

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ ۞ وَصَلَّى اللَّهُ وَسَلَّم وَبَارَكَ عَلَى حَبِيبِهِ الْمُصْطَفَى ۞ وَآلِهِ الطَّاهِرِينَ الشُّرَفَاءَ

نُورُ الْأَيْضَاحِ – فَضْلٌ فِي أَحْكَامِ الْأَبَارِ وَتَطْهِيرِهَا

Chapter: On the laws pertaining to wells, and their purification

Reasons for Removal of Water – from a Small Well

تنزح البئر الصغيرة بوقوع نجاسة وإن قلت من غير الأرواث كقطرة دم أو خمر

The small well has all its water withdrawn (in order to purify it), if a ritually filthy thing enters, regardless of the amount, and this includes even a drop of, for example, blood or 'khamr'. However, [a small amount of] dung is an exception to the rule.

The verb 'nazaHa' refers to removal, as well as having connotations of 'defending'. Here, the former meaning is intended. The reason for a small amount of dung being an exception to the rule will be discussed further on within this chapter.

وبوقوع خنزير ولو خرج حيا ولم يصب فمه الماء

[All the water will also have to be removed due to] the entrance of a pig, regardless if it left the well alive, and its mouth did not touch the water.

The reason the possibilities of 'being removed alive' and 'the mouth not touching the water' is due to this having a bearing on other types of animals, which are not filthy in and of themselves. Pigs are the exception, since they *are* filthy intrinsically.

وبموت كلب أو شاة أو آدمي فيها

...and due to the death of a dog, sheep or human.

In these cases, the water only has to be removed if the animals died. The reason these three were mentioned in specific was due to their classes: dogs are examples of animals whose meat is haram; sheep are examples of animals whose meat is halal; and finally, this applies to humans.

وبانتفاخ حيوان ولو صغيرا

...and due to the bloating of an animal, regardless of its size.

Removing Water from Larger Wells

ومائتا دلو لو لم يمكن نزعها

If it is not possible to remove all the water (due to the size of the well), then 200 buckets of water must be removed.

The question which should always come to your mind would be pertaining to the definitions: in this case, the definition of a 'large well'. It is the incapacity to remove all the water which defines the well as large, and thus a different ruling is taken.

As for the different ruling taken, ash-Shurumbalali, the author, asserts that 200 buckets of water are to be removed, and this was the position of Imam Muhammad. However, this is *not* the mu'tamad (relied-upon) position of the madh-hab. Imam Abu Hanifah – as you may recall from the earlier chapters – had a particular principle within his *usul* which stated that one could not specify a number for something which was not explicitly narrated from sayyiduna Rasulu Llah salla Llahu 'alayhi wa alihi wa sallam. Since the '200 buckets' does not have a textual basis, Imam Abu Hanifah refused to assign it a number; instead, he was of the opinion that one would have to contact an expert who would estimate how much water had been affected by the filth, and one would have to remove that amount. Imam Abu Yusuf considered that one would have to remove exactly the amount affected by the filth – and this is to be done by creating another hole by the well, and observing how many buckets of water would fill it, removing that amount of buckets from the original well. The mu'tamad is either Abu Hanifah's or Abu Yusuf's opinion.

وإن ماتت فيها دجاجة أو هرة أو نحوهما لزم نزع أربعين دلو

If a chicken, cat or something like that (of that size) dies, 40 buckets have to be (is wajib to be) removed.

وإن ماتت فيها فأرة أو نحوها لزم نزع عشرين دلو

If a rat or other such animal dies, 20 buckets have to be removed.

The *mustahabb* (recommended) number would be an additional 10, i.e. for a chicken, 50, and for a rat, 30.

وكان ذلك طهارة للبرء والدلو والرشاء ويد المستسقي

The well, bucket, rope and hand are all purified by this.

This is the opinion of Imam Abu Yusuf and Imam Muhammad, and is the mu'tamad.

ولا تنجس البرء بالبرء والروث والخثي إلا إن يستكهره الناظر أو أن لا يخلو دلو عن بعة

The well does not become filthy as a result of the dung of camels, horses, sheep, donkeys [and other common animals which freely roam about], except if a large amount is visible, or if every bucket's worth is not free from a piece of the dung.

It was mentioned at the very beginning that the reasoning behind a small amount of dung not making the well filthy would be explained.

There are two conditions for something to be considered heavily filthy (*najasah ghalidhah*):

- 1) That it be established by the Qur'an and Sunnah explicitly without any sort of contradiction – and this was Abu Hanifah's position; or that it is agreed upon by the scholars – and this was the position of the *sahibayn*.
- 2) That it be easy to avoid. . .

