

‘THEY SHALL NOT DRAW NIGH’
THE ACCESS OF UNBELIEVERS TO SACRED SPACE
IN ISLAMIC AND JEWISH LAW

Ze'ev Maghen

BAR ILAN UNIVERSITY, TEL AVIV

This essay compares the Sunnī Muslim position(s) concerning the ingress of non-Muslims to the Meccan Sanctuary with the Rabbinic outlook on the entry of non-Jews into the Temple precinct. In both cases, the issue is one of purity and pollution, and the algorithms of each religion’s ritual code are therefore probed in search of the underlying bases for their respective policies on the subject. The discussion will follow the legists through their intricate evaluation of what is perceived by many today to be ‘minutiae’ – it was certainly not seen thus by the jurists themselves. The attitudes of Sharī‘a and Halakha to immersion for the sake of conversion also harbor significant implications for this question, and space is devoted to elucidating the two systems’ variant rationales for requiring this ceremony. Our conclusions reveal a significant difference – indeed, a diametric antithesis – between Judaism’s and Islam’s conceptions of the cultic status of the other.

Text and Context

We begin with a complex exegetical problem. In his classic *The Zāhirīs: Their Doctrine and Their History*, Ignaz Goldziher digresses momentarily from a discussion of the jurist Ibn Ḥazm’s literalism in order to praise the Sunnī scholars for their ecumenical attitude to the question of infidel impurity (*najāsat al-mushrikīn*). Goldziher explains how, as opposed to the ‘utmost rigorism and intolerance’ of the Zāhirīs and Shī‘a – who consign all non-Muslims to the category of intrinsically unclean and contagiously polluting objects (*nawājis al-dhāt, a‘yān al-najāsa*):

Sunnite Islam...has displayed in this point a splendid example of its perfectibility, its possibility of evolution, and also the ability to adapt its rigid formalism to the requirements of social intercourse by modifying the Koranic tenets of the impurity of unbelievers through its own interpretation, until it reached the point when it abandoned this doctrine.¹

¹ Ignaz Goldziher, *The Zāhirīs: Their Doctrine and Their History*, trans. and ed. Wolfgang Behn (Leiden: E. J. Brill, 1971), 58.

In a previous article, the present author has fleshed out the few sentences Goldziher devoted to this subject and delved into the significant exegetical and legal differences between the Shīʿī, Zāhirī and Sunnī positions.² While my conclusions on the whole supported Goldziher's assessment, there is one area in which I believe his remarks require some fine tuning, and we must attend to this before proceeding to the main subject of this paper: the access of unbelievers to Muslim and Jewish holy sites.

The evidence Goldziher marshals to bolster his claim that Sunnism 'moderated' and ultimately 'abandoned' its own (and the Qurʾān's) original outlook on the ritual status of unbelievers involves the slightly divergent rulings of the Shāfiʿī, Mālikī and Ḥanafī legal schools regarding the areas considered off-limits to non-Muslims. He sees a sort of anti-chronological pattern of liberalization in progressively more 'tolerant' interpretations put by these *madhāhib* on the relevant scriptural clause (Qurʾān 9:28), culminating with the Ḥanafite acceptance of the 'provisional stay' of a member of one of the Peoples of the Book even inside the borders of the *ḥarām* or sanctuary at Mecca itself. He writes:

The three more liberal of the legal schools represent in their interpretations of this Koranic verse one stage each of this gradual process. Al-Shāfiʿī's school is of the opinion that nothing can be deduced from this verse but the prohibition against unbelievers entering the holy territory in Mecca; the Mālikite school extends this prohibition to all the mosques of Mecca; according to the view of the Ḥanafites, believers of other faiths are not even barred from entering the holy *ḥarām* territory for a provisional stay (al-Māwardī, p. 290). The latter interpretation just about abrogates the validity of the Koranic prohibition!³

Let us briefly examine the verse in question, together with some excerpts from its exegesis, in order to propose a subtle but portentous corrective to Goldziher's portrayal of the issue. Qurʾān 9:28 reads:

O believers, the idolaters are indeed unclean [*innamā l-mushrikūna najas*]; so let them not come near the Holy Mosque after this year of theirs [is over] [*fa-lā yaqrabū l-masjida l-ḥarāma baʿda ʿāmihim hādihā*]. If you fear poverty, God shall surely enrich you of His bounty, if He will; God is All-Knowing, All-Wise.⁴

² Ze'ev Maghen, 'Strangers and Brothers: The Ritual Status of Unbelievers in Early Islamic Jurisprudence', *Medieval Encounters* 12/2 (2006): 248–311.

³ Goldziher, *Zāhirīs*, 59, n. 1.

⁴ Trans. A. J. Arberry, *The Koran Interpreted* (various editions), capitalization altered and additions in square brackets. Verse numbers in this article are cited according to the now generally accepted division of the Egyptian edition

Taken by itself, this Qur'ānic passage seems to be establishing a causal connection between two logically related statements: because the polytheists are ritually 'dirty' and therefore ritually 'contagious', therefore the Sacred Mosque – as a preeminent locus of prayer (*muṣallā*) which needs to maintain its ceremonial fitness⁵ – is out of bounds to them (as are, by extension, all other venues of Muslim worship). It is from this understanding of the words that Goldziher believes the Sunnī authorities sooner or later distanced themselves.

But there are other ways of interpreting Qur'ān 9:28, and both scriptural structure and traditional exegesis make such alternative readings plausible. If we look at the context of *Sūrat al-tawba* (to the extent that we can speak of 'context' in the Qur'ān after Richard Bell, and it seems reasonable to do so here),⁶ it represents a sufficiently compelling conception to say that the idolaters/polytheists continually referred to in this chapter are Muḥammad's immediate opponents hailing from Mecca. The introductory verses of the chapter read:

An acquittal, from God and His Messenger, unto the idolaters with whom you made covenant: 'Journey freely in the land for four months; and know that you cannot frustrate the will of God, and that God degrades the unbelievers.'

A proclamation, from God and His Messenger, unto mankind on the day of the Greater Pilgrimage [*al-hajj al-akbar*]: God is quit, and His Messenger, of the idolaters. So if you repent, that will be better for you; but if you turn your backs, know that you cannot frustrate the will of God. . . .

Then, when the sacred months are drawn away, slay the idolaters wherever you find them, . . .

Will you not fight a people who broke their oaths and purposed to expel the

of King Fu'ād. Arberry numbers every fifth verse and follows the division established by Gustav Fluegel.

⁵ There are three potential 'targets' of pollution in the Muslim *ṭahāra* (purity) code: the human body (*al-badan*), the clothing used to cover it (*al-thawb*) and the venue of devotions (*al-muṣallā*). Purification water and the Qur'ānic codex may perhaps be added to this list, but the issue is complex.

⁶ See the first chapter of Marion Holmes Katz, *Body of Text* (Albany: State University of New York Press, 2002). where the author outlines and implements a cautious yet persuasive approach to Qur'ān contextualization involving (*inter alia*) the apparent 'bunching' of relevant passages in particular scriptural locations – an approach which has partly inspired the following analysis.

Apostle . . .?⁷

These verses and those that follow them are a pretty clear indication that the exhortations against the untrustworthiness and evil ways of the *mushrikūn* are – in this particular Qurʾānic context – direct reactions to political developments in the earliest days of Islam. They are provisions ‘in time’, as it were. Qurʾān 9:28 itself bears witness to this immediacy and specificity, in directing the Muslims to turn the polytheists away from the Sacred Mosque ‘after this year of theirs’ (the year in question was 9 AH or 631 CE).⁸

More evidence that this was indeed the Qurʾān’s frame of reference comes from the verses directly leading up to Qurʾān 9:28, which include the following:

It is not for the idolators to inhabit [tend, maintain] God’s places of worship, witnessing against themselves unbelief; those – their works have failed them, and in the Fire they shall dwell forever.

Do you reckon the giving of water to pilgrims and the inhabiting [tending] of the Holy Mosque as the same as one who believes in God and the Last Day and struggles in the way of God?⁹

When we encounter, only a few lines down, God’s injunction that the idolators ‘not come near the Holy Mosque after this year of theirs [is over]’ (Qurʾān 9:28), we are certainly within our rights to assume that the same specific Meccan polytheists – the immediate enemies of Muḥammad and the Muslims – are the subject. It is therefore eminently possible that the Qurʾān did not intend to prohibit *mushrikūn* (however they are defined) from entering all mosques from that point on in history and wherever they might be located, but rather solely and context-specifically to forbid Meccan polytheists from trespassing on the grounds of the *ḥaram* and approaching the central shrine of the Kaʿba. Such a reading would be consistent with the eventual ‘lenient’ ruling of the majority of Sunnī exponents, who allowed non-Muslims access to mosques the world over, and it would not require the ‘abandonment’ or ‘interpretation out of existence’ of original scriptural intent posited by Goldziher: there was no all-encompassing prohibition to be abandoned in the first place. Thus, indeed, most Sunnī commentaries do render this

⁷ Qurʾān 9:1–5, 13; trans. Arberry.

