thank the author for permission to quote this perspicacious passage.

⁸ What follows is an attempt to put the reader (and writer) 'in the game' of early Islamic jurisprudence, that is, to join the *fuqahā'* as they pursue the investigations, analogies, deductions, syllogisms, exegeses, thrusts, parries and ripostes by means of which the Qur'ānic and Hadīthic seeds of the two interrelated precepts of *mulāmasa* and *janāba* were transformed into fully evolved and extensively ramified legal trees. I was first exposed to this manner of presenting the dynamic process of *fiqh* some years ago when I read David Powers' book on the development of Islamic inheritance law, *Studies in Qur'an and Hadith* (Berkeley: University of California Press, 1986). Powers did something unprecedented: he wrestled with what the *jurists* wrestled with, delving into the discursive and pilpulistic intricacies of the continuous *ijtihād fī sabīl Illāh* that formed their preeminent pursuit. This method allows both researcher and reader to gain 'hands-on experience' of what it is that Muslim legists actually did (and do), and to learn their trade, as it were, by apprenticeship (in his latest work, *Law, Society and Culture in the Maghrib*, Powers has outdone himself in this regard, bringing the *sharī'a* to life by showing *mufīṣ* and *qāḍī*s struggling to apply it in a variety of concrete cases. What Powers has done for *furū'* *al-fiqh*, Bernard Weiss has done for *uṣūl al-fiqh* in his monumental *Search for God's Law*, in the course of which we struggle side-by-side with Sayf al-Dīn al-Āmidī as he painstakingly recapitulates and systematizes the theoretical

Choosing Sides

We now proceed to the deliberations in the texts themselves. The subparagraph, sub-section of the *sharī'a* known as *mulāmasa* has its roots—like most of Islamic purity law—in the following two verses:

O ye who believe, draw not near unto prayer when ye are drunken, till ye know that which ye utter, nor when you are sexually defiled (*junuban*), save when journeying upon the road, till ye have bathed. And if ye be ill, or on a journey, or one of you cometh from the privy, or you have touched women (*aw lāmastum al-nisā'*), and you find not water, then go to clean, high soil and rub your faces and your hands therewith ... (*al-Nīsā'* 4:43).

underpinnings of Islamic jurisprudence). It is only by accompanying the *fuqahā'* away from the grand plazas of generalization and into the side alleys of specificity, where they engage in detailed and often difficult elaborations of individual *sharī'a* sub-topics, that we can truly watch these luminaries at work. Not through broad sweeps and aerial surveys, but slowly, inductively, case by case and sub-discipline by sub-discipline, can one most effectively come to know and appreciate the scholars of the law and their oeuvre. More than this: I would argue that in order to 'get inside the heads' of the early Islamic jurists, we must endeavor to accompany them "emotionally", as well; that is, we must strive, if only temporarily, to be enthusiastic about the issues that *they* were enthusiastic about, no matter how minute to us, or remote from us, they appear. This is a tall order even for many a modern Muslim—let alone for non-Muslim academics—but it is more easily achieved, I think, when an individual line (or labyrinthine tangle) of juristic argument, with all its manifold details and divaricating detours, is followed continuously from inception to conclusion.

Accordingly, the next several chapters represent an attempt to tag along with the jurists as they forge the highly complex lineaments of little more than a single provision of the *tahāra* code. These chapters do not cast their net wide, but drop their line deep. They treat as important what the *fuqahā'* saw as important, and spend a considerable amount of time on the sort of topics upon which those legists spent the better part of their lives. Where the *fuqahā'* offer up a simple and easily understood treatment, we have not hesitated to set it down in a similarly straightforward manner. But when they dive into the depths of what many might condemn as unbridled casuistry—the kind of dizzying ratiocination that requires the student of the subject to keep a large number of points, positions and principles in his or her head simultaneously—we will just as readily proceed down that path together with them and, if necessary, experience the bewilderment and frustration that can often result. On occasion we will even get carried away and participate ourselves in these tortuous debates, throwing in our two cents as a sign that we have been listening. Such back-street mazes are not for everyone: Goldziher characterized *fiqh* discussions as the 'quibbling discriminations,' 'dreary exegetical trifling' and 'soul-destroying pedantry of the jurists of Islam' (Ignaz Goldziher, *Introduction to Islamic Theology and Law* [trans. Andras and Ruth Hamori; Princeton: Princeton University Press, 1981], 62–65). But for those who realize, with Schacht, that Islamic jurisprudence is 'the core and kernel of Islam itself' (Joseph Schacht, *An Introduction to Islamic Law* [Oxford: Oxford University Press, 1964], 1), there is no other way but to join the *fuqahā'* on such arduous adventures.

O ye who believe, when you prepare for the *ṣalāt*, wash your faces and your hands up to the elbows and wipe your head and your feet up to the ankles. And if you are sexually defiled (*junuban*), purify yourselves. And if you are sick, or on a journey, or one of you cometh from the privy, or you have touched women (*aw lāmastum al-nisā*), and you find not water, then go to clean, high ground and rub your faces and your hands with some of it ... (*al-Māʿida* 5:6).⁹

The clause in both passages indicating purification for one who has 'had contact with women' employs the verb *lāmastum*: the perfect, second person plural, third form of the root *l.m.s.*—to touch, to feel, to palpate—whence is derived the designation of the *ṭahāra* provision in question: *mulāmasa* (lit., 'touching another') or, more simply, *lams* ('touching'). Reading the ceremonial 'problems' enumerated in the second part of either verse ('coming from the privy' and 'contact with women') back onto the ceremonial 'solutions' enjoined by the first part ('wash your faces and hands up to the elbows, etc.')—as the *fuqahā*' have traditionally (and justifiably) done—the Qur'ānic text appears to be requiring the performance of ablutions for prayer in the event of a previous tactile encounter with a human female. Things are, however, seldom that simple in Islamic jurisprudence. The first of many questions which arise in the *fiqh* literature concerning *mulāmasa* is: what is it?

The battle lines over this question are considered to have been drawn early in the first century A.H., with most juristic sources attributing opposing positions to particular Companions and Successors in the generations immediately following the death of Muḥammad. All were agreed that according to the Qur'ān, *mulāmasa* divested the believer of *wuḍū'* status and obligated him¹⁰ to perform ablutions (*ajma'a ahl al-ʿilm 'alā anna al-mulāmasa ḥadath yanquḍu al-wuḍū'* wa-*'alā wujūb al-ṭahāra minhu*),¹¹ but they were divided over the essential meaning of *mulāmasa*, and concomitantly (though not always) over the *type* of ablutions that must be performed in its wake. There were two basic factions (with nuances and variations to be elucidated below). One faction averred

⁹ For translation of this verse I have used Marmaduke Pickthall's *The Meaning of the Glorious Qur'an* (New Delhi: UBS Publishers, 1996), with certain adjustments suggested by Katz.

¹⁰ The majority of *fuqahā*' are of the opinion that the *mulāmasa* clauses of verses 4:43 and 5:6 address women as well as men (as we shall see below in chapter ten). We employ the masculine form in what follows both out of convenience, and because a minority of jurists believe that a woman's *wuḍū'* is not violated when she touches a man.

¹¹ Abū Bakr Muḥammad b. al-Mundhir al-Naysabūrī, *Al-Awsaṭ fi'l-Sunan wa'l-Akhhbār wa'l-Ikhtilāf* (Riyāḍ: Dār al-Ṭayba, 1993), 1:113–114.

that the scriptural referent was physical contact of any kind between the sexes—embracing, kissing, touching with the hand, even a momentary grazing of the skin¹²—and that ‘if someone kisses his wife or feels her with his hand (*man qabbala imra’tahu aw jassahā bi-yadhi*) he is obligated to execute the minor ablution (*wuḍū’*).’¹³ Those reported to have held this opinion in the earliest period include the illustrious Companion and sandal (and toothpick) bearer of the Prophet, ‘Abd Allāh b. Mas‘ūd (d. 653 CE);¹⁴ the proto-jurist and son of the second righteous caliph, ‘Abd Allāh b. ‘Umar (d. 693 CE);¹⁵ the ḥadīth transmitter and jurisconsult Ibrāhīm al-Nakha‘ī (d. circa. 717 CE);¹⁶ the well-known Successor and ‘muftī of his age,’ ‘Amir b. al-Sharāḥīl al-Sha‘bī (d. circa. 724 CE);¹⁷ his younger contemporary the renowned traditionist Muḥammad b. Muslim al-Zuhrī (d. circa 742 CE);¹⁸ the teacher and transmitter ‘Aṭā’ b. al-Sa‘īb al-Thaqafī (d. circa. 755 CE);¹⁹ and many others. Their mantle was taken up in ensuing decades and centuries by most exponents of the Mālikī, Shāfi‘ī and Ḥanbalī schools of law.

Members of the opposing faction were equally adamant that in the Qur’anic clause ‘*aw lāmastum al-nisā’*’ the Divine Legislator intended

¹² Nawawī, *Majmū’*, 2:31: ‘... *siwā’ istadāma al-lams am fāraqa bi-mujarrad iltiqā’ al-bashratayn ...*’

¹³ Abū Bakr Aḥmad b. al-Ḥusayn b. al-Bayhaqī, *Kitāb al-Sunan al-Kubrā* (Beirut: Dār al-Ma‘rifā, 1992), 1:124 (the ḥadīth of Abū Zakariyā’).

¹⁴ ‘Abd al-Razzāq al-San‘āni, *al-Muṣannaf* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1972) 1:101, no. 499: ‘... *ibn Mas‘ūd qāla: yatawaḍḍa’a al-rajul min al-mubāshara wa-min al-lams bi-yadhi wa-min al-qubla idhā qabbala imra’tahu*,’ and no. 500: ‘... *qāla ‘Abd Allāh b. Mas‘ūd: al-qubla min al-lams wa-minha al-wuḍū’*’; Bayhaqī, *Sunan* 1:124: ‘... *‘an ‘Abd Allāh b. Mas‘ūd, qāla: al-mulāmasa mā dūna al-jimā’*’; Muḥammad b. al-Ḥasan al-Shaybanī, *Kitāb al-Ḥujja ‘alā ahl al-Madīna* (Beirut: al-Mazrū‘ Bināyat al-‘Imān, 1983), 1:65: ‘... *wa-ḥādha amr [inna fi’l-qubla wuḍū’] kāna Ibn Mas‘ūd yaqūluhu, wa-lam na’limhu ‘an aḥadīn illā ‘an Ibn Mas‘ūd*.’

¹⁵ Ibn Abī Shayba, 1:62 (55:1): ‘... *‘an ‘Ubayd Allāh b. Umar ‘an al-Zuhrī ‘an ibn ‘Umara: innahu kāna yarā al-qubla min al-lams wa-ya’muru minhā bi’l-wuḍū’*’; ‘Abd al-Razzāq, 1:101 (496): ‘... *anna ibn ‘Umara kāna yaqūlu: man qabbala imra’tahu wa-huwa ‘alā wuḍū’ a’āda al-wuḍū’*.’

¹⁶ Ibn Abī Shayba, 1:62 (55:3): ‘... *‘an Mughīra ‘an Ibrāhīm qāla: idhā qabbala bi-shahwatī, naqaḍa al-wuḍū’*’; and 1:63 (57:3): ‘... *‘an Ibrāhīm, qāla: idhā qabbalta aw lāmasta aw bāsharta fa-a’īd al-wuḍū’*.’

¹⁷ Ibn Abī Shayba, 1:62 (55:8): ‘... *‘an al-Sha‘bī, qāla: al-qubla tanquḍu al-wuḍū’*’; and 1:63 (57:2): ‘... *‘an al-Sha‘bī qāla: idhā lamasa aw qabbala bi-shahwa naqaḍa al-wuḍū’*’; al-Shaybanī, *Kitāb al-Ḥujja*, 1:66: ‘... *‘an al-Sha‘bī, innahu kāna yarā ‘alā man qabbala imra’tahu wuḍū’*’; *Umm*, 1:29; Bayhaqī, *Sunan*, 1:124.

¹⁸ *Muwaṭṭā’* 1:44 (16:66): ‘... *‘an Mālik ‘an ibn Shihāb [= al-Zuhrī] innahu kāna yaqūlu: min qublat al-rajuli imra’tahu al-wuḍū’*’; Ibn Abī Shayba, 1:62 (55:6): ‘... *sa’altu al-Zuhrī ‘an al-qubla fa-qāla: kāna al-‘ulamā’ yaqūlūna fihā al-wuḍū’*.’

¹⁹ See Nawawī, *Majmū’*, 2:30, *Bāb al-Aḥdāth allatī tanquḍu al-wuḍū’*: *Lams al-Nisā’*.

nothing short of sexual intercourse, and that the ceremonial answer to *mulāmasa* was not *wuḍūʾ* but the major ablution, *ghusl*. According to this group, simply palpating or kissing—even outright foreplay (*mulāʿaba*)—has no effect whatsoever on one’s ritual state. In this camp may be counted such central figures as the Prophet’s famous cousin ‘Abd Allāh b. ‘Abbas (d. circa. 687 CE), ‘the sage and sea of this people’ (*ḥabr ḥādhihiʾl-umma wa-baḥruḥā*),²⁰ Muḥammad’s even more famous cousin, as well as foster brother and son-in-law, ‘Alī b. Abī Ṭālib (d. 661 CE),²¹

²⁰ Asqalānī, 1:65; ‘Abd al-Razzāq, 1:102 (505): ‘... *‘an ibn ‘Abbās qāla: mā ubālī qabbal-tuhā aw shammamta riḥānan*’; and 506: ‘... *fa-kharaja ‘alayhim Ibn ‘Abbas ... fa-qāla ... huwa al-jimāʾ*’; Ibn Abī Shayba, 1:61 (54:2): ‘... *‘an ibn ‘Abbās, innahu kāna lā yarā fiʾl-qubla wuḍūʾ*.’ It is nevertheless occasionally claimed that Ibn ‘Abbās held kissing, as well, to be a form of *mulāmasa* (see Abūʾl-Walīd Sulaymān b. Khalaf al-Bajī, *Muntaqa: Sharḥ Muwaṭṭāʾ al-Imām Mālik* [Cairo: Dar al-Fikr al-‘Arabī, 1982], 1:19). *Ḥabr* often means ‘rabbi,’ and it is quite possible that, despite much Muslim tradition to the contrary, the intent is that Ibn ‘Abbās was as adept at interpreting Qurʾān as were the renowned Jewish exegetes their *Tawrāt* (some have rendered *ḥabr* differently, see Adang, *Muslim Writers*, 13, n. 85; but cf. al-Ṭabarī’s definition of the term [Ṭabarī, *Jāmiʾ al-Bayān*, 6:339], which is unequivocal. It is also interesting in this particular connection that *ḥaver*—the Hebrew term whence *ḥabr* is most likely derived—refers, in the Talmudic context, to what was for all intents and purposes a separate and elitist ‘class’ of Jews in the post-Temple period that was highly knowledgeable and extremely scrupulous about purity law). To call a man or a work a *baḥr* or ‘sea’ in Arabic is to praise his oceanic erudition, as many a later epithet and title testifies. It is also the reversal of the first two radicals of ‘*ḥabr*.’ Lastly, the association of the two terms may possibly echo the famous Qurʾānic verse to the effect that ‘[e]ven if all the trees of the earth were pens, and the sea (*baḥr*)—combined with seven more seas like it—[were ink = *ḥibr*], the words of Allāh would not be exhausted’ (31:27). On Ibn ‘Abbās and this epithet see Gordon Newby, *A History of the Jews of Arabia, from Ancient Times to their Eclipse under Islam* (Columbia: University of South Carolina Press, 1988), 66. ‘Ikrima, a client of Ibn ‘Abbās, was also honored with the title *ḥabr* (see Adang, *Muslim Writers*, 14).

²¹ ‘Alī al-Qārī al-Harawī, *Fath Bāb al-ʾInāya* (Aleppo: Maktab al-Maṭbūʾat al-Islāmiya, 1967), 1:79: ‘*lā yanquḍu al-wuḍūʾ mass al-marʾa ... wa-huwa qawl ‘Alī wa-jamāʾin min al-ṣaḥāba*’; Shaybānī, *Kitāb al-Ḥujja*, 1:65: ‘... *wa-anna ‘Alī b. Abī Ṭālib raḍiya Allāhu ‘anhu kāna yaqūlu: laysa fi dhālika [fiʾl-qubla] wuḍūʾ*’; see also Mughnī, 1:192. Not surprisingly, given ‘Alī’s perceived position on this matter, Shīʿite purity law does not concern itself with mere cross-gender contact. Qays b. Rammāna inquired of the sixth Shīʿite Imam, Jaʿfar al-Ṣādiq, saying, ‘I perform *wuḍūʾ*, then I call to the maid and she takes my hand and helps me up, then I pray—must I renew my ablutions [before prayer, since I came into contact with a woman]?’ Al-Ṣādiq answered, ‘No.’ Qays persisted, ‘But they claim that [such contact is what the Qurʾān intends by] *lams* [i.e., by the clause “... *aw lāmastum al-nisāʾ* ...”].’ ‘No, by God!’ responded the Imam. ‘*Lams* is none other than coition, that is to say, cohabitation’ (*mā al-lams illā al-wiqaʾ yaʾnī al-jimāʾ*—Majlisī, *Biḥār*, 77:221). See also Majlisī, *Biḥār*, 78:36: ‘As for His words, praised be He, “... *aw lāmastum al-nisāʾ* ...,” this is a euphemism for intercourse, as has been narrated from our Imams, and the intent is not mere touching, as al-Shāfiʿī says, nor is it [contact] accompanied by arousal, as Mālik would have it.’ Issues of *janāba*, on the other hand, are

the renowned legal scholar ‘Aṭā’ b. Abī Rabāḥ (d. 734 CE);²² the mystic, jurist and theologian al-Ḥasan al-Baṣrī (d. 728 CE);²³ the founder of the ancient Syrian *madhhab*, Abū ‘Amr ‘Abd al-Raḥmān al-Awzā’ī (d. 774 CE);²⁴ and others. Their interpretation was perpetuated and put abroad primarily by the Ḥanafī *madhhab*, whose representatives have always maintained their confidence and vehemence on this point despite being significantly outnumbered by the opposing camp.²⁵ We now

extensively and intricately elaborated by Shī’ite scholars, but their often colorful treatment of this subject is unfortunately beyond the scope of the current study.

²² Ibn Abī Shayba, 1:61 (54:3): ‘... ‘an ‘Aṭā’, qāla: *laysa fi’l-qubla wuḍū’*’; ‘Abd al-Razzāq, 1:187 (917): ‘... ‘an Ibn Jurayj, qāla: *qultu li-‘Aṭā’: a-ra’ayta qawlahu, ‘aw lāmastum al-nisā’ hiya al-muwāqī’a? Qāla: na’m*’; Ibn al-Mundhir, 1:115; Abū al-Ṭayyib Muḥammad Shams al-Ḥaḡ al-‘Azīm Ābādī, *‘Aven al-Ma’būd Sharḥ Sunan Abī Dā’ūd* (Beirut: Dār al-Fikr, n.d.), *Bāb al-Wuḍū’ min al-Qubla*, 1:301. Al-Ṭabarī, however, cites ‘Aṭā’ as propounding what appears to be the opposite position: ‘... ‘an Qatāda ‘an ‘Aṭā’ qāla: *al-mulāmasa mā dūna al-jīmā’*’ (5:152). It is possible that ‘Aṭā’ is referring here to the situation of a nude man and women in passionate embrace (*mubāshara fāḥisha*, where the latter term connotes ‘all out’ and not ‘abominable’) who nevertheless do not achieve orgasm—a subject we shall deal with later. Thus, he should be understood as occupying a middle ground of sorts, ruling that mere touching or kissing does not invalidate *wuḍū’*, on the one hand, but that we need not proceed all the way to the other extreme—full-blown sexual intercourse with ejaculation—on the other, for this latter necessitates *ghusl*, not *wuḍū’*. The golden mean between the two, then, is *mubāshara fāḥisha* (see the intra-Ḥanafite debate over the import of this term, below, beginning on p. 198). Another possibility, suggested by the editor of Ibn al-Mundhir’s *Awṣaf*, is that ‘Aṭā’ was of two minds [or: is the subject of two contradictory reports] on the subject (*la’alla ‘Aṭā’ b. Abī Rabāḥ la-hu qawlān fi ḥādhihi’l-mas’ala*—p. 115). There is, one supposes, the slight possibility that al-Ṭabarī has confused this ‘Aṭā’ with the aforementioned ‘Aṭā’ b. al-Sa’īb, who believed that *mulāmasa* is *lams bi’l-yad*. Or, finally, it may be that ‘Aṭā’ did believe that mere contact violated *wuḍū’* (he is cited explicitly as holding this position in a number of *aḥādīth*) but for some reason excepted kissing from this rule.

²³ Ibn Abī Shayba, 1:63 (57:5): ‘... ‘an al-Ḥasan, *innahu kāna lā yarā’ fi’l-lams bi’l-yad wuḍū’*’; al-Nawawī, *Maḡmū’*, 2:30; Ibn al-Mundhir, 5:115; al-Ṭabarī, *Jāmi’ al-Bayān*, 5:145 (no. 7601): ‘... ‘an Qatāda wa’l-Ḥasan, qāla: *ghishyān al-nisā’*’.

²⁴ Abū Muḥammad Maḥmūd b. Aḥmad al-‘Aynī, *Al-Bināya fi Sharḥ al-Hidāya* (n.p.: Dār al-Fikr, 1980), 1:244: ‘*wa-madhhab ... al-Awzā’ī anna al-lams wa’l-mulāmasa kināya ‘an al-jīmā’ wa-lā yajibu al-wuḍū’ ‘alā mass al-mar’a wa-qabbalihā idhā tayaqqana bi-‘adam khurīj al-madhī.*’

²⁵ They may not always have been in the minority. The sixteenth century Ḥanafite author of *Fath Bāb al-Ināya*, ‘Alī al-Qārī al-Harawī, states with confidence that the Qur’ān’s use of the word ‘*lāmastum*’ in 5:6/4:43 ‘is interpreted by the overwhelming majority to mean intercourse (*mufassar bi’l-jīmā’ ‘inda al-jumhūr*)’ and that ‘the intent is intercourse according to the consensus of the jurists (*al-murād al-jīmā’ bi’l-jīmā’*)’ (1:80). Given that *all* Ḥanafite scholars hold, with Ibn ‘Abbās, that ‘*lams* is *jīmā’* (intercourse)’—and given the context of these statements, which is the inter-scholastic polemic over the meaning of *mulāmasa*—al-Qārī al-Harawī is certainly referring to the majority and consensus of *all* of the *fuqahā’*, and not just those of his own *madhhab*. Despite this and other similar assessments, according to my own (admittedly limited) survey, the

offer a detailed outline of the Ḥanafite argument—as reflected in specimens taken from *fiqh* works both favorable and adversarial to their position—and then return and give the floor to their opponents, to see how they respond and counterattack. For purposes of effective presentation, we shall divide the debate on this subject into three ‘rounds’: 1) *Kitāb*: arguments over the meaning of the *mulāmasa* clause in scriptural context; 2) *Sunna*: the employment of Prophetic, Companion and Successor exempla by the parties to the debate in order to demonstrate the correctness of their rulings; and 3) *ra’y*: the use of ‘independent’ reasoning by each side. This is, admittedly, an artificial breakdown: it should be born in mind that in the *fiqh* texts themselves, these three categories are often found not just side by side, but thoroughly intertwined.

Shāfi’ite/Mālikite/Ḥanbalite or *lams bi’l-yad* position still enjoys statistical superiority overall (on the other hand, Ḥanafite scholars have perhaps been more numerous in many regions and periods than the exponents of all the other schools combined).

CHAPTER SIX

KITĀB: FIVE CENTURIES OF LOGOMACHY

A major component of the Ḥanafī contention that there is no such *ḥadath* as the touching of women is their insistence that the phrase ‘*aw lāmastum al-nisā*’ in the pivotal verses 5:6 and 4:43 indicates sexual intercourse. In order to establish that this is the case, they employ two exegetical techniques. The first consists of referral to other passages in the Qur’ān as well as to statements in the *Sunna* in which words built on the root *l.m.s.*, and on the closely related *m.s.s.*, clearly signify coitus, not mere bodily contact.¹

Employment of this technique is generally launched with the help of one of the following declarations of Ibn ‘Abbās, who is traditionally known as *tarjumān al-Qur’ān* (the Qur’ānic interpreter *par excellence*):

‘*Lams is jīmā*’.²

Our Lord is modest and noble: He has referred to intercourse by means of the euphemistic term *mulāmasa* (*Rabbanā ḥayyun karīmun, kana ‘an al-jīmā’ bi’l-mulāmasa*).³

¹ The verb *massa* (touch, feel, palpate) is treated for this purpose as interchangeable with the verb *lamasa* (touch, feel, palpate) by the *fuqahā*’ and *ahl al-luġha* (linguists). There is good reason for this: *m.s.s.* and *l.m.s.* are probably related roots, the first radical, ‘l,’ being a vaporous and unstable letter which in our case may even have originally signified ‘for,’ as in *li-mass*, ‘for [the sake of] feeling.’ See E.W. Lane, *An Arabic English Lexicon* (London: Williams and Norgate, 1863), entries *m.s.s.* and *l.m.s.*; and Ibn al-Mundhir, 1:129: ‘*qāla ba‘ḍuhum: li’l-mulāmasa nazā’ir fi’l-kitāb, min dhālika al-mubāshara wa’l-lams wa’l-mass, wāḥid fi mā’na.*’ A number of Mālikī jurists nevertheless envisaged a slight distinction between the two terms, assigning to *lams* the wider significance of touching with any part of the limbs or torso, while confining the connotation of *mass* to touching with the hand (see ‘Abd al-Raḥmān al-Jazīrī, *Kitāb al-Fiqh ‘alā Madhāhib al-Arba’a* [Cairo: Al-Maktaba al-Tawfiqiya, 1986], 1:75). For the usage *masīs* to indicate sexual contact in a medieval Mālikī *fatwā*, see Powers, *Law, Society and Culture*, 43.

² Bāhā al-Dīn b. Shaddād, *Dalā’il al-Aḥkām* (Damascus: Dar Qutayba, 1992), 1, 106.

³ Bajī, 1:74, *Bāb al-Wuḍū’ min Qyblat al-Rajul Imra’tahu*. Ja’far al-Ṣādiq echoes: ‘[The referent of scripture in Q. 5:6 is intercourse] but God is concealed, and He loves concealment; He does not name things as you [human beings] name them’ (*Allāh satīr yuḥibbu al-satr, fa-lam yasumm kammā tasummūn*—Majlisī, 77:220).

Mulāmasa, *mubāshara* [lit. ‘skin contact’], *ifda* [lit. ‘coming to’], *rafth* [lit. ‘proceeding towards’]⁴ and even *jimā*‘ itself [lit. ‘combining’]—by all of these is meant *nikāh* (marital relations),⁵ but Allāh the Exalted speaks metonymically.⁶

God employs the refined to express the crude (*yaknī bi’l-ḥasan ‘an al-qabīh*).⁷

Added to these statements is the following report:

‘Abd al-Razzāq from Mu‘ammar from Qatāda, that ‘Ubayd b. ‘Umayr, Sa‘īd b. Jābir and ‘Aṭā’ b. Abī Rabāḥ were disputing over *mulāmasa*. Sa‘īd and ‘Aṭā’ said: it is touching and palpating (*lams wa-ghamz*), while ‘Ubayd b. ‘Umayr said: it is intercourse (*nikāh*). Ibn ‘Abbās came out and found them thus arguing, and they asked him—telling him of their respective positions—for his opinion. He answered: the two *mawlas* [Sa‘īd

⁴ That is, towards a woman for sexual purposes, see Q 2:187. This word’s denotation might alternately be ‘lewdness.’

⁵ Ibn ‘Abbās is doing a little euphemizing of his own here, although the root *n.k.h.* may possibly be related to the root *n.y.k.* (Lane Jr. sends the reader to the former for information about the latter) which harbors a more direct sense. On the other hand, the Qur’ān speaks of those who *nakaḥtum al-mu’mināt thumma talaqtumihunna min qabli an tamassūhuma* (‘married believing women and then divorced them prior to having “touched” them [i.e., consummated the marriage]’—33:49), where *n.k.h.* cannot refer to coition at all, and there are many other examples in which this is the case.

⁶ Ibn al-Mundhir, 1:116.

⁷ Sarakhsī, 1:69. The thirteenth century Mālikī traditionist and Qur’ān commentator, Abū ‘Abd Allāh Muḥammad b. Aḥmad al-Anṣārī al-Qurṭubī, quotes Mujāhid (b. Jabr al-Makkī, the early exegete who studied under Ibn ‘Abbās) to the effect that Q 25:72—‘[those will be benefited who,] when they pass by foolish talk, pass by with dignity’ (*idhā marrū bi’l-laḡw marrū kirāman*)—specifically mandates such metonymy. ‘When they mention marital relations,’ Mujāhid explicates this scriptural statement, ‘they euphemise’ (*idhā dhakarū al-nikāha kanū ‘anhu*). Qurṭubī, *Al-Jāmi‘ li-Aḥkām al-Qur’ān* (Beirut: Dār Iḥyā al-Turāth al-‘Arabī, n.d.), 6:105. Other commentators agree (see, e.g., Bayḍāwī, 2:148; Jalāl al-Dīn Muḥammad Aḥmad al-Maḥallī and Jalāl al-Dīn ‘Abd al-Raḥmān al-Suyūfī, *Tafsīr al-Jalālayn* (Beirut: Dār al-Fikr, n.d.), 388. If God obliges the believers to speak decently, He will undoubtedly want to set a personal example. Throughout all of the sensual and sexual material culled from the Ḥadīth and presented in Part One, the reader will have noticed that—barring one or two possible exceptions—no explicit language is employed. Although the Prophet enjoyed humor, he was not fond of crudity. On one occasion, his traveling entourage encountered a bedouin. ‘Salute God’s Apostle!’ the Muslims demanded of the nomad. The latter responded: ‘Have you got God’s Apostle with you?’ When they replied in the affirmative, the bedouin turned to Muḥammad: ‘If you are God’s Apostle, then tell me what is in the belly of my she-camel here.’ The Companion Salama b. Salāma upbraided him: ‘Don’t question God’s Apostle! I’ll tell you about the matter: you leapt upon your camel, and now she has a little goat in her belly from you!’ The Prophet said, ‘Enough! You have spoken obscenely to the man.’ And he turned away from Salama (Ibn Ishāq-Guillaume, 293).

and ‘Aṭā’] are mistaken, and the Arab [‘Ubayd] is correct (*akhta’a al-mawliyān wa-aṣāba al-‘arabī*): it is intercourse (*jīmā*), but God is chaste and He euphemizes (*ya’iffū wa-yaknū*).⁸

The contraposition of the *mawla* (client) status of Sa’īd and ‘Aṭā’ to the purer Arabian pedigree of ‘Ubayd—while no doubt playful or even tender—is probably not fortuitous. Ibn ‘Abbās’s reference to ‘Ubayd as ‘the Arab’ seems to imply that only one raised from birth as an Arab, in an Arabic cultural and linguistic milieu, can have a sufficiently natural and profound grasp of the nuances and associations characterizing the language to judge such issues. Anyone steeped in the subtleties of everyday Arabic usage would know that *lams* and *mass*—especially when employed in contexts like those in *Surat al-Nisā*’ and *Surat al-Mā’ida*—indicate sexual intercourse. Only those for whom Arabic was not imbibed *cum lacte* but was, rather, an acquired art—even if acquired at a young age (as in the case of ‘Aṭā’, a Nubian who was brought to Mecca as a child)—only such ‘newcomers’ could miss this obvious referent and, relying on their more studied, formal knowledge of the language, insist on the literalist rendering of *aw lāmastum* as ‘if you touched.’ Another of the many different recensions of this ḥadīth, recorded by al-Ṭabarī and al-Bayhaqī, is even more evocative on this score:

... from Sa’īd b. Jābir, who said: they were discussing *lams*, and a group of the *mawālī* claimed: it is *not* intercourse, whereas a group from among the Arabs asserted: it *is* intercourse. [Sa’īd b. Jābir] said: I went to Ibn ‘Abbās and told him: a group of *mawālī* and Arabs had a dispute regarding the meaning of *lams*, the *mawālī* claiming, ‘It is not *jīmā*’, while the Arabs countered, ‘It is *jīmā*.’ [Ibn ‘Abbas] said: Which side were you on [*min ayy al-fariqayn kunta*]? I replied: I sided with the *mawālī*. He said: You lost [*ghulibta*]. For the words *mass* and *lams* and *mubāshara* connote intercourse [*al-jīmā*], but God euphemizes what He wishes with what He wishes [*wa-lākin Allāh yaknū mā shā’a bi-mā shā’a*].⁹

⁸ ‘Abd al-Razzāq, 1:102.

⁹ Bayhaqī, *Sunan*, 1:125; Ṭabarī *Jāmi’ al-Bayān*, 5:142 (no. 7596—attention should also be paid, in this connection, to the fifteenth version of no. 7597, p. 144). Ibn Qudāma quotes Aḥmad b. Ḥanbal to the effect that the conception of *lams* as something far less than intercourse actually *preceded* the notion that it refers to intercourse: ‘Aḥmad said: “The Medinese and Kufans continued to hold that kissing is included in the category of *lams* and violates prayer fitness, until latter times when Abū Ḥanīfa came among them, after which they said: [kissing] does not violate *wuḍū’*”’ (*Mughnī*, 1:192).

Such exegetical one-upsmanship continues to characterize the debate. More material for the Ḥanafite argument is proffered by the ninth century Arabic lexicographer Ibn al-Sikkīt, who is quoted to the effect that

[*l*]ams is synonymous with *waṭ'*: just as *waṭ'* literally means 'to tread underfoot' (*al-daws bi'l-qadam*), but if one hears the phrase '*waṭa'a al-mar'a*' he will understand by this not that someone had tread on a woman, but that someone had cohabited with her ... [similarly] *lams*, if used in connection with a woman, refers to intercourse [*jimā*]: the Arabs say, '*lāmastu al-mar'a*,' and they mean: 'I lay with her.'¹⁰

A similar usage, evidently unnoticed by the Ḥanafite '*ulamā*' who might have adduced it to their advantage, is found in Saḥnūn's *Mudawwana*, probably the oldest work of *fiqh* extant.¹¹ In the midst of a discussion about sex and sand-rubbing—*tayammum*—Ibn al-Qāsim queries Mālik b. Anas: 'What is your opinion regarding a woman who has ceased menstruating just as prayer time arrives, and she daubs herself with sand [*tayammamat*—she is probably accompanying her husband on a journey and water is scarce] and prays, and her husband wishes *an yamassahā*?' This last phrase is the present tense, third person form of the root *m.s.s.* and, in this context, refers indisputably to the man's desire to have sexual intercourse with his wife (contrary to Jewish or Zoroastrian purity law, there is no problem with *touching* a menstruant according to the *sharī'a*, and the heading of the chapter in question is *Fī Imra'a Ṭuhirat fī Waqt Ṣalāt fa-Tayammamat wa-Arāda Zawjuha an Yaṭa'ahā*, the final term coming from the same root as *waṭ'*, above).¹² Thus, we

¹⁰ Ibn al-Shaddād, 1:106.

¹¹ So argues Norman Calder in *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), chapter one.

¹² *Mudawwana*, 1:150. Another source that would have helped the Ḥanafite cause regarding the meaning of *mass* is a tradition adduced by al-Ṭabarī to provide background for the divine corrective issued in the face of the mistaken custom of the first Muslims to fast and refrain from coition after evening naps during Ramaḍān. Ibn Jurayj asked 'Aṭā about the revelation in question, and the latter replied by explaining that the Muslims of earlier times '*kānū fī Ramaḍān lā yamussūna al-nisā' wa-lā taṭ'amūna wa-lā yashribūna ba'd an yanāmū, fa-in massūhunna qabla an yanāmū, lam yarū bi-dhālika ba'san*' (Ṭabarī, *Jāmi' al-Bayān*, 2:227). In 'Aṭā's lexicon, the verb *massa* (at least in this context) clearly indicates intercourse (which is somewhat puzzling, since while most other sources see 'Aṭā as advocating what would become the Ḥanafite outlook on *mulāmasa*, it is specifically al-Ṭabarī who has him oppose it—see above, note 22). Still another example of the employment of the verb *massa* to mean intercourse is the *Muwatta'*'s description of Ibn al-Zubayr's impotence: '*lam yastaṭi' an yamassahā*' (*Muwatta'*, 28:7 [17]). The Ḥadīth refers to a prostitute as an *imra'a mūmisa* (Baghawī, 3:143), from

see that Mālik and his disciples used the verb *massa* (and with it *lamasa*) to indicate cohabitation, a fact which the Ḥanafīya could have thrown in the faces of their Mālikite opponents, but didn't. As for the root *lamasa* itself, a ḥadīth is regularly adduced by the Ḥanafite exponents in which a bedouin complains to the Prophet that '*imra'tī lā taruddu yad lāmis*'—my wife does not refuse the hand of a *lāmis*, where the last word connotes (so they aver) a man who seeks her favors. Muḥammad recommends that the bedouin divorce her.¹³

Most common, however, are attempts to demonstrate that the word *lāmāsa/massa* means 'to copulate' on the strength of comparisons with other Qur'ānic verses in which the same root occurs. First among these are two passages dealing, indeed, with divorce:

O you who believe! If you wed believing women and divorce them before you have 'touched' them (*talaqtumūhunna min qabli an tamassūhunna*) then there is no 'idda [waiting period] that you should reckon. But content them and release them handsomely (Q 33:49).

It is no sin for you if you divorce women while you have not yet 'touched' them (*mā lam tamassūhunna*), nor appointed unto them a portion ... If you divorce them before you have 'touched' them (*min qabli an tamassūhunna*) and before you have appointed unto them a portion, then pay the half of that which you appointed ... (2:236–237).

It is clear that by the term *tamassūhunna* (from the root *m.s.s.*) in these verses, the Qur'ān intends sexual intercourse. So, too, argue the Ḥanafīya, should we understand the 'touching' of our purity verses: *mulāmāsa* means the marital bed.¹⁴ Mary, mother of Jesus, is also drafted to the cause, for she exclaimed, 'My Lord! How shall I have a child when *lam yamsasnī basharun* (no man has touched me)?'¹⁵ Here again, 'touching'—*mass*—can only mean one thing. Two other examples of Qur'ānic euphemisms for coition, already mentioned above by Ibn 'Abbās, are the first form of the root *r.f.th.* and the third form of the root *b.sh.r.*:

It is made lawful for you on the night of the fast to go in unto your wives (*al-rafth ilā nisā'ikum*). They are raiment for you and you for them. Allāh is aware that you were deceiving yourselves in this respect [and abstaining

the root *wamasa* (to rub, smooth, polish) which is related semantically—and perhaps etymologically—to *massa*.

¹³ Ibn Manzūr, cited in Katz, *Body*, 87.

¹⁴ Sarakhsī, 1:68; Mughnī, 1:193.

¹⁵ Q 3:47.

also at night] and He has turned in mercy toward you and relieved you (*'afa 'ankum*). So 'compress' them (*bāshiruhunna*) and seek that which Allāh has ordained for you ... (2:187).

In each of these cases, as in those previously adduced, polite diction has unquestionably been employed in order to avoid direct speech about sexual intercourse. The many examples of this sort of metonymy adduced by the Ḥanafite exponents add up to a more general realization that all of the nomenclature available to describe the 'act' in Arabic (as in many other languages) is euphemistic to one degree or another. Although they are not able to point to any actual Qur'ānic uses of the root *l.m.s.* itself which would support their interpretation, nevertheless, the semantic cross-referencing of the Ḥanafīya has at least made plain that the expression 'to touch women'—like the *aw lāmastum al nisā'* of our ablution verses—certainly could connote 'to sleep with women' without doing any violence to traditional Arabic usage or to the simple meaning of the text. Besides (protest the Ḥanafites, in a related claim), the term *mulāmasa* is of the form *mufā'ala*, which signifies action taken by two (*wa-li-annahu dhakarahu bi-lafẓ al-mufā'ala, wa'l-mufā'ala lā takūn min aqall min ithnayn*).¹⁶ Reaching out and touching something with the hand is an action engaged in by one, not by two. Now, what action involving palpation is actively undertaken by two? The answer is obvious: sexual intercourse.¹⁷

The second exegetical technique employed by Ḥanafite scholars to support their position focuses on the internal structure of Q. 5:6. Having demonstrated to their own satisfaction that their reading is semantically plausible—perhaps even probable—the Ḥanafīya next strove to show that it is syntactically compelling. They did this by 'folding' the *Mā'ida* verse (Q. 5:6), such that it is seen as divided into two parts that stand in a parallel relation to each other. The first part consists of the following:

O you who believe! When you prepare for the *ṣalāt* [that is, when you come to pray in the wake of any **minor** *ḥadath*, or 'when you rise to pray' from the specific **minor** *ḥadath* of sleep], wash your faces and your hands up to the elbows and wipe your head and your feet up to the

¹⁶ *Mughnī*, 1:193. The intent here must be action *taken by*—not simply *involving*—two parties, otherwise the deduction would make no sense.

¹⁷ *Bajī*, 1:19.

ankles [i.e., perform *wuḍū'*]. And if you are sexually precluded (*junuban*) [that is, when you come to pray in the wake of a **major ḥadath**] purify yourselves [i.e., perform *ghusl*].

So far, then, the Qur'ān has provided one example of a *lesser* purity problem and one example of a *greater* purity problem—together with the solutions for each—in a situation in which water is *available*. The second half of the verse (say the Ḥanafiya) does the same, but this time for a situation in which water is *unavailable*:

And if you are sick, or on a journey [and for either of these reasons cannot procure water] and one of you comes from the privy [the **minor ḥadath**: urination or defecation], or you have had 'contact' with women [the **major ḥadath**: intercourse], and you find not water; then go to clean, high ground and rub your faces and your hands with some of [the sand] ...

In order for the parallelism to work, the second 'event' recorded in this latter half of the verse must be a major, *janāba*-inducing *ḥadath*, just like the second event in the former half of the verse. Now, the prayer-precluding occurrences mentioned in this passage are seen (and not just by the Ḥanafites) as particulars indicating overall categories. Therefore, the verse *must* be read as above, that is:

First part of verse: minor *ḥadath* : *wuḍū'* :: major *ḥadath* : *ghusl*;

Second part of verse: minor *ḥadath* : a little sand :: major *ḥadath* : a lot of sand.¹⁸

Otherwise—if *mulāmasa* means mere touching, as the other *madhāhib* claim it does—not only would the parallelism break down, but the result would be a redundancy: two minor *ḥadath* in a row (the privy and touching women) in the second part of the verse, when what is required is one specimen of each type of defiling event, minor and major.¹⁹

Not everyone was convinced by this hermeneutical maneuver, even though it was attributed to 'Abd Allāh b. 'Abbās, who was 'taught Qur'ān interpretation by God Himself' (*yu'allimuhu Allāhu al-ta'wīl*).²⁰ 'Abd b. Ḥamīd describes a scene in which Ibn 'Abbās was besieged by so many challengers to this exegesis, and to the overall position that

¹⁸ I have written 'a lot of sand' for the sake of the parallelism, even though the law ultimately required the same amount of sand—and the same motions—for *tayammum* whether it is intended to replace *wuḍū'* or *ghusl*.

¹⁹ For rehearsals of these arguments, see Sarakhsī, 1:69; Ibn al-Mundhir, 1:130; Ṭabarī, *Jāmi' al-Bayān*, 5:152.

²⁰ Asqalānī, 1:65.

mulāmasa indicates coitus alone, that he finally stuck his fingers in his ears and shouted: ‘Nay! It is nothing but *nīk!*’²¹ One who *was* convinced by such arguments was the illustrious ninth century historian, theologian and Qur’ān commentator Muḥammad b. Jarīr al-Ṭabarī, who cites in support of the Ḥanafite position, *inter alia*, the following anonymous stanza:

Wa-hunna yamshīna binā ḥamīsan
In taṣduq al-ṭayru nanīk lamīsan

They [the camels] carry us forward with light steps –
 If the omens are correct,
 We will soon lay with a soft woman²²

Al-Ṭabarī, who quotes this verse in a variety of contexts throughout his *Tafsīr*, wants us to pay attention here to the last two words of the second line, *nanīk lamīsan*. The first of these terms is the same straightforward designation of sexual intercourse that we just saw employed by Ibn ‘Abbās, and the second is an adjectival form of *l.m.s.* meaning something like ‘that which is touchable’ or ‘a body that yields (or is soft) to the touch.’ The juxtaposition of these two roots is evidence, in al-Ṭabarī’s eyes, of their fundamental association: intercourse and *lams* are directly related, and we might even render *lamīs*—according to al-Ṭabarī’s understanding—as ‘one who may be slept with.’

Counter-argument

The Mālikiya, Ḥanābila²³ and especially Shāfi‘iya take a vehement stand against the Ḥanafite perception of *mulāmasa* and the various arguments used to support it (the scholars of the Shāfi‘ite *madhhab* are the champions of this cause—the Mālikiya and Ḥanābila ride on their coattails, as it were, and then turn on them after ‘victory’ with

²¹ Ibid. ‘*waḍa‘a aṣabayhi fī adhanayhi fa-qāla: A-lā! Wā-huwa al-nīk!*’ As we have seen, the root *n.y.k.* seems to have been the most straightforward and crudest manner of designating sexual intercourse. See also Ṭabarī, *Jāmi‘ al-Bayān*, 5:142 (7593), who has the famous Companion employ the term ‘*jimā*’ instead. Ibn ‘Abbās was similarly exasperated by the widespread claim that specifically kissing violated *wuḍū‘*: ‘I don’t care if I kiss her or smell some sweet basil!’ (*lā ubālī qabbaltuhā aw shamantu riḥānan*). ‘Abd al-Razzāq, 1:102 (505).

²² Ṭabarī, *Jāmi‘ al-Bayān*, 5:148.

²³ Aḥmad b. Ḥanbal *himself* may have supported the Ḥanafite position: see Ibn Qudāma, *Mughnī*, 1:192.

challenges of their own—and so we will, for the most part, let the Shāfi‘īya do the talking). The Shāfi‘īte exponents see it as obvious that the meaning of ‘*aw lāmastum al-nisā*’ in verses 5:6 and 4:43 is palpating with the hand (*al-jass bi’l-yad*) or any other limb, or the meeting of skin with skin (*mulāqat al-bashratayn*), and *not* sexual intercourse.²⁴ An early ḥadīth makes this definitional point:

‘Abd al-Razzāq from Mu‘ammar from al-A‘mash from Ibrāhīm from Abū ‘Ubayda, that Ibn Mas‘ūd said: a man must perform ablutions in case of full body contact²⁵ [with a woman] as well as in the case of touching [her] with his hand, and in the case of a kiss, if he kissed his wife. And he [Ibn Mas‘ūd] would say regarding the verse ‘*aw lāmastum al-nisā*’ ...’ [5:6 or 4:43]: ‘This refers to touching (*ghamz*).’²⁶

The *fuqahā*’ who take up this standard in later years buttress their determination, as their opponents did, with both philological/linguistic and syntactical evidence. One of the first to employ the former was al-Shāfi‘ī himself, who—throwing his hat into the ring of what was already by his time a raging polemic—gave vent to his opinion that ‘[*mulāmasa* is] a matter of touching with the palm (*al-lams bi’l-kaff*).’ ‘Do you not see,’ he argued, ‘that the Messenger of God, may God’s peace and blessings be upon him, forbade [the method of commerce known as] *mulāmasa*?’²⁷ A ḥadīth recorded by Bukharī (and many others) explains the relevance of al-Shāfi‘ī’s allusion:

Abū Sa‘īd narrated: Allāh’s Apostle forbade sale by *munābadha*, i.e., selling one’s garment by casting it to the buyer, not allowing him to check or even see it first. Similarly, he forbade sale by *mulāmasa*, which is when a garment [for example] is bought by the act of merely touching it, not closely inspecting it.²⁸

²⁴ Baydāwī, 1:216; Ibn Shaddād, 1:105.

²⁵ *Mubāshara*, as we have seen, can also connote intercourse, and this may even be the original intent of Ibn Mas‘ūd here, in which case he may be prescribing both *wuḍū‘* and *ghusl* for coition (a not unheard of ruling), or he may be speaking of coitus without ejaculation (or with ‘semi-ejaculation,’ i.e., of *madhī*) which, according to some opinions, does not induce *janāba*. Most probably, however, he is referring to a situation in which both partners are nude and entwined, on the brink of cohabitation (*mubāshara fāhisha*). However this may be, he is extending (from a Ḥanafite perspective) the rubric of *mulāmasa* to cover kissing and simple palpation as well.

²⁶ ‘Abd al-Razzaq, 1:101 (56:499). According to another reading he said, ‘This refers to intention [*ama*],’ a word easily confused, in terms of its orthography, with *ghamz*. See *Muwaṭṭa’*, 2:16 (24ff.).

²⁷ *Umm*, 1:30; Ibn al-Mundhir, 1:115; Nawawī, *Majmū‘*, 2:31; Māwardī, 1, 225.

²⁸ Bukhārī, 3:354. See also Bayhaqī, *Sunan*, 1:123.

These two types of exchange, said to have been prevalent in the Arabian Peninsula prior to the advent of Islam, did not afford the buyer sufficient opportunity to examine the goods. The second of these, *mulāmasa*, worked on the principle that once the purchaser palpates the merchandise, he legally acquires it: you touch it, you pay for it. The Prophet outlawed this form of sale, but al-Shāfi'ī adduces it in the *Umm* in order to make the obvious comparison: there, in the context of commercial law, *mulāmasa* refers to touching with the hand. Here, in the context of purity law, why should it refer to anything different? Al-Shāfi'ī brings further proof from a stanza of a poem (he does not identify the poet):

Wā-almastu kaffī kaffahu aṭlub al-ghinā
Wā-lam adrī anna al-jūd min kaffihī yu'dī
Fa-lā anā minhu ma aḡāda dhawū al-ghinā afādu
Wā-aghnanī fa-ḡaya'tu mā 'indī

I touched his hand with mine, seeking riches,
 But little did I know that his hand was possessed of an infectious generosity.
 Thus did I not receive from him what rich people proffer;
 He enriched me [with generosity] and I [therefore] lost all I had.²⁹

Here again, as in the case of the banned commercial transaction, the root *l.m.s.* indicates touching with the hand³⁰ (nor is any recourse had to synonymous roots, like *m.s.s.*, as we saw with the Ḥanafiya: al-Shāfi'ī confines his analogies to the specific term under investigation, as do his followers).³¹ The eminent Shāfi'ite jurist of the early eleventh century, Abū'l-Ḥasan 'Alī b. Muḥammad al-Māwardī, also makes use of the Muse:

Wā-la talmisū al-af'ā yaduka tamarruhā
Wada'hā idhā mā 'ayintahā sabābahā

²⁹ *Umm*, 1:31, with emendations by al-Māwardī. Early and pre-Islamic poetry being notoriously difficult to decipher, I cannot vouch for the complete accuracy of my translation. All that is important to al-Shāfi'ī, however, is the first line, where the controversial verb appears.