Since wells are often open holes on the ground, without any barrier as such, they are thus prone to the entrance of dung pieces as a result of the action of the wind. Thus, it would not fulfil the second condition, and hence does not necessitate the removal of the water from the well.

However, if the number of pieces of dung reach such an extent that many are visible or that every bucket load contains a piece, this indicates that more than just the natural action of the wind has occurred – e.g. it has been used to dump the pieces. That being the case, the second condition is indeed fulfilled, as such a situation could have been avoided. Hence, the ruling reverts back to its origin, and the water will have to be removed from the well.

ولا يفسد الماء بخرء حمام وعصفور

The water is also not made filthy if the excrement of a pigeon or sparrow.

Firstly, they are animals permissible to eat.

Secondly, although we have mentioned the two conditions for establishing *najasah* as *ghalidhah*, there are two separate conditions for establishing the excrement of birds as *najasah ghalidhah*:

- 1) That the smell be strong
- 2) That it be easy to avoid

If none of these conditions are fulfilled, it is not *najasah* (filth) at all; if one of these conditions is fulfilled, it is *najasah khafifah* (light *najasah*), and if both conditions are fulfilled, it is *najasah ghalidhah* (heavy *najasah*). The excrement of pigeons and sparrows do not fulfil these two conditions.

ولا يموت مالا دام له فيه كسمك وضمفدع وحيوان الماء وبق وذباب وزنبور وعقرب

The water is also not made filthy by a presence of that which does not have blood flowing through it, such as the fish, the frog, aquatic creatures, mosquitos, flies, wasps and scorpions.

All these animals do not have blood, hence their death does not make the well filthy.

ولا بوقوع آدمي وما يؤكل لحمه إذا خرج حيا ولم يكن على بدنه نجاسة

...nor by the presence of a human, or an animal whose meat is permissible to eat, provided they come out alive, and there is no filth on their bodies.

In the case of the animal not coming out alive, its ruling will be discussed next.

ولا بوقوع بغل وحمار وسباع طير ووحش في الصحيح

...nor by the presence of a mule, donkey, predatory bird or any other wild/predator animal – according to the sound position.

This is the mu'tamad, though there is an opinion which states that wild animals make the well impure which is not relied-upon.

This is, again, providing they come out alive.

وإن وصل لعاب الواقع الى الماء أخذ حكمه

If the saliva (of that which has fallen in) touches the water, the water will take the ruling of what has fallen in.

Applying this principle, we would say that if a dog's saliva had come into contact with the water, the water would become filthy due to the dog being filthy; similarly, if a sheep's saliva came into contact with the water, it would remain pure due to the sheep being pure.

ووجود حيوان ميت فيها ينجسها من يوم وليلة

The presence of a dead animal in the well makes it filthy for the duration of one day and one night.

Thus, according to this opinion, a day's worth of *salah* performed with *wudu'* from this water would have to be repeated.

ومنتفخ من ثلاثة أيام ولياليها إن لم يعلم وقت وقوعه

If the dead animal present in the well was bloated, the water is ruled as filthy for the duration of three days and three nights – provided one does not know when [the death] occurred

The animal being bloated is an indication of the longer duration the animal has been dead for, in the water. One would repeat three days' worth of *salah* if one made *wudu'* from this water; if one washed his clothes using this water, he would have to wash them again.

The last two sentences from the Nur al-Idah, pertaining to the presence of a dead animal in the well, is typical of the *mutun* (primers) of our madh-hab – this particular opinion was that of Imam Abu Hanifah, as mentioned in the *dhahir ar-riwayah*, and the opinion found in all the *mutun*.

Imam Abu Hanifah's reasoning was that the only way for a dead animal to appear in the well would be that it died in the well, and thus – out of caution (*ihtiyatan*), according to the author himself in his

commentary of this work, *Maraqī al-Falah* – he ruled that the water would be considered impure for one day and night if not bloated and three days and nights if it was.

However, Imam Muhammad was of the opinion that nothing was obligatory unless one knew, for certain, exactly when the animal died in the well.

Imam Abu Yusuf was initially of the same opinion as Imam Abu Hanifah; he once, however, witnessed a crow carrying a mouse in its beak, and dropping it in a well. He thus adopted Imam Muhammad's viewpoint.

The reason behind his change of mind was the very real possibility that the presence of a dead animal in a well may not be due to its death in the well – instead, it could have been dropped in the well by a bird, as Abu Yusuf witnessed. Since it is the death in the well which makes the water filthy, and one does not know for certain that this occurred, nothing would be obligatory upon the person – this was Imam Muhammad's opinion. This is also the *mu'tamad*, in Shaykh Atabek's estimation. Imam ash-Shurumbalali, the author, mentions himself in his commentary that the position of Imam Abu Hanifah was out of caution, and he also mentions the position of the *sahibayn*.