⁸ See Muḥammad b. Jarīr al-Ṭabarī, *Jāmiʿ al-bayān ʿan taʾwīl āy al-Qurʾān* (Beirut: Dār al-Fikr, 1995), 10: 136 (no. 12895).

⁹ Qurʾān 9:17 and 19; trans. Arberry, with additions in square brackets.

aspect of Qurʾān 9:28, specifically distinguishing those banned from Muslim places of worship during the period in question from the ‘People of the Book’:

This prohibition is limited to the polytheists who were forbidden from entering Mecca and the remaining mosques [anywhere] because they did not possess the status of a Protected People (*lam takun lahum dhimma*) and the only choice that was offered them was Islam or the sword (*kāna lā yuqbal minhum illā l-Islām awi l-sayf*) – and these were the ‘Arab polytheists’ (*al-mushrikūn al-ʿarab*).¹⁰

Commenting on the phrase ‘let them not come near the Holy Mosque after this year of theirs,’ our earliest extant exegetical work, that of Muqātil b. Sulaymān (d. 767 CE), says simply that ‘this refers to the Arab polytheists’ (*yaʿnī mushrikī l-ʿarab*).¹¹ The renowned exegete Ibn Kathīr glosses the same clause with the words: ‘This constitutes a denial of access to [all those] excepting [pagan] slaves and members of the Protected Peoples (*illā an yakūna ʿabdan aw aḥadan min ahli l-dhimma*),’ and he cites an injunction of the Prophet: ‘A polytheist shall not enter our mosques after this our year, save only the People of the Covenant and their servants (*ahl al-ʿahd wa-khadamuhum*).’¹²

Fakhr al-Dīn al-Rāzī also supports the claim that only Meccan *mushrikūn* are referred to in Qurʾān 9:28, albeit in an indirect fashion. He argues that the *masjid al-ḥarām* whence the unbelievers were thenceforward to be banished comprises not just the place of worship itself (*naḥs al-masjid*) but the sanctuary zone in its entirety (*jamīʿ al-ḥaram*):

The proof of this may be found [in the continuation of the verse]: ‘If you fear poverty, God shall surely enrich you of His bounty, if He will;.’ [This refers, as al-Ṭabarī and others tell us, to the complaint of many Muslims upon learning of the new ban: ‘Whence now shall come our sustenance? The polytheists are no longer permitted (to enter) and thus the caravans have been cut off from us (*nufiyya l-mushrikūna wa-nqaṭaʿat al-ʿir*)!]¹³ Now [continues al-Rāzī] the locus

¹⁰ Abū Bakr Aḥmad b. ʿAlī al-Rāzī al-Jaṣṣāṣ, *Aḥkām al-Qurʾān* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1994), 3: 114. Al-Jaṣṣāṣ suggests another possible understanding as well, but it is not relevant to our question. On the ‘Arab polytheists’ see Yohanan Friedmann, ‘Classification of Unbelievers in Sunnī Muslim Law and Tradition’, *Jerusalem Studies in Arabic and Islam* 22 (1998): 163–95, esp. 168ff.

¹¹ Muqātil b. Sulaymān, *Tafsīr* (Cairo: Al-Hayʾa al-Miṣriyya al-ʿĀmma li-l-Kitāb, 1984), 2: 165.

¹² ʿImād al-Dīn Ismāʿīl b. ʿUmar b. Kathīr, *Tafsīr Ibn Kathīr* (Cairo: al-Maktaba al-Tawfiyya, n.d.), 4: 90.

¹³ Ṭabarī, 10: 137 (nos. 12896–97 and ff.).

of trading was not within the Mosque itself [but rather in its environs, the campus of the *ḥaram*], and if this verse intended to prohibit polytheists only from entering the Mosque proper, what would be the basis for fearing poverty? They could only have feared poverty if the polytheists were being banned [by this revelation] from the marketplaces and seasonal fairs [which were outside of the actual venue of worship] (*innamā yakhāfūn al-ʿīla idhā muniʿū min ḥuḍūri l-aswāq wa-l-mawāsīm*). Further evidence for this may be garnered from God's words [elsewhere in the Qurʾān]: 'Glory be to Him, who carried His servant by night from the Holy Mosque [*al-masjid al-ḥarām*] to the Further Mosque, . . .'¹⁴ coupled with the unanimous opinion of the authorities that the Messenger, upon whom be blessings and peace, was lifted up on that occasion from the abode of Umm Hānī [which was located inside the *ḥaram* but outside the place of prayer. Thus, just as in the verse just cited, Qurʾān 17:1, the term *al-masjid al-ḥarām* indicates the entire sanctuary zone, so in our verse, Qurʾān 9:28, the polytheists are being banned from the entire sanctuary zone].¹⁵

What al-Rāzī has done is give us even more reason to confine the reference, and perhaps even the application, of the divine injunction in Qurʾān 9:28 to the immediate political situation in the last years of the Prophet's life. The inclusion of the market-places and other extra-spiritual areas in the ban militates for a focus not on the ceremonial danger presented to the *masjid al-ḥarām*, the *muṣallā par excellence*, by the polluted persons of non-Muslims, but on the abolition – hard on the heels of the Muslim conquest of Mecca – of the traditional, pre-Islamic structure of ceremonial administration and commerce in favor of a new order.

Be that as it may, we have seen above the direct testimony of more than one Sunnī exegete to the effect that the second clause of Qurʾān 9:28 – 'so let them not come near the Holy Mosque after this year of theirs [is over]' – had in mind Arabian idolators, not Jews or Christians ('This prohibition is limited to the polytheists, who were forbidden from entering Mecca and the remaining mosques because they did not possess the status of a Protected People.')

¹⁶

Now things become difficult, because at the same time that the Sunnī commentators and legists distinguish between the Meccan polytheists and the monotheist scriptuaries in the context of the second clause of Qurʾān 9:28, they mostly opt for the identity of these two groupings in

¹⁴ Qurʾān 17:1; trans. Arberry.

¹⁵ Fakhr al-Dīn Muḥammad b. ʿUmar al-Rāzī al-Shāfiʿī, *Mafātiḥ al-ghayb* (Cairo: al-Maktaba al-Tawfiqiyya, n.d.), 16: 23.

¹⁶ Al-Jaṣṣāṣ, cited above, p. 5.

the context of the first clause of the verse: 'O believers, the idolaters are indeed unclean.'¹⁷ We would know this even without the direct attestation to this effect of the jurists and exegetes: because a debate raged regarding the various legal implications of this first clause for centuries after Arabian polytheism had disappeared. For the phrase *innamā l-mushrikūna najas* to harbor anything more than historical import, it would have to be perceived as subsuming all unbelievers (*kuffār*) under its rubric – and it is, in fact, thus perceived. Moreover, just as evidence for the differentiation between Arab polytheists and the *dhimmīs* can be culled from certain passages in *Sūrat al-tawba*, so the lumping together by most Sunnī jurists of Peoples of the Book with the idolatrous pagans under the umbrella designation *mushrikūn* in the first clause also finds independent support in the context of our chapter. The verses immediately following upon 9:28 are most revealing in this connection:

Fight against such of those who have been given the Scripture as believe not in Allah nor the Last Day, and forbid not that which Allah hath forbidden by his messenger [that which Allah and His messenger have forbidden] (*wa-lā yuḥarrimūna mā ḥarrama llāhu wa-rasūluhu*). . . . The Jews say: Ezra is the son of Allah, and the Christians say: The Messiah [Jesus] is the son of Allah. That is their saying with their mouths. They imitate the saying of those who disbelieved of old (*yudāhi'ūna qawla lladhīna kafarū min qablu*). Allah (Himself) fighteth against them [May God fight against them!]. How perverse are they! They have taken as lords besides Allah their rabbis and their monks and the Messiah son of Mary, when they were bidden to worship only One God. There is no God save Him. Be He glorified from all that they ascribe as partner (unto Him)! . . . He it is Who has sent His messenger with the guidance and the Religion of Truth, that He may cause it to prevail over all religion, however much the disbelievers are averse (*wa-law kariha l-mushrikūna*).¹⁸

The interchangeability manifest in these verses approaches full identity, and the comparison of qualities between scripturaries and pagans is quite blatant. It is thus not difficult to find even a Qur'ānic basis for the association of the *ahl al-kitāb* with the polytheists, at least for certain

¹⁷ This has been shown decisively in Maghen, 'Strangers and Brothers', 201ff. Different demographic mappings of the non-Muslim world are employed for different legal purposes in the Sharī'a, and in the case of the purity of persons, *ahl al-kitāb* are subsumed under the rubric of *mushrikūn*.