³⁰ Al-Nawawī also mentions this poem, and says that 'al-Shāfi'ī recites this, as do our masters and the *ahl al-lughā*.' Nawawī, *Majmū'*, 2:31.

³¹ Although they could easily have done so. One of the more well known purity-related passages in Muslim scripture is 56:77–79: 'This is indeed a Qur'ān most honorable, in a Book well guarded, which none shall touch save those who are clean'—*innahu la-Qur'anun karīmun fī kitābin maktūnin, lā yamassuhu illā al-muṭahharūn*). Stretching the semantic latitude of the root *m.s.s.* to indicate intercourse in this case would, of course, be absurd.

Do not touch the snake, let not your hand pass over it;
 Leave it be (if your eyes fall upon it) to go about its evil business.

Surely, explains al-Māwardī, by employing the verb *talmisū* (of the root *l.m.s.*) the poet is warning us against *touching* snakes: the metaphorical extension (*ism majāz*) of *mulāmasa* to coitus—so heavily touted by the Ḥanafites—is obviously impossible here.³²

Further proof is advanced by the eleventh century Shāfi'ite traditionist and juriconsult Abū Bakr Aḥmad b. al-Ḥusayn al-Bayhaqī of Nishapur. He alludes to a story recorded in multiple versions in the *Ḥudūd* or 'Punishments for Felonies' section of the *Ṣaḥīḥān* (the two most 'authentic' Ḥadīth compilations of Bukhārī and Muslim), as well as elsewhere in—and outside of—the remaining canonical collections. One day, Muḥammad was approached by a short and stocky man whose hair was disheveled and who wore nothing but a loincloth (*qaṣīr*, *a'dal*, *ash'ath*, *laysa 'alayhi ridā' / 'alayhi izār*). The man's name was Mā'iz b. Mālik of the Aslam tribe. He fell to his knees before the Prophet and cried: 'O Messenger of God! I have darkened my soul through the iniquity of fornication, and I desire you to purify me! (*qad zalamtu nafsī wa-zanaytu wa-innī urīdu an tuḥirnī*).' Mā'iz was not referring to ritual purification; he was seeking the spiritual cleansing afforded by a painful death (in other versions of this ḥadīth it is related that he 'testified regarding himself: Verily I have perpetrated an outrage—fulfill [the relevant commandment] upon me!' [*innī aṣabtu fāḥisha, fa-aqmihu 'alayya*]).

At this point Muḥammad's characteristic compassion led him to search for a way to spare Mā'iz's life. At first he simply sent the man away—twice, thrice, even 'many times' (depending on the rescension), admonishing him on each separate occasion to 'Take care! Get thee back and beseech God's forgiveness and turn in repentance to Him! (*wayḥaka—arji' fa'stagfir Allāha wa-tubb ilayhi*).' But Mā'iz returned again and again, his determination to pay his debt undiminished. 'Maybe he is drunk?' the Prophet ventured, aiming to invalidate a confession made 'under the influence.' A bystander stood up and smelled the petitioner's breath, but discovered no odor of wine upon it (*fa-qāma rajul fa'stankahahu fa-lam yajid minhu rīḥa ḥamrī*). Next, Muḥammad dispatched runners to the man's clan to inquire about his mental health (*a-bihi junūn?*)—perhaps an insanity plea would do the trick. 'We know of

³² Māwardī, 1:224.

nothing wrong with Mā'iz's mind,' they sent back to the Prophet, 'except that he has gotten himself into something [or: something has gotten into him] that—so it would appear—nothing but the execution of the prescribed penalty can get him out of (*illā annahu aṣāba shay'an yarā annahu lā yukhrījuhu minhu illā an yuqāma fīhi al-ḥadd*).' The road to remission now looked blocked.

Desperate, Allāh's Apostle grasped at a final straw: *fā-la'allaka qab-balta aw lamasta?* he inquired of the adulterer—'Did you, perchance, [only] kiss or caress [her]?'³³ If the fornication did not involve actual copulation, then Mā'iz might go free with little more than a slap on the wrist.³⁴ 'No, by God!' the penitent philanderer insisted. 'I have whored to the utmost' (*lā w'Allāhi—innahu qad zanā al-ākhir*).³⁵

³³ Here the *first* form *lamasa*—not the third form *lāmasa*—is used, a fact which should weaken the Shāfi'ite argument.

³⁴ The legal definition of *zinā'* involves nothing short of intercourse, as we learn, *inter alia*, from a ḥadīth recorded by Muslim and others in the context of *qadar* or predestination: '... from Abū Hurayra, that the Prophet said: A portion of fornication has been pre-inscribed for all human beings and inevitably overtakes them: The fornication of the eyes is looking [at a forbidden woman]; the fornication of the ears is listening [to her]; the fornication of the tongue is speaking [to her]; the fornication of the hand is touching [her]; the fornication of the feet is taking steps [toward a rendezvous with her]; and the heart harbors passionate desire—but it is the genitals which confirm or belie all of these.' Muslim's famous commentator, al-Nawawī, explains the legal import of this statement as follows: 'A share of fornication is ordained for all men, and among them there are those whose fornication will be realized [or: be "actual" "official," or "defined by the law"—*ḥaqīqī*], meaning that they will insert the genitalia into the genitalia, whereas there are others whose fornication will remain "metaphorical" (*majāz*), in that they will cast a forbidden look, or listen to information about how to obtain illicit pleasure, or touch a marriageable woman (*ajnabiya*), and through other acts of this sort, or through the musings of the heart. All of these are figurative forms of fornication [and have no legal status or impact], while "it is the genitals which confirm or belie the matter," that is, fornication is finally realized by the genitals, and if [the male] genitalia are not inserted into [the female] genitalia—even if they were on the brink of being so—then fornication has not occurred.' *Sharḥ Ṣaḥīḥ Muslim, Kitāb al-Qadr*, 46:2657. The connection of all of this to *qadar* appears to be that while one has no choice but to cast illicit glances, engage in illicit conversations and so on—for it is, as it were, 'written on the Preserved Tablet' that all men will do such things at one point or another—still, consummating such figurative fornication by perpetrating actual penetration is left up to the discretion and will-power of the individual. However that may be, had Mā'iz only kissed or caressed the forbidden woman, his adultery would have been classified as 'figurative.'

³⁵ This is one of the two possible renderings of this statement offered by al-Nawawī, Muslim's *shāriḥ* or Ḥadīth hermeneut, who gives as synonyms for *al-ākhir* in this context *al-ab'ad* (the furthest), *al-ardhal* (the vilest), and *al-adnā* (the basest). The use of third person for first person, especially when discussing negative phenomena, is a common Arabic method of, as it were, deflecting or projecting a part of the stigma onto an

And the Prophet [out of options] commanded [those present] to dig a pit [in which to bury Mā'iz up to his waist], and he gave the order, and [the fornicator] was stoned to death (*rujima*). And the people [in the aftermath] were of two minds regarding Mā'iz. There were those who jeered [quoting Qur'ān, 2:81]: 'His sins caught up with him!' while others eulogized: 'There is no repentance better than the repentance of Mā'iz, who came to the Prophet, put his hand in his and said, "Kill me with stones!"' And they continued [arguing] over this matter for two or three days, until the Messenger of God came and sat down with them and enjoined: 'Ask forgiveness for Mā'iz b. Mālik!' So they prayed: 'May God forgive Mā'iz b. Mālik!' And the Messenger of God added: 'Verily he repented a repentance that, were it divided among the members of an entire nation, would suffice for all of them (*la-qad tāba tabwatan law qusimat bayna ummatin la-wasi'athum*).³⁶

Though this story harbors intriguing implications for a large number of Islamic theological, social-moral and even legal issues, the Shāfi'i practitioners of *fiqh al-tahāra* are interested in, and focus upon, only one of these last: the final exchange in Muḥammad's sympathetic interrogation of Mā'iz. The Apostle had asked him: *la'allaka qabbalta aw lamasta*— 'Did you, perchance, only kiss or caress [her]?' Whatever the precise rendering of Mā'iz's response to this question, all agree that the ultimate import of his words is that, contrary to the Prophet's hopeful suggestion, he had indeed engaged in full-scale sexual intercourse with an illicit woman. From here the path is clear toward the obvious conclusion: more than not *implying* cohabitation, the verb *lamasa* is in fact used by the Prophet in specific *contradistinction* to cohabitation. Al-Bayhaqī sums the matter up: '*mulāmasa* cannot be *jimā*.'³⁷

imaginary third party (*kināya yaknī bihā 'an nafsīhi wa-'an ghayrihi idhā akhbāra 'anhu bi-mā yastaqbilū*). It also explains the other rendering al-Nawawī suggests for Mā'iz's response: 'Nay, by God, but he whored, that one did!' (*Sharḥ Ṣaḥīḥ Muslim, Kitāb al-Qadr*, 46:2657). In more graphic versions of this ḥadīth, the Prophet asks the same penultimate question (with the addition of the words *aw ghamazta*): 'Did you, perchance, [only] kiss or caress or touch [her]?' Mā'iz replies: 'No!' Muḥammad makes sure: 'You mean, you—her?' (*niktahā?*). Mā'iz: 'Yes.' Ibn Ḥanbal, 1:238, 255; Abū Dā'ūd, *Kitāb al-Ḥudūd*, 4427.

³⁶ The story as told here is a composite of the varying versions found in Muslim, *Kitāb al-Ḥudūd*, 29:1692–1695. The denoument is entirely excerpted from 1695. See also Bukhārī, *Kitāb al-Ḥudūd, Bāb Hal Yaqūlu al-Imām li'l-Muqirr: La'allaka Lamasta*, 8:23–24. For other examples of sinning believers who stubbornly insisted on receiving their proper (capital) punishment, see John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Edinburgh University Press, 1990), 128–129.

³⁷ Aḥmad b. Muḥammad b. Farāḥ al-Lakhmī al-Ishbīlī, *Mukhtaṣar Khilāfiyat al-Bayhaqī* (Riyāḍ: Maktabat al-Rushd, 1997), 1:245. The Shāfi'ites do not, however, address

The Ḥadīth commentator who contributed most to our elucidation of the cycle of Māʿiz narratives is also one of the most probing and encompassing legal minds ever to grace the ranks of the Shāfiʿīya: the thirteenth century Damascene prodigy Abū Zakariyāʾ Yahyā Muḥyī al-Dīn al-Nawawī. We shall listen to him at some length later, when we investigate the specifics and divergences of the Shāfiʿīte-led coalition’s outlook on contact-induced impurity. For now, it is sufficient to mention that he contributes to the debate by adducing one clause of a well-known ḥadīth, according to which the Prophet avers: ‘There is a whoring of the hand (*zināʾ al-yad*): it is *lams*.’ Al-Nawawī holds out this statement as indisputable evidence that *mulāmasa* is about manual palpation and not about intercourse: there exists a form of semi-illicit erotic encounter that involves merely reaching out and *touching* the wrong woman, and this proto-transgression is referred to in the literature specifically as *lams*.³⁸

It should be stressed that this is only an analogy. Lest one be tempted to see in al-Nawawī’s association of *zināʾ al-yad* with *mulāmasa* any kind of condemnatory attitude on his part toward the latter act, the next tradition he immediately brings to bear in his polemic with the Ḥanafites has ʿĀ’isha relating that ‘few were the days on which the Messenger of God did not go around to each of us and kiss us and caress us’ (*qalli yawmun illā wa-rasūl Allāhi, ṣalla Allāhu ʿalayhi wa-sallam, yaṭufu ʿalayna fa-yuqabbilu wa-yalmisu*).³⁹ Although we have seen a similarly formulated anecdote (also employing the verb *yaṭūfu*) in which the Prophet engaged in far more intensive sexual activity with all of his wives during a single night, in this case the ḥadīth appears to be describing a round of almost perfunctory physical tenderesses distributed during daylight

the fact that in the Māʿiz report, the verb is in the first form, whereas we have already seen the Ḥanafīya make much out of the fact that the ‘*lāmastum*’ of Q. 5:6/4:43 is in the third form.

³⁸ Nawawī, *Majmūʿ*, 2:32. See also Bayhaqī, *Sunan*, 1:123, who cites the same as a ḥadīth of Abū Hurayra: ‘*waʾl-yad, zināʾhā al-lams*.’ For the full text and context of this tradition, see note 34, above. *Zinā al-yad* might, indeed, be more effectively rendered as a lusting—or even a copulation—of the hand. Lane speculates, with the lexicographer al-Munāwī, that *z.n.y.* may be related to *z.n.*’, meaning ‘to mount’ a thing. Still, since it is impossible to dissociate *z.n.y.* from its negative associations, we may say that contact and caressing is a ‘whoring of the hand’ only when it diverges from a licit context (i.e., marriage, family).

³⁹ Nawawī, *Majmūʿ*, 2:29. See also Ishbīlī, 1:246, where ʿĀ’isha is made to add: ‘And when the day [i.e., the turn] of one of the wives came, he would sleep overnight at her place’ (*fa-idhā jāʾa alladhī huwa yawmuhā yabītu ʿindahā*).

hours, none of which led immediately to actual intercourse. The mention of kissing especially militates for this reading: in the face of full carnal knowledge, kissing would pale, legally speaking, and would not be remarked upon at all. Al-Bayhaqī, at any rate, makes this point explicit in his own recension of the same ḥadīth: ‘Not a day went by (*mā kāna min yawmin*) but the Messenger of God, may God’s peace and blessings be upon him, went around to each of us and kissed us all and caressed us, stopping short of cohabitation’ (*yaṭūfu ‘alaynā jamī’an wa-yuqabbilu wa-yalmisu min dūni al-wiqā’*).⁴⁰

Intra-Qur’ānic comparisons are drawn by members of the pro-*lams bi’l-yad* camp as well. One of these is the seventh verse of *Surat al-An‘ām*:

And even if We had sent down to you [O Muḥammad] a scripture on parchment [instead of revealing it to your heart], and they had touched it with their hands [*fa-lamasūhu bi-aydihim*], those who disbelieve would nevertheless have claimed: This is nothing but sheer sorcery! (Q. 6:7)

To al-Māwardī, this verse is consummate proof that the root *l.m.s.*, as used in scripture, denotes a palming and a fingering, and not necessarily anything more (he admits that the root may be used figuratively to connote coition, but this places the burden of proof on those—the Ḥanafites—who would expand it from the literal to the metaphorical sense).⁴¹ He further adduces, as do many of his predecessors and successors, the eighth verse of *Surat al-Jinn*:

And we [the *jinn*] sought to reach the sky [*lamasnā al-samā’*], but found it filled with strong guards and flames (Q. 72:8)

This cryptic sentence, evocative of Biblical images like the Tower of Babel and the ‘fiery sword guarding the path to the tree of life’ (and interpreted by Muslim tradition as referring to the flaming bolts—seen by human beings as shooting stars—by which the genii ascending to eavesdrop on the proceedings of heaven are driven back to earth), points up another important semantic nuance of the verb *lamasa* noted by the linguists and philologists: that it contains within it the idea of searching and seeking (like the eighth form, *iltamasa*), of feeling around and even intending (recall the variant reading of Ibn Mas‘ūd’s pronouncement, above, according to which ‘*lams* is ‘*amd*,’ intention). This is also true of a synonym for *l.m.s.* commonly found in the traditions

⁴⁰ Bayhaqī, *Sunan*, 1:123. *Wiqā’* (lit. ‘falling upon’) is another euphemism for intercourse. Whether it is Bayhaqī’s addition or not is hard to say.

⁴¹ Māwardī, 1:224.

concerning *mulāmasa*: *j.s.s.* (which therefore gives us *jasūs*, a spy, one who intentionally feels around).⁴² Thus, not only does the *jinn* verse display a use of the verb *lamasa* which, though essentially metaphorical, cannot possibly intend the sex act; it also adds the dimension of *purposeful* palpation, something that is more characteristic of the hand than anything else. *Lams bi'l-yad* receives another leg up.⁴³

Al-Māwardī is intrepid enough to take on the likes of 'Alī and Ibn 'Abbās, challenging their claim that by the phrase '*aw lāmastum al-nisā*,' the Qur'ān meant 'if you have had sexual intercourse with women.' Like al-Nawawī after him, he concedes that the verb *lāmastum* and its *maṣḍar mulāmasa*, since they belong to the third form (*muḥā'ala*), signify duo-directional action, but he points out that they are not restricted to this signification. The third form can also be made to include behavior such as palpation with the hand (al-Māwardī does not explain how this might work. He may be thinking along the lines pursued by al-Ṭabarī, who also confronted the question of the third form verb in Q. 4:43, and who concluded that 'there is no case in which a man is touching his wife and she is not touching him back.' Thus, even if *he* reached out his hand and felt *her*, one can still speak of *mulāmasa* in the mutual sense.⁴⁴ Alternately, al-Māwardī may be assuming that third form verbs are actually for the most part *uni-directional*, which is, I think, the more common perception). The verb *lāmastum*, then, can support both singular and dual activity, and thus may suffer both the Shāfi'ite *and* the Ḥanafite interpretations. But what shall we say—asks Māwardī—about the alternate text of Hamza and al-Kisā'i (the former was one of the renowned 'seven readers' of the Qur'ān, the latter his pupil), who omit the letter alif between the opening lām and mīm, and read (in Q. 5:6/4:43) not *lāmastum* (in the third form) but

⁴² *Muwattā'*, 2:16 (64); Ishbīlī, 1:246; and elsewhere. The same semantic latitude may be witnessed in the corresponding Hebrew roots, *viz.*, *gashāsh* (scout), *memashesh* [= *mass*] *ba-tzohorayim* (groping [in darkness] at noon), etc.

⁴³ Nevertheless, the majority ruling among the jurists of the three schools (Shāfi'iya, Mālikiya, Ḥanābila) is that 'the type of touching that violates ritual fitness is not restricted to the hand, but rather when any part of the man's body encounters any part of the woman's flesh/skin, as long as arousal is present [the Shāfi'ites and most of the Ḥanābila do not even require this last] his ritual fitness is consequently cancelled' (*wa-lā yakhtaṣṣu al-lams al-nāqīd bi'l-yad, bal ayya shay'un minhu lāqīya shay'an min bashratihā ma'al-shahwa intaqada wuḍū'ahu bihi*—*Mughnī*, 1:194). Al-Awazā'ī alone is known for his claim that 'touching does not violate prayer purity unless it involves one of the limbs that take part in the ablation ceremony' (*illā bi-aḥad a'dā' al-wuḍū'*—*ibid.*).

⁴⁴ Ṭabarī, *Jāmi'* *al-Bayān*, 5:152.

lamastum (in the first)⁴⁵ The first form verb is unanimously conceded to be unidirectional, and can only bear the Shāfi'ite rendering. In which case, an impossible situation ensues: while the Shāfi'īya (and Mālikiya, and Ḥanābila) may read either *lāmastum* or *lamastum* (the variant of Hamza and al-Kisā'i) and still remain loyal to their legal position, the Ḥanafīya have no choice but to read *lāmastum* in order to support bi-directionality and thereby hold onto their ruling. Thus, concludes al-Māwardī, because of the mistaken outlook of the Ḥanafīya, the impression might be created that 'a dispute over the correct ruling gave rise to a dispute over the correct text' (*ikhṭilāf al-qirā'atayn maḥmūlan 'ala ikhṭilāf ḥukmayn*)—a notion al-Māwardī cannot abide.⁴⁶

Another refutation of the '*mufā'ala* means mutuality' argument emanates from a Mālikī source, the celebrated eleventh century Spanish *fā-qīh* (and night watchman) Abū'l-Walīd Sulaymān b. Khalaf al-Bajī, and it turns the argument of the Ḥanafīya against themselves. They claimed (as we have seen) that *lāmastum*, as a third form verb, must refer to a reciprocal activity in which both parties participate equally. This cannot be said of *lams bi'l-yad*, where one side (the 'toucher') is active, and the other side (the 'touchee') is passive. Therefore (concluded the Ḥanafīya), *lāmastum* cannot mean manual palpation, and must rather indicate consensual coitus. Al-Bajī makes short work of this syllogism with two swift rejoinders. In the first, he reminds his Ḥanafite opponents of the dynamics of male-female love-making, in which (they will recall) one party is active, the other passive (or 'responsive'—*al-fi'l li-wāḥid wa-jawābun li-thānī*). Thus, if they are going to disqualify touching with the hand as a candidate for the Qur'ānic referent because of its unidirectional character, let them disqualify the sex act as well (*wa-law imtana'a dhālika fi'l-lams, la-imtana'a fi'l-jimā'*). Second, al-Bajī invokes the aforementioned tradition according to which the Prophet prohibited purchase via *mulāmasa*, the same purportedly 'two-way' term employed by Allāh in the purity passages. This commercial method, it will be remembered, involved the buyer acquiring a garment solely by touching it. Well, concludes al-Bajī (in almost so many words): I never knew a garment to reach out and touch the buyer back.⁴⁷ There is, in short, no basis for maintaining that *mulāmasa* must involve reciprocally initiated contact.

⁴⁵ According to the *Mughnī* (1:193), this was Ibn Mas'ūd's reading, as well.

⁴⁶ Māwardī, 1:225.

⁴⁷ Bajī, 1:19.

The Ḥanafīya, it will be remembered, had drafted to their aid a ḥadīth about a bedouin who complained to Muḥammad that *‘imra’i lā taruddu yad lāmis’*—my wife does not refuse the hand of a *lāmis*, where the last word signifies (so they asserted) a man who seeks to lie with her. The Prophet advised the bedouin to divorce her. From this formulation the Ḥanafites sought to support the claim that *l.m.s.*, when used in association with women (*qarīna bi’l-nisā’*), invariably refers to sexual congress. The Shāfi‘īya parry with a simple question: what is the punishment for adultery according to the *sharī‘a*? Is it divorce? No. It is death by stoning.⁴⁸ Since one assumes that the Apostle of Allāh was sufficiently well versed in Islamic law to know this, and since he instructed the bedouin to *divorce* his wife, then either (a) she wasn’t much more than a flirt, allowing others to palpate her person (i.e., she literally did not turn away *‘yad lāmis,* and therefore this anecdote actually supports the Shāfi‘īte position) or (b) the *lāmis* spoken of in this story isn’t a seducer at all, but rather one who would ‘lay hands’ on her husband’s property: she did not properly protect his financial interests. Now that is grounds for divorce—and *lams* retains its simple sense.⁴⁹

Al-Nawawī tackles the Ḥanafite claim—based on the philology of Ibn al-Sikkīt and reviewed above—that although the literal meaning of *lams* is indeed to touch, yet when this verb is employed transitively with a woman as the object, as it is in the Qur’anic purity verses, the intention is clearly intercourse. This was compared to the root *w.ṭ.*’, which originally denotes ‘to tread underfoot’; but if one says *‘waṭa’tu imra’i,*’ no one will construe that he stepped on his wife. Just as *waṭ’* is understood figuratively when followed by the female (Ibn al-Sikkīt and the Ḥanafīya had argued), so *‘lāmastum’* must be understood metaphorically when followed by *‘al-nisā.’* Al-Nawawī ridicules this logic, reminding his readership that while most people are not wont to tread upon their wives—and thus if one encounters the verb *waṭ’* followed by a woman, it may safely be assumed that the usage is figurative and that intimate relations are intended—people unquestionably *are* in the habit of *touching* their wives, and thus the words *‘lamasa al-mar’a’* may be understood *either* in a literal *or* in a metonymic/metaphorical sense, depending on the context. And the context of the *‘aw lāmastum al-nisā’* clause in *Surat al-Nisā’* and *Surat al-Mā’ida*—the Shāfi‘īya will now try to show—leaves no doubt that it should be understood literally.

⁴⁸ See Qurṭubī, 3:72; Burton, *Sources*, chapter seven.

⁴⁹ Ibn Manẓūr, cited in Katz, *Body*, 87.

Al-Shāfiʿī himself launches the attempt to show that the context of our verse requires a literal reading of the verb *lāmastum*, by making a simple point, to which the Ḥanafite division of verse 5:6 into a parallelism, reviewed above, was probably a partial riposte. The verse, it will be recalled, reads, in part: ‘... if you are sick, or on a journey, or one of you comes from the privy, or you have had contact with women ...’ Al-Shāfiʿī observes that the clause about touching women is juxtaposed to the clause about coming from the privy. Since urination and defecation are minor *ahdāth*, then so must *mulāmasa* be, for they are grouped together. As sexual intercourse (even without the discharge of semen, a substance which according to the Shāfiʿiya alone is not a ritual contaminant) invariably induces the *major* impurity of *janāba*, it therefore cannot be the referent of ‘*aw lāmastum al-nisā*’.⁵⁰

It is worth digressing momentarily to suggest that al-Shāfiʿī’s vehemence on the subject of semen—manifest elsewhere in the literature in the context of debates over *janāba*—may contain a clue as to why he and his school became specifically identifiable as the most prominent advocates of the cause of *lams bi’l-yad* and *qubla* (kissing) violating *wuḍū’*. Let us listen to him briefly on the subject of seminal purity:

Al-Shāfiʿī said: In the beginning, God the Mighty and Majestic created the human-being from water and clay, combining these two pure substances in purity. And He [similarly] begins the creation of human offspring [at each conception] with water that pours forth [*mā’ dāfiq*—i.e., semen]. And the fact that He began the creation of the human-being with these two pure substances [water and clay] which together produce a pure entity [the human being], constitutes proof that He would not begin the creation of other [human-beings—i.e., their off-spring] except from a pure substance and not an impure one [*min ṭāhir wa-lā min najis*].⁵¹

⁵⁰ *Umm*, 1:29. Ibn al-Mundhir, 1:117. A later formulation of this same argument may be found in the fourteenth century work of the Shāfiʿite jurist ‘Umar b. ‘Alī b. al-Nahawī (‘Ibn al-Mulaqqin’), *Ujālat al-Muhtāj ilā Taṣyīh al-Minhāj* (Irbid: Dār al-Kitāb, 2001), 1:78: ‘[the Qur’ān] connected the touching of women to emergence from the privy (*‘atafa al-lams ‘alā’l-majī’ min al-ghā’it*) and followed [the *lams* clause] with the injunction to rub with sand in the event of the unavailability of water, showing that [*mulāmasa*] is a [minor] *ḥadath* like [coming from] the privy, and that it is not particularized to mean [the major defiling “event” of] intercourse’ (*lā yakhtaṣṣu al-lams bi’l-jimā*). In neither text should the juxtaposition of touching women and responding to the call of nature be misconstrued as attributing an element of dirtiness to the former. These are just syntactical notations with potential legal implications.

⁵¹ See *al-Wāqī’a*, 56:58: ‘Have you considered that which you in desire emit? (*af-ra’aytum mā tumnūna?*). Is it you who create it, or are We the Creators’ (*am naḥnu*

... Everything which emanates from the penis and is wet—whether urine, or *madhī* (pre-ejaculatory fluid) or *wadī* (prostatic fluid)—is *najīs* (impure) save *manī* (semen). As for semen: it is that thick substance whence the child is produced, and which gives off a smell similar to that of spadix/pollen [*tal'*], no other substance which emerges from the penis having a pleasant smell like it ... And if someone were to claim [*fā-in qāla qā'il*]: [how can you say that semen is not *najīs*? After all,] we are commanded to perform *ghusl*, the full body washing, from it! We answer him: *ghusl* is not [performed as a result of] the *najāsa* which has been excreted. Rather, *ghusl* is an inexplicable way that God the Mighty and Majestic is worshipped by His creatures [*innamā al-ghusl shay' ta'abbud Allāha bihi al-khalq 'azza wa-jalla*]. And if [this same someone] asks: what is the proof of that? We answer him: What is the ruling in the case of a man who 'makes his penis disappear' in the vagina of a licit woman [*ara'ayta al-rajul idhā ghayyaba dhakarahu fi'l-farj al-ḥalālā*], and no semen is emitted by him? [Of course,] he is obligated to perform *ghusl*, even though there is no tangible *najāsa* in her vagina. However, if he inserted his penis into the blood of a pig or into wine or into human excrement—all these being *najīs* substances—must he perform *ghusl*? [Obviously not].⁵²

Because semen is an eminently pure substance according to the Shāfi'iya (and only according to them), then from the perspective of this school the 'meeting of the two genitalia' (*iltiqā' al-khitānayn*)—al-Shāfi'ī's penile insertion without ejaculation, above—suffices all by itself to induce *janāba* and necessitate *ghusl*. But if so, then the purity provision of *mulāmasa* becomes redundant if it refers to intercourse: it enjoins *wuḍū'* for that which also requires *ghusl*. Therefore, for the Shāfi'ites, if they are to remain internally consistent, *mulāmasa* can refer only to lesser touching. For the Hanafiya, however (and even for the Mālikiya and Ḥanābila),⁵³ in whose eyes semen is a *najīs* substance, ejaculation may have been seen (at least at an early stage) as the key element in *janāba*.⁵⁴

al-khālīqūn); see also *al-Furqān*, 25:54: 'It is He who has created man from "water"' (*wa-huwa alladhī khalaqa min al-mā' basharan*). Muslim men are often advised to think of this latter verse at the instant of orgasm.

⁵² *Umm*, 1:72–73.

⁵³ There is some evidence to suggest that Aḥmad b. Ḥanbal himself—though not his school—also saw semen as pure (see, e.g., Ibn Rushd, 1:88).

⁵⁴ It is quite possible that in the time of al-Shāfi'ī, the debate regarding whether or not emission of semen was required in order to bring on *janāba* and obligate the believer in *ghusl* had yet to run its course (the borders between *najāsa*, *ḥadath aṣghar* and *ḥadath akbar* [= *janāba*] were often blurred in the earliest period [see Katz, *Body*, 150, and Maghen, 'Ritual Recycling' forthcoming in *Bar Ilan Studies in Arabic and Islam*, Fall 2004, esp. section three], and thus one could still speak of a *najīs* substance undermining *wuḍū'* or even *ghusl*). The famous statement, attributed to the Prophet, that '*innamā al-mā' min al-mā'*' ('verily [*ghusl*] water is from [i.e., is required due to the discharge

From this perspective, even those seeking to avoid a redundancy in the nomenclature can be satisfied: *janāba* is sexual congress including seminal discharge (which thus renders one simultaneously *najīs* and

of] water [i.e., semen],’ that is: unless there is ejaculation, no *ghusl* is necessary) was probably still abroad when the *Kūtab al-Umm* was being written (see Sarakhsī, 1:68; Nawawī, *Sharḥ*, 2:30; also *Mughnī*, 1:204ff.). It had yet to be completely overthrown or ‘abrogated’ by the following ḥadīth: ‘... from Abū Hurayra, who reported that the Messenger of God said: If one of you sits between her four parts (*idhā jalasa aḥadukum bayna shu‘ūbahā al-arba’a*—probably between her arms and legs, though the *shurrah* offer various interpretations, including her oral and vaginal labia), and then exerts himself upon her (*thumma jahadahā*), *ghusl* is obligatory even if no semen is discharged (*fā-qad wajaba al-ghusl wa-in lam yunzil*)’ (Bukhārī, *Wuḍū’*, 35:179). The conflict over this question is often portrayed as pitting the *Muhājirūn*—who held fast to the Prophet’s statement that ‘if the two circumcisions meet, then *ghusl* becomes obligatory, whether or not [semen] has been emitted’ (*idhā iltaqā al-khiṭānān, wajaba al-ghusl anzala aw lam yunzil*)—against the *Anṣār*, who would cite the aforementioned ‘water is from water’ statement as proof that *ikṣāl* (penetration without ejaculation) did not necessitate major purification. ‘Umar b. al-Khaṭṭāb once berated Zayd b. Thābit for upholding this position: ‘O enemy of yourself! What is this ruling which has spewed forth from you?’ (*yā ‘adūw wa nafsika, mā hādhihi’-fatwā allatī taqashsha‘at ‘anka?*). Zayd replied: ‘I heard a group of the *Anṣār* saying thus.’ ‘Umar thereupon assembled the *Anṣār*, who argued in their defense that ‘we used to do this [*viz.*, occasionally have intercourse without ejaculating] during the time of Allāh’s Apostle, and we would not perform *ghusl* from it.’ ‘Umar asked: ‘Did the Messenger of God know about it?’ They answered: ‘No.’ He said: ‘Then it means nothing’ (*laysa bi-shay*). The second Righteous Caliph then sent to ‘Ā’isha, who responded: ‘The Messenger and I used to do that [i.e., inivit sed non emisit] and we would then perform *ghusl* from it’ (Sarakhsī, 1:69).

Some idea of the instability of this subject at that early period may be gathered from the angry exchange between ‘Umar and some of the Prophet’s widows over the issue (Ibn Ḥanbal, 5:115), as well as from the following ḥadīth recorded by al-Bukhārī, in which a compromise ‘middle course’ seems to have been prescribed: Ishāq ... from Abū Sa’īd al-Khudrī, that the Messenger of God sent for a man from the *Anṣār*, and he arrived with his hair dripping wet [from performing *ghusl*—*fā-jā’a wa-ra’suhu yaqṭuru*]. The Prophet said to him: ‘It seems we have rushed you’ [the man was in the midst of sexual intercourse when he received the summons, and performed *coitus interruptus* in his hurry to comply, followed by a quick *ghusl*]. ‘Well, yes,’ replied the man. The Messenger of God said: ‘If you are hurried, or you withdraw [without discharging semen], then *wuḍū’* suffices for you’ (*idhā u’jilta aw quḥitta fa-‘alayka al-wuḍū’*—Bukhārī, *Wuḍū’*, 36:191). For evidence that the Ḥanafīya still upheld this latter ruling deep into the eleventh century, see Sarakhsī, *Mabsūṭ* 1:69 (see also Marghinānī, *Hidāya*, 1:220, where Abū Ḥanīfa and al-Shaybānī take sides against Abū Yūsuf over the question whether semen must actually separate from the male member in order to necessitate *ghusl*, or whether its emergence from the sperm-duct out onto the tip of the penis is sufficient). The position that cohabitation unaccompanied by ejaculation obligates the believer in *wuḍū’* was, it seems, gradually abandoned, at least if we are to believe the twentieth century author of the *Kūtab al-Fiqh ‘alā Madhāhib al-Arba’a* (1:98): ‘The Ḥanafīya hold that if he “conceals” [*tawārā*] the tip of his penis—or even the smallest part of it—in the vagina or anus of his partner, and there is no thick barrier of any kind

junub), whereas *mulāmasa* is sexual congress *excluding* seminal discharge (*iltiqāʾ al-khitānayn min ghayr inzāl*).⁵⁵

Be that as it may, al-Māwardī attributes to the *mufasssir* Zayd b. Aslam a syntax-based attempt to refute Ibn ʿAbbās’s proposition (that the *lams* of 5:6/4:43 is *jīmāʾ*), which is somewhat bolder than al-Shāfiʿī’s inference from juxtaposition (of the privy to touching women in the same verse, which we reviewed immediately above). Zayd first explains why the verse cannot be understood properly if read as is: the clause ‘... if you are sick, or on a journey, or one of you cometh from the privy, or you have had contact with women ...’ leaves the reader with the impression that illness and travel are items in the series of preclusive *aḥdāth*. As there is unanimity (*ijmāʾ*) amongst the *fuqahāʾ* that this is not the case, Zayd claims that we must re-arrange the verse (*taqdīm wa-taʾkhr*).⁵⁶ Here is 5:6 as it actually appears in the Qurʾān, followed by Zayd’s reconstruction of it:

O you who believe, when you prepare for the *ṣalāt*, wash your faces and your hands up to the elbows and wipe your head and your feet up to the ankles. And if you are sexually precluded (*junuban*), purify yourselves. And if you are sick, or on a journey, or one of you cometh from the privy, or you have had contact with women (*aw lāmastum al-nisāʾ*), and you find not water, then go to clean, high ground and rub your faces and your hands with some of it ...

[Zayd’s re-arrangement:] When you rise to prayer [from sleep] or you come from the privy or **have touched women** [then] wash your faces and your hands up to the elbows and wipe your heads and your legs up to the ankles [that is, perform *wuḍūʾ* in the wake of any of these **minor aḥdāth**], and if you are sexually precluded, purify yourselves [that is,

between them preventing the “heat” of the spot from being felt, *ghusl* is required for the actor and the one acted upon [*al-fāʿil waʾl-mafʿūl bihi*], whether semen was spilt or not.’ At any rate, those Ḥanafīya who obligate *ghusl* even for *inwīt sed non emisit* still have a way out of the problem thus created: they simply assign *ghusl* to *mulāmasa* as well—in the ‘parallelism’ interpretation attributed to Ibn ʿAbbās and described above on p. 149—and thus avoid redundancy by saying, essentially, that *mulāmasa* is just another name for *jīmāʾ* and *janāba*.

⁵⁵ Or being on the very threshold of intercourse and/or emitting *madhī*, which is what most jurists intend by ‘*mubāshara fāḥisha*.’ It might be noted in passing that the commonly employed terminology in Ḥadīth and *fiqh* of *iltiqāʾ al-khitānayn*—lit. ‘the meeting of the two circumcisions’—has long been pressed into the service of the large juristic faction in Islam that supports clitoridectomy.

⁵⁶ Māwardī, 1:225. This is comparable to the ‘*sarsehu ve-darshehu*’—gut it (i.e., transpose it) and interpret it—of rabbinical exegesis, and would appear to be related, as well, to the principle ‘*ayn muḥdam u-me-ukhar ba-Torah*’—there is no necessary chronological order in the Torah.

perform *ghusl* for the major *ḥadath*, i.e., *janāba*). [The preceding is what you must do when water is accessible, but] if you are sick, or on a journey [and you similarly experience a minor or major *ḥadath*] and you find not water [because of your location or physical incapacity], then go to clean, high ground and rub your faces and your hands with some of it [that is, perform *tayammum* to alleviate either ritual problem].⁵⁷

This re-ordering and re-interpretation wins much praise from al-Māwardī, who sees it as ‘required by the simple reading of the verse’ (*hādihā tafsīr yaqtadhīhi zāhir al-āya*). With its help, al-Māwardī can portray *mulāmasa* as a minor *ḥadath* (something al-Shāfi‘ī tried to do in a less complex—not to say less convoluted—fashion). Since intercourse is agreed by all concerned to be a major *ḥadath*, then scripture, in speaking of *lams*, must be referring to contact with women ‘short of the meeting of the genitalia’ (*ma dūna iltiqā’ al-khitānayn*). Thus, contra the Ḥanafīya, *lams bi’l-yad* (and *qubla*, kissing, as well as *iltiqā’ al-bashratayn*, the ‘meeting of the two skins,’ meaning contact in general) unquestionably violates *wuḍū’*.⁵⁸

As we conclude our discussion of the scripture-based dimension of this controversy, it is worth considering at some length the summary of several of the main points provided by ‘the pillar of the [Mālikī] school’ (*‘umdat al-madhhab*),⁵⁹ Abū’l-Walīd Muḥammad b. Aḥmad b. Rushd. After surveying various nuances in the different jurists’ rulings on the *ḥadath* of *iltiqā’ al-bashratayn*, Ibn Rushd continues:

There was a group that denied the obligation of performing ablutions in the wake of contact with women, and this is the opinion (*madhhab*)⁶⁰ of Abū Ḥanīfa ... The reason for the dispute in this matter is the bipartite definition of the word *lams* in the speech of the Arabs (*ishṭirāk ism al-lams fī kalām al-‘arab*). For the Arabs employ this term on certain occasions to describe touching with the hand, and at other times as an indirect way of describing coition. Thus, one group [of jurists] ruled that the ‘*lams*’ that makes ablution obligatory in the *wuḍū’* verse is coition, according to His words, may He be Exalted: ‘... *aw lāmastum al-nisā’* ...’ while another group ruled that it is [merely] touching with the hand ...

Authorities who mandated ablutions for those who touched members of the opposite sex with the hand demonstrated their position by pointing out that *lams* in its literal sense is used to designate touching with the

⁵⁷ Māwardī, 1: 225.

⁵⁸ Ibid.

⁵⁹ ‘Alī b. Aḥmad al-Ṣa‘īdī al-‘Adawī, *Hāshiyat al-‘Adawī* (Beirut: Dār al-Kutub al-‘Ilmiya, 1997), 1: 177.

⁶⁰ For this rendering of the term *madhhab*, see Hallaq, *Authority*, 155–160.

hand, while in its figurative sense it is used to designate intercourse (*yanṭalaqu ḥaḳīqatan ‘alā’l-lams bi’l-yad wa-yanṭalaqu majāzan ‘alā’l-jimā’*). And when a term vacillates between its literal and figurative meaning, it is more fitting to saddle it with its literal meaning, until and unless sufficient evidence demonstrates that it should be read figuratively. And those others [who claimed the clause must be read figuratively] might have argued (*wa-la-ūlā’ika an yaqūlu*) that if the figurative use of the term is very common, then there is a better case to be made for reading it figuratively than literally [here in our verse as well] (*kān adall ‘alā’l-majāz minhu ‘alā’l-ḥaḳīqa*). This is similar to the case of the term ‘*al-ghā’it*’ [‘... *aw jā’a aḥadum minkum min al-ghā’it* ...’—if one of you comes from the privy (lit. the low ground), also from Q 5:6]; there is a stronger case that it should be understood to connote the defiling event [of going to the lavatory] than there is that it should be understood to denote ‘low ground’ (*al-muṭma’in min al-ard*), which is this term’s literal meaning.

As for my own view, I believe that while the term *lams* may be equally—or almost equally—rendered either way, still, it makes more sense if we read it to mean intercourse, even if this is the figurative connotation, for God the Exalted has employed the metonyms *mubāshara* and *mass* to indicate copulation, and both of these bear the same semantic significance as *lams*. And [furthermore,] it is on the basis of this [figurative] interpretation of the verse that the case is pleaded for performing sand-rubbing [not only in place of *wuḍū’* for the minor *aḥdāth* but in place of *ghusl*] for the *junub* as well, with no need for the determination that the verse requires interpolation/rearrangement (*dūna taqdīr taqdīm fihā wa-lā ta’khīr*). And the contradiction between the prophetic exempla and the text of the verse is eliminated when we follow this latter [figurative] interpretation (*wa-tartafī’u al-mu’araḍa bayna al-athār wa’l-āya ‘alā’l-ta’wīl al-ākḥīr*). As for those who understand the verse to be indicating both types of touching [*viz.*, with the hand *and* intercourse]—this is weak, for the Arabs, when they employ a word harboring more than one meaning, intend thereby *one* of those meanings, not *all* of the meanings contained in that word—this much is obvious in their habits of speech (*wa-hādhā bayyin bi-naḥsihi fi kalāmihim*).⁶¹

Several comments should be made about this passage, though Ibn Rushd’s impressive penchant for clarity makes most of it self-explanatory. First, it is noteworthy that the ‘pillar of the school’ should evince a predilection antithetical to that of his school.⁶² In his pioneering study

⁶¹ Ibn Rushd, *Bidāyat al-Mujtahid*, 1:29–30.

⁶² That the Mālikīya in general opted for the literal, *lams bi’l-yad* interpretation propounded by the Shāfi’ites is attested in many sources. See, for instance, the testimony of the twelfth century Mālikite jurist, Abū’l-Walīd Muḥammad b. Aḥmad b. Rushd al-Qurṭubī (‘Ibn Rushd al-Jadd,’ not to be confused with Averroes himself, who was his grandson, nor with the famous thirteenth century legist and Qur’ān commentator

of juristic typologies and scholastic consolidation, Wael Hallaq seizes specifically upon Ibn Rushd as the embodiment of the earlier, more independent type of *mujtahid*, unhampered in his reasoned judgments by perceived requirements of ‘party loyalty.’ Recognizing no chronologically descending chain of command, Ibn Rushd did not feel bound—as did most scholars of later times—by the authority of his *madhhab*’s founders or by the legal precedents they had set. It is probable that we have here, in his cross-over to the Ḥanafite side in the matter of *mulāmasa*, an example of just such ‘free-agent’ thinking on the great *faqīh*’s part.⁶³

According to his own testimony, Ibn Rushd was moved to adopt the interpretation of Q 5:6/4:43 championed by Ibn ‘Abbās and the Ḥanafīya by two main factors. First, he knows that the majority of jurists across the length and breadth of the four Sunnī *madhāhib* permit the devotee to perform *tayammum*—the ersatz operation of daubing the face and hands with ‘clean soil’ when water is unavailable—not just as a substitute for *wuḍū’* in the aftermath of *minor* ritual contamination, but also as a replacement for *ghusl* required by the contraction of *janāba*. To understand what this has to do with the interpretation of the scriptural verse, let us look again at Q 5:6 (bisected here to help with what follows):

O you who believe, when you rise to pray, wash your faces and your hands up to the elbows and wipe your head and your feet up to the ankles. And if you are sexually precluded (*junuban*), purify yourselves.

And if you are sick, or on a journey, or one of you cometh from the privy, or you have touched women (*aw lāmastum al-nisā’*), and you find not water, then go to clean, high ground and rub your faces and your hands with some of it.

of the same *nisba*, Abū ‘Abd Allāh Muḥammad b. Aḥmad al-Anṣārī al-Qurṭubī—also a Mālikite) to the effect that ‘the policy [or: school—*madhhab*] of Mālik is that [the Qur’an intended by *mulāmasa*] everything *but* intercourse (*mā dūna al-jimā’*).’ Ibn Rushd al-Qurṭubī, *Al-Muqaddimāt al-Mumahhidāt li-Bayān mā Iqtadathu Rusūm al-Mudawwana min al-Ahkām al-Shar’iyyāt wa’l-Taḥṣīlāt al-Muḥkamāt al-Shar’iyyāt li-Ummahāt Masā’ilhā al-Mushkilāt* (Beirut: Dār al-Gharb al-Islāmī, 1988), 1:79.

⁶³ Hallaq, *Authority*, 2–7, 17–18. Like al-Ṭabarī—who, writes Ibn Khallikān (De Slane, 2:597), ‘judged for himself and adopted the opinions of no particular *faqīh*’ (and who tried unsuccessfully to found his own *madhhab*, the so-called Jarīriyya, see Adang, *Muslim Writers*, 42)—Ibn Rushd was an independent spirit, a *mujtahid par excellence*. Unlike him, however, Ibn Rushd was heavily identified with a specific *madhhab*. A generation before Ibn Rushd, the scholar Muḥammad b. Khalaf (d. circa. 1135 CE) was given the nickname ‘Ḥanafash’ because he had tendered allegiance first to the Ḥanābila, then to the Ḥanafīya, then to the Shāfi’iya (see Goldziher, *Introduction*, 48).