¹⁸ Qur'ān 9:29–31, 33; trans. Pickthall, with additions or alterations in square brackets.

purposes.¹⁹

The Sunnī understanding of the various components of Qurʾān 9:28 – as well as the plain sense of the verse itself in scriptural context – would therefore appear to involve a difficult bifurcation. The first clause (*innamā l-mushrikūna najas*) is perceived as including the *ahl al-kitāb*, whereas the second (*fa-lā yaqrabū l-masjida l-ḥarāma baʿda ʿāmihim ḥādhā*) is seen as excluding them. Although the conjunction *fa*-connecting the first clause to the second is naturally seen as denoting *tafarruʿ* (deduction), in terms of its traditional Sunnī interpretation the second clause is neither a consequence nor a confirmation of what precedes it in the verse. A disjunction was early on created between these two phrases, even though they are juxtaposed back-to-back and syntactically and logically connected. As strange and antagonistic to the plain meaning of the text as this may appear, the traditional Sunnī exegesis of Qurʾān 9:28 does not really understand this verse to be saying that *because* the *mushrikūn* are impure, therefore they must be barred from the main and other mosques. After all, the first clause – ‘the

¹⁹ On the other hand, the express scriptural prohibition against marrying the daughters of idolators – *wa-lā tankihū l-mushrikāt* (Qurʾān 2:221), when coupled with the explicit permission granted to marry the daughters of Jews and Christians: *ḥillun lakum . . . al-muḥsanātu mina l-muʾmināti wa-l-muḥsanātu mina lladhīna ūtū l-kitāba min qablikum* (‘permitted to you . . . are the chaste believing women and the chaste women from among those who received the Book before you’ [Qurʾān 5:5; trans. mine]) – causes problems for such a comparison (questions of *naskh* or abrogation of certain verses by others cannot be taken up in the context of an analysis of this sort). Muslim scripture and tradition follows different definitions and classifications of people depending on the situation. Some offer Qurʾān 9:30 in explanation of this seeming paradox: ‘And the Jews say: Ezra is the son of Allah, and the Christians say: The Messiah is the son of Allah.’ The implication is that the members of these religions worship the parent-child celestial diumvirate and are therefore not true monotheists. Others point to the fact that the Qurʾān regularly hedges its descriptions of Jews and Christians, and does not perceive either group monolithically: it regularly accuses (for instance) ‘a group among you [Israelites] (*farīqan minkum*)’ – i.e., not all of you – of treason or recalcitrance, and does not neglect, after excoriating the Jews for ‘turning your backs [on God]’, to add the qualification: ‘except for a few of you’ (Qurʾān 2:83). Even the opening of the passage we have just cited in the text – ‘Fight against such of those who have been given the Scripture as believe not in Allah nor the Last Day’ – could be read as excluding from the hostilities those scriptuaries who do believe in God and the Last Day (and not, e.g., in the Trinity or in Ezra as the son of God), although the continuation of the verse is less ecumenical.

idolaters are indeed unclean' – is considered to include Jews and Christians (as we said), and to indicate that they are indubitably *najas*; and yet they are explicitly exempted by the Sunnī *mufassirūn* (as we saw) from the ban from sacred space enjoined in the following clause (and no doubt as a consequence allowed into most if not all mosques by three out of the four Sunnī *madhāhib* [as we saw at the outset of this paper]). The syllogism is clear: if being 'unclean' in the sense described in the first clause of Qurʾān 9:28 is not grounds for exclusion from a mosque (even, according to the early exegetes and the Ḥanafīyya, from the Sacred Mosque), then this clause cannot follow upon (or even be relevant to) the second clause of Qurʾān 9:28, the whole purport of which is the institution of that very exclusion. Against all grammatical and syntactical instincts, then, the tradition (especially the legal tradition) has employed each part of this verse for a different purpose.

It is interesting to note in this connection what al-Ṭabarī tells us about ʿUmar b. ʿAbd al-ʿAzīz. This zealous caliph, famous like his predecessor of the same name for his strict application of measures regarding the *ahl al-kitāb*, at one point commanded in a rescript: 'Prevent the Jews and Christians from entering the mosques of the Muslims!' basing his prohibition on the statement of God: 'The idolaters are indeed unclean.'²⁰ We learn much from this anecdote that supports our analysis of the early exegetical perception of Qurʾān 9:28. Note that the caliph did not seek support in the second clause of the verse, 'So let them not draw near the Holy Mosque after this year of theirs [is over],' even though this was the clause that directly addressed his issue: mosque access. He could not make use of it, we would argue, because it had long been understood as referring solely to the Arabian polytheists of Muḥammad's time and excepting *dhimmīs*. He was left with the first clause, and attempted to hang his legislation on that: polytheists – a term that he knew was seen by the exegetical and legal tradition as including Jews and Christians – are impure, and mosques are to be protected from ritual defilement. Ergo: No People of the Book may be allowed into Muslim mosques.²¹

²⁰ Ṭabarī, 10: 136 (no. 12893): 'Umar b. ʿAbd al-ʿAzīz kataba: imnaʿū l-yahūda wa-l-naṣāra min dukhūli masājidi l-muslimīn, wa-ttabaʿa fī nahyihī qawla llāh: 'Innamā l-mushrikūna najas.'

²¹ A brief survey of the principles informing the Islamic system of ritual purity (*tahāra*) will facilitate a better understanding of what follows. According to that system, Muslims can become ceremonially 'polluted' or 'precluded' in two primary ways: (1) by coming into, and remaining in, contact with a set of substances or organisms possessing a status known (by relatively late authori-

ties) as *najāsa hissiya/haqīqiya* 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-aḥdāth al-ṣuḡhrā*, sing. *ḥadath*) such as urination, defecation, bleeding, regurgitation, ejaculation of ‘pre-ejaculatory fluid’ (*madhī*) or ‘prostatic fluid’ (*wadhī/wadī*), flatulence, laughing, sleeping, fainting, touching the genitals, palpating women, ingesting camel flesh; and (b) those designated as ‘major events’ (*al-aḥdāth al-kubrā*), consisting of menstruation, sexual intercourse, ejaculation of actual semen (*manī*) and lochia or puerperium (*nifās*). In contradistinction to the ‘tangibly’ contaminating *substances* enumerated above in clause (1), these latter acts or occurrences are classed together (again, only by comparatively late authorities) under the rubric of *najāsa ma‘nawiya/hukmiya*, meaning something like ‘abstract impurity’. They are also known as *nawāqīḍ* (sing. *nāqīḍ*) *al-wuḍū’* or *nawāqīḍ al-ghuṣl*, minor or major violators of ritual fitness. Many of these items are subject to juristic disputes. Some, like the pollutive capacity of laughter and of consuming camel meat, have been effectively dismissed.

In all cases of ritual ‘pollution’, 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 most, if not all, other purity systems the world over, this ‘contaminated’ individual cannot transmit his impurity onward to other persons, places or things). If a Muslim – or his clothing or place of prayer (*muṣallā*) – encounters impure matter (*najāsa hissiya*), that matter and its residue should be neutralized through various types of directed cleansings and sprinklings, subsumed under the heading *izālat al-najāsa* (removal of impure entities). In order to exit the comparatively more serious predicament incurred as a result of a ‘minor event’ (clause 2.a above), an alleviation of the state of ceremonial uncleanness (*raf‘ al-ḥadath*) must be effected through the stylized series of ablutions known as *wuḍū’*. ‘Major events’ (clause 2.b above) induce the more consequential defilement of *janāba* or ‘distancing’, and must be dealt with by means of the full body washing called *ghuṣl*. In either case – of *wuḍū’* or *ghuṣl* – if water is not found, clean earth or sand may be substituted (*tayammum*). Until the given ritual ‘problem’ – contact with *najāsa*, occurrence of a *ḥadath*, or incurrence of *janāba* – is solved via the appropriate type of lustration, the believer’s prayers will be invalid (*lā ṣalāta li-man lā wuḍū’a lahu* [Abū Dāwūd, *Sunan Abī Dāwūd*, “Bāb al-tasmiya ‘alā al-wuḍū’”, *ḥadīth* no. 101 (Cairo: al-Dār al-Miṣrīyya al-Lubnāniyya, 1408/1988), 1: 25, and numerous places 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). A Muslim who has yet to counteract the ritual influence of a *ḥadath* via *wuḍū’* is referred to as a *muḥdith*, whereas one who has so counteracted it is known as a *mutawaddī’* (or

Why did the Sunnī *fuqahā'* not follow the lead of °Umar b. °Abd al-°Azīz in this matter and deny Jews and Christians entry into all mosques? Because while they did indeed believe, with the caliph, that the phrase *innamā l-mushrikūna najas* included scriptuaries, they disagreed with his apparent position on the meaning of the word *najas* in this context. °Umar, as we said, seems to have sought support for his (new?) prohibition in the framework of the formal Muslim *ṭahāra* code, according to which the *muṣallā* is one of those objects 'vulnerable' or 'susceptible' to ritual defilement, and thus must be preserved from contact with defiling objects (*a'yān al-najāsa*).²² But Sunnī exegetes and jurists never conceived of the first clause of Qur'ān 9:28 that way, and almost across the board denied that it was meant to be taken in a literal, legal sense. In their eyes the *najāsa* of non-Muslims – whether polytheists or monotheists²³ – is spiritual/symbolic, not tangible/cultic: it is an expression of 'the filth of their souls and the wickedness of their beliefs

as *ṭahir*), or is said to be '*alā wuḍū'*. One who has had sexual relations or been involved in any other 'major event' and has not yet performed *ghusl* is called a *junub* (from *janāba*); after executing a proper *ghusl* s/he is *ṭahir*. A menstruant (*ḥā'id*) performs *ghusl* after her flow has ceased.

Secondary studies illuminating various aspects of ritual purity in Islam include: 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; A. J. Wensinck, 'Die Entstehung der muslimischen Reinheitsgesetzgebung', *Der Islam* 5 (1914); J. Burton, 'The Qur'ān and the Islamic Practice of Wuḍū', *Bulletin of the School of Oriental and African Studies* 51 (1988): 21–58; and M. H. Katz, *Body of Text* (Albany: State University of New York Press, 2002). Two additional articles relevant to *fiqh al-ṭahāra* have recently appeared: R. Gauvain, 'Ritual Rewards: A Consideration of Three Recent Approaches to Sunni Purity Law', *Islamic Law and Society*, 12/3 (2005), and especially relevant to our present subject, J. M. Safran, 'Rules of Purity and Confessional Boundaries: Maliki Debates about the Pollution of the Christian', *History of Religions* 42/3 (2003).

²² See Muslim, *Ṣaḥīḥ* (= Ibn Ḥajar, *Faṭḥ al-Bārī*), *Ṭahāra*, "Bāb wujūb ghusl al-bawl wa-ghayrihi min al-najāsāt idhā ḥasalat fī al-masjid" (al-Maṭba'a al-Miṣriyya bi-l-Azhar, 1347/1929–30), 3: 191, where the Prophet is reported to have exclaimed: *innā hādhihi l-masājida lā taṣluḥu li-shay'in min hādihā l-bawl wa-lā l-qadhar, innamā hiya li-dhikri llāhi °azza wa-jall wa-l-ṣalāti wa-qirā'ati l-Qur'ān* ('These venues of worship cannot abide any amount of such urine or filth, for they are places in which God's name is invoked and places of prayer and recitation of the Qur'ān').

²³ To the extent that one can talk, from an Islamic point of view, about a non-Muslim monotheist – the issue is far from clear.

(*khabth bāṭinihim wa-sū' i'tiqādihim*), not of the kind of actual bodily contamination that could threaten the ritual fitness of a mosque.²⁴

Let us come at this question from another angle and expand on the answer we have just provided: how can *kuffār* enter mosques according to the prevailing Sunnite opinion, given that these edifices are to be preserved from impurity, and those unbelievers have indubitably been declared 'impure' by God? The Sunnī *fuqahā'* and exegetes have two basic solutions to this conundrum. The first (and probably the earlier one) is that Jews and Christians are called *najas* in Qur'ān 9:28 because they are not meticulous about avoiding all types of filth and impurity (the Jews are especially associated with the drinking of wine and the Christians with the consumption of swine, both of which are among the *a'yān al-najāsa*) and, that being the case, the fear is that they might enter the (ideally) pure Muslim environment of the mosque dragging 'tangible' impurity with them.²⁵ Thus, the Qur'ān is not making a statement about the essential/intrinsic ritual status of the unbeliever's person itself, but about his religio-cultural standards and general conduct. However, based upon the pervasive legal premise in *ṭahāra* of 'pure until proven impure', as long as Muslims have no reason to assume that the *kitābī* (scriptuary) or *mushrik* in question will track some impure substance into the mosque, there is no problem allowing him ingress.²⁶ This general principle of granting the benefit of the doubt also underlies a ruling of al-Shāfi'ī on non-Muslim human *su'r* ('backwash' in a vessel after it has been drunk from):

We were told by Sufyān b. °Uyayna from Zayd b. Aslam from his father, that °Umar b. al-Khaṭṭāb performed ablutions using the water of a Christian woman (either 'leftover' by her after drinking, or used by her in lustrations) and with her jar. Al-Shāfi'ī said: There is no problem with performing ablutions with the water of a *mushrik*²⁷ and with the leftover (*su'r*) of his ablution water²⁸ as long as one has no express knowledge of the presence of impurity (*najāsa*)

²⁴ Nāṣir al-Dīn Abū Sa'īd °Abd Allāh b. °Umar al-Shīrāzī al-Bayḍāwī, *Tafsīr al-Bayḍāwī* (Beirut: Dār al-Kutub al-°Ilmiyya, 1988), 1: 401.

²⁵ Ṭabarī, 10: 135.

²⁶ Muḥammad b. °Alī al-Shawkānī, *Faḥ al-Qadīr*, (Beirut: °Ālam al-Kutub, n.d.), 1: 349–50.

²⁷ Note the identity of the Christian woman with the polytheist.

²⁸ Meaning the water he prepared for the Muslim and then either drank from or otherwise touched before the Muslim performed ablution therewith. I read *waḍū'* not *wuḍū'* here, though the difference is slight.

on/with him.²⁹

Other instances of this type of ruling include the permission to pray in the garment of a *kāfir* and in his house, in both cases as long as the presence of *najāsa* is not ascertained (*mā lam tataḥaqqaq najāsatuhā*).³⁰ Similarly, in the matter of access to sacred enclosures, the Sunnī authorities give unbelievers the benefit of the doubt, and so there is no basis for excluding them from mosques based on this understanding of *innamā l-mushrikūna najas*.

Another common suggestion offered by Sunnī exegetes and jurists in attempting to comprehend the first clause of Qurʾān 9:28 is that it refers *not* to the habit of non-Muslims of coming into (and not breaking off) contact with what Islamic law classifies as impure substances, but rather to their habit of having sex (just like Muslims). ‘The intent of these words’, explains Qatāda, ‘is that non-Muslims are [constantly] in a state of sexual defilement, for their full body lustration [after intercourse] is not [a proper Islamic and therefore efficacious] full body lustration (*li-annahū junub idh ghusluhu min al-janāba laysa bi-ghusl*).’³¹ In other words, the problem is not one of *najāsa* per se, but of *ḥadath akbar*, that is, not one of a permanently impure entity (whether the unbeliever himself or some substance clinging to his person), but of a temporarily defiled individual.³² This interpretation has portentous implications for

²⁹ The *fīhi* here could also refer to the water, but the issue is the same. Muḥammad b. Idrīs al-Shāfiʿī, *Kitāb al-umm* (Beirut: Dār al-Fikr, n.d.), 1: 21.

³⁰ Ibn Ḥajar al-ʿAsqalānī, *Fath al-Bārī bi-sharḥ Ṣaḥīḥ al-Bukhārī* on *Kitāb al-Ṣalāt*, “Bāb al-ṣalāt fī al-jubba al-shāmiyya” (Cairo: Maktabat al-Qāhira, 1978), 3: 22. Mālik dissents: Ṣaḥnūn, *al-Mudawwana al-kubrā* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1994), 1: 140.

³¹ Abū ʿAbd Allāh Muḥammad b. Aḥmad b. Abī Bakr al-Anṣārī al-Qurṭubī, *al-Jāmiʿ li-aḥkām al-Qurʾān* (Cairo: al-Maktaba al-Tawfiqiyya, n.d.), 8: 88–89.

³² See above, n. 20, and Z. Maghen, ‘Close Encounters: Some Preliminary Observations on the Transmission of Impurity in Early Sunni Jurisprudence’ in *Islamic Law and Society*, 6/3 (1999): 348–92. In the early *ḥadīth* and jurisprudence surrounding *ṭahāra*, systematic categories were not yet fully consolidated and there is often a blurring of lines between the ‘tangible’, intrinsic impurity in certain creatures and substances, and the ‘abstract’, transitory impurity affecting human beings. Thus, for instance, the possibility can be entertained in this formative phase of *fiqh al-ṭahāra* that water poured over the extremities of a *muḥdith* or *junub* emerges *najis* from such exposure (Abū al-Ḥasan al-Māwardī, *Kitāb al-ḥāwī al-kabīr* [Beirut: Dār al-Fikr, 1994], 1: 360–61), as if the water had come into contact with an *ʿayn al-najāsa* – an entity with a permanent, and

our question, and we shall pursue it further below.

The still more widely accepted Sunnī opinion – which does not in fact contradict the previous ones – is, as we have mentioned, that the Qurʾānic usage of the term *najas* in Qurʾān 9:28 does indeed refer to the essence of the infidel (and not to the high degree of probability that he is carrying, or has incurred, some form of impurity), but that it is at the same time entirely metaphorical and as such utterly unrelated to the formal *ṭahāra* code. Because Qurʾān 9:28 represents the only occurrence of this root – *n-j-s.* – in Muslim scripture, it is hard to argue with or substantiate this notion from a critical perspective. Nevertheless, it may safely be said to sum up the overall Sunnī outlook.³³ Thus, if we combine the pervasive *ṭahāra* legal tendency to grant the benefit of the doubt with the knowledge that the Sunnī *fuqahāʾ* see the ‘impurity’ of non-Muslims as ‘spiritual’ and not ‘tangible’, we have arrived at an understanding of why Sunnism has no problem – at least theoretically – with welcoming the unbeliever into most (or all) mosques. This was not, as Goldziher describes it, a gradual evolution culminating in a thoroughgoing ‘abandonment’ of the original Qurʾānic and Sunnī legal outlook: it represents the earliest reading of scripture on the part of the pivotal Sunnī exegetes and the legal conclusions derived therefrom.