Now, as the reader will recall, the Ḥanafiya tended to parse this verse by dividing it in half, such that the first section delineates one archetype of minor defilement (‘when you rise [from sleep] to pray’) and one archetype of major defilement (‘if you are sexually precluded’) followed respectively by the separate *aquatic* methods of dealing with each (‘wash your faces and your hands ...,’ i.e., perform *wuḍūʿ* to alleviate the *ḥadath*; and ‘purify yourselves,’ i.e., perform *ghuṣl* to exit the state of *janāba*). The second section of the verse, they said, does the same—‘if one of you comes from the privy’ as the archetype of minor defilement and ‘if you have touched women’ as the archetype of major defilement, i.e., intercourse—but this time with a view toward announcing the alternative, *dry* procedure of purification indicated for *both* scenarios (‘... and if you find not water, then proceed to clean, high ground and wipe your faces and hands with some of it ...’). Thus, the sand-based method of *rafʿ al-ḥadath* remains the same regardless of the ritual situation confronted: the waterless substitute for *wuḍūʿ* is, according to this reading of the verse, identical to the waterless substitute for *ghuṣl*. Patting the earth and daubing the face and hands with its residue takes care of *janāba* no less than it treats the effects of the minor *aḥdāth*, and there is no need to make one’s *tayammum* for sexual impurity somehow correspond to the full body washing by ‘rolling around in the soil like an animal’ as ‘Ammār b. Yāsir did.⁶⁴

This, then, was Ibn Rushd’s point when he stated that ‘it is on the basis of this [figurative] interpretation of the [*mulāmasa* clause in the] verse that the right to perform sand-rubbing for the *junub* is pleaded, with no need for the determination that the verse requires rearrangement.’ In other words, only if ‘... *aw lāmastum al-nisāʾ* ...’ is seen as alluding specifically to copulation can the immediately pursuant clause regarding sand-rubbing be said to cover *janāba*, and *tayammum* fill in for *ghuṣl*. For in that case, both major purity problem and effective sandy solution are hard up against each other in the same second section of the verse (‘... *aw lāmastum al-nisāʾ*’ *wa-lam tajīdū māʾan fa-tayammamū ṣaʿīdun ṭayyibun* ...’). Otherwise—if *lams* does *not* mean *jīmāʿ*—then the sole reference to sexual defilement occurs way back in the *first* section of the verse (‘if you are *junub*’), and the only expedient by which the *rukḥṣa* (leniency) of *tayammum* might be made to modify such defilement is through a cut-and-paste re-ordering of the scriptural passage along

⁶⁴ Muslim, *Kiṭāb al-Ḥayḍ, Bāb al-Tayammum*, 28:368: ‘*tamarraqhtu fiʾl-ṣaʿīd kamā tamarraqha al-dābba.*’

the lines of Zayd b. Aslam's suggestion that we saw earlier, according to which the phrase 'and if you are *junub*' is lifted out of the first and parachuted into the second section of the verse. Ibn Rushd prefers to avoid tinkering with the uncreated *Kalām Allāh* in such a manner.⁶⁵

⁶⁵ The fourteenth-fifteenth century CE Ḥanafite *qāḍī*, Abū Muḥammad Maḥmūd b. Aḥmad al-ʿAynī, cites several sentences from the same passage of Ibn Rushd's *Bidāya* that we have excerpted here as part of his argument against the literal reading of *lams bi'l-yad*. He caps these off, however, with what seems to be a final line from that same source, but which does not appear in the edition of the *Bidāya* in front of me (I say 'seems to be a final line' because without quotation marks it is not always possible to know with certainty where a citation ends and the comments of the author citing it begin, although in this case it does not look like we have to do with a gloss of al-ʿAynī's). This final line reads as follows: '[It is logical that by "*lāmastum*" the Qurʾān meant intercourse, *inter alia*,] because touching is the cause of coition, for it arouses carnal desire, and mentioning the cause while intending the effect is among the most potent [or: well-established] methods of metaphor' (*al-mass sabab al-jumāʿ li-annahū muḥarrik li'l-shahwa, wa-dhikr al-sabab wa-irād al-musabbab min aqwā ʿuruq al-majāz* [ʿAynī, 1:244–245]). Interestingly, some 150 years after al-ʿAynī wrote these words, a well-known jurist of the Ḥanbalī school (certain representatives of which also predicated the *ḥadath* of *mulāmasa* on the intent to achieve, or the actual obtainment of, erotic pleasure), Maṣṣūr b. Yunus al-Buhūtī, arrived by way of a similar premise at the opposite conclusion: 'Touching is not in itself a violator of ritual fitness, but rather a factor that leads to it (*al-mass laysa bi-ḥadath fī nafsihi, wa-innamā huwa dāʿin ilā al-ḥadath*), and the situation in which this factor leads to that violation [that is, in which touching ultimately leads to intercourse/ejaculation] is the situation [of touching accompanied by] erotic arousal (*ḥālat al-shahwa*), and therefore [the text upon which al-Buhūtī is commenting contains the formulation] "the *passionate* touching of her skin by his skin"—for this is the type of touching that cancels *wuḍūʿ*.' Maṣṣūr b. Yunus al-Buhūtī, *Kashshāf al-Qināʿ ʿan Main al-Iqnāʿ* (Riyāḍ: Maktabat al-Naṣr al-Ḥadītha, n.d.), 1:129. A number of years *before* al-ʿAynī, something very much like this 'pleasure principle' was even invoked by a Shāfiʿite jurist—whose school is indifferent to the *actual* presence (though concerned with the *potential* presence) of passion as a factor in *mulāmasa*—again to refute the Ḥanafites and explain the defiling capacity of *lams bi'l-yad*: '[The Qurʾānic clause about] touching refers to feeling/groping with the hand, and the rationale behind [God's declaring this a *ḥadath*] is that [such palpation] is likely to lead to the excitement of carnal desire [which will ultimately bring about penile discharge, the genuine *ḥadath*]' (*al-lams huwa al-jass bi'l-yad, wa'l-maʿna fīhi annahu māzinna li-thawarān al-shahwa*—Naḥawī, 1:78. And see Ibn Qudāma, 1:194, where al-Shāfiʿī himself is quoted, in one of two contradictory opinions attributed to him, to the effect that 'touching close relatives does not cancel *wuḍūʿ*', for it does not lead to emission' [*lā yufḥī ilā khurūj al-khārij*]). Indeed, the Ḥanbalite Ibn Qudāma himself had stated that 'touching without erotic arousal does not violate the post-ablution state ... and this is substantiated by the fact that *lams* is not a [bona fide] defiling event in itself. It [nevertheless] violates [prayer readiness] because it leads [ultimately] to the emission of pre-ejaculatory fluid or actual semen (*wa-innamā naqada li-annahū yufḥī ilā khurūj al-madhī aw al-manī*), and the only conditions under which it does so are those of erotic arousal' (*Mughnī*, 1:194—this was no doubt one of Buhūtī's sources). We shall discuss the Mālikite—and to a lesser extent Ḥanbalite and even Shāfiʿite—jection of passion and erotic pleasure into the *mulāmasa* equation in chapter ten.

Ibn Rushd's second stated motivation or justification for having 'turned Ḥanafite' in the matter of *lams* is that if this term is understood to indicate intercourse, then 'the contradiction between the prophetic exempla and the text of the verse is eliminated.' As we will see in the upcoming section, few are the *aḥādīth* which, on the face of it, support the outlook of the Shāfi'ite-led *lams bi'l-yad* league, whereas most of the relevant traditions seem to militate *against* their interpretation, portraying the Prophet as they do in close and continual physical contact with various of his wives while at prayer. Ibn Rushd realizes this and, uncomfortable with the '*Kitāb* versus *Sunna*' contradiction (and perhaps, therefore, anticipating an imminent Ḥanafite 'victory'), switches sides.⁶⁶

Most other *fuqahā'* stayed the course, however. The great Ibn Ḥazm, although officially a Zāhirī jurist, provides a sharp and succinct summation of the Shāfi'ī-Mālikī-Ḥanbalī case—interspersed with some original arguments of his own—with which we shall bring this section to a close:

There are those who claim that the *lams* mentioned in this verse refers to intercourse. There is absolutely no warrant for this, and it is absurd and impossible (*min al-bāḥil wa'l-mumtani'*) that Allāh the Exalted should intend one specific type of touching [i.e., coition] and neglect to make this clear and distinct. We take refuge in God from such an opinion! ...

... Another internal contradiction [of the Ḥanafite position] is that they make kissing and touching accompanied by arousal equivalent to kissing and touching *unaccompanied* by arousal, in that neither of these acts, according to them, violates ritual fitness; whereas [in another domain of Islamic law these same Ḥanafites] rule that kissing and touching accompanied by arousal effectively constitutes taking one's wife back after a divorce utterance (*raj'a* or *rij'a*), whereas regarding kissing and touching *not* accompanied by arousal they do not rule thus—and [the setting up of this dichotomy, whereby in one domain of law impassioned kissing and touching *does* have a significant legal effect, whereas in the context of the purity code kissing and touching of any kind is legally and ritually insignificant], is an instance neither of loyalty to Scripture, nor of devotion to Prophetic custom, nor of appropriate use of analogy,

⁶⁶ These are, of course, just picturesque phrases. There is rarely any sense of 'betrayal' involved in a jurist being led by his independent reasoning to cross scholastic lines—especially not in the earlier centuries of Islam—nor are these lines always crystal clear. See (besides Hallaq, *Authority*) the articles in special issue 10:2 of *Islamic Law and Society*, 2003, based on papers presented at the third international Conference on Islamic Legal Studies, held at Harvard University Law School, May, 2000.

nor of proper pursuit of independent reasoning, nor of emulation of any Companion (*wa-hādhā lā ittibā' al-Qur'ān, wa-lā ta'alluq bi'l-sunna wa-lā ṭard qiyās wa-lā sadād ra'y wa-lā taqlīd ṣāhib*)—and we entreat God the Exalted to make us successful!⁶⁷

⁶⁷ *Muḥallā*, 1:245 and 249. Ibn Ḥazm tended to reject the notion of metaphorical usage (*ism majāz*) in the Qur'ān and the resort to analogy (*qiyās*) in general. For an exposition of the view opposed to metaphorical usage, see Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: University of Utah Press, 1992), 165, 345–347 and 487–490.

CHAPTER SEVEN

SUNNA: INSIDE THE APOSTLE'S ABODE

Important purity issues, especially those of concern to husband and wife, are regularly illustrated and debated in the legal literature by throwing open the tent flaps on the ordinary (and intimate) goings-on in and around the household of Islam's first couple. Thus, for instance, in order to discourage unnecessary stringency in matters of menstrual defilement (*ḥayḍ*), we are told by Abū Bakr b. Abī Shayba ... from Miqdām b. Shurayḥ from his father, that 'Ā'isha said:

I used to drink while a menstruant, and I would pass the cup to the Messenger of God, and he would place his mouth on the spot where my mouth had touched and drink (*yada'u fāhu 'alā mawḍi' fīya fa-yashrab*). I would also chew the meat off of a bone (*ata'arraqu al-'arq*) while a menstruant and pass it to the Prophet, and he would place his mouth on the spot where my mouth had touched and nibble.¹

The 'open house tour' of the Prophet's domicile is not restricted to the dining area, but includes the bedroom as well. We learn, for instance, that the scriptural injunction to 'keep aloof from women during their menstrual periods' (Q. 2:222) refers to abstinence from sexual intercourse *per se*, but not from other types of love-making:

We were told by Abū Bakr b. Abī Shayba ... that 'Ā'isha said: When any of us [wives of the Prophet] was menstruating, the Messenger of God would direct her to don the *izār* [a wrapper to cover the area from the waist to the mid-thigh] during the period of her most profuse flow of blood (*fī fawr ḥayḍatihā*), and then he would lay with her naked and embrace her (*thumma yubāshiruhā*).²

The lavatory is also a laboratory for the observation of proper Muslim behavior. Here, the Ḥadīth-cum-*fiqh* does not shy away from depicting Allāh's Apostle and his wife bathing together after sex (in order to demonstrate that *junubs* cannot contaminate purification water):

¹ Muslim, *Ḥayḍ*, 3:300.

² Bukhārī, *Ḥayḍ*, 24:320.

The Messenger of God and I used to perform *ghusl* in the same basin. He was quicker than me, so that I would have to plead: Leave [some water] for me! Leave [some water] for me! (*fa-yubādiru lī ḥattā aqūla: da‘ lī, da‘ lī*).³

Anecdotes of this sort galvanize and punctuate all of the juristic debates over *tahāra* issues, and it was those debates that coaxed these same anecdotes out of comparative obscurity and helped preserve them for posterity. Thus do the genres of Ḥadīth and *fiqh* feed off each other in a circular symbiosis, the lore arming the law (with proof-texts) and the law immortalizing the lore. (Or, from a Schachtian perspective: the law creating the lore, and the lore, in its turn, helping to forge and enliven the law).

The case of *mulāmasa* is no exception to this special relationship, and the second plane upon which the juristic debate about the quiddity of this purity provision is conducted is that of Ḥadīth. Excluding the wealth of alternate versions of each individual report (we will note them when minor differences in formulation are legally significant); and ignoring, as well, the many *ahādīth al-qawāl* (reports of statements, as opposed to actions) in which various early authorities are simply quoted as defining *lams* in one manner or another and ruling accordingly (we have adduced a number of these above, especially in the notes);⁴ we are left with some twelve or thirteen traditions marshaled by each side in support of its thesis. Even of these we cannot offer more than a representative sample. Once again we shall allow the Ḥanafites to open, and call what they see as the more relevant reports to the witness stand. ‘Ā’isha plays the main role in most of these—for (as al-Shaybānī comments) ‘no-one knows better than she’⁵—and it is with her that we begin:

... from ‘Ā’isha, who said: ‘I couldn’t find the Messenger of God in bed one night, and I felt around for him with my hand (*iltamastu bi-yadī*) and lo—he was in the mosque (*wa-huwa fī’l-masjid*). And my hand fell upon the insteps of his feet (*akhmas qadamayhi*).⁶ And he was intoning: ‘O God, I seek refuge in Your favor from Your wrath, and in Your forgiveness

³ Nasā’ī, *Tahāra*, 1:147.

⁴ The fact that stories supportive of particular *mulāmasa* rulings which boast the Prophet and his family as protagonists rarely appear in the earliest Ḥadīth digests, but certainly abound in the later *fiqh* works, makes one think Schachtian thoughts (see below, notes 63 and chap. 8, n. 23).

⁵ Shaybānī, *Kūtib al-Hujja*, 1:66: ‘... *fa-‘Ā’isha a’lam bi-dhālika min ghayrihā*.’

⁶ ‘*Akhmas qadamayhi*’ could also conceivably refer to the inside of his legs—his calves or thighs—a rendering which might jibe better with other rescensions of this report

from your punishment, and I seek refuge in You from You ...' When he finished, he [turned to me and] said: 'What is it, 'Ā'isha—did you get jealous (*a-ghīrti*)?' I replied: 'And why shouldn't one such as me be jealous of one such as you?' And he said: 'I see your devil has returned! (*la-qad jā'aki shaytāmuki*). And I replied: O Messenger of God—am I possessed by a devil?'⁷

Consulting with the many variant renditions of this anecdote, and cross-referencing with other material bearing on the perceived floor-plan of the Prophet's—or his wives'—domicile in relation to the main mosque of Madīna,⁸ we may understand this ḥadīth as follows: 'Ā'isha

in which the Prophet's legs are said to be '*manṣūbatān*'—although it is more likely that this last means that the *soles of his feet* were (nearly) vertical, evidently indicating the *julūs* (sitting) or *sujūd* (prostrate) position of prescribed prayer. Ibn Qudāma records a lone version of this ḥadīth which states as much explicitly: '*waqa'at yadī 'alā qadamayhi wa-humā manṣūbatān wa-huwa sājjid*'—Mughnī, 1:194. Ibn Ḥazm knows of this rescension as well [1:246] and substitutes *bāṭin* for *akhmaṣ*. Al-Nawawī confirms that *akhmaṣ al-qadam* refers to the instep: '*wa-qawluhā akhmaṣ qadamayhi huwa mufassar fī riwāyat Muslim "baṭan qadamihī," qāla ahl al-lughā: al-akhmaṣ mā dakhala min bāṭin al-qadam fa-lam yuṣib al-arḍ*' (Nawawī, *Majmū'*, 2:41). It may be relevant that al-Bukhārī (*Nawāfil*, 14:1/*Tahajjud*, 21:223) describes Muḥammad's *tahajjud* or nocturnal devotions thus: 'From 'Ā'isha: that the Messenger of God would perform eleven cycles of genuflection (*rukū'*), and this was his prayer—she meant at night (*ta'nī bi-layl*)—and he used to remain in the prostrate position for so long that one of you could recite fifty verses before he lifted his head (*fa-yasjudu al-sajda min dhālika qadra mā yaqra'u aḥadukum khamsīna āyatan qabla an yarfa'a ra'sahu*). An additional option is that '*fa-humā manṣūbatān*' refers to 'Ā'isha's hands, or even—with difficulty—to Muḥammad and his wife (who were both standing up?), possibilities suggested by one of the versions of this tradition adduced by al-Nawawī, in which, as we have seen, only one foot is mentioned: '*... fa-waqa'atu yadī 'alā baṭan qadamihī wa-huwa fī'l-masjid wa-humā manṣūbatān*' (although the reading 'my hand fell on the soul of his foot and *both of them* were in a vertical position' is not necessarily awkward in classical Arabic). The root *n.s.b.* can also indicate being planted firmly in or on the ground. Finally, the Prophet's feet may have been vertical because 'the Messenger of God used to stand up [praying all night] on the tips of his toes (*kāna yaqūmu 'alā aṭrāf aṣābi' riḡlayhi*—Majlisī, *Bihār*, 68:24. This report specifically concerns Muḥammad's behaviour while staying over at 'Ā'isha's 'house' on 'her night'). None of these latter alternatives, however, seems to make much sense in context. See also below, note 57.

⁷ *Al-Talkhīs al-Khabīr*, 1:16. Nawawī, *Majmū'*, 2:24–25; Māwardī, 1:224. Muḥammad often asks his wife whether she is possessed by *jinn*, this being the equivalent of exclaiming, 'Are you crazy?!'—see Abbott, *Aishah*, 20.

⁸ The backdrop scenery of many a ḥadīth gives us to understand—and the *ṣīra* literature states explicitly—that the Prophet's Mosque adjoined his (i.e., his wives') dwellings (see, e.g., Ibn Sa'd, 1:499–501 and 8:118–119. Muḥammad's wives took turns hosting him until his final illness [ibid., 8:168–169], during which he remained permanently with 'Ā'isha). 'Ā'isha's modest chamber (three by three yards, according to Ibn Sa'd) was at the extreme South East corner of the mosque, and its wooden door (a privilege accorded to 'Ā'isha alone among the Prophet's wives, the rest of whose rooms were bordered by curtains or palm branches) opened directly onto the hall of worship.

wakes up in the middle of the night and notices the absence of her husband in bed (in other versions she specifically suspects him of having gone off to sleep with another wife).⁹ Perhaps still on the bed (it is her *hand* that does the exploring), or, alternately, having risen, she gropes around in the dark for Muḥammad who, as it turns out, is praying supererogatory prayers (not visiting another wife!) in the mosque, that is, in the adjoining hall only a few feet away, just outside the couple's sleeping quarters. The Prophet is probably in the *sujūd* or prostration stage of the prayer cycle (*rak'a*),¹⁰ with his back to his wife and his feet behind him, toes curled and soles up as is the practice. 'Ā'isha is either recumbent or seated on the bed (*firāsh*)—which is unquestionably at, or only slightly above, ground level—or possibly she has moved onto the floor. Reaching out for her husband, her hand encounters the undersides of his feet and remains there, maybe even lightly massaging. Muḥammad, for his part, perseveres in his supplicatory entreaties. Finally, they exchange gentle barbs about polygamy.

It is not difficult to see how such a narration might be exploited by the Ḥanafite *fuqahā'*: it depicts the Prophet as praying while in direct and unremitting contact with a woman. If it is permissible to pray *per se* while touching female flesh, it is an incontrovertible argument *a fortiori* that one's *preparedness* for prayer (that is, the state of being '*alā wuḍū'*') cannot be detrimentally affected by such touching. Thus, the idea that *lams bi'l-yad* cancels *wuḍū'* status is ludicrous.

How do the Shāfi'īya handle a well documented ḥadīth of this sort? (In the case of certain other traditions, as we shall see, they try to 'wound'—*jarḥ*—the reliability of various human links in the *isnād* or chain of transmission, diagnosing the report as *da'if*, weak, *saqīm*, 'sick,'

Near its entrance was an even smaller compartment in which her husband sometimes performed nocturnal devotions (this, too, could be the mini-'*masjid*' referred to in our ḥadīth). According to al-Qurṭubī, 'Muḥammad's house' was *in* the mosque ('*bayt 'Alī kāna fi'l-masjid, kamā kāna bayt al-Nabī'*), or at least hard up against it ('*wa-in kāna al-baytān lam yakūnā fi'l-masjid wa-lākin kānā mutṭasalayn bi'l-masjid wa-abwābuhūmā kānat fi'l-masjid*'—Qurṭubī, 5: 180). This, despite the common claim in the sources that Muḥammad had no separate apartment of his own.

⁹ Nawawī, *Majmū'*, 2: 24: '*zannantu annahu dhahaba ilā ba'd nisā'ihī, fa-taḥassastu ...*' Recall the story of Ibn Rawāḥa (above, p. 65, which made the Prophet laugh.

¹⁰ A position that the phrase '*wa-huwa fi'l-masjid*' might even be stretched to indicate. *Maj'al* is a form normally associated with place, but it seems that here we might be within our rights to extend it to situation, as well: *masjid* = the position of prostration (just as *maghrib*, for instance, means in the language of Ḥadīth not just the place of sunset, but the sunset itself). The simplest interpretation may well be the correct one, however: that Muḥammad was just outside 'Ā'isha's door in the mosque itself.

or *mawḍūʿ*, fabricated; but in this case even the uncompromising Shāfiʿite ally Ibn Ḥazm admits that all the *asānīd* are impeccable).¹¹ Al-Māwardī tries his hand: first of all, it must be noted that in this instance Muḥammad was the one passively being touched (*malmūs*, *mamsūs*)¹² and not the one actively doing the touching (*lāmis*, *māss*). As we have seen above, and will see in more detail below (in chapter ten), the issue of *ʿamd*, or deliberate and initiatory intent, plays a central role—according to about half of the jurists—in determining whether *wuḍūʿ* has been violated by *mulāmasa*. Al-Māwardī might have bolstered the significance of this distinction by adducing an early ḥadīth transmitted through Ibn Jurayj that depicts the Messenger of God ‘in the seated position [of the *rakʿa—julūs*] praying in the mosque, and he had hold of ʿĀʿisha’s leg, but he did not get erotic pleasure from this (*qabaḍa ʿalā qadam ʿĀʿisha ḡhayr mutaladhhdhidhan*).’¹³ True, this last stipulation sounds

¹¹ Ibn Ḥazm, 1:246. Al-Nawawī also concedes: *ʿwa-huwa ṣaḥīḥ* (*Majmūʿ*, 2:31).

¹² The latter term, *mamsūs*, is usually reserved for the case of *mass dhakar ḡhayrihi*, a man (and sometimes a woman) who touches another man’s phallus. And indeed, the Shāfiʿiya drew a comparison between the two cases as part of an additional attempt to remove ʿĀʿisha’s ḥadīth from the quiver of the Ḥanafiya. The *māss* or ‘toucher’ of another man’s member is ritually defiled, whereas the ritual fitness of the *mamsūs*, the one whose penis is touched, remains intact. As with *mass*, argue the Shāfiʿiya, so with *lams*: the active partner in the physical encounter is ceremonially contaminated, the passive partner isn’t. Muḥammad was the passive partner in this story. See Nawawī, *Majmūʿ*, 2:25. The disputed *ḥadīth* of *mass al-dhakar* (touching the penis) has itself been pegged onto the *mulāmasa* clause of Q 5:6/4:43, by a lone Successor—ʿAbīda al-Salmānī—who sought to read it ‘... *aw lāmastum al-nasā* ...’ (Ibn Abī Shayba, 1:189 [196:4]), the last word denoting the sciatic vein in the thigh (see Lane, *n.s.w/y*, 3033 col. 1) and employed in this ḥadīth—so it would seem—as a euphemism for the male member. This *nasā*, we learn by cross-referencing al-Ṭabarī’s and al-Qurṭubī’s commentaries to Q 3:93 (Ṭabarī, *Jāmiʿ al-Bayān*, 4:3; Qurṭubī, 4:118), is none other than the *ʿirq/ḥirq al-nasā* (Heb. *ḡd ha-nashe*, sciatic vein/tendon) ‘touched’ by the angel wrestling with Jacob in the Biblical (and Ḥadīthic-Isrāʿīliyyāt-Qiṣaṣ al-Anbiyāʾ) narrative. This vein in animals was thenceforward prohibited as food to the Children of Israel (Genesis, 32:33). The thigh is often used in the Bible as a euphemism for the male genitalia: ‘Place, I pray thee, thy hand under my thigh, and swear to me ...’ Genesis 24:2 (whence, one imagines, *ʿtesti-mony*); ‘All the people who came down to Egypt with Jacob, his own offspring (*yotzʿei yerekho*, lit. “those that issued from his thigh”), aside from his daughters-in-law ...’ Genesis 46:26. The Hebrew *ʿḡd* (sinew, tendon, vein) is itself regularly employed by the Talmud as a metonym for the phallus (e.g., Kiddushin 25a; Rashi to Deut., 23:2 [*ʿu-khrut shoḥkha—she-nikhvat ha-gid ve-shuv aino yore kiluah zera*]), and the Midrash hints that the area which the angel wrestling with Jacob ‘touched’ was the place whence progeny is produced (Genesis Rabbah, 77:3). Ibn Ezra (to Genesis 32:33) even mentions the claim (though he dismisses it) that *nashe* is derived from *nashim*, women, bringing us full circle, as it were, to *mulāmasa*.

¹³ ʿAbd al-Razzāq, 1:104 (56:117). This tender grasp by the Prophet of his wife’s leg while in the midst of prayer, together with many portrayals of similar scenes sprin-

suspiciously like it was interpolated by one of the parties to another debate we will examine below—that over the role of *shahwa* (passion) in *mulāmasa*—especially since Muḥammad is regularly depicted in the Ḥadīth literature as leaning on his wives or lying in their laps and reciting the Qurʾān or even praying.¹⁴ Nevertheless, in its present form this early report offers a mirror image of the ḥadīth we are discussing: here ʿĀʾisha is undeniably the *malmūs* and her husband the *lāmis*, which is exactly why (al-Māwardī might have argued) the description concludes the way it does: excuses need to be made for a *lāmis* (‘he did not get erotic pleasure from this’) but not for a *malmūs*, because the latter is not susceptible to the *ḥadath* of *mulāmasa*. Thus (and this al-Māwardī does argue), when ʿĀʾisha placed her hand on Muḥammad’s foot as he prayed (in the report currently under scrutiny), this presented no purity problem of any kind for him, the *malmūs*.

This stratagem will not suffice, however, because (as al-Māwardī knows) the Shāfiʿite school is divided over the question whether intention (‘*amd*, *qasd*’) is a prerequisite of *naqḍ al-wuḍūʿ* in *mulāmasa*, that is, whether one needs to reach out and touch someone with prior deliberation in order to be stripped of the ritually pure state. Al-Māwardī himself seems to have been partial to this idea—we have seen him above bestowing a central role on the hand and on ‘purposeful palpation’—but note, for instance, how the leading luminary of thirteenth century Shāfiʿism, al-Nawawī, argues against this same notion in the name of his school:

They have sought to demonstrate Dāʾūd’s thesis [that intentionality is required in order to violate ritual fitness in *mulāmasa*—Dāʾūd b. ʿAlī b. Khalaf was the ninth century founder of the *Zāhirī madhhab*] by

kled throughout the literature, represents an early Islamic attitude to the relationship between holiness and human affection found—I would venture—nowhere else in history. Wherever one looks down the corridor of oriental and occidental religious tradition, the (especially cultic or liturgical) encounter with the divine is deliberately distanced from intra-human expressions of endearment. In approaching God one generally leaves one’s loved ones behind (though they may perhaps resurface in prayers for their welfare). I specifically say that expressions of *endearment* were rarely if ever integrated into worship. Sheer sexuality, emphatically *devoid* of endearment, often did play a role in communicating with various deities, especially in the form of the famous priestess-prostitutes of fertility and other types of cults. Thus, male-female contact in the context of religious devotions was either non-existent, on the one hand, or purely sexual, on the other. Here, however, is Muḥammad in the midst of prayers in the mosque, holding his wife’s leg *tenderly*. The fundamental outlook evinced by such a depiction is, I believe, *sui generis*.

¹⁴ See, e.g., ʿAbd al-Razzāq, 1:250–251 (15:1249 and following).

exploiting the words of God the Exalted: '... *aw lamastum al-nisā*' ...' [following the variant reading which has the verb in the first and not the third form] since this [formulation] necessarily entails intention (*wa-hādhā yaqtaḍī qaṣḍan*). And our associates (*aṣḥābunā*, i.e., Shāfi'ite scholars) refute this by pointing out that the verse itself nowhere explicitly stipulates such a distinction [especially if one follows the third form reading], and also [by explaining that] all of the other polluting 'events' defile regardless of whether they involve intention or inattention (*al-aḥdāth lā farq fihā bayna al-'amd wa'l-sahw*) as is evident in the case of urination, sleep and flatulence [whether these are done intentionally or occur unintentionally, they violate *wuḍū*]. And their statement that *lams* connotes intention is an error, and [such a definition of this term or concept] is not recognized by any of the linguists or philologists (*aḥl al-luḡha*). Rather, *lams* is used to designate both the one who acts purposefully and the one who does something accidentally (*yutlaqu al-lams 'alā'l-qāṣid wa'l-sāhī*), just as we are wont to bestow the epithet 'killer' or 'sleeper' or 'speaker' on those who commit such acts intentionally or unintentionally or under duress [one may kill accidentally, and even speak unintentionally, perhaps in one's sleep].

And those who restrict [the *ḥadath* of *mulāmasa*] to cases involving the hand [as opposed to the hip, back, head, shoulder, knee, etc., which for the most part do not make contact intentionally] buttress their position with the help of an analogy (*qiyās*) to the case of palpation of the penis (*mass al-dhakar*) [a man touching his own organ—or a man or a woman touching the organ of another man—violates his/her own *wuḍū*' according to a strong minority of authorities, but only if the penis is touched with the palm of the hand (*kaff al-yad*); so in the case of *mulāmasa* (al-Nawawī represents his opponents as arguing) only intentional touching with the hand should be counted]. Our associates [of the Shāfi'ite school], on the other hand, again adduce the verse [i.e., 5:6, in opposition to this claim], wherein is found no specification of the hand. And as for penis palpation involving only the hand, [this is for a special reason:] because touching it with the hand causes erotic arousal [to the one doing the touching] (*mass al-dhakar bi'l-yad fa-muthīr al-shahwa*), whereas touching it with [a part of the body] other than the hand does not; touching women, however, is sexually arousing with whichever limb it is done (*walams al-mar'a yuthīr al-shahwa bi-qyy 'uḍw kān*).¹⁵

Since the preponderance of Shāfi'ite jurists oppose the confinement of *mulāmasa* to touching with the hand—and therefore reject the correlate of this confinement, the prerequisite of intentionality—they are generally not comfortable with the idea of exempting the passive *malmūs* from defilement. Thus, it is problematic for a loyal Shāfi'ite like al-Māwardī

¹⁵ Nawawī, *Majmū'*, 2: 34.

to advance the claim that Muḥammad's ritual fitness wasn't upset when his wife felt his feet because he was the person touched and not the toucher.

No doubt aware of this weakness in his first argument, al-Māwardī is ready with a second. He divines from the text of Muḥammad's supplication as recorded in the ḥadīth, as well as from the fact that it was the middle of the night, that the Prophet was not engaged in formal *ṣalāt*—one of the five prescribed daily prayers—but rather in *du'ā*, voluntary communication with the Creator. Ritual purity, al-Māwardī is clearly implying, is required for regular, mandatory *ṣalāt*, but not for irregular, extra-curricular worship (*nawāfil*, *qunūt*, *tahajjud*, *fā'it*, etc.). This would be an intriguing claim, were it not advanced—as it certainly appears to have been—solely in order to limit the effect of 'Ā'isha's report (which is probably why al-Māwardī doesn't follow it up).¹⁶

Al-Māwardī's final suggestion for a way out of the problem presented by our ḥadīth is: perhaps the Prophet was wearing socks? (*innahu yajūzu an yakūna min warā' ḥā'il*—lit. 'it is conceivable that [the touching] took place over a "barrier,"' the last being a code-word in *mulāmasa* deliberations for a garment preventing direct flesh-on-flesh contact).¹⁷ Al-Nawawī supports al-Māwardī's suggested solution by adding that such hosiery 'is natural for one sleeping in bed' (*huwa al-zāhir fī-man huwa nā'im fī firāsh*).¹⁸ For that matter, the Prophet might have been wearing shoes—some of the earliest *aḥādīth* insist that Muḥammad prayed with shoes on¹⁹—except that now we are getting away from the plain sense of the text, which states explicitly that 'Ā'isha's hand 'fell upon the insteps of Muḥammad's feet.'

Writing some two centuries after al-Māwardī, al-Nawawī also senses that these rebuttals are less than satisfactory, and seeks to shore up the teetering Shāfi'ite position with the help of a typical jurisprudential technique: 'These two ripostes [that extra-curricular prayers do not require *tahāra* and that Muḥammad's feet were covered] are necessary if

¹⁶ Other Shāfi'ites appear to take for granted that non-prescribed prayers also require a pure state. See, e.g., Shirāzī, 1:127.

¹⁷ Māwardī, 1:227. Al-Nawawī adopts these rebuttals without much adjustment. For some *fuqahā'*, as we shall see below, even the *ḥā'il* was not enough to salvage *wuḍū'* status, and even kissing (or touching) one's wife's sleeve or skirt obligated one in new ablutions.

¹⁸ Nawawī, *Majmū'*, 2:33.

¹⁹ See, e.g., Bayhaqī, *Sunan*, 2:431 and Ibn Abī Shayba, 2:415.

we accept the susceptibility of the *malmūs* to ritual defilement, whereas if we do not accept it, they are not necessary.' In other words, al-Nawawī is allowing us to take our pick: let the reader adopt whichever refutation works best for him (similarly, it appears to be al-Māwardī's general practice to accumulate as many different arguments as he can for a given proposition, often explicitly admitting that this or that proof is poor or problematic, and hoping—so it would seem—that the collective weight of the combined evidence will somehow serve to convince).²⁰

Ibn Ḥazm also contributes to the neutralization of 'Ā'isha's hadith in the context of the *mulāmasa* debate. Most of his arguments echo those of his slightly senior contemporary (al-Māwardī)—he reminds his readers, for instance, that 'Muslims bow down often, and not just in prayer, for prostration is a blessed act' (*al-sujūd fi'l khayr*) and thus Muḥammad may not have been praying at all²¹—but he adds two more arguments to the cross-examination. First, he asks, assuming that the Prophet was indeed at prayer, on what basis can we be certain that he *kept on* praying once his wife's hand had landed on his feet? Perhaps the Prophet stopped, went out and renewed his ablutions, and only then resumed his prayer (*ṣalla ṣalātan musta'nafatan ba'd tajdīd al-wuḍū'*)? Second: even if we accept (1) that Muḥammad was actually praying and not just prostrating himself, and (2) that he did not interrupt his prayer, but rather continued without stopping while his wife grasped his foot (and none of this, insists Ibn Ḥazm, can ever be demonstrated irrefutably—*wa-hādihā kulhu lā yaṣiḥḥu abadan*), the ḥadīth of 'Ā'isha still proves nothing. 'For the content of this report is without doubt reflective of the dispensation which prevailed among the people *prior* to the revelation of the verse [5:6/4:43: "... *aw lāmastum al-nisā'* ..."], and there is no arguing about the fact that this dispensation was abrogated, and its regulations superceded, by the descent of the verse. It is absurd to lay hold of that which has been definitively abrogated and abandon that which has cancelled it and taken its place; it is ludicrous for them to lean on this report at all—and praise be to God, Lord of the worlds!²²

²⁰ For a particularly clear instance of this approach see Māwardī, 1:361. This appears to be al-Māwardī's policy even when the successive arguments he advances cannot be combined because they are contradictory.

²¹ Ibn Ḥazm, *Muḥallā*, 1:247.

²² *Ibid*, 1:246. '*Ja-innahu kāna yakūnu hādihā'l-khabar muwāfiqan li'l-hāl allatī kāna al-nās 'alayhā qabla nuzūl al-āya bilā shakk, wa-hiya hāl lā miryata fi naskhihā wa-irtifā' ḥukmihī bi-*

The forcedness of Ibn Ḥazm's first argument (that Muḥammad took a break, performed ablutions, and then returned and resumed his prayer) and the vehemence of his second (as well as his need to accumulate alternate contentions in the first place) point up the defensive stance which characterizes the Shāfi'ite case in general here in the realm of *Sunna* (as opposed to the relative self-confidence and even aggressiveness that informed their philological-semantic-syntactical arguments above, in the realm of *Kitāb*). How Ibn Ḥazm knows just when the *mulāmasa* verse was revealed in relation to 'Ā'isha's ḥadīth is a mystery. There are three main traditions in the *asbāb al-nuzūl* (circumstances of revelation) literature regarding the context of the revelation of Q:5:6/4:43 (or sections thereof). The first relates that a Companion of the Prophet was afflicted by an unidentified contagious illness with which he infected many of his cohorts. Unable to perform *ghusl* from *janāba* due to the nature of this malady²³ (though apparently quite capable of engaging in sexual intercourse, or at least still prone to wet dreams), the people complained to Muḥammad of their ritual predicament, at which point Gabriel was sent down with 5:6/4:43, including the clause: '... and if you are **sick**, or on a journey, and find not water, than go to clean, high ground (*fa-tayammamu sa'īdan tayyiban*) and rub your faces and hands with some of it ...'²⁴

The second suggested source for this revelation also involves major impurity and its removal: on a military campaign to an unspecified location, Aṣlā' (b. Shārik al-Tamīmī), a servant of the Prophet, was summoned by Muḥammad late at night and asked to convey him somewhere (*qum fa-arḥil bī*). Aṣlā' replied apologetically that he was just then *junub*—sexually precluded—and dared not approach the Apostle of God, nor had he enough water to effect a proper *ghusl*. At this moment Gabriel descended bearing verse 5:6 and/or 4:43, and taught Muḥammad how the sandy substitute for the full body washing is properly executed. The Prophet, in turn, instructed Aṣlā', who performed a quick *ghusl* of *tayammum* and took Muḥammad where he wanted to go.²⁵

nuzūl al-āya, wa-min al-bāṭil al-akhdh bi-mā qad tuyuqqina naskhuhu wa-tark al-nāsikh, fa-baṭala an yakūnu lahum muta'alliqun bi-hādih'l-khabar—wa'l-ḥamdu li-Llahi Rabb al-'ālamīn!

²³ The water was considered insalubrious for the sick either because of its temperature or because of its effect on the exposed tissue, both common motifs in *aḥādīth* about ablutions.

²⁴ Ṭabarī, *Jāmi' al-Bayān*, 5:149 (no. 7616); see also Ibn Ishāq-Guillaume, 280, which may be connected.

²⁵ Bayhaqī, *Sunan*, 1:208. This, despite the many *aḥādīth* in the collections militating

The third tradition regarding the nascence of this verse is tied to the following well-known story, related, *inter alia*, by 'Ā'isha herself:

I accompanied the Messenger of God on a military excursion. [On our way back to Madīna] I lost my necklace [which Muḥammad had given her from the booty, or—according to other versions—which she had borrowed from her elder sister Asmā²⁷]. I informed the Messenger of God of this, and he commanded [those present, or the entire division] to search for the necklace, and they searched for it, but it was not found. So the Prophet and the people set up camp for the night [the search took so long that the sun was already setting]. The people said: 'Ā'isha has prevented the progress of the Messenger of God! [*ḥabasat 'Ā'isha al-nabī*]. Abū Bakr ['Ā'isha's father] came to our tent, and the head of the Prophet was in my lap and he was sleeping, and he [Abū Bakr] began to poke me and pinch me, exclaiming: On account of a necklace you hold up the Prophet!? [In another version: you have brought hardship upon the people! (*shaqaqtī 'alā'l-nasī*)]. I ['Ā'isha] did my best not to move, for fear that the Prophet's sleep would be disturbed, and then [Abū Bakr] really caused me pain and I didn't know what to do (*qad awja'ani fa-lā adri kayfa aṣna*). When [Abū Bakr] saw that I did not react or answer him, he turned and left. Then the Prophet woke up, and he wanted to pray, but there was no water available [what supplies remained were no doubt reserved for drinking]. At which point ['Ā'isha concludes] Allāh sent down the verse about *tayammum* [rubbing with sand in place of washing with water].²⁶

Ultimately, the necklace was found—under 'Ā'isha's own camel—when the camp pulled up stakes the following morning,²⁷ and she was lauded for bringing fortune on the Muslims—in the form of the ameliorative provision (*rukḥṣa*, *'udhr*) of *tayammum*—as a result of what she had thought was her own misfortune.²⁸

Probably the first, and definitely the second and third, of these anecdotes are considered to have taken place already in the Madīnan

against the idea that a *junub* is in any way ritually contagious (see, e.g., Muslim, *Ḥayḍ*, 29:371). The version recorded in al-Māwardī (1:287) and in Sarakhsī (1:106) claims the excursion is to Marīsa' or Marīsiya'.

²⁶ Ṭabarī, *Jāmi' al-Bayān*, 5:149 (no. 7617); Muslim, *Kitāb al-Ḥayḍ*, *Bāb al-Tayammum*, 28:108 (367). Other versions of this ḥadīth—such as that retold by Ibn Ishāq/Ibn Hisham in the *Sīra* (Guillaume 493ff.)—have it segue into the story of 'Ā'isha's unintentional abandonment in the desert, her rescue by Ṣafwān b. al-Mu'attal al-Sulamī, and the well-known subsequent crisis.

²⁷ Ṭabarī, *Jāmi' al-Bayān*, 5:150 (no. 7619).

²⁸ Māwardī, 1:283; Ṭabarī, *Jāmi' al-Bayān*, 5:150 (no. 7621). In still other versions Muḥammad sends two men out to search for the necklace, they miss afternoon prayers for lack of washing water—or pray without purifying themselves—and the verse is revealed upon their return to the Prophet (Ṭabarī, *Jāmi' al-Bayān*, 5:151 [no. 7622]).

period, after the *hijra* of 622 CE. ‘Ā’isha was officially married to Muḥammad at eight or nine years of age in about 623 CE (he was fifty four).²⁹ The consensus puts her with the Prophet on the campaign against the Banū Mustaliq in 627 CE, and/or at the raid on al-Abwā’ in 628 CE, and/or at the raid on Khaybar in the same year, against the background of any of which excursions the incident of the necklace (or of the servant) may plausibly be located.³⁰ That Muḥammad needed to be ‘conveyed’ by Aṣlā’—to such a degree that a new divine dispensation had to be provided on the spot to expedite such conveyence—appears, at first glance, to recommend a relatively late date for his story, until we remember that Aṣlā’ was in charge of the Prophet’s camel,³¹ and Muḥammad’s request more akin to a modern mogul calling for his car.

None of this, at any rate, helps us to understand how Ibn Ḥazm can be so confident that the *undated* incident in which ‘Ā’isha groped around for, and finally found, her husband in the middle of the night occurred *before* the revelation of Q 5:6 or 4:43 in the eyes of Islamic historiography.³² Indeed, the fact that most Shāfi’ite jurists do not consider the *ḥadath* of *mulāmasa* to be applicable in the case of contact with a *ṣabiya*—a minor who has yet to reach puberty—yet do not exploit ‘Ā’isha’s tender years to make such an argument here (as they do with Muḥammad’s female grandchild, as we shall see below), suggests that in their eyes, the events described in our ḥadīth occurred sometime *after* 627 CE, when ‘Ā’isha was well into her majority (Ibn Ḥazm, on the

²⁹ See Muslim, *Nikāḥ*, 10:69 (1422); Abbott, *Aishah*, 1–14.

³⁰ Al-Abwā’ is a mountain—or valley—between Mecca and Madīna where the Prophet’s mother, Āmina bint Wahb, reportedly was buried. Several traditions explicitly associate the necklace episode with *laylat al-Abwā’* (see Māwardī, 1:283; Ṭabarī, *Jāmi’ al-Bayān*, 5:150, no. 7623). Al-Sarakhsī seems to connect it with *Laylat al-Tā’rīs*, ‘the night the Prophet [over]slept’ and missed the morning prayers, on the way back from Khaybar (or Marīsiya’, which is the same thing) (*nuzul al-āya fī ghazwat al-Marīsi’a ḥīna ‘arasa nasūl Allāh laylatan fa-saqata ‘aqd ‘Ā’isha ...*)—Sarakhsī, 1:106. For these excursions and their dates, see Watt, *Muḥammad at Medina*, 340.

³¹ See Nawawī, *Majmū’*, 2:247.

³² That Ibn Ḥazm’s claim is not entirely baseless, however—in terms of its derivation from early Islamic sources—may be garnered from another narration, recorded by Muslim, concerning the date of our verse’s revelation, in the context of the famous boot-wiping controversy (*mass ‘alā al-khaffayn*). In it, Jarīr claims to have witnessed the Prophet himself wiping over his boots (instead of removing them to wash his feet). It was said to him in reply, that he must have seen Muḥammad do this prior to the revelation of *Surat al-Māida* (and specifically verse 5:6), but he rejoined: ‘I converted to Islam *after* the revelation of *al-Māida*.’ Ibn Rushd, *Bidāyat al-Mujtahid*, 1:2 (13:1).

other hand—as we know from elsewhere—believes that touching even a newborn infant of the opposite gender violates *wuḍūʿ*). ‘Ā’isha’s suspicion that the Apostle had gone off to ‘sleep with one of his other wives’ also argues for a late 620s dating, by which time Muḥammad had assembled a goodly number of spouses, and at least locates our ḥadīth after 626 CE, when the alluring Umm Salama—the first additional co-wife ‘Ā’isha considered a serious rival for the Prophet’s nocturnal attentions³³—joined the family.

An auxiliary ḥadīth, recorded by al-Bukharī, Muslim and others and employed by the Ḥanafiya³⁴ in their campaign to eliminate the purported *ḥadath* of *lams bi’l-yad* or *iltiqā’ al-bashratayn* (the meeting of skin), also grows out of the close quarters in which Muḥammad and ‘Ā’isha were reported to have lived, as well as the close relationship they were reported to have enjoyed.³⁵ In it, ‘Ā’isha explains that ‘the Prophet, may God’s peace and blessings be upon him, would perform the *ṣalāt* (*kāna yuṣallī*) while I lay between him and the *qibla* [here meaning the *ṣutra*, the actual object indicating his direction of prayer. In alternate versions ‘Ā’isha lies under him, or “in his arms” (*bayna yaday al-nabī* or *bayna yadayhi i’tiraḍ al-janāza*) or “upon his heart”],³⁶ and when he would prostrate himself [in other versions *yuwattir*, perform the night-time *witr* prayer]³⁷ he would brush against my leg and I would pull it back [to give him room—*ghamaza rijlī fa-qabadtuhā*. In other narrations the contraction of the leg is not mentioned, and in several recensions *he touches her with his leg*].³⁸ Allāh’s Apostle is here represented, once again, as having no problem with continuing to pray after—or during—contact with a female. I have not seen the implications of this particular tradition addressed anywhere by Shāfi’ite

³³ Ibn Sa’d, 8:61; Ibn Ḥanbal, 4:317.

³⁴ Or fabricated by them, or by their predecessors—we have so far avoided the well-worn issue of ḥadīth authenticity, as promised, and shall continue to do so.

³⁵ Islam’s first couple compared their mutual affection to a tightly tied knot. *Kayf al-‘uqda?* the Prophet was used to ask his favorite wife (‘How’s the knot?’). *Alā ḥālihā*, she would respond (‘Strong as ever’).

³⁶ ‘Aynī, 1:243. This may be a reversal of the letters in the *‘fi qiblatihi*’ of the preeminent version.

³⁷ *Mughnī*, 1:193. See also Muslim, *Kitāb Ṣalāt al-Musāfirīn wa-Qaṣruḥā*, *Bāb Ṣalāt al-Layl wa’l-Witr*, 17:135 (744): ‘*an ‘Ā’isha, anna rasūl Allāh, ṣallā Allāhu ‘alayhi wa-sallam, kāna yuṣallī ṣalātahu bi’l-layl wa-hiya mu’tarīḍa bayna yadayhi fa-idhā baqiya al-witr ayqazahā fa-awtarat [ma’ahu].*’

³⁸ Nawawī, *Majmū’*, 2:31; Ibn Shaddād, 1:106; Asqalanī, 1:65. See also Bukhārī, *Ṣalāt*, 107: ‘*kāna al-nabī yuṣallī wa-anā ilā janbīhi nā’ima ...*’

scholars, nor by others who claim that *mulāmasa* means touching of all kinds. Al-Nawawī, who cites it without comment, probably intends his readers to apply at least some of the refutations employed against the previous ḥadīth (in which ‘Ā’isha held her husband’s foot) here as well.

Goodbye Kisses

The tradition most often adduced by the Ḥanafīya in the debate over *mulāmasa* is the ‘famous and renowned report’ (*al-ḥadīth al-mashhūr al-ma’rūf*)³⁹ according to which

al-A’mash heard from Ḥabīb, who heard from ‘Urwa, who was told by ‘Ā’isha, that ‘the Prophet, may God’s peace and blessings be upon him, kissed one of his wives and then left for prayer without renewing his ablutions (*qabbala imra’tan min nisā’ihi thumma kharaja ilā’l-ṣalāt wa-lam yatawadda*).’ ‘Urwa asked her: ‘And who might that wife be, if not you?’ And she laughed (*man hiya illā antī? Fa-daḥikat*).⁴⁰

This charming, straightforward ḥadīth leaves little room for maneuver, and it is specifically credited by al-Ṭabarī with having tipped the scales—both among the jurists in general (*al-jumhūr*) and in his own mind—in favor of the idea that *mulāmasa* means sexual intercourse and that there should be no ritual significance attached to anything less (al-Ṭabarī records a version of this report describing how the Prophet used to ‘snatch a kiss’ from ‘Ā’isha after ablutions, and nevertheless not repeat them [*kāna rasūl Allāh yanālu minni al-qubla ba’d al-wuḍū’, thumma lā yu’idu al-wuḍū’*]).⁴¹ Aside from the somewhat desperate suggestion, attributed to al-Shāfi‘ī by a *shāriḥ* of Ibn Māja and seconded by a lone eighteenth century jurist, that the Prophet may have been exclusively exempt from the provision of *mulāmasa*,⁴² only one feeble attempt is made (led by al-Māwardī and al-Nawawī) to deal with the *matn* (con-

³⁹ Shaybānī, *Kūtab al-Hujja*, 1:65.

⁴⁰ Bayhaqī, *Sunan*, 1:126; Ibn Ḥanbal, 6:210; Dārāqutnī, 1:138 (*Bāb Mā Yanquḍ al-Wuḍū’*); Abū Dā’ūd, *Ṭahāra*, 1:179–180; al-Tirmidhī, *Ṭahāra*, 1:86; Māwardī, 1:222; ‘Abd al-Razzāq, 1:103; Ibn Shaddād, 1:107; Nawawī, *Majmū’*, 2:31; and elsewhere.

⁴¹ Ṭabarī, *Jāmi’ al-Bayān*, 5:147–148.

⁴² Sindī, 1:83: ‘*ḥamalahu al-Shāfi‘ī anna ‘adam naqḍ al-wuḍū’ bi’l-lams min khaṣā’isihī ṣalla Allāhu ‘alayhi wa-sallam*’; Ibn Shaddād, 1:105: ‘... *aw annahu khāssa bi’l-nabī*.’ Although the suggestion seems desperate in this context, the notion of special legal dispensations for the Prophet (and for certain important Companions) is not unknown (the permission afforded Muḥammad to marry more than four wives—a privilege for thee only, not

tent) of this ḥadīth, and thereafter all arrows are aimed at its *isnād* (chain of transmission). The feeble attempt is reminiscent of a previous parry—the suggestion that Muḥammad's feet were encased in socks when 'Ā'isha's hand encountered them—and seems no less forced. As we shall learn later on, the Shāfi'īya (as opposed to the Mālikiya and Ḥanābila) hold that trans-gender contact must consist of actual *iltiqā' al-bashratayn* (the meeting of skin) in order to violate *wudū'* status: the encounter of flesh with clothing—or of clothing with clothing—leaves both parties' ritual purity intact, because of the presence of a 'barrier' (*ḥā'il*). Bearing this in mind, al-Māwardī declaims another short stanza from an anonymous versifier –

Wa-kam min dam'atin fi'l-khad tajrī
Wa-kam min qublatin fawqa al-niqāb

How many tears flow down the cheek
 And how many kisses on top of the veil!