Junub, Ijtināb, Ajānib

To clarify the issue further, we should now step back and examine it

therefore contagiously, impure status – and not with a ‘precluded’ human being, who is affected by a temporary, and therefore non-transmittable, impure state. This is in contrast to rulings found even in the oldest texts to the effect that, e.g., if a menstruating woman (*ḥāʾiḍ*) drank from a vessel or performed ablutions with it, such water remains pure, and *wuḍūʾ* with its leftover (*faḍl*) suffices to legitimize prayer (Muḥammad b. al-Ḥasan al-Shaybānī, *al-Aṣl* [Ḥaydarābād: Maṭbaʿat Majlis Dāʾirat al-Maʿārif, 1966–73], 1: 47). The persistence of the terminological inconsistency even as the substantive issues were being honed is on display in a report describing how Abū Hurayra, encountering the Prophet on one of the paths of Madīna while in a state of major ritual impurity (*wahuwa junub*), slinked away to immerse himself (*an yaghtasila*) and then returned and explained to Muḥammad that he had been loathe to join him before bathing. The Prophet upbraided him: ‘O Abū Hurayra, a believer never contaminates (*inna l-muʾmin lā yanjus*).’ Muslim, *Ṣaḥīḥ, Ḥayḍ*, “Bāb al-dalīl ‘alā anna al-muslim lā yanjus” (al-Maṭbaʿa al-Miṣriyya bi-l-Azhar), 4: 66–67. As the purity code developed and its nomenclature became more exacting, such looseness and overlapping gradually disappeared, but in the earliest stages it was still possible to associate the Qurʾānic term *najas* with *janāba*.

³³ See Maghen, ‘Strangers and Brothers’, *passim*.

from the 'negative' angle. Although most Sunnī law schools allow non-Muslims into most mosques, it is also true that the majority of *madhāhib* (all but the Ḥanafīyya) are agreed on forbidding the unbeliever to enter the sacred area of Mecca surrounding the Ka'ba. Why are Jews, Christians and (other) polytheists not allowed to visit the *ḥaram* precinct (or at least the Sacred Mosque itself)? And why are we witness to a spectrum of rulings, beginning with the Mālikiyya/*Ahl al-Madīna*, who would prevent all polytheists from entering all mosques in Mecca, continuing with the Shāfi'iyya, who allow them access to any mosque – as long as there is some necessity involved (*li-l-ḥāja*) – except for the Sacred Mosque itself and the surrounding sanctified areas (still other Shāfi'ite opinions permit their admittance to the latter but not the former), and ending with Abū Ḥanīfa, who throws the doors of any mosque open to infidel visitors – even if their visit has no demonstrably beneficial purpose (*min ghayr ḥāja*) – including the innermost sanctum of Islam, the *masjid al-ḥarām* itself?

We have seen the problems encountered by the Sunnī expositors with regard to Qur'ān 9:28 – problems to some degree created by their own exegesis: despite the conjunction *fa-* initiating the second clause of the verse (*fa-lā yaqrabū l-masjida al-ḥarāma*), it is difficult to deduce this second clause from the preponderant Sunnī understanding of the first clause (*innamā l-mushrikūna najas*). If non-Muslims are *not* intrinsically defiled (according to the Sunnī consensus and exegesis of the first clause), then why should they be barred from the holy places of Mecca (again: according to all but the Ḥanafites)? The unbeliever is as pure 'bodily' (*tāhir al-dhāt*) as any Muslim,³⁴ and though he lacks the religio-cultural standards which would guide him to lead a relatively defilement-free existence, it is nevertheless assumed that he is not harboring any *najāsa* on his person until the evidence indicates otherwise. Even were we to try and base the ban on the super-cautious outlook of certain Sunnī jurists, who would deny non-Muslims access to mosques and to the middle of Mecca for fear that they will track impure substances into the *ḥaram*,³⁵ we are still left with a problem. We must digress at some length

³⁴ 'As for the infidel (*kāfir*), the law regarding him in the matter of purity and impurity is the same as that regarding the Muslim (*ḥukmuhu fī l-tahāra wa-l-najāsa ḥukmu l-Muslim*). This is our policy, as well as the policy of the vast majority of our illustrious predecessors (*hādihā madhhabunā wa-madhhabu l-jamāhīri mina l-salafī wa-l-khalaf*).' Al-Nawawī, *al-Minhāj fī sharḥ Saḥīḥ Muslim b. al-Ḥajjāj* (Beirut/Damascus: Dār al-Khayr, 1994), 2/4: 52.

³⁵ This is the same reason that a Muslim women who is menstruating should

on this problem and try to solve it, before we can return to our original conundrum.

The problem is this: what of the *junub*? Why is the Muslim believer (male or female) who incurs major impurity through a sexual encounter or the ejaculation of semen denied access to *all* mosques?³⁶ This ruling is derived from Qurʾān 4:43, via an impressive feat of exegesis:

Yā ayyuhā lladhīna āmanū, lā taqrabū l-ṣalāta wa-antum sukārā, ḥaṭṭā taʿlamū mā taqūlūna, wa-lā junuban illā ʿābirī sabīl, ḥaṭṭā taghtasilū. . . .

The literal translation of this verse yields:

O ye who believe! Draw not near unto prayer when ye are drunken, till ye know that which ye utter, nor when ye are [sexually] polluted (*junuban*), save when journeying upon the road, till you have bathed [immersed yourselves].³⁷

The context of the verse – the remainder speaks of using sand instead of water to wash oneself if sick or on a journey (*ʿalā safar*) – as well as that of other passages which grant special dispensations for travelers,³⁸ coupled with the phrase *illā ʿābirī sabīl* demands that this latter phrase be rendered ‘except for those journeying on the road’.³⁹ Many *mufasssirūn* (scriptural exegetes) do in fact interpret it thus, employing this clause as

not enter a mosque, and is directed to ‘stop up her vulva with a cloth’ (*Muwaṭṭaʿ*, *Ḥajj* [Cairo: ʿĪsā al-Bābī al-Ḥalabī, n.d.], 1: 371, *ḥadīth* no. 124) before performing the circumambulation (lest she ‘drip’ *ʿayn al-najāsa*, i.e., menstrual blood, onto the hallowed terrain). Mālik rules elsewhere that if she is already inside the mosque and engaged in prayer, and she discovers her menstruation, she must immediately leave (Ṣaḥnūn, *Mudawwana* [Dār al-Kutub al-ʿIlmiyya], 1: 151). The immediate question that arises, and which we shall attempt to address in what follows, is this: if we have to do with a problem of ‘tangible’ contamination, why should there be a difference between ‘regular’ mosques and Meccan mosques or the sanctuary enclosure in this matter?

³⁶ The legal argumentation is rather involved and opinions do differ, some *fuqahāʿ* (especially Ibn Ḥanbal – in another display of his leaning toward leniency in purity matters) allowing a *junub* who has even performed *wuḍūʿ* to remain in the mosque. This indulgence does not apply to the *ḥāʾiḍ* (menstruant), who poses a risk of ‘spillage’. See Abū Jaʿfar Muḥammad b. Yaʿqūb b. Ishāq, *al-Uṣūl min al-Kāfi* (Beirut: Dār al-Taʿrīf, 1401), 1: 50–51.

³⁷ Trans. Pickthall; my interpolations, alternatives in square brackets.

³⁸ See Qurʾān 5:5, 2:184, 2:283.

³⁹ And in this sense is it translated by Pickthall, Dawood, Arberry and others. In Hebrew, *ovray derakhim*, which employs the corresponding Semitic verb, is Rabbinic for those on a journey, taking the highway.

one basis for permitting *tayammum* even to a *junub* (that is, abstersion via sand-patting also in place of *ghusl*, not just in place of *wuḍūʿ*) on the condition that he is traveling. Al-Shāfiʿī, on the other hand, would read the scriptural passage in question this way:

O ye who believe! Draw not near unto prayer when ye are drunken, till ye know that which ye utter, nor when ye are polluted – *except in order to pass through* (*illā ʿābirī sabīl*) – till you have bathed [immersed yourselves].

Here is his comment:

The meaning of this verse is: draw not near unto the *site* of prayer (*mawḍiʿ al-ṣalāt*), because there is obviously no concept of passing through prayer, only of passing through the site of prayer, meaning the mosque.⁴⁰

Al-Shāfiʿī has thus managed to turn this verse from a statement about the rights of sexually impure Muslims vis-à-vis purification procedures – *scil.*, that if they are wayfarers, they may use sand when water is scarce – to a statement about the rights of sexually impure people vis-vis mosque ingress – *scil.*, that they may enter mosques only as a way to get somewhere, if all other routes are closed off.