– and then advances his claim: verily, Muḥammad would kiss his wife on the way out to prayers; but he would do so, without doubt, over her clothes (*min warā' thawb*). By this single stroke al-Māwardī has simultaneously accomplished, at least to his own satisfaction, two separate goals: (1) he has punched a hole through the Ḥanafite contention that this ḥadīth of 'Ā'isha is an airtight demonstration of their position (*viz.*, that *lams* is *jimā'* and that kissing is nothing); and (2) he has deflected this tradition from its original target—his own *madhhab*—causing it to ricochet directly onto the *other* set of opponents facing the Shāfi'īya in connection with *mulāmasa*: the Mālikites and Ḥanbalites, who dispute them in the matter of 'barriers' (*ḥawā'il*).⁴³

As for the *intiqād al-rjāl*—the criticism of the human links in the different chains of transmission of this ḥadīth—it is an extensive enterprise, spanning several centuries and covering numerous pages of *sharḥ* and *fiqh*. There is a longstanding, focused and concerted effort by the Shāfi'īya and their allies to invalidate 'Ā'isha's report (although some of the *isnād* criticism may certainly have been 'objective'),⁴⁴ into the

for the [rest of the] believers' (Q 30:50)—is merely the most famous instance). See, e.g., al-Qurṭubī, who confirms in another context: '*wa-qad kāna al-nabī khuṣṣ bi-ashyā'*' (Qurṭubī, 5:181).

⁴³ Māwardī, 1:226. The Mālikiya and most of the Ḥanābila hold that even contact through a 'barrier'—i.e., over clothing—constitutes *mulāmasa*. See below, p. 274.

⁴⁴ Indeed, the 'criticism of the men' who make up the transmission chains of 'Ā'isha's tradition and its many variants is occasionally even leveled by Ḥanafite expo-

many particulars of which we cannot delve here. Suffice it to say that most critics focus their attention on the third link in the most common chain of transmission (al-A'mash ← Ḥabīb ← 'Urwa ← 'Ā'isha), Ḥabīb b. Thābit: he knew an 'Urwa (they concede)—'Urwa al-Muzanī—but he did not know the 'Urwa who knew 'Ā'isha—'Urwa b. al-Zubayr;⁴⁵ he mixed up a story about kissing during a fast with a story about kissing after *wuḍū'*;⁴⁶ he never heard any ḥadīth of 'Ā'isha's at all;⁴⁷ reports transmitted through him are 'like nothing' (*shibh lā shay'*).⁴⁸ Al-Nawawī pronounces the tradition of Ḥabīb 'weak according to the consensus of the ancient and recent authorities' (*ḍa'if bi-ittifāq al-ḥuffāz al-mutaqaddimūn wa'l-muta'akḥḥarūn*).⁴⁹ The Ḥanbalite Ibn Qudāma concludes: 'All its paths are defective' (*kul ṭuruquhu ma'lūla*).⁵⁰ None of this prevented the traditionist al-Nasā'ī from hyperbolizing (indeed, it probably provoked him to do so): 'There is no "healthier" ḥadīth to be found in this entire chapter.'⁵¹

Before proceeding, we should note that not all of the various attempts by the Shāfi'īya to neutralize 'Ā'isha's report (as well as the remaining *aḥādīth* regularly adduced by Ḥanafite elements) were convincing to all of the Shāfi'ite jurists (or to their Mālikī and Ḥanbalī allies) all of the time. Informed that the Qur'ān reader, Abū 'Amr Zabbān b. al-'Alā', considered this particular tradition of 'Ā'isha authentic, having discovered for it a sounder route of transmission through one Ma'bad b. Nubāta, none other than al-Shāfi'ī himself is reputed to have declared that 'if the report of Ma'bad regarding kissing is established, then I am not inclined [?] to require ablutions either for kissing or for touching' (*in thabata ḥadīth Ma'bad fi'l-qubla lam urfihā wa-lā fi'l-lams wuḍū'*).⁵² Other traditions we have seen so far that were drafted into the ser-

nents. For an extensive, though not exhaustive, review of the *intiḳād al-rijāl* in this and related cases, see Ishbīlī, 1:246–266.

⁴⁵ Ṣufyān al-Thawrī cited in Abū Dā'ūd, *Ṭahāra*, 1:180. See also the commentary of 'Abd al-Fataḥ Abī Ghida on the margins of al-Qarī-al-Harawī, *Fath Bāb al-'Ināya*, 1:78. 'Urwa b. al-Zubayr was 'Ā'isha's nephew, and transmitted not a few traditions on her authority.

⁴⁶ Ibn Ḥanbal, 6:210; Shawkānī, 1:223; Ṣan'ānī, *Subul al-Salām*, 1:65.

⁴⁷ Bukhārī, cited in Tirmidhī, *Ṭahāra*, 1:86.

⁴⁸ Yahyā b. Sa'īd al-Qaṭan, cited in Tirmidhī, *Ṭahāra*, 1:86; *Mughnī*, 1:193; Ishbīlī, 1:250; and elsewhere.

⁴⁹ Nawawī, *Majmū'*, 2:32.

⁵⁰ *Mughnī*, 1:193.

⁵¹ Nasā'ī, 1:104.

⁵² Ibn Rushd, *Bidāya*, 1:29.

vice of the Ḥanafite position could boast even less assailable *isnāds*, and the efforts to mitigate the effect of such anecdotes often seem forced.

This being the case, it is not hard to understand why the Mālikiya chose, for the most part, to play silent partner to their Shāfi'ite comrades during the stage of the *mulāmasa* debate that focused on prophetic exempla. The Mālikite jurists hung back, as it were, allowing the Shāfi'ī *fuqahā'* to get bloodied in what looked like a losing battle from the outset, while they themselves cultivated an alternate—and in their eyes far more effective—line of defense of *lams bi'l-yad*, a line of defense of which the Shāfi'ites could not generally avail themselves. As we shall see below, one of the main bones of contention among the three schools that professed the ritually pollutive capacity of *lams bi'l-yad* and *qubla* concerned the question whether the anticipation and/or realization of erotic pleasure was a prerequisite of *naqd al-wuḍū* (the annulment of prayer readiness and the obligation of new ablutions). Although no school's attitude to this issue is monolithic, it may safely be said that the preponderance of Mālikī jurists ruled that the presence of passion (*shahwa*) and/or the attainment of pleasure (*ladhdha*) before or during physical contact is essential to this *ḥadath*, whereas the majority of the Shāfi'iya did not make *mulāmasa* contingent upon arousal at all.⁵³ This enabled the Mālikiya, unlike their Shāfi'ite colleagues, to accept the *ahādīth* adduced by the Ḥanafī scholars at face value—neither struggling particularly hard to invalidate their *asānīd* (chains of transmission) nor doing violence through exegetical acrobatics (or pure speculation) to the straightforward meaning of their *mutūn* (contents)—while nevertheless staying true to their non-coital conception of *lams* (Ibn Rushd's 'defection' notwithstanding). This was achieved in the following manner.

If erotic desire and sensation are the indispensable preconditions of *mulāmasa*, then the fact that the Prophet is shown in contact with his wives—or even embracing and kissing them—while at, or on the way to, prayer, does not necessarily pose a problem for the Mālikite position. 'Ā'isha's hand on Muḥammad's foot while he supplicated his Lord in *tahajjud* (the night vigil), or his on hers while he engaged in *ṣalāt* by day in the mosque, need not be assumed to have aroused

⁵³ 'Aynī, 1:244: *wa-dhahaba al-Mālikiya ilā anna in lamasa bi-shahwa yantaqīdu, wa-illā fa-lā;* Jāziri, 1:75: *'al-Shāfi'iya qālū: in lamasa al-ajnabiya—wa-yusamma massan—yanquḍu mutlaqan, wa-law bidūn ladhdha.'*

the Apostle sexually (indeed, we saw one rescension of this report in which the latter situation was specifically said *not* to have done so). As for the more potentially sensual acts of kissing, caressing and embracing: the literature is certainly not lacking in explanations (did one need them) to the effect that ‘it is possible for a man to kiss his wife not out of erotic passion, but out of respect, honor, or tenderness for her’ (*qad yumkin an yuqabbila al-rajul imra’tahu li-ghayr shahwa barran bihā wa-ikrāman lahā wa-rahma*).⁵⁴ Thus, the Prophet’s aforementioned ‘*tawāf*’ upon returning home to his wives, in which he sequentially kissed and caressed them all, can easily be understood as an act of respect or endearment, not one of eros.⁵⁵ The same is true, from the Mālikite perspective, of Muḥammad kissing ‘Ā’isha goodbye on the way out to prayers, regardless of whether he did so on her clothes, her cheek, her forehead, or even directly on her lips.⁵⁶ Thus, the dif-

⁵⁴ Mughnī, 1:193. This point is reinforced with an example of intra-*ahl al-bayt* affection: ‘*a-lā tarā ilā mā jā’a ‘an al-nabī, annahu ‘qadama min safarin fa-qabbala Fāṭimata’—wa’l-qubla takūnu li-shahwa wa-li-ghayr shahwa.*’ A page earlier Ibn Qudāma fields an impressive list of Companions, Successors and early *fuqahā’* who believed that ‘*yajibu al-wuḍū’ ‘alā man qabbala li-shahwa wa-lā yajibu ‘alā man qabbala li-rahma.*’

⁵⁵ The qualification found in al-Bayhaqī’s version of this ḥadīth to the effect that Muḥammad went around cuddling his wives ‘stopping short of cohabitation’ is, however, somewhat problematic in this regard. Moreover, whether a fine line can be drawn—by the *fuqahā’* or by ordinary believers—between eros and endearment, is hard to say, and is a subject we will take up briefly in chapter ten. I cannot resist adding that the Ḥanafīya really should have pointed out that the Mālikite restriction of *mulāmasa* to instances when arousal is present is extremely difficult to defend from a scriptural perspective (and let us recall that it is being used here specifically to bolster an interpretation of scripture). The Ḥanafīya read the Qur’ānic clause figuratively. While they disagree with the literalist Shāfi’ite reading of the same clause, they understand that reading’s basis in Holy Writ: there is no denying that the verse uses the word ‘*lāmastum.*’ But how is one to understand the Qur’ānic basis of the Mālikite take on *mulāmasa*? It entails the notion that God stipulated a legal provision in His Book—that touching a woman defiles—and then, without telling anyone, folded into that passage an invisible and undetectable secret clause, which added the condition that arousal must be present. It may perhaps be legitimate to use independent reasoning to introduce into the law specifications not explicitly recorded in scripture (as late as the sixteenth Christian century, al-Naḥawī can still ask: *hal yajūzu an yastanbiṭa min al-naṣṣ ma’na yukhṣṣishuhu am lā?*—1:78). But one is certainly on far thinner ground if one goes back and tries to use those same specifications as part of a proof for the correctness of a particular exegesis of scripture!

⁵⁶ The issue of kissing is, however, mildly problematic for the Mālikiya in this regard, as the founder of the school and many of his followers are widely reputed to have considered (especially mouth-to-mouth) kissing a *nāqiḍ al-wuḍū’* regardless of whether passion was present (‘*fa-annahum lam yashitariṭu al-ladhḥa fī dhālika, wa-huwa madhhab Mālik wa-jumhur aṣḥābihi*’—Ibn Rusḥd, 1:129. See also Jazīrī, 1:74. Cf. Māwardī, 1:222).

ficulties that hamper many of the Shāfi'ite attempts to counter the Ḥanafite deployment of these prophetic exempla are avoided by the Mālikiya.⁵⁷

Rawmiya and the Imām

Another in the series of 'kiss and tell' traditions emanates from the second Rightly Guided Caliph, 'Umar b. al-Khaṭṭāb. Although 'Abd Allāh b. 'Umar was, as we saw, one of the two most prominent early champions (with Ibn Mas'ūd) of the repetition of *wuḍū'* after *lams* and *qubla*, his father was apparently of a different opinion:

From 'Umar b. al-Khaṭṭāb, that one day he got up and left in the middle of prayers [of which he was the leader], and when the people concluded the service, they turned around and saw him praying in the last row

⁵⁷ Support for our reconstruction of this Mālikite strategy may be had, *inter alia*, from the pen of the seventeenth century Ḥanbalite scholar al-Buhūṭī. He writes: 'As for the fact of [male-female] contact not violating [ritual fitness] save when it is characterized by arousal, this is an outgrowth of the apposition of the verse [5:6/4:43] to the prophetic exempla' (*wa-ammā kawna al-lams lā yanquḍu illā idhā kāna li-shahwa, fa-lī'l-jam'a bayna al-āya wa'l-akhbār*). Al-Buhūṭī then goes on to adduce several of the problematic *aḥādīth* we have been looking at, which show the Prophet in physical contact with his wives while on the way to, or in the midst of, prayer, strengthening their impact—and heading off Shāfi'ite attempts to counteract them—by insisting that (1) 'the erectness of [the *soles* of Muḥammad's two feet—in the versions of the "'Ā'isha groping for her husband" ḥadīth which describes their posture thus] proves that the Prophet was indeed engaged in prescribed prayer [when 'Ā'isha rested her hand on him]' (*wa-naṣbuhumā dalīlun 'alā annahu kāna yuṣallī*). Al-Buhūṭī knows this, I imagine, because the soles of the feet are (almost) vertical when one is in the *julūs* (sitting) or *sujūd* (prostrate) positions of the formal *rak'a* (genuflexion cycle)—he is evidently unaware of, or unimpressed by, Ibn Qudāma's version (see above, note 6) where the Prophet's prostration is explicitly confirmed; (2) when the Apostle held his granddaughter while *imām* of the communal *ṣalāt* (as we shall see him do presently), 'he was clearly unable to avoid touching her' (*lā yaslamu min massihā*); and (3) when Muḥammad rose in the middle of the night for *witr* or *tahajjud* and brushed against the legs of 'Ā'isha, who slept in his arms in cramped quarters, 'it is obvious that his grazing of her legs did not take place through a garment' (*al-zāhir anna ghamzahu riḡlayhā kāna min ghayr ḥā'il*). What this Ḥanbalī *faqīh* is trying to say with all this, is that since these traditions indisputably portray the Prophet in direct, fleshly contact with women while engaged in formal prayer, and since the Qur'ān explicitly calls *lams al-nisā'* a violator of prayer fitness, then the scriptural provision of *mulāmasa* must intend only *erotic* touching, because otherwise the prophetic exempla would be in direct contradiction to Holy Writ. The Shāfi'iya, who do not make *mulāmasa* contingent upon libidinal excitement, have no way out of this predicament (the author is implying). The Mālikiya, who predicate this *ḥadath* on the presence of passion, do (Buhūṭī, 1:128–129).

[*fī ākhar al-ṣufūf*]. [In response to their questioning,] he explained: I performed the ablution [before worship, and was about to enter the mosque] when my concubine, Rawmiya,⁵⁸ passed by me, and I kissed her. When I began leading the prayers, I felt a trickle of pre-ejaculatory fluid [on my leg—*fa-lamma iftataḥtu al-ṣalāt, wajadtu madhiyan*]. I said to myself—ashamed as I was in front of all of you [to get up and leave, lest the reason for my doing so be divined]—‘I’ll just continue with my prayer’ [*fa-qultu: amḏī fī-ṣalātī ḥay’an minkum*]. But then I thought: To fear God the Exalted is far better for me than to fear all of you! And I left and performed *wuḏū’* over again.⁵⁹

The Ḥanafite al-Sarakhsī is quick to derive the legal lesson of this report: the Commander of the Faithful did not return to the water source to redo *wuḏū’* after kissing his concubine (even though this would appear, given what followed, to have been more than a perfunctory peck). He only left to renew his ablutions after perceiving the

⁵⁸ This is either her name, an indication of her North-Western provenance, or both.

⁵⁹ Sarakhsī, 1:68. ‘Umar was evidently quite strict about this provision: on one occasion he was about to begin leading the prayers, when his hand reached down to [or: fell upon] his penis (*baynā huwa qā’im yuṣalli bi’l-nās ḥīna bada’a fī’l-ṣalāt nazalat yaduhu ‘ala dhakarihī*). He signaled for the congregation to wait, went out and renewed his *wuḏū’*, then returned and led the service. Abū Mulayka approached him afterward and asked: ‘Did you detect pre-ejaculatory fluid?’ ‘Umar answered: ‘I’m not sure’ (*lā adri*—‘Abd al-Razzāq, 1:89 [416]). In other words, ‘Umar delayed the service and renewed his *wuḏū’* in contradiction to what later became the well-known principle that the ritually pure state is not annulled by a doubt (*lā tazūlu al-ṭahāra bi’l-shakk*—see, e.g., *Mughnī*, 1:96). Cf. *Muwatta’a*, 2:14 (56–58) where there is an extenuation of this: ‘Sa’īd b. al-Musayyab said, “Even if it [*madhī*] flowed down my thigh (*law sāla ‘alā fakhdhī*), I would not leave until I finished my prayers.”’ In general, inadvertant seminal discharge seems to have been a central preoccupation of ‘Umar’s: ‘Since I have been entrusted with the government of this people,’ the caliph is reported to have remarked, ‘I have been plagued by wet dreams’ (*la-qad ubtulitu bi’l-iḥtilām mundhu wullaytu amr al-nāsi*—*Muwatta’a*, 2:20 [81]).

Al-Sarakhsī’s statement on the previous page of the *Mabsūṭ* (1:67) that al-Shāfi‘ī held that *lams bi’l-yad* and *qubla* violated *wuḏū’* and that ‘such was the opinion of ‘Umar and Ibn Mas‘ūd’ may be a scribal error (or an error of al-Sarakhsī’s—it is not a latter-day misprint, as it is repeated when later authorities quote al-Sarakhsī): it really ought to say ‘such was the opinion of Ibn ‘Umar and Ibn Mas‘ūd.’ Ibn Ḥazm also addresses ‘Umar’s attitude to *wuḏū’* for *madhī*, explaining that he initially did not see a need for ablutions even when ‘*madhī* used to pour out from me while I was on the *minbar*.’ Later, however, the second righteous caliph was convinced that the *sunna* of the Prophet was otherwise, and he began to obligate *wuḏū’* for *madhī* (Ibn Ḥazm, 1:169). There was a time, then—even according to Ibn Ḥazm—when ‘Umar did not require *wuḏū’* for the emergence of pre-ejaculatory fluid, let alone for *mulānasa* or *qubla*. Confusion reigns on, however, because al-Dāraqutnī (1:144) and others record a ḥadīth of Sālim averring that ‘Umar declared: ‘Kissing falls under the category of *lams*, and you must perform ablutions in the wake of it.’ This may refer, however, to what some jurists consider the special potency of mouth kissing, which violates *wuḏū’*, they say, whether accompanied by arousal or not (Ṣāwī, 2:171; Ibn Rushd, *Bidāya*, 1:129). *W’Allāhu A’lam*.

emergence of pre-ejaculatory fluid, a *ḥadath asghar* (though associated with *jīmā'*) which violates *wuḍū'* status according to the vast majority of *fuqahā'*. Thus it is clear that kissing a woman is not the *mulāmasa* that the Qur'ān is talking about (and neither, by extension, is touching her). Two centuries earlier than al-Sarakhsī, what may be al-Ṣan'āni's elliptical rendition of this same anecdote made al-Sarakhsī's point clearly: '... from Yaḥyā b. Sa'īd, that 'Umar b. al-Khaṭṭab left for prayer, and his woman kissed him, and he prayed without performing [new] ablutions.'⁶⁰ I have encountered no attempt on the part of the Shāfi'iya or anyone else to counter the implications of this ḥadīth, although there are some conflicting reports in the collections to the effect that 'Ātika bint Zayd kissed 'Umar on his way to the mosque, and while he didn't repeat his ablutions as a result, he did gargle (*maṣmaṣa*, *maḍmaḍa*)—representing, perhaps, a compromise of sorts.⁶¹

The Proud Grandfather

The last ḥadīth we shall examine in the context of the Ḥanafī-Shāfi'i debate over the fundamental meaning of *mulāmasa*, reads as follows:

... from Abū Qatāda, who said: the Messenger of God, may God's peace and blessings be upon him, used to hold Umāma—daughter of Zaynab, daughter of the Messenger of God—while he was praying, and when he would prostrate himself he would put her down, and when he would rise [from prostration] he would pick her up again.⁶²

Abū Qatāda's report is not included by the compilers of the *ṣaḥīḥayn*—the two superlatively 'sound' compilations of al-Bukharī and Muslim—in the Book of *Ṭahāra* (as most of the other traditions we have reviewed are, by the *shaykhān* and others), but rather in the chapters dealing with prayer and proper behavior in the mosque.⁶³ It would appear to be related to a cycle of anecdotes concerning the Prophet's fondness for his

⁶⁰ 'Abd al-Razzāq, 1:103 (56:508).

⁶¹ 'Abd al-Razzāq, 1:104 (56:512).

⁶² *Muwaṭṭā'*, *Bāb Jāmi' al-Ṣalāt*, 1:141; Bukhārī, 1:591; Muslim, 5:31. Nawawī admits that 'there is unanimous agreement on the authenticity' of this tradition (*muttafaq 'alā ṣiḥḥatihī—Majmū'*, 2:31). Zaynab was married to Abū'l-'Āṣ (a largely long-distance union which weathered many a vicissitude).

⁶³ Nor is this the only ḥadīth we have discussed which does not appear to have been prepared specifically for the subject of *mulāmasa*, a fact which makes one think *non-Schachtian* thoughts (see above, note 4, and below, chap. 8, n. 23).

grandchildren, according to several of which Fāṭima's sons Ḥasan and Ḥusayn would climb up on Muḥammad's back while he was prostrate in prayer and play horse, and the Prophet was loathe to rise for fear of spoiling their fun.⁶⁴ The description of Muḥammad holding his *female* grandchild while at prayer, however, was naturally seized upon by the Ḥanafite polemicists and put to work attacking the notion of *lams bi'l-yaad* and *iltiqā' al-bashratayn* as prayer-precluding 'events.' Here was the Apostle of Allāh in the midst of the formal genuflections of *ṣalāt*, in recurrent and deliberate contact with a member of the opposite sex.

Once again the premiere defenders of the Shāfi'ite position, al-Māwardī and al-Nawawī, do their best to nullify the impact of this powerful image, with the zealous assistance of Ibn Ḥazm. Al-Māwardī reminds his readership that Umāma was the Prophet's grandchild, and thus a *maḥram* (one with whom marriage/intercourse would constitute incest and is therefore forbidden). Since the preponderance of Shāfi'ite jurists have always ruled—based on a number of arguments which we shall survey below—that physical contact with a *maḥram* is an exception to the provision of *mulāmasa* and does not violate *wuḍū'* status, Umāma (explains al-Māwardī) is not a problem.⁶⁵ Al-Nawawī adds the fact that she was obviously a child (*ṣabiya*) at the time, and again, the majority of Shāfi'ites opined (as we shall also see in more detail later) that touching minors below the age of puberty does not impinge upon prayer-readiness.⁶⁶ Ibn Ḥazm, who somehow knows that Umāma sat specifically on the Prophet's shoulders (and whose *madhhab* grants no dispensations either for *maḥārim* or for *ṣibyan*), focuses on and amplifies—with his usual heatedness—a well-worn point already made in passing by the other two:

Abū Muḥammad [Ibn Ḥazm] said: In this [ḥadīth] there is no proof for [the Ḥanafite] position whatsoever, for there is in it no stipulation that [Umāma's] hands or legs touched any part of [Muḥammad's] flesh, upon him be peace, especially given that she was of a surety bundled up (*muwashshahatan*) in a wrapped garment (*riḍā'*) and in socks and gloves (*ḡawrabayn wa-quffazayn*), or her clothes were long and loose-fitting, completely covering her hands and legs, this being most proper in terms of the honor owed to men of importance. And if the ḥadīth did not specify explicitly [that there was actual skin-to-skin contact], then it is not per-

⁶⁴ See Ibn Kathīr, *Al-Bidāya wa'l-Nihāya*, 8:205–207. Ibn Kathīr takes most of these anecdotes from the compilations of al-Tirmidhī and Ibn Ḥanbal.

⁶⁵ Māwardī 1:227.

⁶⁶ Nawawī, *Majmū'*, 2:29.

mitted to anyone to add to it what is not in it, and anyone who does so is a liar ... and it is not permitted to [the Ḥanafīya] to turn their backs on the definitive verse [i.e., '... *aw lāmastum al-nisā'* ...'], the rules of which are mandatory, in favor of a spurious guess [*dhann kādhib*]. For the Exalted One has proclaimed: 'A guess can never take the place of the truth' (Q. 53:28) ... Thus do [our opponents] mislead and deceive by adducing a report which is irrelevant to their case, by means of which they seek to abandon the unwavering certainty of Qur'ān and *Sunna*.⁶⁷

Though often brilliant and invariably warm to his subject, Ibn Ḥazm's reasoning does not always keep pace with his passionate polemic: here he derides others for unjustifiably reading conjectural material into the ḥadīth, one sentence after having himself outfitted Umāma with a wardrobe nowhere mentioned in the text.⁶⁸ This, as we have said, is typical of the *Sunna* side of our debate, which shows the Shāfi'īya and their allies struggling hard to stay afloat. If the first round (*Kitāb*) may perhaps be said to have gone to the Shāfi'ītes, the second round (*Sunna*) looks like it should probably be awarded to the Ḥanafītes.⁶⁹ We now proceed to the third and final round: *ra'y* or independent reasoning.

⁶⁷ Ibn Ḥazm, 1:246.

⁶⁸ Al-Māwardī himself, in the context of a discussion of the ritual consequences of touching first degree relatives, adduces the Umāma ḥadīth and specifically rejects the proposition that the Prophet did not palpate her skin: '*al-nabī, ṣallā Allāhu 'alayhi wa-sallam, qad kāna yaḥmilu Umāmata bint Abī'l-ʿĀṣi fī ṣalātihī, wa-lā yanfakku ghālīban min lams badanihā fī ḥamlīhī*' (Māwardī, 1:228).

⁶⁹ This is, of course, merely the impression of the author. The exponents of each *madhhab* have largely remained entrenched in their positions down to the present day. Nobody 'wins' such debates, and in the end—despite the vehemence of an Ibn Ḥazm—the different schools generally respect each other's opinions and rulings (see, e.g., Goldziher, *Introduction*, 47, notes 32–34; Cf. Joseph Schacht, *The Origins of Muhammadan Jurisprudence* [Oxford: Clarendon Press, 1950], 95). This outlook is sometimes encapsulated in the term *taṣwīb*, an abbreviation of the assertion that '*kul mujtahid muṣīb*'—every high-level legal scholar is correct.

CHAPTER EIGHT

RAY: THE SPECTRUM OF RATIOCINATION

The well-known (even pre-Schachtian) thesis that the employment of independent reasoning in Islamic jurisprudence preceded the recourse to, or reliance upon, Qur'ān and Ḥadith, has been debated for decades.¹ This is not the place to delve into any aspect of this complex and probably insoluble conundrum, but at least one of the problems with the definition or premise of this debate is that it ignores the reality that reasoning must necessarily be exercised *upon* something. Especially in the case of *mulāmasa*, there would be little or nothing to polemicize about without the existence of the scriptural provision (no evidence exists of another source whence early Muslims might have acquired the notion that physical contact with women violates the proper prayerful disposition).² Thus, it would be a mistake to regard *ra'y* reasoning or 'discretionary judgment' as thoroughly 'independent,' if by this is meant that it proceeds from nowhere but the *mujtahid's* own mind, or solely from logic-based legal principles which are applied to an ever-widening spectrum of cases. There is no 'pure' *ra'y*. Even where medieval juristic literature comprises little more than what appears to be a detached hurling of intellectual premises against intellectual premises (or a piling up of mere opinions against mere opinions in a hail of 'name-dropping,' one of al-Nawawī's hallmarks), the Qur'ān and *Sunna* invariably lurk just below the surface—at least in this field of Islamic law—an assumed, underlying presence, the unquestionable launch-point of it all.³ Indeed, the logic employed in the arguments for

¹ Goldziher, for instance, already speaks of the 'speculative jurisprudence, which acknowledged no dominant importance to [or: did not set any value upon] the traditional source material, [and] reached its apex even before Abū Ḥanīfa's time' (Ignaz Goldziher, *The Zāhirīs* [trans. Wolfgang Behn. Leiden: E.J. Brill, 1971], 13; compare the translation of this passage by S. Khuda Bukhsh in Von Kremer, *Orient*, 396, n. 1).

² See Maghen, 'Dead Tradition ...', 325–329.

³ As Wael Hallaq has shone, it is fallacious to conceive of the eponyms of the four Sunnī schools as 'absolute *mujtahids*,' originating norms *ex nihilo* with no reference to previous judicial authorities or to the *mos maiorum* of the *ṣaḥāba* and *tābi'ūn* (Hallaq, *Authority ...*, esp. 24–56). Pace Schacht and others, the doctors of Islamic law often derived their debates directly from the Qur'ān, as well. In what sounds like (but isn't,

and against the application of various *aḥādīth* to aspects of the Ḥanafite-Shāfi'ite debate over *mulāmasa* (some samples of which we have witnessed above) in itself constitutes what we might call a sort of *ra'y* regarding the *'ilm* (even though the latter term—connoting the 'knowledge of precedent'—is usually opposed to the former). Since, therefore, we have already seen a form of *ra'y* at work in the arguments of the *fuqahā'* and *mufasssirūn* thus far, we will present in this section only a few terse specimens of such learned dialectic, in cases in which it does not *explicitly* reference the first two *uṣūl al-fiqh* (bases of jurisprudence—Qur'ān and *Sunna*).

Muḥammad b. al-Ḥasan al-Shaybānī, the late eighth century pupil of Abū Ḥanīfa and Abū Yūsuf, sometime teacher of al-Shāfi'i and 'author'⁴ of many of the earliest Muslim legal works, conducts a conversation in the *Kitāb al-Aṣl* with his master (Abū Ḥanīfa):

I asked: What is your opinion in the matter of a man who performs his ablutions, then kisses his wife passionately or touches her passionately or touches her genitals passionately [*qabbala imra'tahu bi-shahwa aw lamasahā bi-shahwa aw lamasa farjahā bi-shahwa*]⁵—does this violate his *wuḍū'*? He replied: No. I asked: And if he embraces her whole body passionately and there is no garment between them and his member becomes erect as a result [*fa-in bāsharahā li-shahwa wa-laysa baynahumā thawb wa-intashara lahā*]? He answered: As for that, it violates his *wuḍū'*,⁶ and he must perform his ablutions over again. And this is the opinion of Abū Ḥanīfa and Abū

for chronological reasons) deliberate contra-position to Patricia Crone's statement that '[o]f rules based on the Qur'ān from the start we no longer possess a single clear-cut example' (Crone, 'Two Legal Problems ...,' 10–11), John Burton writes: 'In the three questions [that Burton has just culled from the *Muwatta'*] with which Mālik was concerned, the Qur'ān texts lay at the very heart of his discussions [even though not directly quoted], and the manner in which they were severally treated suggests the centrality of the Qur'ān in the intellectual activity of the [earliest] Muslims. The intervening century-and-a-half [between the time of the Prophet and the appearance of Ḥadīth] had, in other words, been an age of the exegesis of the Qur'ān. From the minutest analysis of the revealed texts had flowed a stream of *ḥadīths* and views which were then taken by the Muslims as starting-point for the construction of their "Law"' (Burton, *Sources*, viii. What Burton, who supports and even extends Schacht's theories, means by this statement—or whether indeed he really means it, or is simply setting it up to be knocked down afterwards—is harder to gauge, even after reading his entire treatment [cf. his *The Collection of the Qur'ān* (Cambridge: Cambridge University Press, 1977), 72ff.]).

⁴ As Norman Calder has argued, it is problematic to speak of genuine 'authorship' of such works, which are often more akin to the cumulative results of several generations of discussion of, and marginal commentary on, an original text (Calder, *Studies* ..., chapters one, two and *passim*).

Yūsuf, whereas Muḥammad [al-Shaybānī himself] said: His *wuḍū'* is not violated [in such a case], until and unless he emits pre-ejaculatory fluid or anything else.⁵

Nearly three hundred years after this passage was put into circulation, al-Sarakhsī glossed it. He begins at the end, attempting to explain the dissenting opinion of the 'author,' al-Shaybānī.

Muḥammad [al-Shaybānī] said: '[The case of a full naked embrace which engenders erection] does not violate *wuḍū'*.' This is a reasoned analogy (*qiyās*) [on his part] from the statement of Ibn 'Abbās, may Allāh be pleased with both of them [*viz.*, al-Shaybānī and Ibn 'Abbās], who declared that 'ablutions must be performed [solely] as a result of that which emerges [from the penis—*al-wuḍū'* *mimmā kharaja*]⁶—and if it is certain that nothing at all emerged [extrapolates al-Shaybānī] then [the full naked embrace with erection] is no different than a kiss [in terms of its ability to induce ritual impurity; that is, it cannot].⁷

Thus, Muḥammad al-Shaybānī's ruling—as explained by al-Sarakhsī—represents the most extreme position on *mulāmasa* in the Ḥanafite camp. According to his outlook, no amount of passionate contact or foreplay of any kind can induce a state of prayer preclusion, unless the ejaculation of *madhī* occurs.⁸ Al-Shaybānī's two masters do not go so far. For

⁵ Shaybānī, *Aṣl*, 1:47. 'Anything else' refers to *manī* (actual semen) or *wadī* (prostatic fluid).

⁶ Although this may be a reference to the more general rule upheld by many *fuqahā'* that violating 'events' are confined to 'the emergence of that which emerges from the two orifices [anus and phallus/vagina/ureter]' (see, e.g., *Fath al-Qadīr*, 1:26: '*al-khārij min ghayr al-sabīlayn lā yanquḍu al-wuḍū'*'). It is, at any rate, *not* a reference to the defiling nature of what Mary Douglas would call 'matter which has traversed the margins/boundaries of the body' (Douglas, 114–128), especially since there are a number of bodily fluids which cross such boundaries—such as saliva, perspiration, tears and milk—which are not at all 'contaminating' according to the *sharī'a* system (a minority considered milk a ceremonial contaminant, but this notion was abandoned early on—see Abū Dā'ūd, 1:44). Indeed, certain jurists place the emphasis less on the fact of the emergence than on the quality of what emerges, formulating the criterion for, or character of, ritually defiling anatomical incidents as *khurīj al-najās*, 'the egress of impure material' (see, e.g., *Fath al-Qadīr*, 1:28: '*khurīj al-najāsa mu'aththir fī zūwāl al-tahāra*'). But see below, p. 209.

⁷ Sarakhsī, 1:68.

⁸ A woman's *wuḍū'* is violated, according to the Ḥanafiya (or at least according to al-Shaybānī), if (a) she is nude, (b) she is 'cleaving together' with a man (*talāsuq*), and (c) *he* has an erection. No emission of any kind from the woman is required to violate *her* ritual fitness in such a situation. While female orgasmic discharge ('when a woman sees what a man sees') is indeed acknowledged by Islamic tradition (Zulaykha's female friends 'ejaculated' [*amnayna*] when they saw Joseph—see the commentaries to *Q* 12:31) and given a role in obligating *janāba* by most *fuqahā'* (see, e.g., *Mughnī*, 1:199), no female

them *mulāmasa* takes place, and *wuḍū'* status is cancelled, if and when a man and woman lie together totally nude and passionately intertwined and the male is manifestly aroused. Al-Sarakhsī explicates their reasoning:

The opinion of Abū Ḥanīfa and Abū Yūsuf, may Allāh the Exalted have mercy on them both, should be understood in the following manner: Since the overwhelming likelihood in cases in which one has reached such a high level of flesh-on-flesh foreplay [*mubāshara*] is that *madhī* [at least] will emerge from the man, [Abū Ḥanīfa and Abū Yūsuf] rule in such cases *as if* the defiling fluid had definitely been ejaculated, basing their legal assessment on the commonplace, not the rare [*binā'an li'l-ḥukm 'alā al-ghālib dūna al-nādir*]. This is similar to the case of one who sleeps in a recumbent position: even if he is quite sure that nothing came out of him [in terms of flatulence], nevertheless, his *wuḍū'* is violated [because we base our assessment on the commonplace, not the rare, and the chances are that flatulence occurred at least once during sleep]. It is also analogous to the case of 'the lack of water in a settled area' [*'adam al-mā' fi'l-miṣr*]: such a situation does not activate the dispensation of sand-rubbing (*tayammum*) because [of the general rule:] 'no settled area is without water.' And Ḥasan [al-Basri] explained Abū Ḥanīfa's understanding of *mubāshara fāḥisha* as a case in which the man embraces the woman while they are both completely nude (*yu'āniqūhā wa-humā mutajarradān*) and the outer part of his genitals touch the outer part of hers (*yamusṣu ḡāhir farjuhu ḡāhir farjahā*).⁹

To begin from the end of al-Sarakhsī's elucidation: we are here given the specific coordinates of the scenario which, according to Abū Ḥanīfa (and presumably according to Abū Yūsuf, as well), represents the minimum quantity and quality of contact required in order to violate *wuḍū'* status. Anything less has no effect: even if he 'slept with his wife in the same bed and they were completely naked and cleaving to one-another' (*nāma ma'a zawjatihi fi sarīr wāḥad wa-humā 'āriyān mutalaṣaqān*)¹⁰ his prayer-purity remains intact (although other *aḥdāth*, especially flatulence, are assumed by most authorities to have taken place during the night, and *wuḍū'* is therefore incumbent on him anyway upon awakening). Abū Ḥanīfa is envisaging a man and woman on the very threshold of sexual intercourse: they are nude, their genitalia are touching, and he has an

counterpart to the *initial* stage of ejaculation among males—the emergence of *madhī*—is envisioned, and therefore, provided all the other conditions enumerated above are fulfilled, the woman's 'excitement of heart' is enough to annul her *wuḍū'* (Jazīrī, 1:77; Bayjūrī, 1:134).

⁹ Sarakhsī, 1:68. See also Jazīrī, 1:74.

¹⁰ Jazīrī, 1:77.

erection. In such a situation (we are given to understand by the earlier part of al-Sarakhsī's exposition), the founders of the Hanafite school proceed based upon a principle of probability, according to which that which would most likely occur in the majority of cases (i.e., pre-ejaculation) is assumed to have *actually* taken place for purposes of legal assessment. It is this last principle—as applied to the Ḥanafite comprehension of the provision of *mulāmasa*—that draws fire from the Shāfi'īya.

Al-Nawawī quotes the early eleventh century Shāfi'ite scholar of Nīsābūr, 'Abd Allāh Abū Muḥammad al-Juwaynī ('Imām al-Ḥaramayn'), who reiterates the legal assessment of Abū Ḥanīfa, *viz.*, that 'if they lie (or stand) together, having removed all of their clothing, and he experiences an erection, *wuḍū'* becomes necessary.' Al-Juwaynī then challenges the logic underlying this ruling:

'On what basis,' he asks, 'do you [Abū Ḥanīfa] cancel [the lovers'] *wuḍū'* status in the case of nude embrace (*mubāshara fāḥisha*)? If their [sic.] reasoning involves the proximity [of such an embrace] to a defiling event (*al-qurba min al-ḥadath*—i.e., the high probability that pre-ejaculation will ensue), then we remind them that all are agreed that proximity to a *ḥadath* is not a *ḥadath* [you can't be almost pregnant]. If they retort (*yaruddu 'alaynā*) with an analogy (*qiyās*) from sleep [*viz.*, that because of the high probability of flatulence the sleeper's *wuḍū'* is automatically violated, and thus here, as well, due to the high probability that (at least) pre-ejaculatory fluid will emerge when a man and woman are thus intertwined, *wuḍū'* must be cancelled], we respond that there is no comparison [between the two cases], for when one sleeps he cannot possibly be aware of whether or not anything emerged [from his orifices, i.e., gas, and therefore he must act on the assumption that it did; whereas one apparently can be aware of the discharge or lack thereof of *madhī*: certain Companions paid close attention to this phenomenon, such as 'Alī b. Abī Ṭālib, whose pre-ejaculatory fluid—as we saw—'flowed readily.' One might also notice a stain afterwards]. Thus [since neither their reasoning nor their attempt at analogy truly supports the Ḥanafite ruling that nude embrace violates *wuḍū'*], they are left with no basis for obligating ablutions in the case of *mubāshara fāḥisha* except the straightforward statement of the august Qur'ān itself [*viz.*, '... *aw lāmastum al-nisā'* ...'], in which [al-Juwaynī reminds the Ḥanafīya] there is no distinction whatsoever made between 'extreme' *mulāmasa* and any other kind [such that if Abū Ḥanīfa and his followers can rely only on Q. 5:6 or 4:43 in order to prescribe *wuḍū'* for the participants in 'nude embrace,' then they must additionally prescribe *wuḍū'* for all other types of touching as well—for the verse does not distinguish—including *lams bi'l-yad* and *qubla*].¹¹

¹¹ Nawawī, *Majmū'*, 2: 30.

Ibn Ḥazm seconds this criticism succinctly and severely, as is his custom, pointing out that the distinction drawn by the Ḥanafīya—between kissing accompanied by erection (for which they do *not* mandate repetition of *wuḍūʿ*) and *mubāshara* accompanied by erection (for which they do)—‘has no basis of any kind in the Qurʾān, nor is it supported by any *aḥādīth*, be they sound or unsound (*ṣaḥīḥ aw saqīm*), nor by the consensus of the scholars (*ijmāʿ*), nor by a statement of any Companion, nor by analogous reasoning (*qiyās*).’¹²

Two points should quickly be made about the Ḥanafite case before we move on. First, as we have seen, the exponents of this *madhhab* are divided amongst themselves regarding the meaning of *mulāmasa*, and have been so ever since the eponym of their school addressed the issue. Their cross-the-board rejection of mere contact as a *ḥadath* having excluded them from subsequent pan-Sunnī deliberations aimed at further refining and defining the types of touching that undermine prayer preparedness, the Ḥanafīya subsequently busied themselves with their own intra-scholastic debate over the meaning of ‘... *aw lāmastum al-nisāʾ* ...’—a debate that preoccupied many later authorities of this *madhhab* to an even greater extent than the original ‘coitus versus palpation’ dispute had exercised their predecessors.¹³ Shaykh ‘Alī b. Sultān Muḥammad al-Qārī al-Harawī, the sixteenth century author of *Fatḥḥ Bāb al-ʿInāya*,¹⁴ rehearses the basics of this longstanding disagreement:

Al-Mubāshara al-Fāḥisha—this is when his genitalia touch her genitalia and his ‘instrument’ is extended (*yamassa farjuhu farjahā wa-huwa muntashar al-āla*). Muḥammad [al-Shaybānī] said: [such a situation] violates ritual fitness if and when pre-ejaculatory fluid emerges (*idhā kharaja al-madhī*), for only the discharge of an unclean (*najīs*) substance cancels *wuḍūʿ*. Accord-

¹² Ibn Ḥazm, 1:247.

¹³ Indeed, some early Ḥanafite scholars—like the famed tenth century author of *Aḥkām al-Qurʾān*, Abū Bakr Aḥmad b. ‘Alī al-Rāzī al-Jaṣṣāṣ (d. 981)—did not even deign to participate in the original defense against the Shāfiʿīya, and offered no explanation for their omission of *lams al-marʾa* from their lists of *aḥādīth*. Essentially, these jurists transferred the treatment of this matter to the realm of ‘major’ impurity, merging *mulāmasa* with *janāba* and conceiving of *al-mubāshara al-fāḥisha* as a sort of subset of sexual intercourse.

¹⁴ ‘The Opening of the Gate of Providence,’ a celebrated commentary on the thirteenth century scholar ‘Ubayd Allāh b. Masʿūd al-Maḥbūbī’s *Nuqāya*, itself an abridgment of the famed work of the latter’s grandfather, *Wiqāyat al-Riwāya fī Masāʾil al-Hidāya*, considered one of the *mutūn al-arbaʿa al-muʿtabara* (‘four [especially] esteemed texts’) of the Ḥanafīya.

ing to the two of them [Abū Ḥanīfa and Abū Yūsuf], on the other hand, *mubāshara* of the sort just described is almost always accompanied by [the emission of] pre-ejaculatory fluid, and they decreed that which is predominantly the case to be invariably the case, out of precaution (*al-mubāshara 'alā hādhihi'l-ṣifa lā yakhlū ghāliban 'an madhī, fa-ju'ila al-ghālib ka'l-mutaḥaqqaq ihīyātan*) ... and the majority of the books state explicitly that the correct position upon the basis of which we should render legal decisions (*al-ṣaḥīḥ al-muftā bihi*) is the opinion of Muḥammad [al-Shaybānī].¹⁵

Although al-Qārī al-Harawī's designation of al-Shaybānī's ruling as the dominant one in the literature of the Ḥanafite school seems to be statistically correct, advocates of the minority position—that of Abū Ḥanīfa and Abū Yūsuf, who decreed that the ejaculation of *madhī* is *assumed* under conditions of horizontal nude conglutination (*talāṣuq*) with simultaneous phallic stiffening—nevertheless made quite a ruckus. They claimed, along with their founding masters, that (1) 'such [fervid] conditions are rarely unaccompanied by the discharge of pre-ejaculatory fluid (*yanduru intifā' al-madhī fī hādhihi'l-ḥāla*),' and reminded their readership that 'phenomena which are *predominant* [must be treated] like phenomena which are *constant* in areas in which extra care is called for';¹⁶ that (2) 'establishing the lack of ejaculation [under such circumstances] is not feasible, for the situation is one in which confusion and inattention reign (*li-annahā ḥālat dhuhūl*)'; that (3) 'the translucence (*shafāf*) of pre-ejaculatory fluid makes it extremely difficult to detect [even did one have the presence of mind during the heat of passion to investigate], especially since it is possible that only a tiny amount came out, or else it might have been wiped off (*inmasaḥa*) in the interim'—in which case one would have become a *muḥdith* without knowing it; and (4) that 'the setting up of the cause in place of the effect (*iqāmat al-sabab maqām al-musabbab*) is a recognized method in Islamic law (*tarīqa ma'hūda fī'l-sharī'a*),' such as in the case of recumbent sleep (*naʿwm al-mudṭaji*), which is declared a defiling event in *fiqh al-ṭahāra* because 'the eyes are the

¹⁵ Al-Qārī al-Harawī, *Fatḥ Bāb al-Ināya*, 1:78.

¹⁶ Compare this principle to the 'pure until proven impure' outlook characterizing the approach to *mulāmasa* among the Shāfi'īya (see above, chap. 2, n. 23) and *aḥdāth* like flatulence (as we saw in the case of the slinking prompter, above, p. 50).

drawstrings of the anus' (*al-'aynān wikā' al-sah*),¹⁷ that is, due to the high probability of unobserved flatulence.¹⁸

The champions of the position of 'the two shaykhs' (Abū Ḥanīfa and Abū Yūsuf) additionally made much of a widely recorded ḥadīth narrated through Ibn Abī Layla from Mu'adh b. Jabal, who was sitting with the Prophet of an afternoon when a man approached the latter and asked:

What would you say about a man who obtained enjoyment from a woman not permitted to him, denying himself not a whit of what he is accustomed to enjoy from own wife, save that he did not cohabit with her? (*mā taqūlu fī rajulin aṣāba min imra'ti lā tahilla lahu fa-lam yad' shay'an yuṣhibuhu al-rajul min imra'atihi illā wa-qad aṣābuhu minhā illā annahu lam yujāmi'hā*).

¹⁷ Shīrāzī, 1:96. Attributed to the Prophet, this metaphor means that when one falls asleep, he loses control over—or awareness of—the passing of gas through his buttocks. Al-Sarakhsī employs a similar formulation to explain why sexual intercourse without evident ejaculation nevertheless necessitates *ghusl*: 'This act [*viz.*, penetration] is in the majority of cases a cause of an opening of the portals of semen, and so we make it tantamount to ejaculation for the sake of caution, for it is hidden from his sight and he may not have noticed what came out due to its exiguous amount' (*hādihā al-fi'l sabab li-istiṭlāq wikā' al-manī 'ādatan fa-qāma maqām khurūj al-manī iḥṭiyātan li-annahu muḡhī 'an baṣrihi fa-rubbamā lam yaqif 'alayhi mā kharaja li-qillatihi*—Sarakhsī, 1:69). Some sources make Muḥammad an exception to the rule that 'the eyes are the drawstrings of the anus': 'Ibn 'Abbās reported: I slept over at the house of my maternal aunt Maymūna [one of the Prophet's wives], and the Messenger of God woke up in the middle of the night to respond to the call of nature (*qāma min al-layl fa-atā ḥajatahu*), after which he washed his face and hands and returned to sleep. Sometime later he rose again, went over to the waterskin (*qirba*) hanging on the tent-pole, undid it's drawstring (*atlaqa shanāqahā*) and performed a perfect set of ablutions. He then offered his nocturnal devotions ... after which he lay down to sleep again, so deeply that he snored—for he would snore in his sleep (*wa-kāna idhā nāma nafakha*). Finally, Bilāl came to wake him for prayers, and he went out [to the mosque] and prayed the dawn prayer without having performing ablutions. Sufyān said: This [*viz.*, the right to omit *wuḍū'* after recumbent sleep] was the sole prerogative of the Prophet, for it has reached us that the eyes of the Prophet would sleep, but his heart would not sleep (*wa-hādihā li'l-nabī khāṣatan, li-annahu balaghānā anna al-nabī, ṣallā Allāhu 'alayhi wa-sallam, tanāmu 'aynāhu wa-lā tanāmu qalbuhu*—Muslim, *Kitāb Ṣalāt al-Musāfirīn wa-Qaṣruḥā, Bāb Ṣalāt al-Nabī wa-Du'āhu bi'l-layl*, 26:181 [763] and 186. See also 17:125 [738]). In other words, unlike other men, the Prophet was fully aware whether a *ḥadath* (i.e., flatulence) had occurred while he slept. Other *ahādīth* contradict the notion of a special dispensation for, or talent of, the Prophet in this regard.

¹⁸ Zayn al-'Ābidīn b. Ibrāhīm b. Nuḡaym, *Al-Baḥr al-Rā'iq: Sharḥ Kanz al-Daqā'iq* (Beirut: Dār al-Kutub al-'Ilmiyya, n.d.), 1:43; Abū Bakr b. Mas'ūd al-Kāsānī, *Kitāb Badā'ī' al-Ṣanā'ī' fī Tartīb al-Sharā'ī'* (Beirut: Dār al-Kitāb al-'Arabī, 1974), 1:58; *Faṭḥ al-Qadīr*, 1:29; Shīrāzī, 1:96. Muslim jurists will often canvass the entire range of *fiqh* literature and adduce analogous situations or rulings from areas of law far removed from the one they are currently discussing. In the instances examined in this chapter, however, they have confined themselves to comparisons within the realm of *tahāra*.

In reply Muḥammad—not one to be deceived by the old ‘I have a friend who has this problem ...’ ruse—addressed his instructions directly to the questioner himself: ‘Perform a good set of ablutions, and head off for prayer.’¹⁹

What was this exchange about? It is doubtful that the inquirer had ritual issues in mind when he addressed his query to the Messenger of God, not because questions about such subjects were seldom broached—they were constantly so—but because in that case there would have been little point in volunteering the information that the hypothetical third party’s paramour was ‘a woman not permitted to him.’ Rather, much like his fellow fornicator, Mā‘iz b. Mālik (see above, p. 153), this confessor had come to the Prophet on moral-legal business: he wanted to know about the nature and consequences of his deed, about the classification of the crime and the character of its punishment. Muḥammad was perfectly aware of this, and, in fact, answered in kind. His directive to ‘perform a good set of ablutions and head off to prayer’ was another way of saying, ‘you’re off the hook: go and sin no more.’²⁰

Every legal system must set specific and exacting standards by which to judge the legality, illegality and *level* of illegality of various acts, and the *sharī‘a* is no exception. In the same way that a woman may not be convicted of adultery without the presence of at least four witnesses at the illicit rendezvous, every one of whom must be properly positioned to view the *locus coitus*, the actual point of penetration,²¹ so too here, fine criteria come into play: an illicit affair is not defined as such unless it involves outright cohabitation.²² Since the man testified that he and

¹⁹ Bayhaqī, *Sunan*, 1:125; Ibn Ḥanbal, 5:245; Tirmidhī, 11:278; Dāraquṭnī, 1:49. The fourth form of *ṣ.w.b.*, with or without following preposition ‘*min*,’ is often employed in sexual or intimate contexts, such as when Muḥammad *kāna yuṣību min ra’si ba’di nisā’ihi wa-huwa ṣā’im*—‘would kiss the head of one or more of his wives while fasting.’

²⁰ See Ṭabarī, 12:80, for a parallel story about a man who lured a peddler woman into his house and molested her, then came to Muhammad for advice about how to atone for this. The Prophet promised him an answer after prayers, which they thereupon performed together. When the service was over, the Prophet declared the man’s sin forgiven as a result of his *ṣalāt*, buttressing this ruling with Q 11:114: ‘And keep up prayer at the two ends of the day and in the first hours of he night. Surely good deeds wipe away evil deeds ...’ (*inna al-ḥasanāt yudhhibna al-sayyi’āt*).

²¹ This law is purportedly a product of the notorious ‘Ā’isha-Safwān scandal and launches its jurisprudential career in the opening verses of the twenty-fourth chapter of the Qur’ān.

²² Cohabitation as a category is in itself subject to further refinement.

his mistress had engaged in ‘everything but’—and his testimony to this effect is presumably believed by the same token that he was allowed to incriminate himself in the first place—the Apostle of Allāh ruled that, technically speaking, nothing had happened, and he meted out a ‘punishment’ that consisted of the inquirer washing his hands of the affair (literally and figuratively) and nothing more.

However, as was often the case when later Muslim legists plumbed the depths of prophetic lore for anecdotes with which to bolster their controversial positions, this ḥadīth was eventually picked up by the advocates of the Abū Ḥanīfa-Abū Yūsuf position (as against al-Shaybānī’s position) on *mulāmasa*, and exploited for what it teaches by-the-way.²³ These two sages had enjoined ablutions in the wake of *mubāshara fāḥisha* (nude embrace with stiffening of male member) even without the actual observance of pre-ejaculation, and here (their successor jurists claim) we see Muḥammad prescribing the self-same ritual remedy. Since the fornicator himself had mentioned nothing about the emission of *madhī*, but did acknowledge having performed with his partner ‘everything short of intercourse’ (a spectrum which must have included *mubāshara fāḥisha*); and since the Prophet did not bother to interrogate his interlocutor regarding any penile discharge he may have experienced during the course of this erotic encounter; then we can conclude that al-Shaybānī and his followers are wrong, and *wuḍū’* is indeed required when dalliance reaches a certain ‘point of no return,’ whether pre-ejaculation is verified or not. Thus can the great twelfth century Ḥanafī jurist, ‘Alā al-Dīn Abū Bakr b. Mas‘ūd al-Kāsānī, maintain that ‘this report contains proof that *al-mubāshara al-fāḥisha* violates *wuḍū’*.’²⁴

The second point that should be made in regard to the outlook of the Ḥanafīya in general, is that while they do differ amongst themselves regarding the prerequisite of *madhī* ejaculation in obligating the repetition of minor ablutions, both sides to the debate appear to cooperate in telling a different story at home than abroad. When battling the

²³ As in numerous other cases, this ḥadīth was most probably *not* manufactured for the sake of the legal purpose it is put to work serving, a phenomenon which leads one to think *non-Schachtian* thoughts (see above, chap. 7, notes 4 and 63).

²⁴ *Badā’i’ al-Ṣanā’i’*, 1:60. Al-Kāsānī was not quite as venerated in Ḥanafite circles in his own time or in the centuries immediately afterward as he is currently (he was ‘rediscovered’ by Ḥanafī jurists soon after the appearance of the first edition of the *Badā’i’* in 1909), which is part of what accounts for the overall victory of al-Shaybānī’s ruling.

Shāfi'ites and their allies over the significance of the scriptural clause in Q. 5:6/4:43, the Ḥanafite jurists and their predecessor Companions and Successors consistently spoke of *mulāmasa* as *jīmā'*, by which latter term they meant (so we assumed, and with justice) full-blown sexual intercourse. It was only once the Ḥanafīya had retreated from the fray (by denying all ritual significance to mere contact) and begun arguing amongst themselves, that a disagreement was thrown into relief *neither side of which* upheld the notion that the Qur'ān saw only coitus *per se* as a *ḥadath*. Rather, the Ḥanafīya all seem to be in full agreement that certain types of truly heavy petting which lead to pre-ejaculation also violate one's *wuḍū'*. Thus, both parties to the intra-Ḥanafite dispute seem to support positions that are slightly less 'lenient' than the *madhhab*'s original 'bargaining stance' vis-à-vis the other schools, a stance that had appeared to eliminate any need for abstention whatsoever in all cases of intimate contact *save* cohabitation. What accounts for this apparent Ḥanafite 'two-facedness'?

It is probable that the explanation for this discrepancy ought to be sought in the same need or predilection for rigorous systemization and categorization that we have just encountered above (with reference to the case of the pseudo-adulterer). In other words: there is coitus and there is coitus, and depending on the area of law under discussion, different depths of penetration will involve different legal ramifications. In the context of Ḥanafite *fiqh al-ṭahāra*, there appears to have been an attempt to hew out a distinct and unique niche for the *ḥadath* of *mulāmasa*. On the one hand, the Ḥanafī jurists drew clear borders between this scripturally ordained contaminating 'event' and mere contact (by means of their debate with the Shāfi'īya); on the other hand, they threw up a wall between this minor defilement and the major pollution of *janāba* (intercourse-induced preclusion). The former line is drawn by the majority Ḥanafite (i.e., Shaybānite) 'unwillingness to obligate ablutions for kissing, caressing [or even] fully nude embracement (*mubāshara*) unless the emission of *madhī* is ascertained.'²⁵ The latter line is drawn by the entire *madhhab* as one, and with the help of the discrepancy that launched our current sub-inquiry: *mulāmasa* is conceived as a kind of proto-coitus (a '*shabh jīmā'*,' though such a term is never used, or the by now familiar *mubāshara fāḥisha*), involving surface genital contact (*mass zāhir farjuhu zāhir farjahā*) and/or a mild amount of seminal emis-

²⁵ Ibn Rushd al-Qurṭubī, *Muqaddimāt*, 1:79.

sion,²⁶ and it obligates the would-be worshipper in *wuḍūʿ*. This sort of quasi-love-making is also described by the Ḥanafites, revealingly for our purposes (in terms of the seeming semantic contradiction involved), as a case where ‘he copulated with her outside the genitals’ (*yaṭāʾuhā dūna al-farj*).²⁷ *Janāba*, on the other hand, describes the ritual after-effects of coitus proper, involving at least partial penetration (*iltiqāʿ al-khitānān*, ‘the meeting of the two circumcisions,’ *ghaybat al-ḥashafa*, ‘making the phallus disappear’) and/or full and complete seminal emission, and it obligates the devotee in *ghuṣl*.²⁸

In the end, however, it must be admitted that the solution we have proposed to the apparent Ḥanafite ‘limping between two opinions’ in the matter of *mulāmasa* is not water-tight. After all, we have by now observed pro-Ḥanafite exegetes parse Q 5:6/4:43 more than once in such a manner as to create a parallelism: one minor *ḥadath* (rising from sleep) and one major *ḥadath* (becoming *junub*) in the *first* part of the verse; one minor *ḥadath* (coming from the privy) and one major *ḥadath* (*mulāmasa*) in the *second* part of the verse. According to this reading, *mulāmasa* is none other than a major *ḥadath*, i.e., *janāba*, and

²⁶ Even according to Abū Ḥanīfa and Abū Yūsuf, the ultimate rationale for the violation of *wuḍūʿ* as a result of *mubāshara fāḥisha* is, as we have seen, the high probability of pre-ejaculatory emission.

²⁷ *Mughnī*, 1:193; Nawawī, *Majmūʿ*, 2:30. Al-Nawawī describes Ḥanafite *mubāshara fāḥisha*—which he calls *mulāmasa fāḥisha*—as a situation in which ‘a man and a woman are naked and they are embracing and he has become erect’ (*tajarradā wa-taʿanaqā wa-intashara la-hu*—*Ibid.*, 2:32).

²⁸ And perhaps in *wuḍūʿ* as well (see Nawawī, *Majmūʿ*, 2:31: ‘*qāla aṣḥābunā: wa-naḥmu naqūlu bi-muqtaḍa al-lams muṭlaqan, fa-matā iltiqat al-bashratān intaqada [al-wuḍūʿ] siwāʿ kāna bi-yad aw jimāʿ*). Still another way of looking at this is to posit that the Ḥanafite scale of sexually induced impurity is primarily based, not on different levels of intimate interaction, but on the penile discharge of substances that they—unlike their Shāfiʿī adversaries—saw as *najis* (witness al-Qārī al-Harawī’s explicit determination, above, that ‘only the discharge of an unclean substance cancels *wuḍūʿ*’). Thus, for them, the ejaculation of *madhī* is the true essence of the *minor* libidinal *ḥadath* and consequently obligates the male believer (and, say some, his female partner) in the minor ablution or *wuḍūʿ*, whereas the ejaculation of actual semen or *manī* is the true essence of the *major* libidinal *ḥadath*, or *janāba*, and consequently obligates the believer in the major ablution, *ghuṣl*. Such an interpretation runs into problems, however, one of which is that the vast majority of jurists—including all of the Ḥanafiya—consider *mulāmasa* to be a cross-gender, unisex phenomenon: female ‘*tāmīsūn*’ (and, many would add, even *malāmīs*) are ritually defiled no less than males. While most *fuqahāʾ* are aware of a female experience that corresponds to male *manī* or full-blown seminal ejaculation (‘when a woman sees what a man sees’), both of which are relevant to *janāba*, they do not envisage a specific female counterpart to *madhī* or the initial excretion of pre-ejaculatory fluid. Thus, the *ḥadath* can hardly be based on penile discharge (but see above, chap. 6, n. 65).

it most definitely obligates the believer in *ghusl*, not *wuḍū'*. How, then, can the same Ḥanafīya who would have us interpret the verse thus, simultaneously debate amongst themselves—as we have just seen them do—the question under what circumstances *mulāmasa* requires *wuḍū'*?

There is only one possibility that suggests itself—a possibility that, because it involves the exploitation of *ra'y* (independent reasoning), is particularly suitable to the Ḥanafīya. It may well be that the minor defiling event known as *mubāshara fāḥisha*—nude frontal embrace cum erection and (at least probable) pre-ejaculation—was not originally associated by the early jurists of this *madhhab* with the scriptural clause '... *aw lāmastum al-nisā'* ...' Rather, it was derived by means of *qiyās* (analogical argument) from the *preceding* clause of the same verse: '... *aw jā'a aḥadum minkum min al-ghā'it* ...' ('if one of you comes from the privy'). One of the few points upon which almost all Sunnī (and Shī'ī) jurists agree is that this clause should be expanded to comprise an entire category of prayer-precluding incidents, a category known as *khurūj al-khārij min al-sabūlayn* ('that which emerges from one of the two orifices'—phallus/vagina/ureter/anus). Thus, not only can the obvious urination and defecation be elicited from the privy clause, but—by analogy—flatulence²⁹ and semen (and worms) may be deduced from it as well. *Madhī* or pre-ejaculatory fluid, the premier factor in the Ḥanafite minor *ḥadath* of *mubāshara fāḥisha*, emerges from the same anatomical source, of course, and it is at least plausible that Abū Ḥanīfa, Abū Yūsuf and al-Shaybānī derived their singular *nāqid al-wuḍū'* thence. If so, then the whole matter may be wrapped up more tidily (from a Ḥanafite point of view): the '... *aw lāmastum al-nisā'* ...' clause refers to intercourse and *janāba*, thereby maintaining the scriptural parallelism: minor impurity (i.e., sleep): major impurity (i.e., *janāba*) :: minor impurity (i.e., privy, **including *madhī***): major impurity (i.e., *mulāmasa* = *janāba*). The Ḥanafīya, to sum up, require *ghusl* for sexual intercourse (which they call by two Qur'ānic names: *janāba* **and** *mulāmasa*); whereas they require *wuḍū'* for extremely erotic situations which are likely to lead to, or which *do* lead to, the discharge of pre-ejaculatory fluid (which they call *mubāshara fāḥisha*). The remainder of the *madhāhib*, with the exception of a few dissenters here and there, also require *ghusl* for cohabitation, while mandating *wuḍū'* for mere touching, kissing and caressing.³⁰

²⁹ Flatulence—one is reticent (but still duty-bound) to point out—emerging from both orifices of the female *and* male (see, e.g., Sarakhsī, 1:83).

³⁰ Even this last attempt to tie up the issue neatly leaves some loose ends. In an

While the above expositions no more exhaust the *ra'y* arguments surrounding the intra-Ḥanafite debate over the quiddity of *mulāmasa* than they do those surrounding the Ḥanafite-Shāfi'ite debate over the same,³¹ most of the remaining claims and counter-claims involve refinements and distinctions that we have yet to encounter (or explicate sufficiently), and which form the basis of further disputes between the Shafi'ī, Malikī and Ḥanbalī *madhāhib*, as well as within each of these schools. Though no party to the *lams-jimā'* debate can be said to have 'won' this argument—the *ulamā'* of the different schools remain adamant on these points to this day, agreeing to disagree—the nature of the Ḥanafite position did serve, as we said, to eliminate their exponents from all future discussions regarding the details and conditions of *mulāmasa* as a separate area of purity law. For the Ḥanafīya, *mulāmasa* is perched on the very brink of sexual intercourse, and most of this school's remaining dealings with this subject may be more-or-less subsumed under—or at least merged with—the rubric of *janāba* (major sexual preclusion). Only those for whom *mulāmasa* comprises its own unique category: of *lams bi'l-yad* (touching with the hand) *qubla* (kissing)

entirely different context—that of the divine dispensation allowing (indeed, urging) marital relations on the nights of Ramaḍān (2:187)—the precursors of the Ḥanafite outlook on *mulāmasa* consistently define the injunction '*fa'l'āna bāshirūhunna*' as 'now [that you have realized your mistake] have intercourse with them.' Ibn 'Abbās himself, the leading forerunner of the Ḥanafite position on this purity precept, puts forward in that context his claim (with which we are by now familiar from the debates over Q 5:6) to the effect that: '*al-mubāshara al-jimā', wa-lākin Allāh yaknū mā shā'a bi-mā sha'a.*' So as to leave no doubt about the matter, he is also cited as having asserted that '*al-mubāshara: al-nikāh,*' the latter term indicating, in this context, nothing less than intercourse. How, then, could the jurists of the Ḥanafīya, for whom the rulings and exegeses of Ibn 'Abbās are the premier launchpoint in this area, conceive of even the extreme case of *mubāshara fāhisha* as something *less* than intercourse? The answer may lie in different uses of the term in different literary and legal contexts.

³¹ The Ḥanafites, for instance, construct a *ra'y* argument involving an analogy (*qiyās*) from a ruling accepted by the majority of jurists to the issue here in dispute (*viz.*, the basic meaning of *mulāmasa*). They argue that were trans-gender bodily contact a *nāqid al-wuḍū'*, then such contact between men and *other men* should also violate ritual fitness, in the same way that major, sexual impurity is unanimously seen to be contracted both by heterosexual and homosexual coitus. As there is an agreed-upon equivalence between male-female and male-male encounters on the plain of *janāba* and *ghusl*, there should also be an equivalence between male-female and male-male encounters on the plain of (minor) *ḥadath* and *wuḍū'*. Since, however, the majority of jurists—and especially the Shāfi'īya—rule that male-male touching does *not* constitute the *ḥadath* of *mulāmasa*, then (conclude the Ḥanafites) male-female touching should not be considered *mulāmasa* either.

and *iltiqā' al-bashratayn* (skin-on-skin contact), have reason to debate the matter further—and debate it they do. Before proceeding to an examination of these deliberations, however, we should stop and examine the possible significance of what has gone before, in the last three chapters, for Muslim social history.

CHAPTER NINE

ON ACCOUNT OF A KISS: ṬAHĀRA AS LIBIDINAL REGULATOR

The polemic we have surveyed thus far provides us with a glimpse of the extent to which, and the ways in which, the literary corpora of Islamic jurisprudence and positive law grew out of the activating enzyme known as *ikhtilāf al-fuqahā*.¹ The kinds of issues that interested and exercised the Muslim jurists, as well as the logical methods they employed to analyze and deliberate those issues, are prominently on display in this often difficult material. Here is the intellectual (and spiritual, and to a large extent emotional) world of the most important leaders of the Islamic *umma*, the *fuqahā*,¹ shown in the sharper image that can only be had from a focused inset.

Of equal importance, however, the conflict over the fundamental meaning of *mulāmasa* must have had profound and pervasive ramifications for societal norms and quotidian behavior across *Dār al-Islām* down the centuries. Scholarship commonly describes, not to say dismisses, the legal differences between the various Sunnī schools as ‘negligible,’ ‘minor,’ ‘innocuous’ or ‘insignificant.’² Of course, to those modern scholars—both non-Muslims and non-practicing Muslims—for whom Islamic ritual is a matter of personal indifference, such inter-scholastic disagreements about ceremonial ‘details’ understandably appear unimportant, even though to observant Muslim believers throughout history those ‘details’ loomed quite large. Here, however, in the case of *mulāmasa*, we have an example of a legal controversy that appears to harbour momentous implications not just on the ritual-

¹ Richard Bulliet argues cogently in *Islam: The View from the Edge* (New York: Columbia University Press, 1994) that the real movers and shakers of Islamic society in history have been the scholars, not the caliphs, sultans, or other such ‘central’ figures.

² See, e.g., Goldziher, *Introduction*, 49; Schacht, *Introduction*, 67; Burton, *Sources*, 16; Schacht, ‘Law and Justice,’ in P.M. Holt, Ann K.S. Lambton and Bernard Lewis, *The Cambridge History of Islam*, Vol. 2 (Cambridge: Cambridge University Press, 1970), 563; Marshall G.S. Hodgson, *The Venture of Islam* (Chicago: University of Chicago Press, 1958), vol. 1, 337; Fazlur Rahman, *Islam* (Chicago: University of Chicago Press, 1966), 83; and many others.

spiritual plane—for those directly involved in Islamic observance—but also in terms of its impact on the types of communal and familial dynamics that should be of interest even to the most detached social historian. To understand why and in what ways this is so, we should first raise the question of the extent to which *tahāra* provisions were in fact followed in Muslim milieus during the first millennium of Islamic civilization and beyond. This is certainly a difficult question, and one which can be answered, if it all, only in the broadest strokes. Nevertheless, it is my impression that these strokes all point in the same direction: toward a significant degree of observance of purity precepts in the Muslim world from the earliest times to the present.

While it is true that much of Islamic law has, throughout most of its history, been in a state of suspended animation, rarely implemented pervasively or meticulously, nevertheless the *‘ibādāt* (ritual provisions)—and those connected with prayer especially—have been widely practiced from the beginning.³ This does not mean that there were not many individuals, as well as groups and entire classes, who may have neglected the laws of *tahāra*, and others who, although wishing to be scrupulous, were not sufficiently versed in the legal niceties to carry out the manifold regulations in the strictest fashion. The bedouin, as one instance, are regularly accused in the classical literature—from Qur’ān and Ḥadīth to *fiqh* and *adab*—of just such ignorance and neglect,⁴ and certainly the religious observance of many outlying districts and newly conquered communities might consist, at least at the outset, of little more than a thin veneer over the continuation of pre-Islamic practices.

Nevertheless, there is something about the immanence of the body and the immediacy of its fitness that has ever made the observance of

³ See my ‘Much ado about Wuḍū’, especially 213–230 and the conclusion. ‘[*Shari‘a* courts] as a whole considered themselves bound by the doctrine as expounded in the *Shari‘a* manuals,’ writes Coulson, ‘and because this doctrine proved insupportable in practice, jurisdiction in matters of general civil law, contracts and commercial transactions, was assumed by other tribunals’ (Noel J. Coulson, *Conflict and Tension in Islamic Jurisprudence* [Chicago: University of Chicago Press, 1969], 71). Cf., however, the numerous concrete examples of *shari‘a* application specifically in matters of *mu‘amalāt* selected and analyzed by Powers in *Law, Society and Culture in the Maghrib*, which argue for a reassessment even of the notion that Islamic civil and criminal law was largely ignored.

⁴ Does not the ubiquity of this accusation militate for its corollary: that most city and village dwellers *did* keep the basics of ritual law? If so, this constitutes an additional argument for the prevalence of religious observance in the sedentary communities of the Muslim world.

purity norms—in almost all traditional societies, Islamic or otherwise—fundamental and common. There is a special and powerful reticence among Muslims (to this day) toward entering mosques, touching Qur’ānic codices and especially praying when they are ‘impure.’ To do such things is a profanation, a desecration, a taboo, and the declaration of the Prophet is well and widely known that failure to perform the ritual ablution invalidates prayer (*lā tuqbalu ṣalāt aḥadikum idhā aḥdatha ḥattā yatawadda’a*).⁵ Ibn Rushd alludes to the pervasive observance of purity norms in the process of supporting the *ṣiḥḥa* of this same ḥadīth. The report is clearly authentic, he argues, ‘because of the absence of a narration from any of the Muslims disputing it. Had there ever been a dispute about the authenticity of this ḥadīth, it would unquestionably have been transmitted [to us], because the requirements of practice demand this’ (*wa-law kāna hunāka khilāfun la-naqala, idh al-‘ādāt yaqtaḍī hādihā*).⁶ Ibn Rushd is saying that purification is hardly a theoretical matter: it affects a central element—indeed, *the* central element—of daily Islamic observance (prayer). Adds al-Nawawī:

There is unanimity amongst the Muslims regarding the prohibition against praying when a *muḥdīth*, and they have all agreed as well that [such prayer] is not valid (*lā taṣiḥḥu minhu*), regardless of whether [the devotee] is aware of having experienced a *ḥadath* or is ignorant of this or has forgotten it. If [on the other hand] he is in fact aware, both of having experienced a *ḥadath* and of the prohibition against praying while in such a state, [and he nevertheless proceeds to pray prior to alleviating his impurity through *wuḍū’*], such a one has perpetrated a mighty rebellion [against God—*irtakaba ma-ṣiya ‘aẓīma*].⁷

Al-‘aṣā li-man ‘aṣā, goes the Arabic saying: ‘The stick for him who rebels.’ Beyond the stick, however, is the carrot: ‘The Messenger of God said: “Whoever of my community performs his ablutions and performs them well, then prays afterward, all of the sins he commits between that ablution and the time of the following prayer session will be forgiven”’ (*ghufira lahu baynahu wa-bayna al-ṣalāt al-ukhrā ḥatta yuṣallihā*).⁸ ‘How will you recognize the members of your *umma* [in the world to

⁵ Muslim, *Ṭahāra*, 2:225 (this declaration is also the title of the chapter in which it is found). For other versions of the same statement see Dāraquṭni, *Bāb al-Tasmiyya ‘alā al-Wuḍū’*, 5–8; Bukhārī, *Bāb La Tuqbalu Ṣalāt bi-ghayr Ṭahūr*, 4:2; Abū Dā’ūd, 1:31 and 1:48; and Dārimī, 1:21–22).

⁶ Ibn Rushd, *Bidāya*, 1:5–6.

⁷ Nawawī, *Majmū’*, 2:67. As for him that forgoes his prayer: ‘*yuqtalu tārikahā wa-lā yasqutu farḥuhā*’ (Qurtubī, 5:174).

⁸ *Muwatta’*, 2:6 (29).

come]?’ the Companions asked the Prophet. He responded: ‘Won’t a man who owns horses with white blazes on their faces and feet (*khaylun ghurrun muhajjilatun*) easily discern them from amongst a herd of completely black horses? Just so shall [the members of my community] come thronging to me on the Day of Resurrection, with heads, hands and feet shining from *wuḍū’*—and I shall lead them to the Heavenly Pond.’⁹

We cannot, it is true, ignore the assertion of Bousquet: ‘From a sociological point of view, if we can find in Islam a minority that is exceedingly preoccupied with, and observant of, purity provisions, the vast majority often neglect, and in many cases have an extremely inexact notion of, the law. They carry out the prescriptions in a curiously inadequate fashion. A detailed study will show a lack of correspondence between the *fiqh* and the practice.’¹⁰ These remarks were based, however, as Bousquet himself concedes, on a very limited survey of a few North African communities (at a time when the trappings and ideologies of modern life had been making inroads for decades, if not centuries). My own experience—admittedly even more limited than Bousquet’s—tends to confirm the very correspondence he predicts will be belied. Even if Bousquet is correct, however, the less meticulous portion of the population seems nevertheless, according to his own description, to have fulfilled at least the basic elements of *ṭahāra* law, and the more punctiliously observant minority of which he speaks still comprises an enormous number of people over a great many generations, and forms the class of the Muslim community most effective in molding the ethos of Islamic society as a whole. Bouhdiba’s balanced observation on this subject is, I believe, closer to the mark than Bousquet’s (or it may simply be a similar statement with a significantly different emphasis): ‘In the rearing of the Muslim, [the purificatory techniques] occupy a place of particular importance; even if in everyday practice one tends to simplify the ritual, to skim it in a sense, the

⁹ *Muwatta’*, 2:6 (28). It is interesting to note that immediately after Muḥammad’s father, ‘Abd Allāh, ‘washed and bathed’ (*tawaḍḍa’a wa-ghasala*) in order to remove the traces of clay that had repelled the wife he wanted to sleep with, the same woman became eager to have intercourse with him because ‘between his eyes there was a white blaze like the blaze of a horse’ (*bayna ‘aynayhi ghurra mathal ghurrat al-faras*—Ibn Hishām, 1:145). On references to pre-Islamic lavations using *ṭahāra* terminology, see the present author’s ‘Strangers and Brothers ...’

¹⁰ Bousquet, *L’ethique Sexuelle*, 86.

prescriptions are very frequently observed, especially in stricter communities, notably those in the cities.¹¹

Lacking hard evidence upon which to base assessments of observance levels in various Muslim communities in the distant past, we are forced to employ the less reliable, but still valuable, method of extrapolation from the particular to the general (a method indispensable even to the most thorough of statistical surveys). We note, for instance, the ubiquitous presence of *ṭahāra* activity in classical anecdotes not specifically concerned with purity issues, such as Ḥanzala and Jamīla's tragic-romantic first and last night together—a tale casually punctuated by rounds of major purification; Zayd's oath not to perform *ghuṣl* until he had taken revenge on the Banū Fazāra (and Abū Sufyān's seemingly anachronistic vow to the same effect following Badr); the order to refrain from drinking from the water of Ḥijr 'or using it to perform *wuḍū'*" (on the way to the Battle of Tabūk); and 'Umar's major ablution after sleeping with his wife during Ramaḍān and prior to proceeding to the Prophet's house to confess his crime. The first item on Muḥammad's list of instructions to his envoy at the Ḥimyarite-Christian court in the Yemen was an admonition to be especially careful about purification.¹² When a delegation from the Christian tribe of the Banū Ḥanīfa came to pledge allegiance to the Prophet (631 CE), he sent them home with some of his leftover ablution water, commanding that they break down their church, sprinkle some of that water on the site, and build a mosque in its place.¹³ The last recorded act of the twelfth Imam-Mahdī before going into Occultation, according to the widely syndicated story of 'Shaykh al-Ṭā'ifa,' was to help his dying father, al-Ḥasan al-'Askarī, perform *wuḍū'* for prayer.¹⁴ Al-Khaṭīb al-Baghdādī, seeking to illustrate a particular category of indisputable historical knowledge (*mutawātir*), adduces by example 'the traditions

¹¹ Bouhdiba, *Sexuality*, 46. Cf., however, Burton's observation regarding the neglect of purity rituals among the "irreligious" in Egypt (Sir Richard Burton, *Personal Narrative of a Pilgrimage to al-Madīnah and Mecca* [New York: Dover Publications, 1964], vol. 1, p. 100, n. 1).

¹² Muir, *Life of Mohammad*, 456, note 1. Muir finds these instructions 'curious.' The non-Muslim milieu is particularly hazardous from the standpoint of ritual pollution (see 'Strangers and Brothers ...'). Khomeini similarly 'took care not to touch unclean objects' on his way to Neauphle-le-Château in October, 1978 (Taheri, *Spirit*, 230).

¹³ Muir, *Life of Mohammad*, 458.

¹⁴ Donaldson, 233. Nor should we forget the Shī'ite *ṭālib* Najafī-Quchānī's perfunctory dunk in the pond on the way out of the house of his 'temporary wife' heading toward the mosque for evening prayers—above, p. 34.

on seeing God in Paradise, on intercession, on the basin [the celestial river *al-Kawthar*], on the [heavenly] scales of justice, on the punishment in the tomb—and on the moistening of shoes [*mash' al-'l-khuffayn*].¹⁵ The *fatāwā* collected in the famous *Mi'yār* of Abū'l-'Abbās Aḥmad al-Wansharīsī (d. 1508 CE)—containing responsa published from the 9th through the 15th centuries—include many queries regarding *ṭahāra* subjects.¹⁶ And if Bousquet is to be allowed the aforementioned prognostication that ‘a detailed study will show a lack of correspondence between the [purity] *fiqh* and the practice,’ perhaps we may be permitted the prediction—based on what is so far only the present writer’s general impression—that a close and thorough examination of the *adab* literature will reveal a similar frequency of ‘nonchalant’ references to pollutive phenomena and *ṭahāra* rituals, elements as pervasive in the background scenery as they are inessential to the moral of the stories told. Purity practices are woven into the fabric of Muslim existence; they are an integral and indispensable element of the rhythm of daily life.

In the modern period, as well, the presence and significance of *ṭahāra* is attested in a wide variety of venues and contexts, from among which, again, we adduce here only a few examples. The trigger for no less momentous an event than the Indian Mutiny of 1857 is identified by many scholars with a ritual purity problem. Karl de Schweinitz writes that the revolt was sparked ‘by sepoys in the [East India] Company’s Bengal army who were apprehensive about what they thought were attempts by the British to attack and demean their religious beliefs. When the rumour got around that the new Enfield rifles ... used cartridges that were greased with pig-fat, Hindus as well as Muslims were alarmed at the possibility of becoming ritually polluted.’¹⁷ Ḥasan al-Bannā’, founder of the most influential Muslim movement in modern times (the *Ikhwān al-Muslimīn* or Muslim Brotherhood), testifies that at the group’s first gathering in Ismā‘īliya in 1927, he ‘neither tried to read out the passages nor lectured on the ideological problems.’

¹⁵ A.J. Wensinck, *The Muslim Creed: Its Genesis and Historical Development* (Cambridge: Cambridge University Press, 1932), 258.

¹⁶ Camilla Adang, ‘Fatwās as a Source for the Study of Relations between Muslims and non-Muslims in the Islamic West,’ in Nili Cohen and Andreas Heldrich (eds.), *The Three Religions* (Munich: Herbert Utz Verlag, 2002), 169–187.

¹⁷ Karl de Schweinitz, Jr, *The Rise and Fall of British India* (London: Methuen and Co., 1983), 172–173; see also Geoffrey Moorehouse, *India Britannica* (London: Harville, 1989), 109–110.

My approach was simple and straightforward. In the beginning I took them straight to the watertaps and made them sit in a row. I stood among them as a guide and taught them every part of the ablution. In this way I made efforts to train my Muslim bretheren and create amongst them love for the Islamic way of life.¹⁸

Even the work of Salman Rushdie pays tribute to the centrality of purification rituals in Islamic life, in a description of the Muslim past derived from the author's experiences with the Muslim present: 'In the city of sand, their [*viz.*, the Muslims'] obsession with water makes them freakish. Ablutions, always ablutions, the legs up to the knees, the arms down to the elbows, the head down to the neck. Dry torsoed, wet limbed and damp headed, what eccentrics they look! Splish, splosh, washing and praying.'¹⁹

To this day, adherence to the regulations of *ṭahāra* is a significant concern for Muslims around the world, including in the West. At one of the most popular *fatāwā* (responsa) sites on the Internet, ritual purity ranks fifth out of forty-five categories for number of queries submitted.²⁰ Another web-location has logged over 3,500 questions regarding *wuḍū'* alone in less than eight months of activity (a quick survey reveals that some two-thirds of these questions relate to sexual matters).²¹ A 'Google' search for the keyword 'tahara' returns 50,900 matches. By comparison, a search for the term 'tawhid'—monotheism, the central tenet of Islam—results in 19,900 matches.²² It would be possible to adduce countless other examples of the purity code's central place in Muslim life and history. The cumulative effect of these omnipresent references should not be ignored.

Common sense also leads to the conclusion that large numbers of Muslims have observed the laws of *ṭahāra* during most periods of history. If it is safe, for example, to assume that a significant percentage of Muslims in the early centuries of Islam worshipped even somewhat

¹⁸ Ḥasan al-Bannā', *Memoirs of Hasan al-Banna Shahid*, trans. M.N. Sheikh (Karachi: International Islamic Publishers, 1981), 128–129.

¹⁹ Salman Rushdie, *The Satanic Verses* (London: Viking Press, 1988), 104. It is certainly significant that the early Muslims were often referred to as 'Sabaeans,' after the Southern Iraqi Jewish-Christian sect of that name (possibly connected to the Mandeans) that was heavily preoccupied with baptism/lustration, and was therefore also known by the name *mughtasilūn*.

²⁰ www.islam.tc/ask-imam/index.php

²¹ www.islamanswers.net/fatwa/english/html

²² At least in the first hundred or so 'hits' for 'tahara,' the subject is Muslim, not Jewish, *ṭahāra*, and I assume this is true of the rest, *inter alia* because Jews usually refer

regularly, then it is also safe to assume that most of the people who prayed were cognizant of the basic ritual ‘dangers’ threatening the *siḥḥa* (validity, efficacy) of their *ṣalāt* (prescribed prayer).²³ And if they were aware of these ceremonial threats, it is fair to assume that they were not ignorant of the basic methods for avoiding or counteracting them. Moreover, if it is fair to posit that most medieval Muslims genuinely believed in God, then it is also clear that they did not try to ‘cheat’ by pretending that a *ḥadath* of one sort or another had not occurred, or that *wuḍūʿ* had been performed when it had not. If prayer without purity is known to constitute a ‘mighty rebellion’ against God; and if God is considered to ‘know what dark suggestions [man’s] soul makes to him, for We are nearer to him than his jugular vein’ (Q. 50:16); then it would certainly be futile to ask favors from the Deity while simultaneously rebelling against Him. ‘The key to paradise is prayer,’ intoned the Prophet, ‘and the key to prayer is purification’ (*miftāḥ al-janna al-ṣalāt, wa- miftāḥ al-ṣalāt al-ṭahūr*).²⁴ If one wishes to beseech Allāh in one’s devotions for health, prosperity, paradise and other good things (or at least to gain such desired ends as a reward for observing the *ṣalāt*) it stands to reason that one will be heavily inclined to pray by His rules.

The following observations by the British anthropologist Paula Drew, who spent the years 1964–1978 in Tabriz and Tehran, are particularly significant for the question of the extent of purity praxis. While investigating the sexual norms of certain segments of Iranian society, she notes in passing the central place of purity practices in the overall picture she is sketching. The Muslims she encountered were so wary of praying while *muḥḍith* or *junub*, and—consequently—so conscientious about performing *wuḍūʿ* or *ghuṣl* prior to *ṣalāt* (when necessary), that interested parties could monitor the rhythm of their family members’ sexual lives by keeping track of their lustrations. We cite Drew’s comments at some length:

to their purity code with the word for ‘impurity’ (*ṭumʿa*) not for ‘purity’ (which is also generally spelled differently in the transliteration from Hebrew: *tahora* or *tohora*).

²³ The subject of *ṣalāt* is invariably introduced by/ appended to *ṭahāra* not just in the law books, but in religious instruction for the young, as well, as may be seen in the many manuals devoted to this purpose currently on the market. No Muslim parent or schoolmaster who taught his child the *ṣalāt* would neglect to teach him/her to perform *wuḍūʿ* beforehand when called for; such a *ṣalāt* is almost inconceivable (see E.W. Lane, *An Account of the Manners and Customs of the Modern Egyptians* [London: Ward, Lock and Co., 1890], 51). It would not be an exaggeration to say that *ṭahāra* is an integral, indivisible part of prayer.

²⁴ Baghawī, 3: 1.

The Islamic sense of pollution, which prohibits all acts of worship under certain conditions of spiritual and physical uncleanness, makes public—and therefore amenable to control—otherwise private, biological events such as menarche [the first menstrual period], menstruation, sexual contact, and ejaculation. Males who have ejaculated, females whose external or internal organs have had contact with seminal fluid, and females who are menstruating may not pray or touch a copy of the Qur'an without first performing ablutions. Since these ablutions were not possible in the majority of Iranian houses in the 1970s, these necessary ablutions had to be performed at public facilities and were therefore open to public scrutiny. Prayers were said individually within the home, but audibly and in full view of others at the prescribed times of the day. Thus anyone who, through fear of committing sacrilege, had to abstain from ritual recitation of prayers or from the obligatory periods of fasting set down by the Islamic calendar, would be subject to scrutiny and interrogation by older family members about the reason for such abstinence.

Most Iranian housing consists of a one-story, single large room, or two-story, two-room, with-curtain-hung alcoves, a private courtyard enclosed by a high wall, and a toilet/bath in one corner of the courtyard. The wealthy can afford to live in moderate high-rise apartments, but these are limited because of the danger of earthquakes. This architecture and the desert environment makes privacy a premium. Menarche announces itself to the entire household when a young girl is unable to recite her prayers. This is often the signal for parents to conclude marriage arrangements, so that the girl can be wed before her second menstruation. *Intercourse between married members of the household is similarly monitored. Conception or failure to conceive is immediately apparent to all. The approximate time of any woman's ovulation can be informally calculated by interested parties. Wet dreams and visits to houses of prostitution [this may refer to mut'a, Shī'ite temporary marriage] can be surmised by the family in the same way, by watching who does and does not pray and when. Wash basins or pools for routine washing of the face, hands, and feet are set in full view of all household members in the hallway or yard.*

Bathing the body under a shower takes place at the neighborhood bathhouse where abundant hot water is available for a modest sum. Taking a shower, for the most part, is seen not so much as a hygienic measure, but as a way of ridding the body of anything that makes it spiritually unclean and the person unfit to participate in religious activities. The body parts are washed in ritualized sequence with prescribed prayers. The bathing practices of family members reveal a great deal of otherwise private information to those interested in monitoring them. The rituals of Islam thus abet the older members of the family in their task of controlling the sexual behavior of all those potentially reproductive or sexually active within the household.

There is a strong resistance among older women to the growing practice of installing hot water systems in the home. Although simplifying their dish-washing and laundry tasks, an automatic hot water system interferes with their ability to supervise the bathing practices of their husbands, offspring, and daughters-in-law, and thereby keep tabs on their sexual behavior. Even in houses with a shower, the matriarch of the household often controls the means of igniting the hot water system.²⁵

The omnipresence of purification activity in the earliest sources, and the ubiquity of *tahāra* in modern-day Muslim life, should allow us to infer that in the intervening centuries ritual purity also played an important role in the lives of a significant proportion of Muslims. How many is ‘a significant proportion’? We shall, of course, never know in any exact fashion. The most we can say is that a sufficient number of people in a sufficient number of countries engaged in purity practices with sufficient frequency and seriousness that *tahāra* became a central fixture in Islamic literature and an indelible feature of Islamic life, an institution naturally identified by Muslims of all places and times with their own faith.

For this reason, I propose in what follows to turn the tables, and engage in what may be seen as an ‘essentialist’ analysis *par excellence*. If it is notoriously difficult to collect enough data to support hard and fast conclusions regarding most aspects of demotic history, it is far less difficult to identify the religio-legal ideal that was designed to govern that demotic activity, an ideal that was established early on, has persisted for over fourteen hundred years, and has at all times possessed trans-national validity in *Dār al-Islam*. And if we are, and will forever remain, unable to adduce the statistics to prove incontrovertibly that *tahāra* was widely and consistently observed in the past, then we are also (I would argue) within our rights to give considerable weight to the power of religion over human behavior and attempt the inverse operation: to assume that purity law was observed by Muslims to a large enough extent that it may be designated an influential factor in the forging and maintenance of Islamic communal ethos everywhere. Society can be a window on law; but law can also be a window on society.²⁶

²⁵ Paula Drew, ‘Family and Community Life in Iran,’ <http://www2.rz.huberlin.de/sexology/GESUND/ARCHIV/IES/IRAN.HTM>. Emphasis added.

²⁶ ‘Given the present state of information and research,’ wrote Sauvaget in 1943, ‘it is often impossible to approach the study of social entities other than *indirectly through works of law*. Nevertheless, few of the [Western scholarly] works on Muslim law are able

In order to employ the purity provision of *mulāmasa*, and the juristic disputes revolving around it that we have surveyed over the previous three chapters, as just such a window—in order, that is, to draw, with the help of this ritual regulation, tentative conclusions about aspects of

as yet to meet and satisfy completely the varied demands of the historian's curiosity. Some are devoted mainly to the study of the fundamental premises of the law rather than its positive content ... Others are intended primarily to meet the practical needs of modern administrators, so that they are completely indifferent to questions of origin and progressive development or the possible variations of the law.' Jean Sauvaget, *Introduction to the History of the Muslim East* (first published in French in 1943, recast by Claude Cahen in 1965. Second Edition: Westport: Greenwood Press, 1982), 87. Emphasis mine. The legal material we are working with in this study suffers from neither of these drawbacks, and thus may be able to facilitate our examination of social conditions. 'In order to determine the framework in which the trade and commerce of the early Islamic period was carried on,' writes Abraham Udovitch, '*we must of necessity rely on legal treatises for most of our information*, while trying wherever possible to call upon whatever meager help other literary sources may provide ... Historians of the commercial law of the medieval West generally agree that legal techniques not only reflected but also influenced economic practices. If we assume at least the same for the medieval Muslim world, then, in spite of the absence of archival documents, a thorough investigation of the major institutions of Islamic commercial law will not only be a chapter of "Handelsrechtsgeschichte," but may also serve as an indicator of the level and complexity of those fields of economic activity in which the institution was applicable' (Udovitch, *Partnership and Profit in Medieval Islam* [Princeton: Princeton University Press, 1970], 3–4. Emphasis mine. See the ensuing pages of Udovitch's introduction for his arguments against the positions of Goldziher and Snouck-Hurgronje who asserted that *fiqh* had very little to do with the actual practice,' an assumption which 'ruled out the use of legal material as a source for any study except that of the development of Islamic theoretical legal doctrine as one of the important elements in Muslim intellectual life' (ibid., 5 and 6. Udovitch's closing argument on this score—pp. 249–261—is, however, somewhat less convincing, as it depicts Islamic commercial law as so malleable and adaptive that it barely retains a recognizable shape). If Udovitch is right about the relevance of Islamic economic law for our understanding of medieval Muslim practice, it is an argument *a fortiori* that the same is true for ritual law, which was more clearly defined, more regularly encountered, and more immediately associated with religion. Schacht, while stressing the 'absolute similarity from the Muslim point of view' of prescriptions relating to ritual and those of a civil, criminal or political nature, remarks parenthetically: 'Although it is of course felt that the former, the so-called *ibādāt*, are more closely connected with Allāh' (Joseph Schacht, *EI*, s. v. 'Shari'ah'). 'For the overwhelming majority of the religious in any population,' writes Clifford Geertz, 'engagement in some form of ritualized traffic with sacred symbols is the major mechanism by means of which they come not only to encounter a world view but actually to adopt it, to internalize it as part of their personality' (Geertz, *Islam Observed: Religious Developments in Morocco and Indonesia* [Chicago: University of Chicago Press, 1968], 100). Seyed Hossain Nossair tellingly urges that the *mu'āmalāt* be carried out by the Muslim 'with the awareness that he is performing an act that is pleasing in the sight of God, and is *as obligatory as specifically religious duties*' (Nossair, *Ideals and Realities of Islam* [London: Allen & Unwin, 1975], 98. Emphasis added). In short, if any law is relevant to practice, ritual law is.

Muslim intimacy in previous eras—we must begin by taking a closer look at the twin issues of water and *wuḍūʿ* as these are presented in the *ṭahāra* sources. In chapter one, we spoke of *wuḍūʿ* as a ‘simple conduit’ or ‘portal’ through which believers can ‘hop’ from a prayer-preclusive to a prayer-conducive state many times daily. This needs to be qualified. A number of factors combined to ensure that the performance of even minor ablutions by the average Muslim in the pre-modern period was often an inconvenient, not to say formidable, proposition. Some of these factors are obvious. The lands over which Islam held sway were mostly arid, when not out-and-out desert. Water scarcity has always had a major impact on the lifestyle of the inhabitants of these regions,²⁷ and this impact is well reflected in the legal literature on *ṭahāra*, especially those sections of it concerned with *tayammum* (the sand or soil substitute for aquatic ablutions). ‘The absence of water’ (*adam al-māʿ, fiqḍān al-māʿ*)—especially but not exclusively beyond city limits—is a weighty presence in juristic literature and prophetic exempla. ‘Abd al-Raḥmān b. Abzī reports that a bedouin (*rajul min ahl al-bādiya*) came before ‘Umar b. al-Khaṭṭāb and bemoaned: ‘O Commander of the Faithful! Often a month or two go by during which we find no water [either at all, or in sufficient quantities to execute ablutions. Thirst can be quenched with milk, even date-juice, whereas *wuḍūʿ* and *ghuṣl* may be performed with water alone].’²⁸ Once, while on an expedition, the Prophet espied a man of his entourage standing apart (*muʿtazilan*), not offering his devotions with the rest of the worshippers. He shouted to him: ‘O So-and-So! What prevents you from praying together with the people?’ The man answered, ‘O Messenger of God, I am sexually impure and there is no water’ (*aṣḥabatnī janāba wa-lā māʿ*).²⁹ On another excursion the people complained of thirst, and ‘Alī and another man were sent off to find fluids of the requisite kind. After hours of searching, they finally happened upon a woman riding a camel who had two skins of water with her. But when they asked her whence she had drawn it, she spoke of a well a day’s journey away (*ahdī biʿl-māʿ ams hādhihiʿl-sāʿa*). They per-

²⁷ See, for instance, Patricia Kabra, ‘Water Rights and Irrigation Practices in the Medieval Maghrib,’ in Robert Gleave and E. Kermeli (eds), *Islamic Law: Theory and Practice* (London: I.B. Tauris, 1997).

²⁸ Ṭabarī, *Jāmiʿ al-Bayān*, 5: 159. I have speculated on the reasons for this restriction in the introduction to my ‘Ritual Recycling: Abūʿl Ḥasan ‘Alī al-Māwardī and the Question of Second Hand Ablutions,’ forthcoming in *Bar-Ilan Studies in Arabic and Islamic Culture*, vol. 2, Fall 2004.

²⁹ Bukhārī, 1:7 (344).

sueded her to accompany them back to the Muslim camp, where the Prophet was forced to perform an Elisha-like miracle with her meager beverage in order to sustain and purify his troops.³⁰ Soldiers on campaign, pilgrims heading toward the *ḥajj*, shepherds out pasturing their flocks, even highwaymen lying in wait to rob and plunder³¹—all of these are liable to find themselves ‘struck by sexual impurity’ but destitute of the proper amount of water necessary to prepare themselves for prayer.

Nor need one stray far from home or go wandering in the wilderness in order to encounter this problem. The *fuqahā*’ give much consideration to ‘the one who can’t find water in a settled area, such as a village the water of which flows forth from a well’ (*‘ādim al-mā’ fī l-ḥaḍr ka’l-qariya allatī mā’ūhā min al-bi’r tafīr*). For the most part they allowed him to substitute *tayammum* (although Abū Ḥanīfa prohibits him from praying altogether under such circumstances, for he is neither sick nor on a journey, the explicit scriptural preconditions for the indulgence of *tayammum*).³² Abū Dā’ūd devotes an entire chapter of his *Sunan* to ḥadīths about ‘Sand-Rubbing in Settled Country’ (*Al-Tayammum fī l-Ḥaḍr*). One of these depicts the Prophet returning ‘either from defecating or from urinating’ (*min ghā’iṭ aw bawl*), when a man passed by him on one of the streets of Madina (*fī sikka min al-sikak*). ‘*Al-salāmu ‘alaykum!*,’ shouted the man. Muḥammad, fanatical about politeness, nevertheless did not return the greeting. Instead, he began looking about himself in every direction, until his fellow had almost disappeared from view (*ḥatta idhā kāda al-raḡul an yatawāra*). At the last moment, the Prophet rushed up to a wall, pounded it with his hands and wiped his face, pounded it again and wiped his arms, then turned toward the fading figure of his well-wisher and bellowed out a belated ‘*Wā-‘alaykum al-Salām!*’

What appears to have happened in this ḥadīth is that when the Prophet had earlier emerged from the privy, he had either not found water for *wuḍū’* or, just as likely, not seen any reason to perform it (as we heard him say after responding to the call of nature on another occasion: *a-wiḍu an uṣallī fa-atawada’a?*—‘Do I desire to pray that I should make ablutions?’).³³ Thus he was walking home through the streets of

³⁰ Bukhārī, 1: 7 (340); 2 Kings 4: 1–7.