Al-Ṭabarī is able to adduce a *ḥadīth* in the context of ‘the circumstances of revelation’ literature (*asbāb al-nuzūl*) which supports this interpretation:

. . . from Yazīd b. Ḥabīb, that there were men from amongst the *Anṣār* (the ‘host’ Muslims of Yathrib/Madīna) the doors to whose homes faced the mosque (i.e., with no open space intervening), and occasionally they were in a state of *janāba* and could find no water [in their homes], and there was no way to get water [from the well outside, with which to perform *ghusl*] except by walking through the mosque. That is when God, may He be exalted, sent down [the revelation]: ‘. . . nor when you are polluted – except in order to pass through’.⁴¹

Why is there a need to seek a (forced) scriptural basis specifically for the prevention of the *junub* from entering the mosque (except to pass through), when the same prohibition for a *ḥāʾiḍ* or menstruant (and a *nafsāʾ* – a women experiencing post-partum bleeding) seems *not* to require such Qurʾānic grounding? It is possible that since menstruation is closely connected in *fiqh* discussions with *janāba*, that the verse covering the one form of ‘preclusion’ is assumed to cover the other as well. It

⁴⁰ *Umm*, 1: 70–71. Al-Shāfiʿī’s erstwhile master also evidently understood this Qurʾānic passage thus. See Saḥnūn, *al-Mudawwana al-kubrā* (Beirut: Dār Ṣādir, n.d.), 2: 315, “Fī murūr al-junub fī al-masjid”.

⁴¹ See Ṭabarī to 4: 43.

is also possible that there was no verse found which conveyed such a prohibition regarding the *hā'id*, or which could be similarly manipulated to do so.

I would like to suggest another option. We began this sub-discussion by asking why the Sharī'a bans the *junub* from the mosque. While the *hā'id* might drip menstrual blood onto the floor (as the *nafsā'* might do the same with post-partum blood), it would be hard to argue that the *junub* poses a similar hazard: semen dries quickly, not to mention that most of the *fuqahā'* rule, following a report of 'Ā'isha, that *janāba* is contracted by *julūs bayna shu'abihā al-arba'a* ('sitting between her [a woman's] four parts', i.e., her legs and vaginal labia or her arms and legs) and *mass al-khitān al-khitān* ('the meeting of the two circumcisions'), regardless of whether semen is emitted or not.⁴² It must also be noted, in this connection, that the Shāfi'iyya do not consider semen to be *najis* at all (even though its emission still leads to a state of *janāba* in their view). With this data in mind, we cannot with confidence attribute the prohibition against a *junub* entering a mosque to the fear of contamination of the place of prayer via contact with *'ayn al-najāsa*.

We also know that the *junub* cannot pollute via contact with his/her person. On top of Muḥammad's scolding the *junub* Abū Hurayra, who was afraid to encounter the Prophet before bathing (*inna l-mu'min lā yanjus*),⁴³ and Mālik's permission to engage in marital relations with one's Christian *junub* spouse,⁴⁴ al-Tirmidhī and Ibn-Māja record a tradition in which 'Ā'isha recollects that she and the Apostle used to have sexual intercourse, after which her husband would perform *ghusl*. Then Muḥammad 'would come and warm himself with me, and I would hold him tight – before I myself had performed *ghusl* (*thumma kāna yastadfi'u bī fa-ḍammamtuhu ilayya wa-lam aghtasil*).'⁴⁵ We see, then, that such temporary defilement (*ḥadath*, *janāba*) is not technically 'con-

⁴² See Nasā'i, *Sunan, Ṭahāra*, "al-Ghusl min muwārāt al-mushrik" (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1383/1964), 1: 92; Ibn Mājah, *Sunan, Ṭahāra*, "Bāb mā jā'a fī wujūb al-ghusl min iltiqā' al-khitānayn" (Cairo: Dār Iḥyā' al-Turāth al-'Arabī, 1395/1975), 1: 199, *ḥadīth* no. 608.

⁴³ See note 32.

⁴⁴ Saḥnūn, *Mudawwana* (Dār Ṣādir), 2: 315.

⁴⁵ Tirmidhī, *Sunan, Ṭahāra*, "Bāb [mā jā'a] fī al-rajul yastadfi'u bi-l-imra'a ba'da al-ghusl" (91) (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1398/1978), 1: 210–11, *ḥadīth* no. 123; Ibn Majah, *Sunan, Ṭahāra*, "Bāb fī al-junub yastadfi'u bi-imra'atihi qabla an taghtasil" (97), 1: 192, *ḥadīth* no. 580. The Prophet's act may have been motivated by affection, or alternatively by the cold.

tagious', that is, even if a person affected by sexual impurity were to rub him or herself against the walls of a mosque, this would in no way adversely affect the ritual fitness of that edifice. Thus, if we take the meaning of *innamā l-mushrikūna najas* to be, for all intents and purposes, *innamā l-mushrikūna junub*, then there is still no reason to ban sexually impure people from Muslim sacred space. And yet they are so banned.

Janāba must then somehow constitute a special case, a state that is contrary to the purposes of the mosque in a different fashion than other categories of impurity, a fashion which falls outside of the normal routes of 'transmission' or modes of defilement in the *ṭahāra* system. This uniqueness would appear to consist in some special, intangible/spiritual quality of *janāba* which is conceived to be fundamentally at odds with sacred space. There is something about this particular kind of defilement which makes it, not hateful (such a notion does not work well with the overall value-neutral atmosphere of the *ṭahāra* code), but 'opposed' to – perhaps even in competition with – the sacrosanct character of the mosque. As I have argued elsewhere, sexual congress is seen in classical Islamic literature as the healthy mirror image of spiritual devotion, and while both are considered extremely laudible acts, they cannot co-exist in the same sphere – specifically because they both constitute powerful ecstatic activity.⁴⁶ It is perhaps for this reason that, among the various categories of major ritual impurity, *janāba*'s preclusion of residence in the mosque is singled out for scriptural reinforcement.

Now, as we shall see momentarily, when we deal with the subject of conversion, the non-believer, though considered by most of the Sunnī *fuqahā*' to be pure in an intrinsic sense, is believed by them at the same time to harbor specifically the impurity of *janāba* (this being the justification for requiring his immersion – *ghusl* – upon adopting Islam). If so, then it must appear strange to us that the non-Muslim *junub* is permitted, according to most *madhāhib*, access to the mosque, whereas the Muslim *junub* is denied this privilege! I would suggest that what underlies this discriminatory distinction is a simple issue of probability.

The jurists realize that there is a significant difference between knowing an individual to be in a state of *janāba* and assuming him or her to be so. Thus, the Muslim *junub* is not the same as the non-Muslim

⁴⁶ See Z. Maghen, *Virtues of the Flesh: Passion and Purity in Early Islamic Jurisprudence* (Leiden: E. J. Brill, 2004), chapter 1 and *passim*. We know, for instance, from a number of reports that angels are said not to visit a home while the occupant is *junub*.

junub. A Muslim, after s/he has engaged in sexual relations, is *junub* in an absolute sense: he has indubitably incurred the defilement of *janāba* (and s/he knows it, and s/he is expected to act accordingly). A non-Muslim is a *junub* by probability: the chances are that s/he has incurred the defilement of *janāba* (i.e., has had sex in the wake of which s/he did not wash properly). Since there is no way to obtain definite information on this score (short of asking – which is probably considered socially intrusive, as well as unhelpful because the unbeliever does not know the law so as to determine whether s/he has been contaminated or has effectively exited that state), I would suggest that the non-Muslim is essentially given the benefit of the doubt, according to the prevailing tendency of Islamic law in such matters: pure until proven impure. As in the case of minor impurity (we saw al-Shāfi‘ī’s ruling to the effect that ‘there is no problem with performing ablution with the water of a polytheist . . . as long as one has no express knowledge of the presence of *najāsa* on him’), so with major impurity, the *mushrik* or *dhimmi* is considered to be in a pure state until the opposite is demonstrated, and therefore may enter a mosque, while the definitively infected Muslim may not.

Why, then, to return to our original question with which we opened this section, is the unbeliever barred specifically from the Sacred Mosque? The Qur’ān cannot be the true basis for this, for as we have shown, Qur’ān 9:28 is seen by most Sunnī exegetes to be referring in its ban to the Qurayshite and other Arabian polytheists of the day, not, e.g., to later history’s Jews and Christians; and the status of these last is pure at any rate, according to the same exegetes’ abstract, ‘spiritual’ interpretation of the clause *innamā l-mushrikūna najas*. Moreover, why, taking all the *madhāhib* together, is there an increasing tendency to deny non-Muslims access as we ascend the ladder from regular mosque to Meccan mosque to *ḥaram* (the surrounding campus) to *al-masjid al-ḥarām* (the Sacred Mosque)?

If we accept the theory that *janāba* is a special kind of defilement, with a uniquely problematic or antithetical relationship to the holy nature of sacred places, then we may perhaps be able to understand this phenomenon. If the issue here (in the case of *janāba*) is not soiling with tangible impurity in the framework of the defined and legislated *ṭahāra* system (where the antagonistic or zero-sum *janāba*-mosque relationship makes little legal sense, and where the *ḥarām* does not truly possess a distinct status), but rather a more ethereal/esoteric, less quantifiable framework of ‘holiness’ and that which holiness cannot abide – if this is so, then we can certainly envision a gradation of holiness along the

ladder described above, with the neighborhood mosque at the low end and the Meccan sanctuary at the top. It makes sense, then, to distinguish: as far as the local mosque is concerned, the unbeliever can be given the benefit of the doubt regarding his/her *janāba* state; when it comes to the holiest place in Islam, however, it is best to err on the side of caution.

Though the above sketch is admittedly speculative, what cannot be denied is that according to the Sunnī jurists the non-Muslim is forbidden entry to the sacred space of Islam (mosque or sanctuary) *not* because s/he is intrinsically impure (*najis al-dhāt*), but because s/he has quite probably incurred a state of impurity, specifically, that of *janāba*.⁴⁷

The Judaic Regulations

In order further to clarify the Sunnī Muslim position on the ritual status of the infidel and what underlies his right (or lack thereof) to enter mosques, it will be helpful to contrast this position with several aspects of the Jewish view of overall human – and specifically Gentile – impurity, and how this Jewish view impacts on the access of ‘outsiders’ to sacred space. However, because according to most opinions in the Talmud the non-Jew (polytheist or otherwise) *is* in fact considered essentially impure – and in a ‘tangible’, not ‘spiritual’ manner (to state our conclusions from the outset)⁴⁸ – and because human impurity (Gentile or Jewish, ‘intrinsic’ or temporary) is extremely transmittable in Jewish law – in both cases, as we have seen, in diametric contradistinction to Islamic law – for these reasons the Halakhic (Jewish legal) treatment of this subject is incalculably vast, and we can only touch on a few points relevant to our analysis. Even within these sub-areas of Talmudic jurisprudence, controversies rage the elucidation of which would fill many volumes, and we will therefore have to make do with the broadest of distillations, ignoring the myriad of related issues and numerous opposing positions to adduce statements which exemplify the overall trend. This summary approach is justified because we are interested in employing the Judaic position here merely as a ‘control’ or backdrop against which to better comprehend the Islamic position.

The Talmud denies Gentiles ingress to a section of the Temple Mount in Jerusalem. The eighth Mishna in the first chapter of Tractate *Kelim*

⁴⁷ Whether this was the original intention in the Qurʾān is open to question. I would doubt it, and it does not matter. We are interested in the conclusions reached by the *fuqahāʾ*, which in turn became premises which enabled them and their successors to reach new conclusions.

⁴⁸ Although this fact has little if any relevance today, since most Judaic purity laws are no longer in force.

(vessels) states:

Inside the wall [of Jerusalem] is holier than [the area inside the walls of other cities]. . . . The Temple Mount itself is holier than [the area inside the Jerusalem wall]. . . . The *khayl* [the first terrace within the wall of the Temple Mount] is holier than [the space immediately within the wall of the Temple Mount], since Gentiles and those afflicted with corpse defilement (*temei met*) cannot enter there.⁴⁹

Thus, the non-Jew is barred even from the outer courts surrounding the Temple proper, a ban which is certainly reminiscent of the Islamic prohibition.

Why is the Gentile prohibited from the Temple grounds in the Halakhic system? We shall take a rapid glance at this enormous and variegated Talmudic question with the help of a related provision found in both faiths: ritual immersion for purposes of conversion. Why does a convert have to immerse in Judaism? We have seen that the rabbis of the Mishna, in the context of banning non-Jews from the Temple area, place Gentile impurity on a par with corpse defilement, the highest level of contamination in the Jewish system.⁵⁰ How is this to be understood? Is the intention (analogously to the conception of the *fuqahā'* regarding unbelievers and their assumed *janāba*) that non-Jews are not careful about contact with corpses (and do not purify themselves through immersion from the consequently incurred death impurity) and therefore are assumed to be most probably in a constant state of defilement? Is conversion-immersion called for in order to remove this major impurity?

The answer is a definitive 'no'. First, the kind of *miqve* (ritual pool) immersion required of a convert is incapable of negating corpse contamination (the ashes of a 'red heifer' are required for this purpose, as well as a special ceremony). More importantly: it is one of the central principles of the Jewish purity code, that Gentiles cannot contract impurity at all. The Talmud states unequivocally (Nazir 61b):

The Gentile⁵¹ is excluded [from the preceding discussion on the sacrifices brought by Nazirites] because he can incur no impurity (*yatza 'oved kokhavim*

⁴⁹ Mishnah *Kelim* 1:8.

⁵⁰ Those defiled by a corpse are not the most problematic from the point of view of sanctuary ingress itself, however. The Mishna in question mentions a number of types that are banned even from the compound surrounding the Temple, such as (Jewish) men and women 'with a flux' (*zav*).

⁵¹ The terminology employed is reminiscent of that of the Qur'ān in that it also essentially means polytheist or idolator: *'oved kokhavim*, 'star-worshipper'.

sheh-°ayn lo tum°a). And how do we know that he can incur no impurity? Because it is written in scripture (Numbers 19:20): 'But the man who shall be impure, and shall not purify himself, that soul shall be cut off from among the congregation.' [Scripture speaks] of one who *has* a congregation,⁵² thus excluding him who does not have one (*be-mi she-yesh lo kahal, yatzah mi she °ayn lo kahal*).

This Talmudic passage goes on to adduce a number of additional scriptural proofs, and many other examples could be brought from the literature in support of this position.⁵³ What the rabbis are saying here, is that the Gentile cannot incur a state of impurity via exposure to the various sources of contamination threatening the Jew outlined in the Pentateuch and elaborated by the Talmudic system. Thus, the proselyte to Judaism does not immerse himself in the *miqve* to remove the kind of impurity that, for instance, requires immersion for the Jewish woman who has ceased menstruating, or the Jewish man who has had a nocturnal emission, or for any other kind of Halakhic impurity. The exclusivist/nationalist character of the Jewish faith meant that the susceptibility to ritual contamination was restricted to the Israelite community (whereas the inclusivist/universalistic nature of Islam is probably reflected in the extension of such susceptibility to all human beings).⁵⁴

That the nature of the Gentile's defilement has nothing to do with the formal Jewish purity system is also evident from the circumstances of its promulgation:

It is taught: Rabbi [Judah the Prince] said: For what reason did they rule that a Gentile corpse does not contaminate through carrying? Because his (the Gentile's) impurity in *life* is not from the Torah, but is a Decree of the Scribes (*lefi*

⁵² Since the reference in the Torah is to the specific congregation of Israel, the non-Jew, who cannot be banished from that congregation (because he never belonged to it in the first place), is not included.

⁵³ See, for instance, *Negaim* 3:1, *Sifre Zuta* to Numbers 19:10.

⁵⁴ There is even a general statement to this effect, going beyond the bounds of purity law, cited by Ahmad Ibn Hanbal: 'Unbelievers are obligated by the positive law of Islam, and especially by the proscriptions (*inna l-kuffāra mukhāṭabūna bi-furū°i l-sharī°a, wa-khuṣūṣan bi-l-manāhī*).' See the modern editor's note to Abū al-Qāsim Jār Allāh Maḥmūd b. °Umar al-Zamakhsharī al-Kh°arizmī, *al-Kashshāf °an ḥaqā°iq al-tanzīl wa-°uyūn al-aqāwīl* (Beirut: Dār al-Kutub al-°Ilmiyya, n.d.), 2: 253. This pregnant statement, so significant for Muslim and non-Muslim relations, requires further study

*she-‘ayn tum’ato me-ḥayyim me-divrei Torah, ela mi-divrei sofrim).*⁵⁵

Gentile impurity was a later Rabbinic addendum, possibly for socio-political reasons of segregation from the surrounding peoples. The outsider was endowed with a form of defilement which – unlike any incurred contamination in the formal Jewish purity code – had no cure (except absorption into the Israelite tribe via conversion to Judaism). In a word, he was both permanently saddled with a status, and permanently denied a state, of impurity – the mirror opposite of the Islamic outlook in which, as we have seen, the infidel is not considered to possess a status, but definitely is susceptible to contracting a state, of impurity.

It is, however, extremely important to recognize the following distinction: while the Gentile impurity decreed by the rabbis may well be characterized as ‘permanent’, it is somewhat more problematic to describe it as ‘intrinsic’. We will continue to do so, but with the following proviso in mind. After all, before the rabbis came along in the early centuries after Jesus and declared the members of the surrounding idolatrous nations ritually contaminating, the predecessors of those pagans were considered eminently pure for a good thousand years by their Israelite neighbors. Moses was no more reticent about shaking Jethro’s hand than Samson was about sleeping with Delilah. Post-biblical Gentile impurity is therefore ‘artificial’, literally man-made, and in that sense hard to speak of as ‘intrinsic’ or ‘inherent’.

Furthermore, it must be stressed that the rabbinical attempt to discourage the mingling of Jews with idolaters by declaring the latter tangibly defiling, while it does evince a negative attitude to their way of life and its potential influence on Jews, nevertheless does not really carry with it a stigma in itself. Decreeing something ceremonially contaminating in Judaism does not necessarily imply disparagement of that thing. Torah scrolls and books, for instance, were declared by the same Talmudic authorities to be ‘defiling of hands’ (*meṭamei yadayim*). Now, few objects are more venerated in the Jewish environment than these, but this decree – like that concerning the impurity of Gentiles – was enacted for a practical purpose: since, at the time, many Jews were careful about conveying ritual pollution to the food they ate, the rabbinical assignment of a polluting capacity to sacred books served to keep those books far away from the kitchen, and this separation, in turn, protected the pages of the Pentateuch and its satellite texts from mice.