³¹ Māwardī, 1: 323.

³² Māwardī, *Ibid.*

³³ This is a slightly different formulation, found (together with a number of other variants) in Muslim, 6: 54 (31: 374 ff.).

his city a *muḥdith*, and was loathe in such circumstances to utter the word ‘*salām*,’ which, besides being a greeting, is also one of Allāh’s ninety-nine names (if this was indeed the reason for his reticence, then this report reflects a minority opinion according to which *muḥdiths* must not mention the name of God—an opinion emphatically rejected by al-Nawawī, as we saw in chapter two).³⁴ The important aspect of this anecdote for our purposes is that Muḥammad, bereft of water with which to execute ablutions (or aware that they would take too long to perform anyway, see below), began searching his immediate environment for a substance with which to purify himself and—having descried neither water nor suitable soil for the purpose—performed an emergency *tayammum* on a nearby wall (an improvisation which, like most reputed acts of the *uswa ḥasana*, was later formalized and crystallized into law by those jurists who accepted the authenticity of this ḥadīth).³⁵ Moving from the *muḥdith* state back to the state of being ‘*alā wuḍūʾ*’ was not, then, in all cases a simple proposition. Even sand could not always be found, let alone water.

According to al-Ḥasan al-Baṣrī, the bodies of the martyrs at the Battle of Uḥud (626 CE) were not washed prior to burial because a great many Companions were wounded in the hands and arms, and it was too difficult for them to haul water all the way from Madīna for the purpose of bathing the corpses.³⁶ We have seen how the Muslim fighters were unable to perform *ghusl* on the morning of Badr for lack of water,³⁷ and how ‘Umar b. al-Khaṭṭāb awoke from a wet dream, could find no water in the saddlebags of any of the members of his entourage, and was forced to ride to a nearby oasis to wash his shirt.³⁸ Abū Ḥanīfa adduced a tradition according to which Ibn Mas‘ūd went out with the Messenger of God on ‘the Night of the Jinn’ and the latter asked him: ‘Do you have any water?’ (*hal ma‘k mā?’*). Ibn Mas‘ūd had much wine (*nabīdh*) in his skin, but not a drop of water. The Prophet was forced

³⁴ See above, p. 71.

³⁵ Or by those who created it. The wall is considered by such jurists to be an example of the verse’s ‘*šaʿīdan ṭayyiban*,’ the first word literally meaning ‘that which rises [out of the ground].’

³⁶ Sarakhsī, 2: 49: ‘*Innamā lam yughsal shuhadāʾ Uḥud li-anna al-jirāḥāt fashat fī l-ṣaḥāba fī dhālika al-yawm wa-kāna yashuququ ‘alayhim ḥaml al-mā’ min al-Madīna wa-ghasluhum li-anna ‘amat jirāḥātihim kānat fī l-aydi.*’ Sarakhsī himself does not accept this line of reasoning, and argues for the notion that the bodies of martyrs do not require washing in the first place.

³⁷ See above, p. 51.

³⁸ *Muwattāʾ*, 2: 20 (83)—see above, chap. 2, n. 57.

to perform *wuḍūʿ*, shockingly enough, with the alcoholic beverage.³⁹ The reason righteous Muslims are promised ‘water gushing’ (Q. 56:31) and ‘gardens underneath which rivers flow’⁴⁰ among the rewards of the afterlife, explains al-Qurṭubī, is because of the Arabs’ extreme difficulty in obtaining water in this world.⁴¹

But water scarcity was not the only factor that could make minor ablutions a major inconvenience. Even in a well-watered northern city, in the cooler, better irrigated provinces of *dār al-Islām*, the widespread fear of discomfort or illness resulting from the low temperature of the liquid often performed the same obstructionist function. Ḥadīth and *fiqh* literature is full of references to the potentially insalubrious effects of performing aqua-based ablutions when the weather is not completely hot and sunny (which, contrary to popular belief, is quite often the case in the desert). This phenomenon played an important role in individual decision-making (and sometimes in general legislation) regarding when and whether to lustrate. Abū Ḥanīfa and his pupil Muḥammad al-Shaybānī both exempted believers from performing *wuḍūʿ*—and allowed them to substitute *tayammum*—‘[even] in the city if [the water or weather] is extremely cold’ (*yatayammum fī l-miṣr li-shiddat al-bard*).⁴² Alī b. Abī Ṭālib is said to have decreed the permissibility of wiping over casts and sand-rubbing (*mashʿ alā jabāʿir wa-tayammum*) in cases of icy temperature⁴³ (he himself, it will be recalled, complained of having to perform [due to premature ejaculation] ‘so

³⁹ Ibn Rushd, *Bidāya*, 1:25. Wine is considered by the overwhelming majority of *fuqahāʾ* to be an *ʿayn al-najāsa*, although the status of the specific type of alcoholic beverage known as *nabīdh* is debated. Be that as it may, few jurists, even among the Ḥanafites, allow ablutions with liquids other than water, and the authenticity of this ḥadīth is roundly challenged. We bring it here solely for its illustration of water scarcity. (As to the question what was Ibn Masʿūd doing with wine in his skin: the prohibition on alcoholic beverages was—according to many Qurʾānic commentators—a three- or even four-stage process, and this outing may have taken place before *nabīdh* was fully forbidden). For issues of water distribution in the pre-modern Middle East and the impact of the *sharīʿa* on the same (and the impact of the same on the *sharīʿa*) see Powers, *Law, Society and Culture*, chapter three, and esp. notes 24–25.

⁴⁰ Variations on this formulation occur some fifty times in the Qurʾān, beginning with Q. 2:25.

⁴¹ Qurṭubī, 17:159: *ʿkānat al-ʿarab aṣḥāb bādīya wa-bilād ḥarra, wa-kānat al-anḥār fī bilādihim ʿazīza* [here meaning rarely or barely flowing, mostly at low tide, or just plain scarce] *lā yaṣīlūn ilā al-māʾ illā biʾl-dakw waʾl-rishāʾ fa-wuʿidū fī l-janna khilāf dhālika.*

⁴² Ishbīlī, 1:358.

⁴³ Ibn Māja, 1:215 (657). See also Ṭabarī, *Jāmiʿ al-Bayān*, 5:149; Tirmidhī, *Ṭahāra*, 1:91; *Fath al-Bārī*, *Tayammum*, 5:345.

many full body washings during the winter that my back broke!').⁴⁴ Muḥammad was told of a sick person who had performed *ghusl* and died of cold. 'They have killed him, may God kill them!' he fumed, and sent word that mere wiping was permitted in cases of illness.⁴⁵ The demise of no less a personage than Abū Bakr is ascribed to a malady brought on by major ablutions performed on a cold day.⁴⁶ When this Caliph died, his wife, Asmā' bint 'Umayy (not to be confused with his daughter of the same name), washed his body in preparation for burial. The *ghusl* of a corpse itself obligates the washer in *ghusl* (according to many opinions), and so she went out and asked the *muhājirūn* present: 'I am fasting, and this is an intensely cold day (*innī ṣā'imatun wa-inna hādihā yawm shadūd al-bardi*). Must I perform *ghusl*?' They agreed that she might forego it.⁴⁷ We have seen that 'Amrū b. al-Āṣī was reported by Abū Dā'ūd to have laid his neglect of *ghusl* for *ṣalāt al-fajr* at the door of the deathly cold, and that the Prophet (as al-Bukhārī's version has it) 'did not berate him' (*lam yu'annifhu*) for this.⁴⁸ Little has changed in 1400 years. A correspondent for the weekly *Mounqidh*—organ of the ousted Algerian *Front Islamique de Salut* (FIS)—concluded an encomium to the group's phenomenal growth on the eve of the fateful elections of 1991 with the ringing words: 'Give me young people who are not afraid to perform ablutions with cold water at the crack of dawn, and I will give you a prosperous Algeria and a liberated Palestine!'⁴⁹

⁴⁴ See above, chap. 1, n. 18

⁴⁵ Ibn Rushd, *Bidāya*, 1:52. According to another version of this anecdote, 'We were on a journey [related Jābir b. 'Abd Allāh] and a stone struck a man from among us and fractured his skull, and he [later] had a nocturnal emission [or: he ejaculated as a result of the trauma—*aṣāba rajulan minnā ḥajarun fa-shajjahu fī ra'sihi fa'htalamā*].' Sometime after this, his comrades evidently advised him to remove his bandage in order to perform *ghusl*, the wound was adversely affected by the water (or by exposure or infection), and he eventually died. The Prophet upbraided them for this, explaining that he could have left the bandage on and merely wiped over it while washing the rest of his body. Abū Dā'ūd, *Bāb al-Maṣh' al-'l-Khirqā*, cited in Baghawī, 3:10; Ishbilī, 1:362.

⁴⁶ Muir, *Caliphate*, 83. Another tradition has him finally succumb to the lingering effects of the poisoned mutton served to him and the Prophet by the bereaved Jewess Zaynab after the siege of Khaybar (Muir, *Life of Mohammad*, 379, n. 5).

⁴⁷ Muwaṭṭa', *Kitāb al-Janā'iz*, *Bāb Ghusl al-Mayyit*, 16:3.

⁴⁸ Bukhārī, 1:7 (341). See above, p. 61.

⁴⁹ JPRS-NEA-91-004-L, 2/15/91. 'There is nothing dearer to God,' goes a famous ḥadīth, 'then two drops and two marks (*qatratayn wa-atharayn*): a tear drop in fear of God, a drop of blood shed fighting God's wars, a mark (i.e., a wound or scratch) from fighting on the path of God and a mark from observing one of the commandments of God (either the "prayer indentation" on the forehead from prostration, or sores on the hands and feet from performing *wuḍū'* in cold water).' Baghawī, 4:117.

The twin besetments of aridity and frigidity, of a sparse and fluctuating water supply and the perceived adverse effects of cold showers on health, lend special significance to the inter-scholastic debate over *mulāmasa* that we have been following, lifting it out of the sometime theoretical sphere of juristic analysis and setting it down squarely onto the daily lives of pre-modern (and even many modern-day) Muslims. Especially before the advent of running (and heated) water, the task of arranging for, and performing, *wuḍūʿ*—and all the more so *ghuṣl*—must often have been arduous and/or unpleasant. On top of the *aḥdāth* we have adduced so far, which explicitly make or unmistakably demonstrate this point, the pages of provisions in the *fiqh* texts devoted to preventing believers from ‘taking the easy way out’ and rubbing with abundant and cost-free sand instead of washing with scarce and expensive water attest powerfully to the problems with liquid-based purification.⁵⁰ Moreover, in the well known debate over the opening clause of verse 5:6/4:6—*viz.*, whether the commandment to wash ‘*idhā qumtum ilā ṣalāt*’ implies *wuḍūʿ* for every prayer or only after an ascertainable *ḥadath* has occurred—the early victory of the forces supporting the latter position is also indicative of the desire to minimize the frequency of ablutions.⁵¹ This victory meant that the number of ablutions per day was not constant—was not, that is, performed once before each of the five prayer services—but was rather a function of the *aḥdāth*: unless one experienced a defiling event or did a defiling deed, no washing was necessary. In short, now that one *could* avoid having to perform extra rounds of *wuḍūʿ*, all evidence (as well as basic common sense) points to the idea that one *would*. (Only in this pragmatic sense was Bouhdiba correct in claiming that the Muslim ‘owes it to himself to be pure for as long as possible’).

Now, whereas most of the *aḥdāth* that necessitate new ablutions (urination, defecation, bleeding, flatulence, fainting, sleeping) can hardly be helped, *mulāmasa* is an activity that can be controlled.⁵² Those who had reason to control it—that is, adherents of the Shāfiʿite, Mālikite or Ḥanbalite schools for whom mere contact with the opposite sex con-

⁵⁰ See, e.g., Nawawī, *Majmūʿ*, 2:252–253.

⁵¹ For this debate and its outcome, see Katz, 60–75.

⁵² This does not contradict the claim we advanced in chapter one, to wit, that Islamic law perceives sexual contact as a natural and almost inevitable aspect of human experience. We qualified this statement there by saying that while the *sharīʿa* assumes that people cannot—or at least should not—avoid libidinal activity, it certainly expects them to channel and control such activity.

stituted a *ḥadath*—no doubt tried to do so, at least to some degree. To those loyal to the Ḥanafite *madhhab*, on the other hand, for whom touching, kissing and caressing had no ritual consequences of any kind—or to the Shīʿite *madhhab*, whose position was the same⁵³—this entire question was moot. To the extent, then, that Muslims observed the basic provisions of *ṭahāra* law, the dynamics of public and private trans-gender behavior in the lands of Anatolia, the Fertile Crescent, Afghanistan and India, where the Ḥanafite rite has traditionally been dominant, as well as in post-Timurid Iran and other regions where Shīʿism has held sway, must have differed significantly from those norms prevalent among the populations of North Africa, Egypt, Indonesia, Malaysia, the Philippines and the Arabian Peninsula, where the other *madhāhib* have customarily reigned.

It is probable, for instance, that (all other factors being equal, which they admittedly never are) in Ḥanafite-dominated regions, kisses and caresses between married couples (or between masters and maids) were far more frequent during the average day than they were in those countries where Mālikite, Shāfiʿite or Ḥanbalite scholarship was predominant. Damascus was presumably witness, on the whole, to more frequent displays of affection than Cairo. Jerusalem may have seen more husband-wife fondling than Madīna. The temporary breakdown of the local *qanāt* system in Kashan or Shiraz cannot have affected connubial petting in the slightest degree, whereas the general scarcity of water (*ʿizzat al-māʾ*) in the Malikite-dominated Algerian town of Sétif may have caused even mildly observant local Muslims to think twice about hugging or kissing their wives—whether at home or abroad—during the period from dawn to dusk (they might, indeed, have preferred to put off such dalliance until the small hours of the evening, after the final prayers had been performed, *wuḍūʿ* being required on the morrow anyway due to sleep). Just as the observant Jew regularly wonders, to this day, whether eating a sandwich or even tasting a tiny morsel of bread is worth the requisite prior hand washing and protracted grace after meals—or whether a piece of chicken or hamburger is tasty enough to justify the three-to-six hour wait s/he will have to endure after consuming it until such time s/he may next dine on dairy products—so the observant Muslim, if an adherent of the Shāfiʿī, Mālikī or Ḥanbalī rite, must have regularly asked him or herself whether a quick kiss on

⁵³ See above, chap. 5, n. 21.

the cheek or caress of a spouse's arm was really worth the repetition of the entire *wuḍū'* procedure, not to mention the additional procurement efforts and heavy water loss involved.

(In the case of *janāba*, ritual preclusion brought on by sexual intercourse, scholastic unanimity reigns regarding the need to perform *ghusl* to alleviate it, and in these situations the already difficult water problem is considerably compounded. Here, indeed, we may avail ourselves of an even more direct and helpful comparison to Judaism. The rabbinic institution known as *Tevilat Ezra*—the ritual immersion after sexual intercourse purportedly introduced by the Prophet Ezra—was, explains the Talmud, enacted expressly so that ‘scholars will not be found with their wives [as frequently] as cocks [are found with hens]’ (*sheh lo yihyu talmidei ḥachamim metzuyim etzel neshotayhem ke-tarnegolim*).⁵⁴ In promulgating this decree, the rabbis (or Ezra) were relying on what they assumed to be two widespread tendencies characterizing the populace for which they legislated: (1) the unwillingness of knowledgeable and religious Jews to cross the boundaries set by purity law, even when such transgression might be accomplished undetected by their co-religionists, and (2) the natural human desire to avoid inconvenience. Jewish scholars would make fewer conjugal visits to their wives, the rabbis reasoned, and devote more time to textual study, because sexual intercourse necessitated a post-coital, fully-naked immersion in the *mikveh*, and the execution of too many such immersions was considered either overly time-consuming, overly water-consuming, overly bone-chilling, bad for health, or all of the above. Although there is no evidence, and no reason to assume, that *ghusl* for *janāba* was instituted for a similar purpose, there is also no reason to assume that the requirement to immerse after cohabitation did not have a similarly limiting effect on marital intimacy in Muslim societies, and there is much evidence to support the idea that it did).

It is, therefore, difficult to imagine that the rulings on *mulāmasa* promulgated by the Shāfi'īya, Mālikiya and Ḥanābila did not impinge considerably upon the familial and social dynamics of Muslim communities. This purity provision, as elaborated by those three schools, turned nearly half of the people surrounding every single Muslim at any given time into immediate sources of ritual contamination, present-

⁵⁴ Berachot, 22a. The reason scholars are specified is not because only they were expected to follow the law, but because only regarding them does the concern arise that the time taken up by sexual pursuits will come at the expense of Torah learning.

ing him or her with a veritable human obstacle course to traverse. And although we have argued that there is absolutely no anxiety attendant upon negotiating such an obstacle course—if the devotee veers in the wrong direction and inadvertently (or even deliberately) makes contact with (or even caresses) a body of the opposite gender, nothing evil, sinful or dangerous has occurred—nevertheless, practicality dictates precaution. Everything from the timing of physical expressions of endearment, to the grid of pedestrian traffic in the marketplace, to the most fundamental trajectories of trans-domicile locomotion—all of this must have been affected, at least to a degree, by the regulations of *mulāmasa*. There could be no escaping the influence of this purity provision.⁵⁵

At this point it may be countered that both of the difficulties we have discussed in connection with ablutions—that posed by the reticence to bathe in cold water and that posed by the effort often required to obtain water for washing—are summarily solved by the substitute operation known as *tayammum* (sand-rubbing). After all, this replacement procedure was revealed by God specifically in order to alleviate these two predicaments, as we read in verse 5:6/4:43: ‘And if you are sick [and fear exacerbation of your condition by the water], or on a journey and you find not water, then go to clean, high ground and rub your faces and your hands with some of it ...’ If all one had to do when faced with either the inconvenience or undesirability of aquatic ablutions was bend over and scoop up some omnipresent soil, none of the effects on intimacy or other aspects of social behavior that we have just posited would harbour any reality.

This, however, was not at all the case. *Tayammum* did not present the rapid remedy for water problems that an unguided glance at the scriptural clause might suggest. The following discussion amongst Companions, recorded in the Ḥadīth, illustrates the direction in which exegesis and legal rulings regarding (for starters) hydrophobia proceed:

... from Shaqīq, who said: I was with ‘Abd Allāh b. Mas‘ūd and Abū Mūsā al-Ash‘arī, and Abū Mūsā said: O Abū ‘Abd al-Raḥmān [Ibn Mas‘ūd], what is your opinion of the case of a man who became sexually precluded (*junub*) but could not find water for a month—may he perform *tayammum*? ‘Abd Allāh [b. Mas‘ūd] replied: He may not perform *tayammum*, even if he does not find water for a month. Abū Mūsā said:

⁵⁵ Among the Ḥanābila, and to a lesser extent among the Mālikiya, even touching first degree relatives can induce prayer-preclusion and necessitate a new *wuḍū’*. This could not but have constituted a serious factor influencing the activity and topography of home life among observant Muslims.

And what do you do with the following verse from the Chapter of the Table: ‘[if you find not water, then] go to clean, high ground [and rub your faces and your hands with some of it]?’ ‘Abd Allāh [b. Mas‘ūd] answered: Were a leniency granted to them [*viz.*, the Muslims] in this matter, we would soon get to the point that whoever found the water too cold would rub with sand instead! (*in rukhkhīṣa lahum fī hādihā la-awshakū idhā barada ‘alayhum al-mā’ an yatayammamū bi’l-ṣa‘īd*).⁵⁶

Most authorities would eventually allow the substitution of *tayammum* if water was really nowhere to be found (see below), but fear of freezing was—despite the few exceptions we mentioned above—rejected by Islamic law as a pretext for letting soil stand in for water. A delegation from Thaḳīf, it is reported, came to the Prophet and inquired: ‘O Messenger of God! Our land is a cold land—how shall it be with *ghusl*?’ (*inna arḍanā arḍ bārīda, fa-kayfa bi’l-ghusl?*). ‘As for me,’ answered Muḥammad, ‘I pour water thrice over my head.’⁵⁷ If the people of Thaḳīf were hoping for an indulgence to perform *tayammum*, they were sorely disappointed. The Prophet merely suggested a method of executing *ghusl* which, when compared to immersing in a sub-temperature pond or river, might perhaps alleviate some of the shock to the system or unhealthy after-effects. In other versions of this report, the delegation is from Ṭā’if and they complain of the cool mountain air and of the severe discomfort accompanying immersion under such circumstances. They receive the same answer.⁵⁸ Jurayj asked ‘Aṭā’ whether those encamped in the cold land of the north (*bi-arḍ al-bārīda bi’l-shām*) were entitled to an extenuation whereby they might pour only a small amount of water on themselves during minor ablutions (*rukḥṣa fī an lā yashughū al-wuḍū’*). ‘Aṭā’ replied in the negative.⁵⁹ On another occasion, Jurayj pressed the point: ‘If a man had a nocturnal emission in an icy land (*arḍ thalj*) in the midst of winter, and he believes that if he were to perform the major ablution he would perish (*yarā annahu in iḡhtasala halaka*—the very assessment, it will be recalled, of ‘Amru b. al-Āṣ at *Dhāt al-Salāsīl*)—must he nevertheless perform *ghusl*?’ ‘Aṭā’ replied: ‘Yes. And if he dies [due to exposure to the cold water] then it is said to him [i.e., should be recited regarding his fate]: “And if you become

⁵⁶ Ṭabarī, *Jāmi‘ al-Bayān*, 5:159.

⁵⁷ Muslim, *Kiṭāb al-Ḥayḍ*, 11:56 (328); Ishbīlī, 1:345. For the opinion that pouring over the head—not immersing oneself—is actually the *proper* method of *ghusl*, see Qurṭubī, 5:183.

⁵⁸ ‘Abd al-Razzāq, 1:176 (876).

⁵⁹ *Ibid.*, (875).

junub, purify yourself” [5:6—that is: behold the immutable injunction of scripture!]. And God did not ordain any exemption for this’ (*wa-mā ja’la Allāhu lahu min ‘udhr*).⁶⁰

It is a bitter cold night in thirteenth century CE Anatolia. A pious Muslim wife and husband lie in bed together, shivering despite the layers of camel-hair blankets they have piled on top of themselves. Naturally, they embrace each other and keep each other warm (followers of the Ḥanafite rite, they need not worry that such cuddling will necessitate a subsequent *wuḍū’*⁷—unless things get truly hot and heavy and they move into the zone of *mubāshara fāḥisha*—and besides, they will probably have to perform ablutions in the morning anyway, in the wake of sleep). But do they make love? While the answer to this question may be none of our business, as nosy social historians it is gratifying to discover that we may have in Islamic purity law at least one criterion by which to hazard a statistical guess in this matter; one aperture, in other words, not just into the thirteenth century bedroom, but into the thirteenth century *bed*, under the covers and in between the sheets, a conduit into the very minds of a medieval married couple in the midst of the most intimate moments of their shared lives.

For while there is no question but that frigid nights like this one are especially conducive to cohabitation, in the thought process of the religious Muslim (follower of any *madhhab*, including the Ḥanafite) a unique dilemma may well have interfered with the smooth flow of amorous activity. The husband hesitates; maybe his wife does, too: this is all certainly very nice (and warm)—but what will be when cold, gray dawn arrives? If the couple takes their affectionate intertwinement to the next stage and engages in actual intercourse, there will be a stiff price to pay prior to *ṣalāt al-fajr*: he, or she, or both, will be forced to suffer through a shower (*ghusl*) so bone-chilling that it may leave them ill or worse! He wonders; she wonders: will *this* really be worth *that*, in the end? They love each other and are both aroused, but perhaps abstinence would be the better part of valor, perhaps postponement until the arrival of fairer weather would be the prudent choice under the circumstances? Decisions of this kind probably preoccupied ordinary observant Muslims in

⁶⁰ Ibid., 1:189 (927). Abū Bakr’s wife, it will be recalled, was indeed granted an exemption from performing *ghusl* after washing the corpse of her husband due to the cold, but this indulgence was the result of many extenuating circumstances, including (1) that the requirement of *ghusl* after purifying the dead is highly controversial, many Companions and later authorities ruling it unnecessary, (2) that she was probably quite elderly, (3) that she was grieving, and (4) that she was fasting.

regions somewhat distant from the equator during many a chilly season of both pre-modern and modern history.⁶¹

The hotter countries have their own problems in this regard, as we have seen. The fact that water is not immediately at hand does not mean that one may opt on the spot for sand ablutions. The literally dozens of pages in the average work of *fiqh* devoted to the exhaustive ‘search for water’ (*ṭalab al-māʾ*) that must be undertaken prior to availing oneself of the exemption (*ʿudhr, rukhṣa*) of *tayammum*—and this with the time window for the performance of the prayer service closing fast—bear witness to the fallacy of this perception. Ibn Jurayj asked ‘Aṭā’: ‘May a man cohabit with his wife while traveling even though he does not have water with him?’ ‘Aṭā’ answered: ‘If there is between him and a water source four days [journey] or more, let him cohabit with her (*in kāna baynahu wa-bayna al-māʾ arbaʿa layālī fa-ṣāʿidan fa-la-yuṣīb ahlahu*); but if there is between him and a water source three days or less, let him not cohabit with her.⁶² *Tayammum* does not help in this particular predicament. It is told of ‘Alī b. Abī Ṭālib that he said: “The Messenger of God wore me out in search [of water]” (*anfadhani rasūl Allāh fī ṭalab al-māʾ*), and only then did we perform *tayammum*.⁶³ Al-Ghazālī complained that Muslims ‘devote all their time ... to looking for supplies of running water.’⁶⁴

Before allowing a traveler to perform the sand-wiping surrogate, al-Shāfiʿī—in one of scores of examples of such legislation in the literature on *tayammum*—would have him (1) ask every human being in the vicinity, whether native son or passer-through, about the whereabouts of water; (2) proceed, if necessary, to a nearby village where he has heard

⁶¹ Skipping the morning prayer is not one of the options for a devout Muslim. If this whole scenario, together with its inner deliberations, sounds far-fetched to the reader, this may well be a result of how far away the lifestyle and outlook of the reader is from anything remotely resembling that of the pious adherent of Islam. We shall elaborate on this point below. Here it should be sufficient to adduce the example of menstrual impurity, a ritual regulation which, it would certainly appear, has successfully prevented millions of Jews, Zoroastrians and members of a variety of other cultures and religions from even touching their spouses for days and weeks at a time—and this, in the privacy of their own homes.

⁶² ‘Abd al-Razzāq, 1: 183 (no. 906). On the other hand, Ibn Ḥanbal records a ḥadīth of ‘Amrū b. Shuʿayb from his father from his grandfather, who said: A man said: O Messenger of God! If a man is off somewhere distant and can’t find water (*lā yaqdaru ʿalāʾl-māʾ*), may he have intercourse with his wife (*a-yujāmiʿu ʾahlahu*)? [The Prophet] replied: Yes. (Cited in Nawawī, *Majmūʿ*, 2: 44, who, however, declares this report weak).

⁶³ Māwardī, 1: 319.

⁶⁴ Ghazālī, *Ihyāʾ*, 1: 223.

tell of a well; (3) attempt to borrow or rent a rope and bucket from a local Muslim there, or even (according to other authorities) purchase such equipment at an exorbitant rate; (4) if he cannot acquire a rope and bucket, this does not exempt him: he must proceed to the well anyway, and *climb down into it*; (5) if, however, he fears for life and limb from such acrobatics, al-Shāfiʿī instructs him to remove his *ʿabā*, lean over the side of the well (half, or completely, naked), clutch one end of the garment while reaching down and dipping the opposite end into the water (and, if it doesn't reach, tear the garment in half, or in quarters, and tie the pieces together lengthwise),⁶⁵ bring up the moistened extremity and wring it out into his bowl, and repeat this procedure as many times as necessary in order to procure the minimum amount of liquid required for *wuḍūʿ* (a little more than half a liter). It is a rare kiss, one imagines, that is worth all this.⁶⁶

Even when sufficient water *was* available in the immediate area, the execution of the minor ablution was far from an effortless or instantaneous affair. The procedure itself, if we combine 'mandatory' (*farḍ*) and 'prescribed' (*sunna*) steps (as Muslims have consistently done from the earliest times) is neither quick nor simple: the believer must first procure the proper amount of liquid—from an urn in the house or a nearby cistern. He then inclines his heart to the purpose (*niyya*); recites the *basmala*; washes his hands three times up to the wrists, making sure

⁶⁵ This addendum does not appear in the *Umm*, but in al-Nawawī's summary of al-Shāfiʿī's ruling on this matter (Nawawī, *Majmūʿ*, 1:248). The devotee should leave enough of his garment intact for *satar al-ʿurwa*, however—covering his genitals in prayer—otherwise all of this effort will have been for naught. This method of water-drawing is reminiscent of, but even more difficult than, that of 'the prostitute who was forgiven' (*ghuḍira liʿimraʿtin mūmisatin*; in another version she was an Israelite prostitute: *baghiyy min baghāya banī Isrāʿīl*), who espied a dog circling a well (or standing on top of it and panting) and dying of thirst. She took off her boot and, tying it to her veil, lowered it into the well and drew water for the dog (*nazaʿat khuḍḍā fa-awthaqathu bi-khimārihā fanazaʿat lahu min al-māʿ*). Her sins were forgiven, for 'in [charity towards] every creature that has a humid liver there is a reward' (*fī kullī dhāt kabḍin raḥḥatin ajrun*). Nawawī, *Riyāḍ al-Ṣāliḥīn*, 13:126; Baghawī, 3:143.

⁶⁶ Shāfiʿī, *Umm*, 1:62. Later jurists elaborated these requirements even further. Certainly, not even all practicing Muslims were aware of, or followed, every jot and tittle involved in fulfilling the requirements of *ṭalab al-māʿ* (the search for water). Still, many unquestionably did keep to them, and even those who carried out only a fraction of these prescriptions had quite a bit of work ahead of them before they might perform *tayammum* in good conscience. On the indulgence of *tayammum* and its rigorous preconditions, see Maghen, 'Three Shāfiʿites in Search of Water,' forthcoming in *Der Islam*, Fall, 2004. Muslims at home could not substitute *tayammum* for *wuḍūʿ* even after a thorough search, according to most authorities, for "a city never lacks water."

to reach the spaces between his fingers; takes water in his right hand and brings it up to his mouth, where he gargles it (*maḍmaḍa*) and then spits it out (*istinthār*), each three times (if possible, *miswāk*—cleaning the teeth with a toothpick—is performed at this point); takes water with his right hand again, snuffs it up his nose (*istinshāq*) and blows it out into his left hand, also three times; washes his face from forehead to chin and from ear to ear, and runs his moistened fingers through his beard, all three times; washes his right arm up to the elbow three times, then his left arm up to the elbow three times; wipes his whole head once (according to al-Shāfiʿī and some others, thrice), including the outside and inside of the ears; and washes his right foot, then his left, each three times up to the ankles, making sure to reach the spaces in between the toes.⁶⁷ Even those practiced at the art of ablutions cannot (and those concerned about performing *wuḍūʿ* properly do not) go through these motions in less than several minutes. Purification for the major *ḥadath* of *janāba* is even more time consuming, of course; had Ḥanzala performed *ghuṣl* again, as required, after sleeping with his wife a second time on the dawn after their wedding night, he might well have missed the battle of Uḥud.⁶⁸

There are other problems to think about, as well. Water once used (*ghuṣāla*, *māʿ mustaʿmal*, *faḍl al-tahūr*) to wash a limb or facial feature in the framework of *wuḍūʿ*, may not be used again for ritual purposes, according to more than half of the authorities.⁶⁹ This further exacerbates the conspicuous consumption of H₂O involved in the major and

⁶⁷ An indication that the procedure of *wuḍūʿ* itself—even without factoring in the need to procure water—takes some time to execute properly, may be had, *inter alia*, from a ruling cited in the name of the late eleventh century CE Shāfiʿite traditionist Abū Muḥammad al-Ḥusayn b. Masʿūd al-Baghawī, to the effect that ‘if one fears that the performance of *wuḍūʿ* will put him over the end-time of the prayer-period, he may perform *tayammum* instead.’ Similarly, Ibn ʿAbbās addresses the predicament of one who is ‘surprised’ by a passing funeral cortege, and needs to perform *ṣalāt al-janāza*. He is permitted to execute *tayammum*, because were he to do *wuḍūʿ*, the mourners would be out of site by the time he had finished. Nawawī, *Majmūʿ*, 2:244.

⁶⁸ See above, p. 122.

⁶⁹ See Ibn al-Mundhir, 1:285 and 1:313–315. A Shāfiʿite authority like the eleventh century Abū Ishāq al-Shīrāzī takes the prohibition against employing ‘already used water’ for ritual purposes as a given, making it a criterion or ‘control’ for a number of his deliberations about *tayammum* (see Shīrāzī, 1:27), and al-Māwardī is even confident that ‘there is a consensus among the Companions that “used” water may not be re-used’ (*ijmāʿ al-ṣaḥāba munāqīḍan ʿalā al-manʿ min istiʿmāl al-mustaʿmal*). Māwardī, 1:132. Cf., however, Māwardī, 1:359–365, where the opinions for and against such ritual recycling appear slightly more balanced.

even minor ablutions (did one need to demonstrate that in most of the territories of *Dār al-Islam* water was expensive and difficult to procure, the many pages of *fiqh* devoted to the purchase and barter of the same in the context of ablutions—in which all types of exorbitant sums are paid and lengths gone to in order to obtain the indispensable liquid—are certainly proof enough).⁷⁰ Moreover, there is strong evidence that people considered such ‘exhausted’ post-*wuḍūʿ* water unfit for drinking, as well, ‘for the soul is disgusted by it.’⁷¹ This means that extra sets of ablutions might well be paid for with nothing less than thirst (or, ultimately, impoverishment).⁷²

That the performance of *wuḍūʿ* often constituted a genuine inconvenience is also attested by the seemingly interminable (and unexpectedly acrimonious) debate, spread over dozens and even scores of pages in every compendium of Islamic law, regarding the question whether one may wipe the outside of his boots (*mashʿ alāʿl-khuffayn*) instead of washing his feet up to the ankles (*ghusl al-rjlayn*) during ablutions. The removal of footwear up to five times a day clearly represented a serious annoyance and so, by extension, did the entire act of *wuḍūʿ*.⁷³ Ibn Rushd, among others, speaks frankly of ‘the hardship involved in taking off the boots’ (*al-mashaqqa fī nazʿ al-khuffayn*),⁷⁴ and anyone who has been to a beach lacking foot-shower taps knows how difficult and uncomfortable it is to put shoes back on wet feet covered in sand (this is all the more true of boots). Such unpleasantness cannot but have represented a serious consideration, and had much to do with the granting of the ‘concession’ to wipe *over* the boots instead of taking them off. This concession, however, was hotly debated, and did not apply, at any rate, when one was at home or in cases of *janāba* (Safwān b. ʿAssāl reported

⁷⁰ See, e.g., Nawawī, *Majmūʿ*, 2:253ff.

⁷¹ Al-Mutawallī cited by al-Nawawī, *Majmūʿ*, 2:246. Some even considered it *najis*, see Māwardī, 1:362–363.

⁷² Although one may unquestionably perform *tayammum* in order to preserve the drinking supply, this is only true if that supply is down to the last dregs *at the moment*. If one possesses an urn-full of water, depletes it with two sets of ablutions, and comes home later to find that the remainder has been drunk by family members, thirst could certainly be the result. The difficulty and/or sacrifice involved in properly executing even minor ablutions is reflected in the Prophet’s promise that a believer’s sins will be wiped out by ‘the liberal use of water in *wuḍūʿ*’ despite the hardships entailed by this’ (*isbāgh al-wuḍūʿ alā al-makāriḥ*—Nawawī, *Riyāḍ al-Ṣāliḥīn*, 185:1029).

⁷³ See, e.g., the *Mudawwana*, 1:131, where the Prophet is depicted as urinating in a standing position, then (when the time came for ablutions) wiping over his boots/leather socks instead of removing them.

⁷⁴ Ibn Rushd, *Bidāya*, 1:15.

that ‘we were on a journey with the Prophet, and he commanded us to refrain from taking off our boots [in the process of performing ablutions after] coming from the privy, urinating, or sleeping, but to remove them only in situations of sexual preclusion’ [*wa-lā naz‘hā illā min janāba*]).⁷⁵

Much the same is true of turbans. Turban-wrapping is for many a meticulous and time-consuming art. Only a minority of jurists permit ‘wiping over the turban’ (*mash‘ alā’l-‘imāma*), while the majority demands that the head itself be wiped in *wuḍū’*, with nothing intervening between the scalp/hair/forehead and the moistened hands of the worshipper.⁷⁶ The occurrence of a *ḥadath* after having donned such head-gear is highly undesirable (again, for practical—not spiritual—reasons, of course). Of such ostensibly minor inconveniences and discomforts, and of the attempts to avoid them, is much of individual behavior, collective legislation and social history made.

Taken all together, the factors delineated above mean that we must envision the following scenario: a religious man in a region dominated by the Shāfi‘ite, Mālikite or Ḥanbalite *madhhab* has dressed, performed his ablutions, put on his socks and boots, carefully wrapped his turban, and is on his way out to the mosque for one of the five daily prayer sessions. His wife meets him at the door and plants an affectionate good-bye kiss on his cheek (or asks for, and receives, the same from her husband).⁷⁷ This well-intentioned act of endearment turns out to be a major nuisance, for there are no ifs, ands or buts: ‘He who kisses [or is kissed by]⁷⁸ his wife while *‘alā wuḍū’* must redo his *wuḍū’*.’⁷⁹ The man has now to turn around, head back to the urn in the inner room or courtyard of the house (assuming any water is left in it—if not, he must stop at a well, or a river, or a neighbor’s dwelling on the way to the mosque, and seek water). He must undo his boots, remove his socks, unwrap his turban, perform all the steps of the ablution ceremony once

⁷⁵ Shīrāzī, 1:87.

⁷⁶ Ibn Rushd, 1:10–11.

⁷⁷ The Ḥadīth is full of such goodbye kisses—see, e.g., ‘Abd al-Razzāq, 1:101–104 (*Bāb al-Wuḍū’ min al-Qubla wa’l-Lams wa’l-Mubāshara*)—and even if their depiction arose solely in the context of debating or explicating legal issues, they could not have been too far from the norm. Moreover, since the Prophet, Companions and Caliphs were involved, and often did the kissing themselves, such anecdotes may also have influenced the norm. Where those *madhāhib* prevailed that denied the validity of such *aḥādīth* or reinterpreted them so as to accord with the ruling that *qubla* is a *ḥadath*, kissing at the door no doubt occurred far less often.

⁷⁸ The effect is the same—see, e.g., ‘Abd al-Razzāq, 1:103 (508).

⁷⁹ ‘Abd al-Razzāq, 1:101 (496).

again (spilling out a considerable amount of additional precious water in the process), then pull on his socks, re-lace his boots, re-wrap his turban, and head out once more, no doubt already late for prayers. All of this, then, is what lay behind Ibrāhīm al-Nakha'ī's exclamation to his wife: 'Praise God, Ḥunayda—were I not in a state of *wuḍū'*, I would kiss you!'⁸⁰

Ibrāhīm did not kiss her, not on that occasion. And it is safe to say that those many Muslims who defined *mulāmasa* as mere contact between the sexes rarely engaged in tactile displays of affection with their spouses during the day, or at least not when a *ṣalāt* session was rapidly approaching (and with five prayer sessions *per diem*, that was most of the time).⁸¹ Indeed, since women were often the ones responsi-

⁸⁰ Ibn Abī Shayba, 1:62 (55:10) (this ḥadīth was cited above, in chapter one). It is also possible that scarcity of water led to (1) a slackening in the observance of the provision of *mulāmasa*, (2) the issuance of leniencies in *fatāwā* (responsa) on *mulāmasa*, or (3) both. It does not, however, appear to be the case that *madhāhib* evolving in dryer areas opted for the more 'liberal' understanding of *mulāmasa*—i.e., that it is *jīmā'*—or that schools flourishing in better irrigated regions preferred the stricter interpretation (*lams bi'l-yad, qubla*). This might indicate that the *fuqahā'* took the 'text' (of Qur'ān and Ḥadīth) alone—and not the surrounding environment or the needs of the populace—into account when they chose their original, definitional stands. Such unadulterated 'idealism' is improbable, however, especially due to the prevalence in *fiqh* literature of the ameliorative tendency (*rukḥṣa, 'udhr, takhḥīf*) and of the flexibility-creating institutions of *istiḥsān* and *istiṣlāḥ*, all of which do nothing if not take into account the needs of the public. The other possibility is that the lack of correspondence between legal positions on *mulāmasa* and climate militates for the antiquity of this issue, showing that the lines were drawn in this debate already in Arabia, by the *ṣahāba*, as the sources themselves would have us believe (and the Schachtian school of Western scholarship would have us reject). Even though one still marvels at the willingness of so many Companions to rule, from the hot desert, in ways that would lead to substantial water usage, still, at least in that venue they were all living in the same ecological and climatic situation. Later, their various opinions were taken over by early exponents of different schools, and each province (roughly speaking) adopted the approach of one of the four *madhāhib* lock, stock and barrel, and thus could not 'pick and choose' which aspects of a given school's Arabian-based rulings were more appropriate to its regional conditions (but see also in this connection the comments of Alshech, above, chap. 5, n. 7). However this may be, it would appear that in the matter of *mulāmasa*—and of *fiqh al-ṭahāra* in general and other areas of the law as well—we certainly have an excellent example of *mens agitat molem* and not *molem agitate mens*: the real is made to bend its head to the ideal, not vice-versa.

⁸¹ Similarly, the prohibition against praying while intoxicated (found together with *mulāmasa* in Q. 4:43: '*lā taqribū al-ṣalāta wa-antum sukārā ...*') is considered by Muslim tradition to be a stepping stone toward the total ban on wine, because the necessity of praying five times a day would all but eliminate opportunities for the consumption of alcoholic beverages. Even though drunkenness cannot be removed by ablutions, still, it is logical to assume that a similar mitigating effect was had on inter-gender contact. How does all of this jibe with the Prophet's vigorous cycle of 'making love, making

ble in such households for drawing and carrying home water, it is quite plausible that the resistance came from *their* side: a goodbye-hug or light caress from their husbands might well mean another back-breaking trip to the river!⁸²

Other possible implications of the purity provisions of *mulāmasa* and *janāba* for individual and collective habits in the lands of Islamdom include the question of the passenger list on long trips. In the *Mudawwana*, Ibn al-Qāsim quotes Ibn Shihāb to the effect that, 'A man mustn't have sexual relations with his wife or concubine in the desert until he ascertains that he has [sufficient] water with him' (*lā yujāmi' al-rajul imra'tahu bi-mufāza ḥatta ya'lam anna ma'hu mā*).⁸³ We have already heard Ibn Jurayj ask 'Aṭā': 'May a man cohabit with his wife while traveling even though he does not have water with him?' and we have heard 'Aṭā' answer: 'If there is between him and a water source four days [journey] or more, he may cohabit with her; but if there is between him and a water source three days or less, he may not cohabit with her.'⁸⁴ Similar injunctions abound throughout the literature. It is probable, then, that when packing saddle-bags (*riḥāl*) for a family journey, a man

his devotions, then making love again' of which we spoke in the first two chapters? How does it dovetail with the Companions' 'consistent alteration between worship and physical intimacy'? The answer would appear to be a more-or-less Islamic one. The 'sacred time' of Muḥammad's apostleship in the *Ḥaramayn* was blessed—to believe the manifold slice-of-life glimpses afforded by the Ḥadīth—with comparatively high levels of both devotional *and* sexual energy. The Prophet and *ṣaḥāba* prayed hard and played hard, and the idealizing literature that recorded their exploits made it all look easy. With time, however, entropy sapped energy and the ideal gave ground to the real. The system never worked in later eras as perfectly as it did in the days of revelation. The impressive juggling of amour and worship that purportedly characterized that golden age was never to be duplicated. One could even argue that the instrument that had originally allowed Muslims to engage in libidinous activity with much frequency metamorphosed later on into a means for curtailing that activity, at least during daylight hours. Still, though the *umma* got progressively 'lazier' on a number of levels, the revolving door of *ahdāth* and ablutions continued to provide—at least in principle, but often in practice, as well—the apparatus for smooth transitions between piety and carnality throughout the societies of the Muslim world.

⁸² Moreover, at times when, and places where, nail-polish and certain types of make-up for women were in vogue, *mulāmasa* could be even more problematic for the female Muslim than for the male. For if she performed her ablutions, prayed, and afterwards polished her nails, and then her husband kissed, caressed or had sex with her, she must remove her nail polish in order to perform a second round of *wuḍū'* or *ghuṣl*—for the same reason that the man must remove his turban (and in her case, there is no 'wiping over the nail-polish')—prior to the following prayer session.

⁸³ *Mudawwana*, 1:136.

⁸⁴ 'Abd al-Razzāq, 1:183 (no. 906).

often asked himself whether he should overload the camels—or himself (or his wife!)—with twice or thrice or even four times the amount of water required for thirst-quenching, in anticipation of his sexual needs and desires along route. He may, indeed, often have thought better of it, electing to travel light either through the expedient of a temporary ‘vow of celibacy’ until they reached their destination, or through the alternate expedient of leaving his better half at home.⁸⁵

Religious laws are a genuine and powerful presence in the lives of religious people, no less than—indeed, in most cases, far more than—state laws play a role in the day-to-day behavior of the citizens of a modern (or ancient) polity. I say ‘far more than’ for two reasons: (1) because religious law reaches into corners and alleyways of people’s personal lives where state law generally does not venture: in the case of *mulāmasa* and *janāba*, the *sharī’a* crosses the threshold into the private, intimate spaces between husband and wife and even into the minds and libidos of each spouse as they decide daily when and whether to display physical affection; and (2) because religious law is obeyed by true believers ‘from the heart,’ that is to say, based on a deeply held and sincere conviction that accompanies the adherent into the inner chambers of his house and soul—whither no agent of government enforcement can successfully penetrate—that to act in a certain way is ‘right,’ is proper and correct in the most fundamental, unassailable, ontological sense. Thus, this ‘honor system’ does not even run, for the most part, on fear of divine *punishment*, but rather on the far more effective fuel of faith: faith that follows the religious person everywhere and outshines even heavenly authority or threats of divine retribution as a source of motivation. Devout Muslims follow Islamic law not just abroad in the marketplace where the neighbors are watching, but in the privacy of their own homes (or out in the desert), and even in their bedrooms with the door closed. They do so partially because ‘to God belongeth the East and the West, and withersoever you turn, there is

⁸⁵ If Muslims did indeed take fewer women on campaign with them than their *jāhili* predecessors, might this be part of the reason? Furthermore, if and how this direct connection between sex and water influenced aspects of hydro-infrastructure and building policies in Muslim countries, is certainly a subject worthy of investigation, as is the question whether Muslims took more baths than others—and were therefore cleaner and less prone to disease—due to the requirement of *ghusl* (see, e.g., ‘Hammām’ in *EI*²). Another avenue of investigation involves the separation of men and women during worship early on in Islamic history—could this have had anything to do with *mulāmasa*?

the face of God' (Q. 2:115); but they would probably do so even if they thought that Allāh was momentarily distracted, and they definitely do so on the occasions—no doubt unavoidable even among the truest believers—when *they* are momentarily distracted from *Him*.

For these reasons, while there is no way we can utilize, for instance, Roman law to help determine how often Italian, Gallic, Andalusian or Tunisian couples caressed and embraced in private—any more than we can effectively exploit modern state law in Europe, North America or elsewhere for similar purposes—we may indeed be able to utilize aspects of Islamic law to assist in drawing a picture of quotidian behavior behind closed doors in the Muslim world of earlier periods. In this way, *fiqh al-tahāra* can provide us with a periscope, admittedly cloudy, through which to peer into the demotic past, into the otherwise largely invisible intimate social history of the home and hearth of a distant era. Unquestionably, there is much that is problematic about using *sharī'a* prescriptions and *ikhtilāfāt al-fuqahā'* (juristic disputes) in this fashion, and extreme care is warranted. But I believe there is much that is promising and fascinating about such an enterprise, as well (the reawakening of the scholarly world to the incomparable power of religion in motivating individual and collective action—a reawakening brought on by the emergence from hibernation of religion itself in the latter third of the twentieth century—bodes well for such a project). The gaps left by *adab* literature in this connection—gaps which, as we have argued above, are even larger than Rosenthal acknowledged—may well be partially filled in with the help of such material. It is hoped that the last several dozen pages of speculations that we have tacked on to our review of the jurisprudential literature proper, will encourage further research into the implications of Islamic legal debates and *sharī'a* provisions for our understanding of Muslim society in earlier periods.

The information forthcoming from *fiqh al-mulāmasa* does not end there, of course: if we treat the rulings of the different *madhāhib* on this precept not as a theoretical set of generally ignored blue laws—which, unlike the provisions found in many other fields of *sharī'a* (taxation, warfare, civil law, even criminal law),⁸⁶ they most certainly were not—but as, at the very least, a behavioral ideal influencing the lives of a significant portion of the Muslim inhabitants of various regions (as well as a

⁸⁶ Even in these fields, the law was not always ignored, and in some of them it played a major and consistent role at certain times and places, as Powers has shown in *Law, Society and Culture in the Maghrib*.

reflection of certain salient aspects of communal character and popular perception), then the *further ramification* between the schools regarding the details and qualifications of *mulāmasa* also becomes relevant to social history. Communities that followed the Zāhirite or Ḥanbalite school—according to which neither a pre-pubescent child (*ṣabī*) nor a person of the first degree of propinquity (*maḥram*) is excluded from the category of a defilement-inducing *malmūs*—may well have seen fewer instances of father-daughter/grandfather-granddaughter physical interaction of the type depicted in the ḥadīth of Muḥammad holding Umāma (although one struggles hard to imagine any significant impact on the mother-child plane, and this may account for the minority of Zāhiriya and Ḥanābila who rule female *lāmisūn* invulnerable to defilement. As for the *majority* ruling among these two *madhhabs*, which does indeed consider *mulāmasa* to apply to, and ‘contaminate,’ the *lāmis* of *both* genders—this may be just the type of impossible ruling which ensured that the Zāhirī and Ḥanbalī rites never enjoyed widespread adherence anywhere in Islamic territory or history). Those who adhered to the Shāfi‘ite system—where the provision of *mulāmasa* was declared an egalitarian two-way street in terms of gender, not just for the *lāmis*, but also for the *malmūs*—might well have witnessed the regular refusal by women of afternoon advances made by their husbands (to the extent that the former actually prayed or, alternately, were in charge of domestic water procurement). These and many other examples display the ability of what is generally perceived to be ‘dry,’ ‘theoretical,’ ‘casuistic’ and ‘hair-splitting’ legal material to offer us glimpses, and sometimes even cat’s eye panoramas, of certain societal dynamics in parts of historic *Dār al-Islām*.⁸⁷ It is to this further forking of opinions and decisions regarding *mulāmasa* between the remaining three schools of Sunnī law that we now turn our attention.

⁸⁷ For the *fuqahā’*, of course—then as now—as well as for a great many ‘lay’ Muslims throughout history, no such justification was or is required for the rigorous and devoted study of *tahāra* or any other juristic subject.

CHAPTER TEN

PALPATION AND PALPITATION: THE FURTHER BREAKDOWN OF *MULĀMASA*

Ṭahāra, despite its prominent place in the Muslim ethos and considerable girth in the *fiqh* literature, is probably the single most neglected area in Western Islamic studies. During the twentieth century a total of four scholars—Wensinck, Bousquet, Burton and Reinhart—penned a lone article each on various features of the *sharīʿa* purity code.¹ Fortunately, Marion Holmes Katz has recently contributed an erudite and probing study on many aspects of the subject (*Body of Text*, 2001), the first full-length work in a field that should be brimming with them. Katz devotes a sub-chapter of her book (pp. 86–96) to *mulāmasa*, in which she offers an overview of the spectrum of issues that arise in connection with this provision.² Later on she returns to the topic (pp. 149–155) and raises an important question: is the ritual pollution that results from touching women an indication that the female body is perceived as a contaminating entity? If not, then what factor is considered to cause the defilement?³ The present author has also grappled with this conundrum ('Close Encounters ...' 1999, 385–389), and reached conclusions similar to Katz's: both she and I argue—basing ourselves primarily on the egalitarian or duo-directional nature of the institution—that the precept of *mulāmasa* most probably did *not* arise from a conception of women as contagiously impure.

Katz responsibly inserts the following caveat: 'In the absence of systematic expositions of the system of ritual purity from the earliest period, it is probably impossible to reconstruct the precise understanding of the ritual purity status of women that underlay the opin-

¹ These, as well as the present author's two contributions, both published in 1999, have been cited in earlier notes. Julie Marcus has written an anthropological essay relevant to *ṭahāra* law: 'Islam, Women and Pollution in Turkey,' *Journal of the Anthropological Society of Oxford*, 15 (3) 1984, 204–218.

² See also her stimulating discussion of 'Purity and Gender,' *Body*, 187–206.

³ We take this opportunity again to remind the reader that terms such as 'pollution,' 'contamination' and 'defilement'—terms which Katz also employs—should not be negatively valenced.

ion that “touching women” rendered a man impure in the minds of early jurists.⁴ She correctly points to the occasional blurring of lines in the formative phase of *fiqh al-ṭahāra* between the ‘tangible’ and intrinsic impurity (*najāsa*) characterizing certain substances and organisms and the ‘abstract’ and transitory impurity (*ḥadath, janāba*) regularly contracted and dispelled by human beings, an overlap of categories which may have allowed for the notion of a consistently *najis* person (i.e., the woman). However,

[a]s the fundamental lineaments of the system of ritual purity came into focus, the idea that women might be in some sense substantively impure became incoherent. Such an assumption would have made nonsense of the fact that female believers purified themselves for prayer.⁵

Najis entities—urine, feces, blood, carrion, dogs, pigs, etc.—are permanently and immutably so. No procedure of any kind is capable of purifying such substances and organisms.⁶ Since women regularly prepare for prescribed worship by means of the *ṭahīr* or purification effected by ablutions, it is impossible to claim that they are innately *najis*.⁷

⁴ Katz, *Body*, 150.

⁵ *Ibid.*

⁶ There are a small few exceptions to this rule in the minds of certain jurists. The Ḥanafīya hold, for instance, that dogs are characterized only by *ḥukm najāsa* or a temporary, contingent ‘state’ of impurity—an opinion for which they are regularly ridiculed by scholars of the Shāfi‘ī and Ḥanbalī schools, who ask whether the Ḥanafī jurists think that one can ‘wash away’ the dog’s *najāsa* with a bath (see, e.g., Māwardī, 1:371–375). This may be another instance of that early confusion or conflation that Katz discusses.

⁷ This, however, is somewhat misleading since, as we stressed in chapter one, the *muhdith*, whether male or female, is not really ‘impure’ in the first place (see ‘Close Encounters ...’ esp. 359–385). This is true primarily due to the very evolving bifurcation Katz is pointing to between *najāsa* and the *aḥdāth*: in the more advanced stages of the purity code—indeed, by the time of the appearance of the first *fiqh* texts—the *muhdith* is considered to have experienced an occurrence, a *ḥadath*, not to have somehow ‘contracted’ *najāsa*. Thus, the assumption that women are substantively impure would not really have ‘made nonsense of the fact that female believers purified themselves for prayer’ for the relationship between such substantive impurity and ritual ablutions is one of non-sequitor. Either way, however, no woman and no person is ever a *najis al-dhāt* (an impure entity, the only type capable of contaminating in the *ṭahāra* system). This much is made clear by al-Nawawī, whose *madhhab*—because it tends to diminish the role of *shahwa* in *mulāmasa*—is most open to charges of perceiving females as intrinsically unclean. Discussing the ḥadīth in which the *jumub* Abū Hurayra scurries off to bathe before approaching the Prophet and is scolded for this, al-Nawawī comments with evident enthusiasm: ‘This ḥadīth is a great foundation (*asl ‘azīm*) underscoring the pure status of the Muslim, whether alive or dead. As for the living [Muslim]: s/he is pure according to the consensus of the Muslims ... As for the infidel (*kāfir*), the legal

Even more significant for this puzzle is the problem of reciprocity: we know that a man must renew his ablutions in the wake of contact with a woman; but is a woman's *wuḍū'* cancelled if she touches a man? Katz explains that this issue, too, was ambiguous—or, rather, was not even addressed—at the earliest stage of the purity code's evolution. It did not take long, however, for the defiling event of *mulāmasa* to be declared by the overwhelming majority of *fuqahā'* a symmetrical two-way street, affecting all representatives of either gender who touched (and, according to most jurists, who were also touched by) members of the opposite sex; this despite the express diction of scripture: '... if you have touched *women* ...'. Al-Shāfi'ī is already quite explicit on this point:

If a man reaches out and touches his wife with his hand, or if he does so with any part of his body upon any part of hers ... he is obligated to perform the ablution, *and so is she*. And if she touches (*lāmasat*) him, or their two bodies otherwise meet, they must both perform *wuḍū'*.⁸

To this pronouncement of al-Shāfi'ī may be added an extensive list of rulings from across the length and breadth of the three (and, if we include the *Zāhirite madhhab*, four) schools of law that consider mere contact between the sexes defiling, rulings that make women as susceptible as men to this *ḥadath* (even the *Ḥanafiya*, as we shall see, make their contribution to the mutuality of *mulāmasa*).

Among the Shāfi'ites, al-Māwardī decrees that 'if a man touches a woman's body, or a woman touches a man's body, ablutions are mandated for the one among them who actively touches (*al-lāmis*). As for a woman touching a man, we arrive at the violation of her *wuḍū'* through analogy to the scriptural stipulation (*qiyāsan 'alā'l-naṣṣ*): for in the case of every other type of *ḥadath* mentioned by the verse [5:6/4:43] a women's pure state is ended just the same as a man's [so why should the *ḥadath* of *mulāmasa* be any different?].⁹ Al-Nawawī seconds: 'If the skin of a man and woman meet ... the *wuḍū'* of the one who does the touching is cancelled, whether the latter is a male or female.'¹⁰ The

ruling regarding him in the matter of purity and impurity is the same as that regarding the Muslim (*ḥukmuhu fī'l-ṭahāra wa'l-naḥāsa ḥukm al-Muslim*)—this is our policy, as well as the policy of the vast majority of our illustrious predecessors' (*ḥādthā madhhabinā wa-madhhab al-jamāhūr min al-salaf wa'l-khalaf*—Nawawī, *Sharḥ*, 4:52). Al-Shāfi'ī himself put the point succinctly: 'There is no *naḥāsa* in human beings' (*Umm*, 1:71).

⁸ Shāfi'ī, *Umm*, 1:29–30.

⁹ Māwardī, 1:221. Thus, if a woman rises from sleep or returns from urinating, she is as liable in *wuḍū'* as any man would be in the same situation.

¹⁰ Nawawī, *Majmū'*, 2:26. Al-Nawawī confirms this again in *Rawḍat al-Ṭālibīn*, 1:186:

pivotal Abū Ishāq Ibrāhīm b. ‘Alī al-Shīrāzī, as a commentary upon whose *Muhadhdhab* al-Nawawī wrote his magnificent *Majmū‘*, makes the gender-neutral nature of this *ḥadath* clear while nevertheless employing its single-sex designation: ‘As for “touching women” (*lams al-nisā’*), it annuls ablutions, and this is when a man touches a woman’s skin or a woman touches a man’s skin.’¹¹ Ibrāhīm al-Bayjūrī’s comparatively recent supercommentary on the *Mukhtaṣar* of Abū Shujā‘a addresses only the case of a man palpating a woman, but stipulates that the prayer-purity of both *lāmis* **and** *malmūs* is forfeit by this encounter.¹²

Among the Mālikiya, Saḥnūn’s discussion of *mulāmasa* even treats of ladies first:

Mālik said: if a woman’s caress of a man is accompanied by the attainment of erotic pleasure on her part, she must renew her ablutions; similarly, if a man caresses a woman with his hand in order to obtain erotic pleasure, *wuḍū’* is incumbent upon him ... and a woman has the same status as a man in this regard (*wa’l-mar’atu bi-manzilat al-rajul fī ḥādhā*) ... I [Saḥnūn] asked Ibn al-Qāsim: if she kisses him on a place other than his mouth [had it been on his mouth, there would be no question but that his ablutions would have been cancelled], such as on his forehead or his

‘A woman is like a man in terms of the infringement of her prayer-preparedness through touching a man in the places and ways that *his* touching *her* would infringe on *his* prayer-preparedness.’ He goes on in that source to mention the existence among the Shāfi‘ites of an ‘isolated opinion’ or narration (*waḥḥ shādh*) to the effect that the woman—even if she takes the initiative and reaches out to touch the man—is still legally defined as the passive party (*lā tazālu malmūsa*) and her *wuḍū’* remains intact. But he dismisses this position as ‘of negligible importance’ (*laysa bi-shay’*). It should be noted, however, that what al-Nawawī here describes as ‘an isolated opinion’ is depicted by Ibn Qudāma as ‘one of the two positions [on the subject] conceivably held by al-Shāfi‘ī based on one of the two [contradictory] narrations [of what al-Shāfi‘ī had ruled; or based on the differences between his earlier (*qadīm*) and later (*jadīd*) policies] (*wa-lī’l-Shāfi‘ī qawlān ka’l-riwāyatān*).’ Continues Ibn Qudāma: ‘As for the opinion that the woman’s *wuḍū’* is *not* cancelled [when she touches a man], this derives from [two claims]: (1) that the Qur’anic formulation restricts *mulāmasa* to touching by men [for it reads: ‘... if you touched *women* ...’], and (2), that a man’s touching of a woman is likely to lead to the emission of pre-ejaculatory fluid (*madhū*) on his part, whereas this is not the case with women [see above, chap. 8, n. 28]; therefore, there is no comparison to be made between male and female in this matter [*qiyās* requires a certain extent of commonality between the phenomena being analogized, a commonality which is lacking between the genders in this connection]. And if neither explicit scriptural stipulation nor argument from analogy supports [the idea that a woman’s *wuḍū’* is also violated through *lams*] then the proof thereof cannot be established (*wa-idhā imtana‘a al-naṣṣ wa’l-qiyās lam yathbut al-dalīl*—*Mughnī*, 1:195).

¹¹ Shīrāzī, 1:98.

¹² *Ḥaṣḥiyat al-Shaykh Ibrāhīm al-Bayjūrī ‘alā Sharḥ al-‘Alāma Ibn al-Qāsim al-Ghazzī ‘alā Matn al-Shaykh Abū Shujā‘a* (Beirut: Dār al-Kutub al-‘Ilmiya, 1994), 1:132–133.

back or his hand, is her ritual fitness removed while his remains [because he is merely the *malmūs*]? He replied: yes, unless the man receives pleasure from this or his penis becomes erect as a result of it (*illā an yaltadhdu li-dhālika al-rajulu aw yan‘azu*), in which case he, too, must repeat his ablutions. And if *he* touches *her* as well, or kisses her on a place other than the mouth and she is aroused by this, in this case, also, he must perform *wuḍū’*; whereas if she [in her capacity of *malmūs*] is *not* aroused by his petting, *she* need not re-purify herself [the man, however, must do so even if only the woman had enjoyed the encounter].¹³

Although not everything in this passage, which contains material probably predating that found in the *Umm*, is easily comprehensible at first (or even second) glance, the equal opportunity defilement is unmistakable. No less adamant about the egalitarian character of our purity prescription are the exponents of Ḥanbalism, whose collective opinion is summed up by al-Buhūṭī with the words, ‘male and female are equal in it’ (*fa-istawā fihā al-dhakar wa’l-unthā*).¹⁴ The formulation found in the *Mughnī* is slightly more nuanced, but ultimately supports the gender-neutral outlook. Ibn Qudāma presents the Ḥanbalite position as follows:

If a woman feels the body of a man and becomes sexually excited by this, the more prominent of the opinions attributed to al-Khirqī is that both of their post-ablution states are terminated upon the meeting of their flesh (*zāhir kalām al-Khirqī naqḍ wuḍū’ahimā bi-mulāqat bashratihimā*). Aḥmad [b. Ḥanbal] was asked about a woman who touches her husband. He responded: I have heard nothing on this subject, however: she is the ‘full sister’ of the man [in this regard], and my sense is that she ought to renew her ablutions (*mā sami‘tu fihī shay’an, wa-lākin hiya shaqīqat al-rajul, ya’jibunī an tatawada’a*).¹⁵

Ibn Ḥanbal’s admission that he has to date ‘heard nothing on this subject,’ and his consequent need to derive the woman’s susceptibility to the *ḥadath* of *mulāmasa* from an analogy to the man (to whom—he insists—she is eminently comparable on this score), would seem to support Katz’s evolutionary interpretation of the feminine facet of this purity clause. We have seen al-Māwardī employ a similar tactic, and in this next excerpt we watch the most important figure in Zāhirism, Ibn Ḥazm, sharpen the point:

¹³ *Mudawwana*, 1:21.

¹⁴ Buhūṭī, 1:129.

¹⁵ *Mughnī*, 1:195.

Abū Muḥammad [Ibn Ḥazm] said: *Mulāmasa* is an act involving two actors (*fī'l min fā'īlayn*); we know with certainty that both men and women are the addressees of this verse [5:6/4:43—*bi-yaqūn nadrī anna al-rijāl wa'l-nisā' mukhāṭabūn bi-hādhihī'l-āya*], and there is not one member of the nation of believers (*al-umma*) who would dispute this. And since the opening of the verse, as well as its conclusion, encompass *all* Muslims [i.e., whatever their gender], then it is demonstrably the case that this regulation [*viz.*, the *mulāmasa* clause found in the *middle* of the verse] applies both to men if they touch women *and* to women if they touch men (*fā-ṣaḥḥa anna hādihā'l-ḥukm lāzīm li'l-rijāl idhā lāmasū al-nisā', wa'l-nisā' idhā lāmasna al-rijāl*).¹⁶

Even the Ḥanafīya, though not subscribing to the ‘mere kiss or contact’ interpretation of ‘... *aw lāmastum al-nisā'* ...,’ may be said to have envisioned a symmetry of the sexes in the context of what *they* termed *mulāmasa* (that is, *mubāshara fāḥisha*). As we have seen, this exclusively Ḥanafite conception of our *ḥadath* has it impinge upon the ritual readiness of *both* parties to the ‘full, nude embrace,’ as long as they are cleaving to one another and the male is erect.

Now, the equation of the ceremonial effect on both sexes of contact with the opposing gender leads either to the conclusion that *all* human beings—male and female—are perpetually impure and contaminating (a patent absurdity, and one which would topple the *ṭahāra* system), or, alternately, to the conclusion that *no* human beings—male or female—may be thus described. Since the latter option is the only viable one, the factor engendering defilement in the context of *mulāmasa* must be sought elsewhere than in the notion of some sort of female *najāsāt al-dhāt* (intrinsic impurity). As Katz states:

[A] reciprocal understanding of the rule suggested that the source of pollution was not the body of either of the individuals concerned, but the act of touching itself. This inference established a parallel between the act of ‘touching women’ and the other acts requiring the renewal of one’s *wudū'* ablutions, all of which are bodily functions one has oneself performed rather than instances of contagion by another person or substance. What is envisioned is not a quality of substantive impurity inherent in bodies of either sex, but a quality of pollution ascribed to heterosexual contact.¹⁷

Once this essential point has been clarified, much of the remaining inter- and intra-scholastic sub-disputes surrounding various aspects of

¹⁶ *Muḥallā*, 1:244.

¹⁷ Katz, *Body*, 152.

mulāmasa more or less fall into place. For the ‘quality of pollution ascribed to heterosexual contact’ which forms the pivot of this purity provision is none other than *shahwa* (lust, passion, erotic desire). As we shall see, the ensuing ramification of positions between and among the *madhāhib* regarding diverse elements and instances of *mulāmasa* may in almost all cases be traced back to this criterion. Even the Shāfi‘ites, whose school is *de jure* indifferent to *shahwa* in *mulāmasa*, *de facto* pay its presence and absence much mind. In order, then, effectively to analyze the different attitudes to the central *mulāmasa* sub-issues, it is best to begin with an elucidation of the function of *shahwa* itself in the minds of the jurists, as well as of the polemic surrounding this subject.

Before doing so, however, let us cast a quick glance at the summary overview of juristic positions on *mulāmasa* provided by al-Nawawī in his encyclopedic *Majmū‘*, which includes one or two opinions which had later on (and perhaps even by al-Nawawī’s own time) become obsolete—that is, were no longer held by any functioning party. Not all aspects of his breakdown will be intelligible to the reader at this point, but we shall expand on most of these clauses momentarily:

Regarding the opinions of the scholars (*madhāhib al-‘ulamā’*) on *lams*, we have mentioned that (1) our [*viz.*, the Shāfi‘ite] position is that the meeting of the skin of a male and female, marriage between whom would not constitute incest (*iltiqā’ bashratay al-‘ajnabī wa’l-‘ajnabiya*),¹⁸ cancels *wuḍū’* regardless of whether [the contact was characterized by] sensual desire or not, or by intention [to receive erotic pleasure] or not (*siwā’ kāna bi-shahwa wa-bi-qaṣd am lā*). But *wuḍū’* is not broken when a ‘barrier’ is present (*ma’ wujūd ḥā’ūl*, i.e., when the contact takes place through a garment) even if the ‘barrier’ was thin. This was the opinion (*wa-bi-hādihā qāla*) of ‘Umar b. al-Khaṭṭāb, ‘Abd Allāh b. Mas‘ūd, ‘Abd Allāh b. ‘Umar, Zayd b. Aslam, Makḥūl, al-Sha‘bī, al-Nakha‘ī, ‘Aṭā b. al-Sā‘ib, al-Zuhrī, Yaḥyā b. Sa‘īd al-Anṣārī, Rabī‘a and Sa‘īd b. ‘Abd al-‘Azīz, and it is one of the [two] narrations from al-Awzā‘ī.

(2) The second position avers that ablutions are not annulled by touching at all (*lā yantaqīdu al-wuḍū’ bi’l-lams muṭlaqan*), and this is what has been narrated in the name of Ibn ‘Abbās, ‘Aṭā, Tāwūs, Masrūq, al-Ḥasan [al-Baṣrī] and Sufyān al-Thawrī, and thus opined Abū Ḥanīfa, except that he said: if he embraces her while naked but without penetration and his

¹⁸ *Ajnabī* literally means alien, foreign. It is used in this legal context to indicate the opposite of *maḥram*, one to whom marriage is forbidden either because s/he is too closely related—*dhāt raḥīm maḥram* (lit., ‘prohibited due to uteral connection’)—or for other reasons, including relation by marriage or affiliation with paganism. We will expand on this below.

member is erect, he must renew his ablutions (*idhā bāsharahā dūna'l-farj wa-intshara fa-'alayhi al-wuḍū'*).

(3) The third position [after those of the Shāfi'īya and Ḥanafīya] is: if he touches with desire his *wuḍū'* is cancelled, and if not, it isn't. And this is what has been transmitted from al-Ḥakm, Ḥammād, Mālik [b. Anas], Layth and Iṣḥāq, and it is one of the recorded positions of al-Sha'bī, al-Nakha'ī, Rabī'a and [Sufyān] al-Thawrī, and from Aḥmad we have three different narrations [regarding this question] each of a different opinion.

(4) The fourth position is that purposeful palpation violates *wuḍū'*, whereas [if contact occurs accidentally] then it is not [violated] (*lams 'amdan intaqaḍa wa-illā fa-lā*). This is the outlook of Dā'ūd [b. Khalaf al-Isfahānī, founding Imām of the Zāhirī school], and his son disagreed with him and asserted that [*lams*] does not violate post-ablution status under any circumstances [thus adopting the Ḥanafite approach; later Zāhirites, however, rolled the ruling back even past Dā'ūd himself, claiming—with the Shāfi'ites—that the psycho-physiological state of the *lāmis* is immaterial, and as long as s/he touches the actual skin of the other, *wuḍū'* must be redone].

(5) The fifth position is that touching [a member of the opposite sex] with one of the limbs [washed or wiped] in ablutions (*lams bi-a'ḍā al-wuḍū'*) annuls *wuḍū'*, but otherwise purity remains intact, and this is related by the author of the *Ḥāwī* [i.e., al-Māwardī] in the name of al-Awzā'ī; and it is related in the latter's name, as well, that *wuḍū'* is only cancelled by touching [specifically] with the hand.

(6) The sixth position is that if one touches with desire, then even if it is over a fine garment (*fawq ḥā'il raqīq*) new ablutions are required—thus is reported in one of the narrations from Rabī'a and Mālik.

(7) The seventh position is that touching one who is permitted to him [in marriage, i.e., an *ajnabiya*] does not violate *wuḍū'*, whereas if he touches one forbidden to him [in marriage—i.e., a *maḥram*, including a member of his nuclear family] his *wuḍū'* is violated [the opposite of number 1, above]. This is related by Ibn al-Mundhir and the author of the *Ḥāwī* in the name of 'Aṭā'—and this [ruling] is in opposition to what has been stated by the overwhelming majority [of jurists], and God willing it will not be approved by anyone (*wa-hādha khilāf mā ḥakāhu al-junhūr 'anhu wa-lā yaṣiḥḥ hādha 'an aḥadin in shā' Allāh*).¹⁹

For purposes of effective explication, we shall divide up our discussion of the sub-issues of *mulāmasa* in a slightly different manner than al-Nawawī did. We shall first examine (a) the issue of passion, the intent to satisfy it and its actual satisfaction (*shahwa, qaṣd, ladhḍha*). Next we

¹⁹ Nawawī, *Majmū'*, 2:30.

shall briefly take up (b) homosexual encounters, (c) rules about relatives (*maḥārim*), and (d) questions relating to clothing, dead parts of the body, and dead body parts. Throughout, we shall take note of the central role played by the criterion of passion in leading most jurists to rule as they do.

Shahwa, Qaşd, Ladhha

The term *shahwa* denotes longing, yearning or craving, and connotes venereal appetite or carnal lust. The term *ladhdha* signifies pleasure, enjoyment or delectation, and indicates sensual satisfaction. (While the former is more likely to designate the aspiration, and the latter its realization, the two terms are often used interchangeably in the *fiqh* literature). Although nowhere in evidence as a pre-condition in the Qurʾān, and almost nowhere in Ḥadīth, the presence of passion was adopted especially by the Mālikiya as an indispensable criterion in *mulāmasa*. This school held that in order to cause the loss of prayer purity, a person's touching of the opposite gender had to be accompanied by sexual desire. Mālikite jurists specified that the believer must either *intend* to obtain erotic pleasure by means of such contact—whether he ultimately obtains it or not—or, alternately, that he must have *in fact* obtained such pleasure as a result of the encounter—regardless of whether he originally sought this outcome or not (*fa-yashtarīfu fi'l-lāmis ... an yaqşuda al-ladhha aw yağiduhā bi-dūni qaşd*).²⁰

‘Mālik said: no ablutions are required in the wake of a woman touching a man or a man touching a woman if such touching transpires unaccompanied by passion ... whereas if such contact is indeed characterized by [the desire and/or achievement of] erotic pleasure, then whoever among the two feels this sensation is obligated in *wuḍūʿ*’.²¹ ‘A woman's touching of a man when he is not interested in this does not obligate *him* in anything, unless he is aroused by this and wants it.’²² ‘The Mālikiya opined that if one touches with passion, [*wuḍūʿ*] is violated, and if not—not.’²³

²⁰ Jazīrī 1: 76.

²¹ *Muḥallā*, 1: 248.

²² *Kāfī*, 1: 148.

²³ ‘Aynī, 1: 244: ‘*wa-dhahaba al-Mālikiya ilā anna in lamasa bi-shahwa yantaqīdu, wa-illā fa-lā.*’

Mālik said, regarding a woman who touches a man's penis: if she touches it for purposes of pleasure, she must perform ablutions [prior to her next prayer]. If she touches it for purposes other than pleasure—such as in treatment of illness or the like—no *wuḍūʿ* is required of her.²⁴

In short, the Mālikī school 'saw in the aspiration to, or accomplishment of, arousal the pivot of *mulāmasa*' (*'arafat anna al-madār fī'l-lams 'alā qaṣd al-ladhdha aw wijdānikā*).²⁵

It is somewhat strange that Ibn Rushd, the 'pillar' of the Mālikī *madhhab*, should claim ignorance of any support in the early sources for his own school's ruling on this matter: 'Each of these opinions has precedents among the Companions, except for the requirement of pleasure, for I do not remember any companion setting up this condition' (*wa-li-kullī [madhhabin] salaf min al-ṣaḥāba illā ishtirāṭ al-ladhdha, fa-innī lā adhkuru aḥadan min al-ṣaḥāba ishtaratahā*).²⁶ This is puzzling because although they are relatively rare, such statements do in fact exist in the early Ḥadīth. Ibn Abī Shayba records a declaration of Ibn Abī Layla to the effect that 'if a man touches a woman with erotic desire (*bi-shahwa*) he must perform ablutions so long as he didn't ejaculate [had he ejaculated, *ghusl* would have been in order].'²⁷ 'Abd al-Razzāq passes on the assertion of Ibrāhīm al-Nakhaī that 'if a man kisses with erotic desire (*shahwa*) or touches with erotic desire he must renew his *wuḍūʿ*'.²⁸ The specific terminology of *ladhdha* is also present in the earliest texts: recall the ḥadīth recorded by 'Abd al-Razzāq and transmitted through Ibn Jurayj, cited above in chapter seven, according to which the Messenger of God was 'in the seated position praying in the mosque, and had hold of 'Ā'isha's leg, but did not get erotic pleasure from this' (*qabaḍa 'alā qadam 'Ā'isha ghayr mutaladhdhidhan*). Additionally, we have Ḥammād b. Dā'ūd's ruling that

if a man kisses a women and she does not desire this (*wa-hiya lā turīdu dhālika*), then ablutions are incumbent upon him but not upon her. And if she kisses him [and he does not desire this] then ablutions are incumbent

²⁴ *Mudawwana*, 1:121.

²⁵ Jazīrī, 1:77. See also on Mālik's position Māwardī, 1:222 and Sarakhsī, 1:67. Ibn Qudāma describes Ibn Ḥanbal's doctrine in similar terms: '*al-mashhur min madhhab Aḥmad raḥimuhu Allāh anna lams al-nisā' li-shahwa yanquḍu al-wuḍūʿ wa-lā yanquḍuhu li-ghayr shahwa*' (*Mughnī*, 1:192). As is often the case with the Ḥanābila, however, the school departed from its founder's policy in this matter and gravitated to the Shāfi'ite position, which we shall elucidate below.

²⁶ *Bidāya*, 1:29.

²⁷ Ibn Abī Shayba, 1:63 (57:6).

²⁸ 'Abd al-Razzāq, 1:102 (501).

upon her but not upon him. But if [despite not desiring her kiss] he nevertheless becomes aroused [by it—*wajada shahwa*], he must renew his *wuḍūʿ*, and if she becomes aroused by his [uninvited] kiss, she, too, must execute another round of purification.²⁹

Perhaps Ibn Rushd was unaware of these statements (although this is doubtful, given that many other jurists—including Mālikites like al-Qurṭubī—cite them as evidence),³⁰ or for some reason did not credit their *asānīd* (let us remember that Ibn Rushd, despite his affiliation with, and high station within, Mālikism, was an avowed partisan of the Ḥanafite approach to *mulāmasa*, according to which none of these *aḥādīth* are acceptable. This may have affected his presentation). Alternatively, Ibn Rushd might have reasoned in a manner similar to Ibn Ḥazm, who was fully aware of the aforementioned traditions, but who nevertheless fumed regarding the Mālikite requirement of *shahwa*:

This is a position supported neither by Qurʾān, nor by *Sunna*, nor by *ijmāʿ*, nor by the statement of any Companion, nor by *qiyās*—it is, rather, in direct contradiction to all of these ... and we do not know of anyone who opined thus prior to [the Mālikiya]. And if it is countered: But you have narrated from al-Nakhaʿī and al-Shaʿbī: ‘if he kisses or touches with passion he must renew his ablutions,’ and from Ḥammād: ‘Whichever of the two spouses kisses the other and the latter does not want this, no *wuḍūʿ* is incumbent upon the one who does not want [such contact at that moment], unless s/he found pleasure in this; and ablutions are obligatory upon the one who intended this.’ [Were one to challenge our claim that Mālik’s ruling on *shahwa* is unprecedented by adducing these *aḥādīth*] we would respond: It is soundly related from al-Nakhaʿī and al-Shaʿbī that ablutions are required in the wake of intentional kissing under any circumstances, and if that is the case, then sexual satisfaction is merely an accidental adjunct of this ruling—which we accept—and this is not what Mālik had in mind.³¹

Whether Ibn Rushd agreed with Ibn Ḥazm in this matter, what is clear is that he was unable to provide a *Sunna*-based rationale for the Mālikite outlook. He therefore offers his readership a justification of the same derived from scripture:

²⁹ Ibn Abī Shayba, 1: 62 (55:9).

³⁰ Qurṭubī, 2: 80; see also, e.g., *Muḥallā*, 1: 332, *Mughnī*, 1: 193, *Majmūʿ*, 2: 23.

³¹ *Muḥallā*, 2: 248. ‘*Qad ṣaḥḥa ‘an al-Nakhaʿī wa’l-Shaʿbī ʿijāb al-wuḍūʿ min al-qubla ‘alā’l-qāṣid bi-kuli ḥāl, wa-idh dhālika ka-dhālika, fa’l-ladhdha dākhila fī ḥādha al-qawl, wa-bihi naqūlu, wa-laysa dhālika qawl Mālik.*’

Of those who declare God's intention [in verse 5:6] to be *lams bi'l-yad* [i.e., all but the Ḥanafite school] there are two groups in the matter of pleasure: (1) those who consider [the scriptural clause] to be a general term indicating the particular (*al-ʿām urīdu bihi al-khāṣṣ*), and who therefore make it conditional upon pleasure (*ishtarāta fīhi al-ladhḥa*) [it says 'touching' but is in reality restricted to a specific kind of touching: that with passion aforethought (or during the act). This refers to the Mālīkiya and Ḥanābila].

Among [the same tri-school *lams bi'l-yad* faction] are also (2) those who deem the scriptural clause a general term indicating a generality (*al-ʿām urīdu bihi al-ʿām*), and who therefore do not make [violation of *wuḍūʿ* in *mulāmasa*] conditional upon pleasure [it says 'touching,' plain and simple, and that is just what it means: any type of contact, whether characterized by carnal lust or not. This refers to the Shāfiʿiya].³²

In this case—i.e., regarding the question whether 'intent to enjoy' is a prerequisite of *mulāmasa*—Ibn Rushd appears to have sided with his own school (and against Ibn Ḥazm), despite his self-proclaimed inability to find Prophetic or Companion precedent for its ruling. ʿAlī b. Aḥmad al-Ṣaʿīdī al-ʿAdawī (also spelled ʿAḍawī) shows the great master defining this *ḥadath* as 'the meeting of body with body for purposes of probing' (*mulāqat jism li-jism ʿalā jihat al-ikhtibār*)—probing, Ibn Rushd goes on to clarify, in order to discover 'whether he will obtain erotic pleasure or not' (*hal yaḥṣal lahu ladhḥa am lā*).³³

So much for the Mālīkiya. The Shāfiʿite school takes a different attitude to *shahwa*. We have noted that al-Nawawī summarized the outlook of his *madhhab* on this matter thus: 'The meeting of the skin of a male and female ... cancels *wuḍūʿ*' regardless of whether or not [the contact was characterized by] sensual desire or by intention [to receive erotic pleasure]' (*siwāʿ kāna bi-shahwa wa-bi-qaṣd am lā*). Al-Māwardī also describes the Shāfiʿite position in contradistinction to that of the Mālīkiya, explaining that if either sex touches the other then the one who does the touching must perform *wuḍūʿ* 'regardless of whether s/he touches with passion or without (*siwāʿ lamasa bi-shahwa aw ghayrahā*) ... whereas Mālīk and al-Thawrī said: if he kisses her passionately [his ritual fitness] is violated, but if it is without passion, it is not violated.'³⁴ Al-Shāfiʿī himself makes his *madhhab*'s attitude clear: 'If he desires her but does not touch her, then ablutions are not required: for there is no

³² Ibn Rushd, *Bidāya*, 1:29.

³³ ʿAdawī, 1:176–177.

³⁴ Māwardī, 1:222–223.

import to desire, since it is a matter of the heart, whereas [legal] import resides in actions' (*wa-lā ma'na li'l-shahwa li-annahā fi'l-qalb; innamā al-ma'na fi'l-fi'l*).³⁵ Most Shāfi'ite jurists would agree with their sixteenth century colleague al-Naḥawī (as well as with al-Nawawī, above) that neither passion nor purposefulness (*qaṣd*) is a prerequisite of *mulāmasa*: 'Contact [with a member of the opposite sex] cancels prayer-purity whether such contact is witting or unwitting, chosen or forced' (*'āliman aw jāhīlan, mukhtāran aw mukrahan*).³⁶ Ibn Shaddād seconds this disregard for the issue of intent: 'If a man touches an *ajnabī* woman directly on her skin, this violates the ablutions of both the *tāmis* and the *malmūs*, even if the contact occurs by accident' (*ḥattā bi-ghayr qaṣd*).³⁷ Al-Nawawī grounds this Shāfi'ite position in Qur'ān and *Sunna* with the help of analogy:

Al-Shāfi'ī and the 'associates' [i.e., the important jurists of his school], may God have mercy upon them all, said: As for that which obligates re-purification [in the context of *mulāmasa*], there is no distinction in this regard between what [the believer] experiences as a result of an intentional and willful act and that which he experiences as a result of an act carried out unintentionally and unwillfully, such as when someone performs a defiling deed absentmindedly or because another compels him to do it (*ka'l-sāhī wa'l-mukrah 'alā'l-ḥadath*) ... and the proof of this may be derived from *Kitāb* and *Sunna*, God the Exalted having said [5:6/4:43]: '... and if you are *jumub*, purify yourselves ...' Now, *janāba* is contracted [in two ways:] through nocturnal emission (*iḥtilām*) and otherwise [i.e., through deliberate intercourse]. And nocturnal emissions occur without intent or will. Similarly, the Prophet, may God's peace and blessings be upon him, enjoined ablutions in the wake of the discharge of pre-ejaculatory fluid (*madhī*), and it, too, emerges involuntarily. [Thus, just as purification procedures are prescribed in the wake of these two unintentional bodily acts, so should *wuḍū'* be incumbent upon one who touches a member of the opposite sex, regardless of whether s/he did so on purpose or not].³⁸

In order to emphasize his point, al-Nawawī rules elsewhere that even if one touches dispassionately or unintentionally, or if he touches a paralyzed or prosthetic [?] limb (*uḍw ashall aw zā'id*), or an old hag (*'ajūz shawhā*), or, for that matter, a dead woman (*mayta*)—in all of these clearly un-arousing cases the devotee's prayer-preparedness is neverthe-

³⁵ *Umm*, 1:29–30.

³⁶ Naḥawī, 1:77.

³⁷ Ibn Shaddād, 1:105.

³⁸ Nawawī, *Majmū'*, 2:63. This argument nullifies the need for purpose, but not—it would seem—for passion.

less infringed, and he must renew his ablutions.³⁹ We can additionally gauge the Shāfi'ite outlook from a biting criticism leveled against it. Al-Qurṭubī, the thirteenth century Mālikī jurist and Qur'ān commentator, attacked the Shāfi'ite failure to distinguish between contact involving erotic desire and contact unaccompanied by the same. 'The implication of the policy of al-Shāfi'ī,' he wrote, 'is that a man who beats or smacks his wife has violated his prayer fitness (*yulzamu 'alā' madhhab al-Shāfi'ī man ḍaraba imra'tahu aw laṭamahā an yanquḍa wuḍū'ahu*)—and no one to my knowledge has ever ruled thus.'⁴⁰

What is the underlying basis of the longstanding Mālikī-Shāfi'ī disagreement over *shahwa* in *mulāmasa*? In order to answer this question, we must first hone in more closely on the position of the Shāfi'īya, for it is not as simple as it seems. Let us look at a few more formulations of that position. Al-Nawawī explains that 'if a man touches a marriageable woman **who is desirable** (*imra'a ajnabiya allatī tushtahā*), his *wuḍū'* is cancelled regardless of whether the contact involves desire or not (*siwā' kāna bi'l-shahwa am lā*).⁴¹ The same *faqīh* opines that 'in the case of a man who touches a severed limb of a woman (*uḍwan maqṭū'an min imra'a*), such as a hand or an ear or the like—or a woman who touches a severed limb of a man—there are two opinions, and the more correct of them is that this does not violate prayer-purity, for this [*viz.*, the severed limb] is not a "woman" and **can** neither arouse passion nor afford erotic pleasure.'⁴² Interestingly, while al-Nawawī declares 'isolated and wrong' the opinion of his fellow Shāfi'ite, 'Imām al-Ḥaramayn' (Juwaynī), to the effect that 'intent to become aroused (*qaṣd al-ladhdha*) is a prerequisite' of the *ḥadath* of *mulāmasa*,⁴³ al-Nawawī's indirect mentor, al-Shīrāzī, rules that 'if a man touches a little girl **who doesn't excite arousal** (*ṣaghīra lā tushtahā*) or an elderly woman **who doesn't excite arousal**, there are two positions [amongst the Shāfi'ites]: one is that this breaks *wuḍū'*, based on the generality of the verse (*umūm al-āya*, i.e., the fact that the scriptural formulation speaks of touching "women" in general, making no distinctions of age or attraction). The other is that it does not annul *wuḍū'*, for he does not intend, in touching her, to satisfy carnal desire, and thus she resembles hair

³⁹ Nawawī, *Rawḍat al-Ṭālibīn*, 1:185–186.

⁴⁰ Cited in 'Aynī, 1:245.

⁴¹ Nawawī, *Majmū'*, 2:26.

⁴² Nawawī, *Majmū'*, 2:29.

⁴³ Nawawī, *Rawḍat al-Ṭālibīn*, 1:187.

[which, as we have seen, the *fuqahā'* believe is *looked at* by men with lust, but *touched* with erotic indifference].⁴⁴ Seeking to settle this intra-Shāfi'ite dispute, al-Nawawī avers that in the case of contact with the little girl *wuḍū'* remains intact, whereas touching an elderly woman violates *wuḍū'* because 'as long as a woman remains alive someone will be found whose passions are aroused by her' (*idh imra'a mā dāmat 'alā qīd al-ḥayā fa-innahā lā ta'dam man yataladhhadhu bihā*).⁴⁵ The Shāfi'īya (and Ḥanābila) in general envision no *wuḍū'* breakage in the case of touching minors—in this connection, meaning children under seven or eight years old⁴⁶—for they have yet to reach 'the age of desirability' (*ḥadd al-shahwa*).⁴⁷ As for hair (and teeth, and nails), 'contact with these does not necessitate the renewal of ablutions, for they are not **normally** the objects of erotic desire' (*lā taqṣudu bi-shahwa ghāliban*).⁴⁸

What emerges from this collection of opinions and rulings is a more nuanced Shāfi'ite outlook on the role of passion in precipitating the *ḥadath* of *mulāmasa*. The bone of contention between the Shāfi'īya and the Mālikiya in this regard appears to be connected to the 'honor system' we discussed in the previous chapter. There we proposed that traditional religious law, as opposed to modern secular or state law, seeks in many cases to govern spheres of individual behavior that cannot be monitored, let alone enforced, by human agency. Such legislation demands that the adherent police himself, and this demand is very often met, not just because God is perceived to be constantly watching, but because the devout person generally believes (and has, in many cases, been trained since birth to act automatically on the belief) that following the dictates of the Deity is what he *should* do in the most profound, 'moral' sense.

There are, however, limits to this method of creating and maintaining social order. It is one thing to rely on religious individuals to be diligent in fulfilling clearly defined precepts; it is quite another to require them to assess anew in each circumstance whether or not they are *obligated* to fulfill a particular precept. The pious and informed Muslim fol-

⁴⁴ Shirāzī, 1:98.

⁴⁵ Nawawī, *Majmū'*, 2:29.

⁴⁶ Buhūtī, 1:129; Bayjūrī, 1:133. This was 'Ā'isha's age when she was betrothed to the Prophet.

⁴⁷ Jazīrī, 1:75. This must be distinguished from puberty—the age at which they themselves begin to experience sexual desire—which also has implications for *mulāmasa*, as we shall see below.

⁴⁸ Naḥawī, 1:78.

lower of the Mālikī/Shāfi‘ī/Ḥanbalī *madhhab* can, for the most part, be relied upon not to engage in *ṣalāt* after kissing his wife until he renews his ablutions. No supervision is necessary (or possible) in this area. But can he be relied upon accurately to evaluate in his own mind on each and every separate occasion whether a given kiss was ‘*bi-shahwa*’—impassioned, sensual, carnal—or otherwise, or whether what he experienced in its wake was genuine *ladhdha*, erotic arousal, or not? What are the exacting criteria by which one might effectively measure such feelings and sensations? If a person is either fiercely attracted to a particular member of the opposite sex (at one extreme) or violently repelled by the same (at the other), the matter might be simple. But what if one’s libidinal ‘attitude’ to a specific male or female—or one’s hormonal reaction to touching him or her—is borderline? What if one is ‘mildly’ aroused by contact with said person? (Mālik does not even allow for the use of a physical barometer to help make such determinations: ‘*in jassa li-ladhdha fa-lam yan’az fa-‘alayhi al-wudū*’—with or without erection, if passion is present, purity is eliminated).⁴⁹ Moreover, how easy or valid is it to differentiate finely between eros and endearment, between lust and love? Where does the one end and the other begin? This is an age-old and probably insoluble issue; how can the believer be expected to solve it many times daily? We are no longer dealing with a question of the ‘honor system’: the pious person’s spiritual super-ego cannot keep him in line if it is continually confused about where that line is.

So, in essence, argue the Shāfi‘iya against the Mālikite position on *mulāmasa*: the Mālikī requirement that each individual believer assess the nature and extent of his arousal on a case-by-case basis is a bad law, an impractical and unworkable law. In principle, the Shāfi‘ites agree with the Mālikiya that *shahwa* is the axis of *mulāmasa*, and were it possible to determine in each and every instance of trans-gender contact whether sexual desire was in fact involved, they, too, would make this *ḥadath* conditional upon the individual Muslim’s judgment of the motivation and outcome of each physical encounter s/he has. Since, however, such determinations are highly problematic, if not impossible, and since the *sharī‘a* needs to provide clear and distinct rules that govern the *general run* of situations, the Shāfi‘ites took a different tack.

This tack involved setting up a rigid classification system of *malāmīs* or ‘those types of people (or limbs thereof) that are touchable,’ and

⁴⁹ *Mudawwana*, 1:122.

declaring contact with every different category of the same either a violator of *wuḍūʿ* or not, based on what they saw as the *most common* libidinal response to such types of people and to their various body parts among ‘those possessed of a sound [= normal] constitution’ (*arbāb al-ṭibāʿ al-salīma*).⁵⁰ ‘The “event” (*ḥadath*) of *lams* involves a groping by the hand,’ writes al-Naḥawī, elucidating the basis for this *ḥadath* in general, ‘and the reason [why this act undermines prayer-purity] is that it is a *likely occasion* for the stirring up of passion’ (*maẓinna li-thawarān al-shahwa*).⁵¹ Similarly, al-Māwardī justifies his ruling that men touching other men do not incur the *ḥadath* of *lams* by pointing to ‘the absence of pleasure *generally* gained from such [same sex] touching’ (*faqd al-ladhdha ghāliban fī lamsihī*),⁵² and al-Nawawī rationalizes his own ruling in the same direction by stating that ‘a man is not *normally* the object of another man’s desire’ (*al-rajul laysa maẓinnat al-shahwa*).⁵³ (However, at points in time when ‘the inclination of a great many people is toward’ pederasty—*tamīlu ilayhi* [i.e., *ilāʿl-amrad*] *shahawāt kathīr min al-nās*—al-Māwardī *is* willing to consider an opinion that men who touch pre-pubescent boys should perform *wuḍūʿ* before praying, regardless of what sensations they did or did not obtain in the process of this encounter).⁵⁴ Since al-Nawawī grants a ‘decrepit old woman’ the status of a *maẓinnat al-shahwa*,⁵⁵ however, we might want to render this term not as ‘a normally desired object’ but as ‘a possibly desirable object,’ similar to the other designation regularly employed by the Shāfiʿites in this connection: such-and-such a category of persons is either *tushtahā*, in principle desirable, or *lā tushtahā*, not (normally) an object of desire. Similarly, hair, teeth, and nails do not violate *wuḍūʿ* ‘according to the most correct position [among the Shāfiʿite jurists], because they are not normally touched as a result of [or: with intent to achieve] arousal’ (*lā taqṣudu bi-shahwa ghāliban*).⁵⁶

⁵⁰ Bayjūrī, 1:133. The *sharʿa* must be made suitable to the average run of human beings.

⁵¹ Naḥawī, 1:78. This is basically unconnected to the question—which we considered above in chap. 6, n. 65—of whether or not *mulāmasa* necessitates *wuḍūʿ* because it ultimately leads to the emission of *madhī*. Here the issue seems to be solely the (even mild and passing) sensation of erotic stimulation.

⁵² Māwardī, 1:229.

⁵³ Nawawī, *Majmūʿ*, 2:33.

⁵⁴ Māwardī, 1:229.

⁵⁵ Nawawī, *Majmūʿ*, 2:28.

⁵⁶ Naḥawī, 1:78.

Thus, the possibility for ‘human error’ is eliminated by taking the decision out of the hands of the individual believer: regardless of what s/he does or doesn’t plan or experience in the way of erotic sensations, his or her ritual fitness will either remain or be removed based on the far less amorphous criterion of which category of person s/he touches. If a man makes direct contact with the skin of an *ajṅabī* woman between the ages of seven and one-hundred-and-seven, whether she is beautiful and alluring or hideous and repulsive, he must renew his ablutions before the next prayer session because this is a category of person to which one is *likely* to be attracted; if, on the other hand, he touches—or even fondles with erotic intent and arousal—a *maḥram ta’bīd* (first degree blood relative); a four year old girl; an *ajṅabī* woman’s nails, teeth or hair; a full-grown man; a human (or animal) corpse; or a female body over a blouse or veil, then he remains ‘*alā wuḍū’* according to the (majority of) Shāfi’iya. These are easy enough guidelines to follow: if one is in doubt regarding whether, e.g., he had touched her hair or her skin, or whether she was a *maḥram* or *ajṅabīya* (if jostled from behind at a gathering of family and friends, for instance), then he is permitted to assume that no ceremonial infringement has taken place.⁵⁷

In contradistinction to this Shāfi’ite method, in each of the aforementioned cases—those of touching a *maḥram*, *ṣaghūra*, *zūfir*, *sin*, *sha’r*, *rajul*, *mayyit* or contact *fawqa ḥā’il* (as well as those of touching hermaphrodites, eunuchs, severed limbs, *jinn* and more)—the *madhhab* of Mālik leaves it up to the discretion of the *lāmis*: if he either intended to receive or actually received (or both) erotic pleasure from such contact, he should renew his ablutions; if not—not. The Mālikiya seem to feel that the issue is not as complicated as we have described it above: a human being well knows when or whether s/he is in the throes of carnal passion and when or whether s/he isn’t. Indeed, the Mālikiya might argue, few sensations are more powerful and unmistakable than this one. Every human being is capable of ascertaining—indeed, knows and feels immediately, viscerally—whether s/he is aroused or not, and so this is a perfectly suitable, not to mention essential, standard for *mulāmasa*. ‘*Inna al-a’mālu bi’l-niyyāt*,’ the famous Prophetic saying goes—actions are to be judged by intentions.

In suggestive contrast to this last statement, al-Shāfi’ī (it will be recalled) had asserted that ‘there is no import to desire, for it is a matter

⁵⁷ Nawawī, *Rawḍat al-Ṭālibīn*, 1:186: ‘*Wa-law shakka hal huwa lāmis aw malmūs—fa-huwa malmūs; aw hal lamasa maḥraman aw ajṅabiyatan—fa-maḥraman.*’

of the heart, whereas [legal] import resides in actions' (*wa-lā ma'na li'l-shahwa li-annahā fi'l-qalb, innamā al-ma'na fi'l-fi'l*). The school founded by this venerated jurist therefore required a more formal understanding of *mulāmasa*, according to which actions are judged in themselves, not by their motivations or their impact on the psychology/biology of the actor. Ibn Ḥazm agrees, and tacks on an argument from logic against the Mālikī outlook:

It is strange that Mālik does not require *wuḍū'* in the wake of contact unless it is accompanied by arousal, while at the same time he does not require *wuḍū'* in the wake of arousal unless it is accompanied by contact. For [we thus have a case in which] each individual component alone cannot obligate the believer to renew his ablutions—how, then, can [Mālik] mandate ablutions as a result of their combination? (*fa-kul wāḥid min al-ma'niyayn lā yujibu al-wuḍū' 'alā infirādihi, fa-min ayna la-hu ijāb al-wuḍū' 'inda ijtimā'ihimā?*).⁵⁸

Ibn Ḥazm knows that the vast majority of jurists are agreed that the sensation of *shahwa* alone does not violate *wuḍū'*. Al-Shāfi'ī himself had insisted that 'if he desires her but does not touch her (*idhā yashṭahūhā wa-lā yamassuhā*) his purity remains intact.'⁵⁹ Representing the Ḥanābila, al-Buhūṭī informs us that 'ablutions are not necessitated by an erection that results from fantasizing or from staring, for there is no scriptural warrant for this' (*lā yantaqīdu al-wuḍū' bi-intishār dhakar 'an fikr wa-takrār naẓar, li-annahū lā naṣṣ fihi*).⁶⁰ Even the Ḥanafiya took pains early on to make this distinction clear in connection with their own notion of *mulāmasa* (which essentially boils down to the ejaculation of *madhī*):

I [*viz.*, al-Shaybānī] queried: what is your [*viz.*, Abū Ḥanīfa's] opinion regarding a man who performs the ablution and then looks with lust (*shahwa*) at his wife but does not emit *madhī*—is he obligated to perform [another] ablution? He replied: No. I asked: And what if he looks at her genitals (*farjahā*)? He answered: Not even if he looks at her genitals. I said: What about if he looks at her genitals and emits *manī* or *madhī* or *wadī* (*amnā aw amdhā aw awdā*)? He said: If he emits *manī* then he must perform *ghusl*, whereas if he emits *madhī* or *wadī* then he is obligated in *wuḍū'*, and he needn't perform *ghusl* for these.⁶¹

⁵⁸ Ibn Ḥazm, 1:249.

⁵⁹ *Umm*, 1:30.

⁶⁰ Buhūṭī, 1:129.

⁶¹ *Aṣl*, 1:47.

The Mālikiya are no exception to this rule. ‘The attainment [of erotic pleasure] must take place at the time of contact (*ḥāl al-lams*)’ explains al-‘Adawī. ‘[If it occurs] afterward purity is not violated, for it then begins to resemble arousal based on imagining’ (*ṣāra ka’l-ladhḥa bi’l-tafakkur*).⁶² ‘Without contact,’ the *Kitāb al-Fiqh ‘alā Madhāhib al-‘Arba‘a* sums up the Mālikite position, ‘even if he experiences an erection (*ḥaṣala lahu al-in‘āz*), no repetition of ablutions is required.’⁶³

To return, then, to Ibn Ḥazm’s criticism of the Mālikite position: he knows that it is more-or-less unanimously held among the *fuqahā’* of all *madhāhib* that the effect of erotic desire by itself on the ritual readiness of a devotee is nil. According to the Mālikiya, the effect on such readiness of mere contact—devoid of desire—is also nil. Zero plus zero, argues Ibn Ḥazm, is zero. What, he is really asking, is the essential, active ingredient in the Mālikī version of *mulāmasa*? What is its fundamental criterion? For if there is no such ingredient or criterion, this purity provision is too tenuous or nebulous to survive. Mālikī *mulāmasa* has no leg to stand on.

So proceeds the sometimes impassioned debate over the role of passion in this sub-paragraph of the purity code, with the Shāfi‘iya on one side (joined, to a large extent, by the Ḥanābila), advocating an immutable standard that transforms the spectrum of probability of arousal into a binary classification system in which the vicissitudes of fallible human judgment are removed from the process; and the Mālikiya, on the other side, who trust the individual believer to evaluate his own mind and body in the aftermath of any tactile encounter.⁶⁴ We shall now rapidly examine several of the remaining disputes in connection with *mulāmasa*, to a number of which we have alluded earlier in various contexts, noting the impact on each of the arch-dispute regarding *shahwa*.

⁶² ‘Adawī, 1:177.

⁶³ Jazīrī, 1:76.

⁶⁴ In some sub-areas of this issue, however, these opposing schools seem to have compromised with each other and moved toward a common center. Such would appear to be the case, for example, in the matter of mouth kissing. Most members of both *madhāhib* agree that ‘*ammā qubla fa-annahum lam yashitariṭū al-ladhḥa fī dhālika, (wa-huwa madhhab Mālik wa-jumhur aṣḥābihi)*’ (Ibn Rushd, *Bidāya*, 1:129). They also agree that ‘*al-qubla fi’l-fam tanquḍu al-wuḍū’ muṭlaqan*’ (Sāwī, 2:171). This is a nod to the Shāfi‘ite notion of *mazīnat al-shahwa*—lips are sufficiently sensual that they may be proclaimed ‘officially’ arousing, whether or not they *actually* arouse on a particular occasion.

The Beardless and the Beautiful

Male homosexuality (generally known as *liwāt*, probably denominated from the Biblical Lot because of his connection to Sodom)⁶⁵ is roundly condemned in the Qurʾān: ‘We also sent Lūt, who said to his people: “Do you commit lewdness such as no human beings in creation have ever committed before you? For you come lustfully to men (*innakum lata’tūna al-rijāl shahwatan*) instead of to women; you are indeed a people that has exceeded all bounds.”’⁶⁶ In the Ḥadīth literature sodomy is expressly and repeatedly forbidden, and the punishment prescribed is death by stoning⁶⁷ (al-Nuwayrī’s formulation of this latter ordinance—‘kill the actor and the one acted upon’ [*uqtulū al-fā’il wa’l-maf’ūl bihi*])—has been employed for centuries by grammarians to teach Arab schoolchildren the subject and object). Lesbianism (*siḥāq*) is also heavily frowned upon.

It is therefore all the more intriguing that the *fuqahā’* should have given so much consideration to the ritual consequences of homoeroticism in the context of *mulāmasa*. It is true that the preference for one’s own gender has been viewed with a certain indulgence in many Muslim lands and during many periods of Islamic history, especially in the case of pedophilia (indeed, so widespread was this latter phenomenon that the term for pre-pubescent boy—*ghulām* [Heb. *‘elem*])—gives us the Arabic verb *ghalama*, which means ‘to be excited by lust, to be seized by sensual desire’.⁶⁸ Such tolerance was, however, least in evidence among

⁶⁵ Sodom’s populace assembled in front of Lot’s house after the arrival there of God’s angels, and demanded: ‘Where are the men who came to you tonight? Send them out to us, that we may “know” them!’ (Genesis, 19:5).

⁶⁶ See also Q 20:16, 27:54, 26:165. Cf. Q 52:24 and 56:17. For the vast and multifaceted subject of homosexuality in Islam see especially Charles Pellat’s classic essay on ‘Liwāt,’ currently most accessible at the back of Arno Shmitt and Jehoeda Sofer (eds.), *Sexuality and Eroticism among Males in Muslim Societies* (New York: Haworth Press, 1991); Stephen O. Murray and Will Roscoe (eds.), *Islamic Homosexualities: Culture, History and Literature* (New York: New York University Press, 1997); J.W. Wright and Everett K. Rowson (eds.), *Homoeeroticism in Classical Arabic Literature* (New York: Columbia University Press, 1997); Tucker, *In the House of the Law*, 151–156; Khalid Duran, ‘Homosexuality and Islam,’ in Arlene Swidler (ed.), *Homosexuality in World Religions* (Valley Forge: Trinity Press International, 1993); and Camilla Adang, “Ibn Ḥazm on Homosexuality: A Case Study of Zāhiri Legal Methodology,” in Al-Qantara, 23 (2003), and the literature cited there in text and notes.

⁶⁷ See entry ‘Liwāt’ in *EI*². Abū Ḥanīfa, however, ‘taking a reprehensibly lenient view of this widely diffused evil, considered a mere corporal punishment sufficient for it’ (von Kremer, advocating the execution of homosexuals, Appendix 8, 103).

⁶⁸ Passive pederasty in Arabic is *ubna*, and a catamite a *ma’būn*.

the jurists. What is, rather, on display in the extensive treatment of the ceremonial significance of same-sex fondling in *fiqh al-ṭahāra* appears to be a recognition of, and resignation to, the facts on the ground. Once intravenous drug-use is conceded to be rampant and unstoppable (to draw an imperfect modern analogy), needle-sharing should at least be discouraged in order to prevent the spread of disease. Even rule-breakers are in need of rules, and a legal system that aspires to influence society in all its parts must make room for sinners as well. This is the tendency evinced, for example, by al-Māwardī's ruling that a brigand lying in wait for a caravan, or a man on a journey to visit a far-away prostitute, may resort to *tayammum* and execute *ṣalāt* if water is lacking (just like any other traveling worshipper), and need not perform *wuḍū'* and repeat his prayers when water is finally found. Al-Māwardī adds: 'The fulfillment of religious obligations on the part of a "rebel" is valid, even though it coincides with his "rebellion"' (*al-ʿāṣī yaṣīḥḥu minhu idā' al-farḍ ma' ma'ṣiyatihi*).⁶⁹

Here, too—in the case of the meeting of male bodies—we should begin with al-Māwardī, who puts up a spirited defense of the majority Shāfi'ite (and unanimous Ḥanbalite) position:

As for contact between two males (*mulāmasa bayna al-dhakarayn*): if the individual being touched (*malmūs*) is an adult who is not [normally] desired—as in the case of a full grown man touching another full-grown man—their prayer-purity is not violated, for in most cases such contact does not produce erotic pleasure. But if the *malmūs* is a beautiful child (*ṣaghīran mustahsanan*), as in the case of a man touching an attractive pre-pubescent boy (*ṣabīyan amrad*),⁷⁰ Abū Sa'īd al-Iṣṭakhrī said: 'Touching such a one cancels *wuḍū'* just as touching a woman would, for the passions of many people incline to the likes of these.' All of the other [Shāfi'ite] masters, however, argued that this act does not necessitate new ablutions, because [the pre-pubescent boy] is of a gender the contact with which [on the part of men] does not violate prayer-purity, and this encompassing and immutable fact overwhelms the existence of that isolated minority [of men who are indeed aroused by such encounters—*li-annahū min jins lā yantaqīḍu al-wuḍū' bi-lamsihi fa-kāna mā shadhḥa minhu mulḥiqan bi-ʿumūm al-jins*]. And if [the opinion that ritual fitness is impaired through contact with a minor of the same sex] is

⁶⁹ Māwardī, 1:323.

⁷⁰ The term *amrad*, explains al-Qurtubī, comes from the root *m.r.d.*, and is synonymous with *maḥkūk* (rubbed smooth, sanded down) and *mumallas* (made smooth). It thus signifies an adolescent smooth of face and skin, who has yet to sprout a beard, or even—according to some linguists—the rudiments of a mustache (Qurtubī, 13:169). Compare the 'palace made smooth' (*ṣarḥun mumarradun*) of Q. 27:44.

allowed, then let that which Mālik claims—*viz.*, that touching a beast passionately violates *wuḍū'*—be allowed as well! (*wa-law sāgha hādihā la-sāgha mā qālahu Mālik fī intiḳāḍ al-wuḍū' bi-lams al-bahīma li-shahwa*). But this [*viz.*, Mālik's claim] has been discarded according to the general consensus.⁷¹

Noticeable in this passage is the Shāfi'ite insistence on the formalization of feelings of arousal, of which we spoke earlier. This is reminiscent of legal premises employed in other fields of purity law, such as 'no settled area lacks water.'⁷² Of course there will be times of serious drought when even towns and villages have nothing to drink but goat's milk or date-juice, but such situations are comparatively rare (otherwise the townspeople would revert to nomadism) and the *shar'* must address that which is most pervasive and common. Thus, according to some opinions, even if a worshipper searches a village high and low and finds no water—and even if the absence of water is additionally confirmed through *istikhbār* (a survey of the locals, who inform him that all area wells are dry)—still: he is not permitted to perform *tayammum* because of the general principle: 'no settled area lacks water.' Similarly in our current case, if a man is sexually attracted to other (younger) men, and he approaches and touches (or even caresses and kisses) a 'beautiful, beardless boy'—and, moreover, he finds intense erotic pleasure in doing so—nevertheless, the premise remains: 'males are not attracted to males,' and therefore the *ghulām* or *amrad jamīl* is 'not of the gender that violates *wuḍū'*' for a man. So say the Shāfi'ites. The Ḥanābila share this attitude: 'The ritual fitness of a man who feels the body of an *amrad*, even if this contact is characterized by arousal, is not cancelled, because the verse [5:6: "... *aw lāmastum al-nisā'* ..."] does not encompass it [i.e., does not address the scenario of men touching men], and also because [such contact] is not a legal cause of arousal' (*laysa maḥallan li-shahwa shar'an*).⁷³

In the previously cited excerpt, al-Māwardī takes aim at the 'utilitarian' position of Mālik (according to which, as we know, the ritual effect of any kind of contact hinges upon the motives of the actor and/or the psycho-sensual result of the act) from another angle, as well. In the eyes of the Mālikiya, it will be remembered, if a human being is

⁷¹ Māwardī, 1:229.

⁷² Sarakhsī, 1:68.

⁷³ Buhūfī, 1:129. He extends this ruling to other homosexual encounters, as well: '*lā yanquḍu mass al-raḳulu al-raḳula wa-lā al-mar'atu al-mar'ata wa-law bi-shahwa fihinna.*'

attracted to a beast, or a corpse, or an even less likely object of lust—or if s/he inadvertently obtains pleasure from touching any of the same—the renewal of ablutions is in order. ‘It makes no difference,’ writes al-Jazīrī, explicating the Mālikite view, ‘whether the *malmūs* is a non-marriageable woman, or his wife, or a handsome beardless youth (*shābb amrad*), or a young man whose beard has just begun to grow, or an animal, and it makes no difference whether the individual touched is alive or dead.’⁷⁴ In all of these cases, if erotic feeling is present in the particular instance, then ritual purity is automatically annulled. Elaborating on the definition of *mulāmasa* found in al-Shādhilī’s late fifteenth century *Kifāya* (itself a commentary on al-Qayrawānī’s tenth century *Risāla*), the seventeenth century Mālikī jurist al-‘Adawī explains that

his words [regarding the type of touching that violates *wuḍū’*] include the case of palpating a pre-pubescent youth (*lams al-amrad*) if he intends, in touching him, to derive sexual pleasure. And we understand from al-Zurqānī ‘Alī Khalīl that [an *amrad*] is a boy whose beard has just begun to sprout, for such are the types from which erotic pleasure is generally sought and gotten (*mīthluhu dhū’l-lihya al-nābīta ‘an qurb, haythu kāna mimman yataladhhdhu bihi ‘ādatan*—a slightly different definition than the one provided by al-Jazīrī, above).⁷⁵

Interestingly, the Ḥanafīya appear to side with the Mālikites in this matter, albeit not with regard to mere contact, of course, but on their own separate plane of *mubāshara fāḥisha*. Al-Qārī al-Harawī, in the *Faḥḥ Bāb al-‘Ināya*, cites the opinion that ‘full nude embrace between a man and a boy, as well as between two men, obligates both parties in *wuḍū’*.⁷⁶ Similarly, the Ḥanafīya are reported to hold that ‘if a man’s body is pressed up against another man’s body and both are naked, as happens often in the public bath when it gets crowded (*kamā fi’l-ḥammām ḥāl al-ziḥām*), the rule is that the purity of neither man is infringed, unless one of them experiences an erection.’⁷⁷ They also rule that ‘if a woman sleeps with another woman and they cleave to one-another in that manner [*viz.*, the manner of *mubāshara fāḥisha*], then their prayer-purity is undermined by the adhesion of their genitalia alone’ (*wuḍū’uhumā yantaqīdu bi-mujarrad talāṣuq al-farjayn bi-ba‘dihimā*).⁷⁸

⁷⁴ Jazīrī, 1:77.

⁷⁵ ‘Adawī, 1:176.

⁷⁶ Al-Qārī al-Harawī, 1:78.

⁷⁷ Jazīrī, 1:77.

⁷⁸ Ibid. What the Ḥanafite jurists intended by specifying ‘the adhesion of their genitalia alone’ we might be able to gauge from a comment of al-Bayjūrī’s. Since there

What matters to the Mālikīya, then, is not whom you touch but how you touch, and this opens them to the aforementioned attack of al-Māwardī: if the premier or sole test for *naqḍ al-wuḍūʿ* in *mulāmasa* is the presence of passion in the heart/mind/body of the *lāmīs*, regardless of who or what the *malṁūs* is, then one's prayer-purity is violated by whatever arouses one. And if this category includes, for a particular person, his mother, or daughter, or brother, or grandfather, or a corpse, or a detached body part, or even a beast, then so be it (says Mālik).⁷⁹ The Shāfiʿīya seek to uproot the premise upon which this *reductio ad absurdum* is based, dismissing individual reaction and predilection as viable criteria and replacing them with hard and fast categories of *malāmīs* based on the inclinations of the preponderance of normal people and/or the intentions of the Qurʾān. These categories are all heterosexual, they say, for 'the contrariety between masculinity and femininity ... is the preeminent condition for the violation of *wuḍūʿ* in *mulāmasa*' (*mukhālafa fi'l-dhukūra wa'l-unūtha ... hiya awwal shurūṭ al-naqḍ bi'l-lams*).⁸⁰

is no female counterpart to the male *pre*-ejaculatory fluid (*madhī*) or even to the male erection, he explains, a distinction is set up: 'the litmus test for arousal is the stiffening of the penis for the man, and the inclination of the heart for the woman' (*dābīṭ al-shahwa intishār al-dhakar fi'l-rajul wa-mayl al-qalb fi'l-mar'a*—Bayjūrī, 1:134). For Abū Ḥanīfa and Abū Yūsuf, it will be recalled, a heterosexual encounter in which those involved are naked and embracing violates the *wuḍūʿ* of both parties *if the male has an erection*. In the case of Sapphism, however, the requirement of erection is necessarily foregone and 'the adhesion of their genitalia alone'—presumably accompanied by their '*mayl al-qalb*'—is sufficient to mandate new ablutions. There may be in this, as well, the idea that women are less physical and more emotional about sex than men.

⁷⁹ This Mālikī attitude of 'equal opportunity defilement' extends to the realm of *janāba*, as well: 'The Mālikīya hold: *janāba* is contracted and *ghusl* required when the tip of the penis is inserted into the vagina or anus of a male, or female, or hermaphrodite, or beast, and whether the one mounted is alive or dead' (Jazīrī, 1:98. He adds: 'This subject isn't very useful, since most of it represents scenes which rarely occur. I would have liked to omit it, but it is needed for a certain few points of law, and in several countries'). Indeed, the head-spinning theoretical elaborations of the Mālikīya in the matter of *janāba* lead these jurists to such lengths as to investigate the ceremonial consequences of carnal intimacy 'avec un poisson' (Bousquet, *La Purité*, 59). The same is true of the Ḥanābila: see, e.g., Buhūṭī, 1:143: '*lammā taqaddama al-farj min bahīma, ḥattā samaka wa-ṭayr ...*' The ritual results of intercourse with beasts is a subject specially emphasized by the Shīʿa. 'Major purification is not required after mounting an animal,' writes Shaykh Zayn al-Dīn b. 'Alī al-Jubaʿī ('al-Shahīd al-Thānī'), 'if, that is, one doesn't ejaculate' (*lā yajibu al-ghusl bi-waṭʿ al-bahīma idhā lam yanzil*—Zayn al-Dīn b. 'Alī al-ʿĀmilī al-Jubaʿī, *Masālik al-Afḥām fi Sharḥ Sharāyīʿ al-Islām* [Beirut: Muʿassasat al-Balāgh, n.d.], 1:117). Others disagree, and obligate one who engages in bestiality—even if he failed to reach climax—first in *ghusl* and then in the *ḥadd* punishment.

⁸⁰ Bayjūrī, 1:134. It is for the same reason that hermaphrodites touching or being

The Politics of Propinquity

Besides gender, there are a number of other variables that may play a part in determining whether contact with a given *malmūs* will induce impurity in a given *lāmis*. One of these is degree of consanguinity. The Qur'ān (4:23) sets down the categories of relatives with whom marriage and sexual relations are forbidden (*maḥram*, pl. *maḥārim*):

Prohibited to you (*ḥurrimat 'alaykum*) are your mothers [and, by extension, your maternal and paternal grandmothers and great grandmothers], your daughters [and, by extension, your grand-daughters and great grand-daughters], your sisters [whether full or half], your father's sisters, mother's sisters, brother's daughters, sister's daughters, nurse-mothers (*ummahātikum allatī arḍa'nakum*), foster-sisters [daughters of the nurse-mother],⁸¹ your mothers-in-law, your step daughters (*rabā'ibukum*) that are under your guardianship and were born of wives to whom you have gone in [i.e., with whom you have consummated the marriage]—but there is no prohibition if you have not gone in to them [i.e., according to most authorities, the fulfillment of either condition: guardianship of the daughter or sexual relations with her mother; suffices to make the daughter a *maḥram*]—[additionally forbidden are former] wives of your sons proceeding from your loins [and, by extension, grandsons, but not—as the phrase 'proceeding from your loins' makes clear and as the Zaynab story also taught us—former wives of *adopted* sons], and marriage to two sisters simultaneously, except what has already happened in the past (*illā mā qad salafa*).⁸² Lo! Allāh is ever forgiving.

Proscribed incestuous relationships in Islamic law include two basic categories of prohibited individuals: (1) those forever forbidden in marriage due to ties of consanguinity (*dhāt raḥim maḥram*, *maḥram ta'bīd*), and (2) those temporarily tabooed so long as they remain related to the subject by marriage, or remain prohibited for some other reason, such as being in *'idda* (the three-month waiting-period after divorce), being a non-

touched do not violate prayer-purity: '*wa-lā yantaqīdu al-wuḍū' bi-mass al-khunthā mushkilli-annahu lā ya'lamu kavnuhu rajulan wa-lā imra'atan, wa'l-aṣal al-ṭahāra, fa-lā tazūlu bi'l-shakk, wa-lā a'lam fi hādihā kulhu khūlāfan*' (*Mughnī*, 1:196). See also Buhūtī, 1:129 and Nawawī, *Majmū'*, 2:30.

⁸¹ For such 'milk relations' and the marital prohibitions connected to them see Jaṣṣās, 2:156ff.; Burton, *Sources*, 157–164.

⁸² According to al-Ṭabarī (*Jāmi' al-Bayān*, 4:428), this refers to those who had already married two sisters in the *jāhiliya* before this proscription was revealed; according to one of the opinions adduced by al-Jassās (2:167), it refers to the requirement to divorce the sister he had married *second* prior to becoming a Muslim. Still another possibility might be that this exemption is designed to exculpate Jacob, who is regularly mentioned in the Qur'ān and Ḥadīth and who married both Leah and Rachel.

Muslim (either a pagan woman, or a Jewish, Christian, Zoroastrian or pagan man), or—presumably—being married to another individual. This second, contingent category is known as *maḥram bi-ishṭirāt* or *maḥram ghayr taʿbīd*. The distinction between these two categories is also alluded to in scripture: ‘God has established both the blood relationship (*nasaban*) and the marriage relationship (*ṣiḥran*—Q. 25:54).’ Which, if any, of these types eliminate the *lāmīs*’s prayer-purity on contact? If a Muslim man hugs his grandmother—or a Muslim woman her grandfather—are new ablutions obligatory upon them? What if they hug their children? Shake hands with a sister-in-law (if the subject is a man) or brother-in-law (if the subject is a woman)?⁸³ Jostle a polytheist? The jurists disagree about all of this, and here the battlelines may be (somewhat sketchily) drawn with the Shāfiʿites on one side, the Ḥanābila on the other, and Mālīk in the middle.

The Shāfiʿī position may be termed the most ‘lenient’ (as long as we keep in mind that to define a particular act as a *ḥadath* is in no way to prohibit or disapprove of that act). Al-Nawawī conducts a rather lengthy discussion of the issue—lengthy because, as is often the case with the Shāfiʿiyya, there is intra-*madhab* controversy regarding what al-Shāfiʿī himself actually held (and in which of his books, and during which of his ‘periods’—*qadīm* or *jadīd*—he held it). The upshot is, however, that ‘touching a *maḥram* does not violate *wuḍūʿ*’, even if it is accompanied by arousal.⁸⁴ Al-Māwardī lines up the two ‘widely accepted’ (*mashḥur*) Shāfiʿite positions: (1) that touching even nuclear relatives damages ritual fitness, by analogy to *janāba*, for were one to have intercourse with one’s sister one would become *junub* just the same, and (2) that contact with such relatives does *not* mandate new ablutions, because the *ḥadath* of *mulāmasa* revolves around the erotic arousal of those involved, and arousal is not common in such situations.⁸⁵ (Besides, writes al-Bayjūrī, commenting on al-Māwardī’s analogy in option number one, ‘there has never been an instance of someone sleeping with his sister in Islam until this day’—*laysa lanā man yankahu akhtahu fiʾl Islam ilā hādha*⁸⁶). Al-Naḥawī also contrasts the minority and majority opinions within the Shāfiʿī school, the former asserting that touching a *maḥram*

⁸³ The Mālīkiyya, as we have seen, can even conceive of a *man*’s contact with his brother-in-law constituting the *ḥadath* of *mulāmasa*, if, perchance, he experiences erotic pleasure in touching or embracing him.

⁸⁴ Nawawī, *Majmūʿ*, 2:27.

⁸⁵ Māwardī, 1:228.

⁸⁶ Bayjūrī, 1:134.

does indeed obligate the *lāmis* in another round of purification ‘because of the encompassing nature of the verse’ (*‘umūm al-āya*),⁸⁷ that is—as Ibn Ḥazm himself argues against the majority Shāfi‘ite opinion—‘because in the clause “if you have touched women” God the Exalted does not differentiate between one category of women and another.’⁸⁸ The majority opinion among the Shāfi‘ites remains, however, that

touching a first degree blood relative (*dhāt raḥim maḥram*) does not violate *wudū’* because [such a relative] is not normally the object of one’s desire, and [contact between them] therefore resembles a man touching a man or a woman touching a woman (*li-annahā laysat bi-maḥall li-shahwatihī fa-ashbaha lams al-rajulu al-rajula, wa’l-mar’atu al-mar’ata*).⁸⁹

Ibn al-Mundhir quotes al-Shāfi‘ī to the effect that ‘there are several Egyptians’ who ruled contact with members of one’s own immediate family a *wudū’* breaker, but he confesses that, after an exhaustive search, he has not been able to find such Egyptians.⁹⁰ Nawawī calls the opinion that prayer-purity is violated by palpating *dhāt raḥim maḥārim* ‘isolated and worthless’ (*shādh laysa bi-shay’*).⁹¹

This brings us to the dichotomy set up by the Shāfi‘ites—and uniquely by them—between *malāmīs* that are permanent, blood-based relations (*dhāt raḥim maḥārim*), on the one hand, and those that are temporary or contingent relations (*maḥārim bi-ishtirāṭ*), on the other. While there is some debate within Shāfi‘ism, as we have seen, regarding the former category, there is none regarding the latter. Palpating *maḥārim bi-ishtirāṭ* or *maḥārim ghayr ta’būd*, such as one’s inlaws, a lady in ‘*idda*, or a pagan, is unanimously ruled a *naqḍ al-wudū’* by Shāfi‘ī jurists.⁹² Not only is the contingent *maḥram* further away from the worshipper than his immediate family, and therefore more likely to excite the passions because less familiar, but s/he may also someday soon become a *licit* object of love and lust, and this future potential may fire the imagination of the *lāmis* in the present (whereas the *dhāt raḥim maḥārim*, as al-Māwardī says, ‘are a type the [erotic] enjoyment of which will never be permitted’ [*jins lā yustabāḥ li’l-istimtā‘ abadan*]).⁹³

⁸⁷ Naḥawī, 1:78.

⁸⁸ *Muḥallā*, 1:245.

⁸⁹ Shīrāzī, 1:98.

⁹⁰ *Awṣaṭ*, 1:113.

⁹¹ Nawawī, *Majmū’*, 2:28.

⁹² Jazīrī, 1:76.

⁹³ Māwardī, 1:227.

Here again, the Shāfi'ites have taken the possibility of passionate arousal upon contact and frozen it into fixed categories: touching an *ajnabiya* and a *maḥram bi-ishṭirāṭ* always violates prayer-purity; touching a first degree blood relative never does (according to most Shāfi'ite authorities). Interestingly, this bifurcation leads at least one late Shāfi'ī *faqīh*—al-Bayjūrī—to speculate about the ritual status of the 'Mothers of the Believers,' the Prophet Muḥammad's wives or widows. Since they are forever forbidden to all other men ('prophets included,' he adds, somewhat strangely given that Muḥammad was *khātim al-nabiyyīn*), they comprise a paradoxical class of their own in the matter of *mulāmasa*: eternal *maḥārim ghayr ta'bīd*, permanent impermanent *maḥrams*, women who—though they are not blood relatives—can never become anybody's spouse. Thus, theoretically, all of the male *ṣaḥāba* and *tābi'ūn* could have shaken 'Ā'isha's hand with ritual impunity.⁹⁴

The outlook of the Ḥanābila on this subject is simpler, but simultaneously perplexing in that it appears to involve a *volte face* from the position they evinced regarding *shahwa* in general, which was very close to, if not identical with, the standardizing tendencies of the Shāfi'īya. Their position on *maḥārim* sounds more Mālikite than Shāfi'ite, and is well summed up by al-Buhūtī: 'If passion is present, then it matters not whether the *malmūs* is a corpse, or an old hag, or a *maḥram*—whether one's mother, one's sister or one's daughter—or a potentially desirable minor. All of these cancel ablutions on contact.'⁹⁵

The Mālikiya envision a bifurcation of their own: if the *malmūs* is a *maḥram*, then both *qaṣd* and *ladhdha*—both previous erotic intent and ultimate achievement of arousal—are required in order to violate *wuḍū'*; if the *malmūs* is an *ajnabī*, either *qaṣd* **or** *ladhdha* are sufficient to bring on ceremonial defilement.⁹⁶ Finally, there is the lone, peculiar opinion of 'Aṭā', cited last on the list by al-Nawawī in his run-down of rulings on *mulāmasa* (above, p. 251–252), an opinion that is roundly decried by exponents of all schools. 'Aṭā claimed that if a Muslim man touches a *ḥalāla* (a woman permitted to him in marriage, an *ajnabiya*) then his *wuḍū'* remains intact, whereas if he comes into contact with his mother, sister, daughter, grandmother, aunt, or any other *maḥram*, he must head for the cistern prior to the next *ṣalāt*. This ruling may have

⁹⁴ Bayjūrī, 1:134.

⁹⁵ Buhūtī, 1:129.

⁹⁶ Jazīrī, 1:76.

been influenced by concerns about incest, though this seems doubtful. At any rate, al-Nawawī hoped that ‘God willing, no one will ever approve of such a position’—and no one has.⁹⁷

The Clothed, the Naked and the Dead

Finally, there are a number of factors not directly connected to the identity of the *malmūs* which need to be considered when deciding whether the *ḥadath* of *mulāmasa* has occurred. We shall now rapidly review the essential *ikhtilāfāt al-fuqahā’* concerning these factors. First is the question whether purity is infringed only by skin-to-skin contact, or whether touching ‘over a barrier’ (*fawqa ḥā’il*)—that is, through clothing—violates *wuḍū’* as well. This issue pits the Shāfi‘iya against the Mālikiya.⁹⁸

The former faction holds that palpation ‘over a barrier’ has no ritual effect whatsoever, neither on the *lāmīs* nor on the *malmūs*. Commenting on al-Shīrāzī’s list of conditions for *mulāmasa* defilement, which includes the item ‘... touching the skin when there is **no barrier** between the two individuals ...,’ al-Nawawī affirms that ‘this is clear and obvious, [so much so that] if [Shīrāzī] had omitted [the part about the barrier] he could have done without it, for the phrase “touching the skin” by itself denotes the lack of a barrier.’⁹⁹ Al-Māwardī makes a *qiyas* argument on behalf of the Shāfi‘ite position: ‘Do you not see, that one who swears not to touch women and then touches a woman’s clothing has not broken his oath?’¹⁰⁰ Al-Shāfi‘ī himself in the *Umm* asserts that

[i]f he touches her body passionately wherever he wants to, but over a fine (*raqīq*) garment—whether it is unworked (*khām*) or finished (*batt*)—or over a thick (*saḥīq*) garment, or if she does the same to him, no one of them is liable in ablutions, because neither of them has touched his partner—rather, s/he has touched his or her partner’s clothes (*li-anna kilāhimā lam yalmas ṣāḥibahu innamā lamasa thawb ṣāḥibihī*).¹⁰¹

⁹⁷ Ibn al-Mundhir, 1:115.

⁹⁸ The voice of the Ḥanābila is hardly heard in this mini-debate. They are said by al-Jazīrī to hold that any ‘barrier’ prevents the onset of a *ḥadath*, like the Shāfi‘ites, but Ibn Qudāma attributes to them the opinion that a *thin* garment does not save one’s purity, similar to the Mālikite outlook.

⁹⁹ Nawawī, *Majmū’*, 2:25: ‘*wa-qawluhu lā ḥā’il baynahumā ta’kīd wa-īdāhī wa-law ḥadhafuhu la-istaghmā ‘anhu fa-in lams al-bashara innamā yakūnu idhā lam yakun ḥā’il.*’

¹⁰⁰ Māwardī, 1:229.

¹⁰¹ *Umm*, 1:29.

For a *ḥadath* to happen, echoes al-Naḥawī, ‘the epidermis must be touched’ (*lams ḡāhir al-jild*).¹⁰² ‘If he touches her over a barrier (*min warā ḡā’il*),’ explains Ibn Qudāma, ‘his prayer-purity remains intact according to the opinion of the majority of scholars’ (*fi qawḡ akthar ahl al-‘ilm*).¹⁰³

The minority standard in the matter of *ḡā’il* is borne by the Mālikiya, and it differs only slightly from that of the majority. They rule that whether the *malmūs* is naked (*‘āriyan*) or wearing a thin raiment (*thawb raqīq*), *wuḡū’* is cancelled by contact, so long as arousal either motivates the action or ensues as a result of it. ‘Over the clothes or under them,’ declares Mālik, ‘has the same status’ (*manzila wāḡida*).¹⁰⁴ However, if the one touched has on a thick garment, through which the contours of his or her body cannot be felt, ritual purity is salvaged—even if the *lāmis* was excited. Only if the *lāmis* grabs the limb or torso very hard through the thick garment, are his ablutions annulled.¹⁰⁵ Save for his contemporary al-Layth b. Sa’d, writes al-Marwadhī (the eighth century author of an *Ikhtilāf al-‘Ulamā’*), ‘Mālik is the only one we know to rule thus.’¹⁰⁶

Next in line are the ‘dead’ parts of the body. In the matter of hair, teeth and nails, the Mālikiya differentiate between situations in which these are passively touched, and those in which they actively do the touching. Hair, teeth and nails as *lāmisūn* do not violate *wuḡū’*, because none of these appendages feels anything: if one sweeps one’s long locks over the arm or torso (or even genitalia) of another, the sweeper receives no physical sensation. The person across whose body the hair was *swept*, however (or upon whose skin the nails or teeth of another were grazed), must renew ablutions *if s/he became aroused*. The same three body parts when they are in the capacity of *malāmīs*, however,

¹⁰² Naḥawī, 1:78.

¹⁰³ *Mughnī*, 1:195.

¹⁰⁴ *Mudawwana*, 1:122.

¹⁰⁵ *Jazīrī*, 1:76.

¹⁰⁶ *Mughnī*, 1:195. Ibn Qudāma describes the position of his own school in terms that sound somewhat similar to those of the Mālikiya: ‘*wa-lanā annahu lam yalmis jism al-mar’a: matā ‘alaqa al-naqḡ bi’l-shahwa, fa’l-thawb al-raḡiq ka-lā shay’*, *wa’l-tashbīh bi-lams al-thiyāb ḡhayr ma’qūl. Fa-inna al-thawb al-raḡiq lā yanna’u al-iḡsās bi’l-ḡarāra, bal-la’allahu yakūnu min al-ḡarīr* [this may be a play on words to *ḡarāra* – both phenomena “heat one up”] *aw naḡwahu, fa-yakūnu ablagh fi ma’nā al-nāḡidh ... fa-ashbaha mā law lamasa thiyābahā, wa’l-shahwa bi-mujarradihā lā takfī, kamā law massa rajulan bi-shahwa aw wajadat al-shahwa min ḡhayr lams.*’

violate the *wuḍūʿ* of the *lāmīs* who touches them (with his or her hand or some other ‘living’ limb), but not that of the *malmūs*, who cannot really feel such contact.¹⁰⁷

The majority of the Shāfi‘īya (*huwa al-madhhab waʿl-manṣūṣ fiʿl-Umm wa-bihi qataʿa al-jumhūr*)¹⁰⁸ held that *wuḍūʿ* is cancelled neither by touching, nor by touching with, nor by being touched by hair. A minority of Khorasanian Shāfi‘ītes claimed, however, that since hair is considered an integral part of the body for many other legal purposes; and since it must be washed together with the body in *ghusl* for *janāba* and for death (*ghusl al-mayyit*); and because al-Shāfi‘ī described the act which obligates ablutions as one in which ‘he reaches out and touches her body with something of his’ (*yufḍī bi-shayʿin minhu ilā jasadihā*)—and his hair is definitely ‘something of his’; for all of these reasons, this Shāfi‘īte minority decided that touching, touching with, or being touched by hair did indeed violate *wuḍūʿ*. The majority argued, *inter alia*, that touching (or touching with, or being touched by) hair, teeth or nails does not affect one’s ritual fitness because such contact ‘is not likely to produce erotic pleasure.’¹⁰⁹ Nevertheless, al-Shāfi‘ī wants to be on the safe side: ‘If [the devotee] would be extra cautious, let him perform ablutions if he touches her hair—that is the best policy in my eyes’ (*wa-law iḥtāta fatawaḍḍaʿa idhā lamasa shaʿrahā kāna dhālika aḥabba ilayy*).¹¹⁰ One challenge to the majority Shāfi‘īte opinion proceeds as follows: ‘Verily, the teeth are in the mouth, and people flirt with their teeth (*waʿl-nās yataghazzalūn fiʿl-asnān*), and they take erotic pleasure from the teeth more than from other parts of the body. How, then, can you argue that teeth are not tied to the arousal of passion?’ The Shāfi‘īya respond, ‘Were you to avoid the mouth, lips and gums and everything that surrounds the teeth, and touch the teeth alone, then [you would find] the teeth to be nothing more than bone which can [neither give nor get] sensual pleasure (*mujarrad ʿaẓm lā yataladhdhadhu bihi*), and this is our intention [when we say] that the teeth are not associated with passion.’¹¹¹

¹⁰⁷ Jazīrī, 1:77.

¹⁰⁸ Nawawī, 2:33.

¹⁰⁹ Shīrāzī, 1:98. This is a strange claim.

¹¹⁰ *Umm*, 1:31.

¹¹¹ Jazīrī, 1:76. The position of the Ḥanābila may be gauged from a statement of al-Buhūtī’s: ‘According to us, contact with hair, teeth and nails does not bring about impurity, whether they are the objects touching or the objects touched, because they are tantamount to an amputated limb’ (*al-udw al-munfaṣal*—Buhūtī, 1:129). This is true for them despite the requirement, accepted by most members of all four *madhāhib*, that acts be performed during ablutions which at least moisten all three of these body parts.

Finally, we come to a sub-topic that—even more than those we have surveyed so far—epitomizes the Muslim juristic tendency that led Bousquet to describe *fiqh al-ṭahāra* as ‘a pile of absurdities in its details’¹¹² and induced Ignaz Goldziher to dub the *fuqahāʾ* in general ‘perverters of the law’ who ‘think up contingencies that will never arise’ and entertain ‘far-fetched legal cases, casuistic constructs quite independent of the real world’ as they indulge in ‘the boldest and most reckless flights of fantasy.’¹¹³ One of the hallmarks of Islamic jurisprudence is a quest for thoroughness. In some cases, this quest is driven by the demands of genuine practice. In others, it arises out of the *fuqahāʾ*’s perception of the elaboration of God’s law as a religiously meritorious and intellectually stimulating exercise in and of itself. In this latter case—of *fiqh* for *fiqh*’s sake—the lawyers are often led to cross from the domain of the practical into that of the theoretical. Principles seen by a given sage or school as underlying a particular precept may be stretched in the course of deliberation to their furthest logical conclusions, even when these last are useless in daily reality.¹¹⁴

The aversion felt by many to such ‘casuistic’ methodology is exacerbated in the case of *fiqh al-ṭahāra*—and even more so *fiqh al-mulāmasa*—by the type of content involved. The preoccupation with bodily secretions and excretions and the overt discussion of matters private are problematic or unpleasant for many. The *fuqahāʾ* themselves, however, were not the least bit squeamish about any of this. Moreover, as regards ‘casuistry,’ it should be remembered that much of what is seen as purely theoretical from an outside perspective—from the perspective of those uninvolved in, and unconcerned about, issues of ritual pollution and purification—may well be eminently practical for people for whom the

¹¹² Bousquet, *L'éthique sexuelle*, 87. Elsewhere he writes: ‘When, for the first time, one comes into contact with those pages [of *fiqh* that delve into the intricacies of sexual law], one feels rather revolted, then one cannot resist smiling, after that one studies such material with a sigh of resigned boredom (*un soupir d'ennui résigné*), and finally, when one gets used to it, one examines [these subjects] like any other question of *fiqh*.’ Bousquet, 44.

¹¹³ Goldziher, *Introduction*, 62–65.

¹¹⁴ Either way, it is important to bear in mind that these extensive and intricate *fiqh* deliberations are the purview of the *fuqahāʾ* alone, and especially of those early jurists who wrestled hard to forge the Muslim legal system. The average believer’s observance of the provisions of that system, once created, has nothing whatsoever to do with all of these pilpulistic gyrations, in which s/he has no reason to participate. In short, there is no way to use these involved *fiqh* discussions in order to bolster Bouhdiba’s contention that Muslims are obsessed with purity issues.

cycles of *ahdāth* and *ṭahāra* were, and still are, a central part of life. This having been said, in what follows we have deliberately chosen a debate parts of which even the discussants no doubt recognized as purely theoretical, and which was probably pursued for purposes of fine-tuning the logical principles informing the controversy.

What happens, asks al-Nawawī, if a man touches the dead body of a woman or a woman the dead body of a man (an experience occurring regularly when corpses are prepared for burial)? Is this act subsumed under the Qur'ānic category of *mulāmasa*, and is the prayer-preparedness of the *lāmis* thereby annulled? Al-Nawawī adduces the opinions of al-Ruyānī, al-Juwaynī, al-Māwardī and others to the effect that palpating the dead does not constitute a *nāqiḍ al-wuḍū'*, for neither erotic desire (*shahwa*) nor erotic satisfaction (*ladhdha*) are normally involved in such an encounter. Al-Nawawī himself, however, sides with what he calls the 'correct and preferred' ruling (*al-ṣaḥīḥ al-mukhtār*), adopted by the likes of al-Dārimī, al-Baghawī, al-Muḥāmili and al-Fawrānī, which requires the one coming into contact with the dead to renew his/her ablutions. He bolsters this position, *inter alia*, with the argument that 'if a man inserts [his phallus] into a dead woman, this obligates him in the full body purification according to all authorities' (*law awlaja fī mayyita fa-innahu yalzamuhu al-ghusl bilā khilāf*). In other words, if *ghusl* is required for *intercourse* with the dead, then *wuḍū'* should be required for *touching* the dead.¹¹⁵ In general, the Shāfi'iya are represented as holding this latter position.¹¹⁶ The Ḥanābila are also divided amongst themselves regarding this question, but on the whole are perceived as agreeing that contact with a deceased member of the opposite sex constitutes the *ḥadath* of *mulāmasa*.¹¹⁷ For the Mālikiya, as we have seen, everything depends on the psycho-hormonal situation of the *lāmis*: if s/he is aroused by touching a dead person of the opposite (or even the same) gender, then new ablutions are in order. Not even necrophelia escapes the net of the jurists.

What if a male Muslim touches 'a severed limb of a woman, such as a hand or an ear' (*uḍwan maqtu'an min imra'a ka-yad aw udhun*)? Al-Nawawī again adduces the contrary opinions attributed to al-Shāfi'i and well known within his *madhhab*, but ultimately sides with the Iraqi

¹¹⁵ Nawawī, *Majmū'*, 2:29. It is strange that al-Bayjūrī should attribute the opposite ruling to al-Nawawī: '*rajjaha 'adam al-naqḍ bi-lams al-mayyit wa'l-mayyita*' (Bayjūrī, 1:133).

¹¹⁶ Naḥawī, 1:77.

¹¹⁷ *Mughnī*, 1:194; Jazīrī, 1:76.

jurists (and the Ḥanbalites)¹¹⁸ against the Khorasanians and asserts that ‘this is no woman, and there is here no sexual arousal and no sexual pleasure.’ To bolster his position, he mentions a narration from al-Shāfi‘ī himself through al-Qāḍī [Ḥusayn], according to which the great eponym argued that ‘touching a severed penis violates *wuḍū’*, but [a man] touching a severed hand [of a woman] does not, because the former has actually touched a penis, whereas the latter has not actually touched a woman, and the law only covers the case of one who touches a penis and one who touches a woman’ (*li-annahū massa dhakaran wa-lam yalmis imra’ata, wa’l-shar’ warada bi-mass al-dhakar wa-lams al-mar’a*).¹¹⁹ Whatever else one may say about such arguments, that they were made at all is evidence of one indisputable fact: the *fuqahā’* were in love with the law.

¹¹⁸ *Mughnī*, 1:196: ‘*lā yantaqīdu al-wuḍū’ bi-lams ‘udhw maqtū’ min al-mar’a, li-zawāl al-ism [ism “mar’a”] wa-khurūjīhi ‘an an yakūna maḥallun li-shahwa.*’

¹¹⁹ Nawawī, *Majmū’*, 2:29. We also have no shortage of theoretical deliberations regarding the insertion by a woman of the mutilated member of a dead man into her vagina (see, e.g., ‘Abd al-‘Azīz b. Ibrāhīm al-Tamīmī, *Kitāb al-Nīl wa-Shifā’ al-‘Alīl* [Jedda: Maktabat al-Irshād, 1985], 1:189: ‘*wa-dhālika mithla an yadhulu al-mar’atu dhakara dābbitin fi farjihā aw dhakara mayyitin, wa-law kāna dhakar al-mayyit maqtū’an ...*’).

CONCLUSION: DANCING IN CHAINS

Vibrant sexuality and elaborate legalism are, at first glance, strange bedfellows. The former is characterized by the shedding of inhibitions and the loss of control; the latter seeks to instill inhibition and exert control. The multiple Islamic rules and regulations surrounding carnal activity—most of them connected to the purity code—almost appear designed to hem-in and dampen the spirit of love-making. It is not easy to understand how the free, wild, playful and passionate mood that we normally associate with libidinal pursuits can survive such regimentation. The marriage of the forensic to the erotic does not seem destined for success.

And yet classical Islam made just such a marriage, and without asking either partner to compromise. The jurisprudential component was thoroughly unhampered, and early on managed to spawn a plethora of intricate provisions concerning the ritual effects of diverse sexual situations. Passion, for its part—though compassed round about by a great many issues and procedures connected to *mulāmasa* and *janāba*—still managed to remain ludic and liberated, as the sources consistently show. The structure provided by the purity code did not depress the abandon afforded by amour. The Prophet, his Companions and Successors all thrilled to the enjoyment of the ecstasies of the flesh; afterwards, they all purified themselves properly. Lust lay down with the law.

The texts in which we read about these matters are themselves a symptom of, and a metaphor for, such comfortable coexistence. *Fiqh* is a genre that records structured, syllogistic and scientific ratiocination concerning numerous fine points of law. Its *forte* is hardly passionate excitement and its style quite remote from the exhilaration of romance (a fact no doubt driven home for the reader in this book's final chapter). *Fiqh al-mulāmasa* and *fiqh al-janāba*, however—while penned by the same serious-minded scholars who are responsible for the other, more sedate sections of jurisprudence—are additionally decorated on each and every page by miniature legal-literary creations depicting a vari-

ety of passionate scenes (which the reader will remember from earlier chapters). The *fiqh* cools down the Ḥadīth; but the Ḥadīth heats up the *fiqh*.

To the extent that Muslim life has imitated its art—that is, its literature—the opposing tendencies of license and restriction may be seen to have cooperated in creating important aspects of societal ethos in large parts of *Dār al-Islām*. As good fences make good neighbors and death makes life sweeter, so do the regimented elements of religion allow for the fuller appreciation and exploitation of the unregimented elements of life. Both sexuality and spirituality are largely exercises in unruliness; the *sharī'a* delimits each of them and thereby makes them possible. Not only society, but the individual as well, is in need of solid foundations if he or she is to reach up and touch the intangible, is in need of a stable launch-pad whence to soar to the heights of transcendent or mundane pleasure and achievement. Discipline allows for enjoyment; science serves art. Stability and structure are the Archimedean points of recklessness and adventure.

The law will set you free.

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