Upon immersing in the context of conversion to Judaism, then, the

⁵⁵ Niddah 69b.

Gentile (symbolically)⁵⁶ removes a 'bodily' – even though humanly declared – condition of defilement.⁵⁷ The Talmudic ranking of Gentile impurity on the (extremely potent) level of corpse contamination is perhaps echoed in a Rabbinic statement regarding conversion, from the school of Hillel the Elder: 'He who separates from the foreskin, it is as if he separated from a grave (*ha-poresh min ha-^corla ke-poresh min ha-qever*).'⁵⁸ That is, the removal of the foreskin through circumcision (a requirement of conversion for males) is tantamount to purification from the corpse defilement incurred through contact with, or proximity to, a grave. This is, of course, a metaphor: there is nothing technically impure about the foreskin (Jews, unlike Muslims in the debate over *mass al-dhakar*, are discouraged from touching their penises solely to avoid becoming inappropriately aroused).⁵⁹ The comparison here of Gentile impurity to corpse impurity, then, is just that: a comparison. The non-Jew is not considered corpse impure (*tame met*) – as we have seen, he is not vulnerable to such contamination. His unique defilement, largely unrelated to and ungoverned by the precepts of the formal (biblically derived) Halakhic purity code, is analogous to corpse impurity, meaning (perhaps) that it is that severe. To answer the question we posed at the outset of this section, then, the non-Jew is barred from the Temple because he has been declared intrinsically impure. He is, to employ the Muslim terminology, *najis al-dhāt*.

We have seen that the Islamic view on this subject is completely different, and we shall expand upon it now briefly, in the context of conversion. Why do people who wish to become Muslims have to immerse themselves, or, more accurately, to perform *ghusl*? The issue is actually the subject of some debate amongst the *fuqahā*,³ and we are forced to deal primarily with the majority opinion, giving the minority

⁵⁶ I do not intend by this word that the Gentile's impurity was not 'real' – it most certainly was, and had important ritual consequences. I use the term 'symbolically' here because Gentile impurity is metamorphosed into Jewish purity via conversion-immersion in a way that has no parallel or 'logic' within the parameters of the formal Jewish purity system. It is a unique phenomenon.

⁵⁷ See, for instance, Talmud Yerushalmi, Tractate Shabbat, Mishna 1, halakha 7; Tosefta Commentary to Tractate Pesakhim, chapter 7, halakha 13; Mishna Niddah, chapter 10, halakha 4.

⁵⁸ Pesakhim 8:8. This statement has other implications in context which are too complex and far-reaching to enter into here.

⁵⁹ Solomon Ganzfried, *Kitzur Shulkhan Arukh* (New York: Hebrew Publishing Company, 1961), 4: 5.

positions short shrift due to lack of space. The answer is, first of all, that – according to many authorities – converts do not always have to immerse. In certain circumstances the consensus of the schools of law is that immersion is only *mustahabb*, ‘recommended’. This is because the basis for a proselyte performing *ghusl* is, as we have noted, the assumption that s/he has almost inevitably incurred a state of *janāba* (via sexual relations, nocturnal emission, menstruation, childbirth), and has probably not done what is necessary (i.e., *ghusl*) to divest him/herself of that state.⁶⁰ But what if we can ascertain with relative confidence that the convert in question has in fact *never* contracted major ritual impurity, as in the case of a child who enters Islam before puberty (*qabl iḥtilāmihi*) or prior to the onset of menstruation? Or what of a grown man or woman who apostatizes from Islam and then immediately changes his/her mind and returns to the faith, before having much of an opportunity to contract any kind of *najāsa ma^cnawiya*?⁶¹ Regarding such cases the *fuqahā*’ are

⁶⁰ See Ṣaḥnūn, *Mudawwana* (Dār al-Kutub al-^cIlmiyya), 1: 140. The fact that *tayammum* (sand-rubbing) may be substituted for *ghusl* in the case of conversion (as in the case of ‘normal’, Muslim *janāba*) further throws into relief the ritually ‘utilitarian’ (as opposed to symbolic) nature of this immersion. And see there the important statement of Ibn al-Qāsim to Ṣaḥnūn: *al-naṣrānī ^cindī junub, fa-idhā aslama wa-tayammama thumma adraka al-mā^c, fa-^calayhi l-ghusl* (‘Christians are *junub* in my opinion, and if one of them converts to Islam and performs sand-rubbing [in place of a wet *ghusl* as part of the conversion ceremony, if water is not available] and later finds water, he must repeat his major ablutions’). The *janāba* spoken of here is governed by the same regulations as the major impurity of Muslims. Whereas in Judaism immersion is the principle act which effects conversion to the faith, for the Sharī^ca the *ghusl* performed prior to the recitation of the *shahādātayn* in front of two witnesses has no bearing on the conversion itself (if all the would-be proselyte did was perform *ghusl*, he would remain an unbeliever). It is a means to that recitation, as the *shahāda* may not be uttered by one in a state of *janāba*. The requirement to repeat the performance of *ghusl* if one later finds water (after having utilized sand during the conversion ceremony) further points up the non-ceremonial (in the sense of the conversion ‘ceremony’) character of this act.

⁶¹ Apostates incur different obligations upon re-conversion to Islam than those becoming Muslims for the first time. While the ‘sins’ (including the non-fulfillment of religious requirements) of the latter are covered by Qur^ʿān 8:38 – *qul li-lladhīna kafarū in yantahū yughfar lahum mā qad salafa* (‘Say to the Unbelievers, if (now) they desist (from Unbelief), their past would be forgiven them’ [trans. Yusuf Ali]) – the former, the apostate, is required to ‘make up’ all the *ṣalāt*, *zakāt*, and the like that he missed while a *murtadd*. See Shāfi^cī, *Umm*, 1: 61.

in disagreement, but the vast majority rule that for this type of convert *ghusl* is only recommended.⁶²

The questions raised above throw into relief the primary factor operating here: that the issue of immersion upon conversion is one of suspicion of temporary major ritual defilement, not one of symbolic removal of intrinsic, permanent 'infidel impurity' (*najāsat al-dhāt*), as is the case in conversion to Judaism. This, of course, only reinforces what we already know: ultimately, according to the Islamic legal conception, the convert immerses for the same 'prosaic' reason the Muslim does: to exit the state of *janāba*.⁶³

Thus, we have here an extremely interesting and complex diametric opposition between Islam and Judaism on the issue of conversion-immersion in particular, and on the ritual status of the outsider in general. Immersion in the Halakha is for the purpose of symbolically removing an inherent impurity that adheres to the non-Jew by virtue of his being a non-Jew. Immersion in the Sharī'a is for the purpose of actually removing a temporary impurity that has been incurred by the non-Muslim through action (even on the part of one who was originally a Muslim!). In Jewish law, the Gentile cannot contract impurity of any kind, and yet, nevertheless, he is fundamentally impure.⁶⁴ In Sunnī

⁶² See Muwaffaq al-Dīn Ibn Qudāma, *al-Mughnī* (Beirut: ʿĀlam al-Kutub, n.d.), 1: 207ff.

⁶³ According to some rabbinic views, the Gentile is possessed of a permanent version of the normally transient defilement of the *zav*, that is, he with an aberrant genital flow. This should not be understood as comparable to the Islamic understanding of the matter. While the *fuqahā'* were making the logically correct assumption that nearly all non-Muslims frequently incurred the state of *janāba* and had neither the knowledge nor the inclination to deliberately exit it, the rabbis were obviously not saying that every non-Jew actually, physically suffered from the specific malfunction of his reproductive organs which would render him a *zav*. Rather, as the renowned medieval commentator Rashi states explicitly: 'The impurity of *ziva* ascribed to the living Gentile is nothing but a rabbinical decree (*tum'at ziva she-alav me-khayyim ʿayna ela mi-divray sofrim*)' (Rashi on Niddah 69b). For reasons which perhaps have to do with the political-social history of the Jews and their relations with their neighbors around the time of Christ, the Gentile was saddled with this permanent status of impurity, but this rabbinical enactment is clearly unrelated to the factors governing definitions of defiled persons in the formal Jewish purity code (the consequences of such a designation, in terms of the Gentile's ability to contaminate the Jew, were very real, however).

⁶⁴ Indeed, the Gentile is in more ways than this a kind of 'film negative' of

Islamic law, the unbeliever is completely susceptible to impurity, and yet, nevertheless, he is quintessentially pure. To put it another way: in the view of the rabbis, the Gentile can never incur a *state* of defilement, but is at all times possessed of a status of defilement (and, consequently, is quite contaminating for Jews). In the view of the *fuqahā'*, most non-Muslims are constantly incurring new states of defilement (just as Muslims are), but their *status* is pure as the driven snow.

In this same manner we have to understand the issue of corpse impurity. In both systems, Jewish and Muslim, the dead body of an outsider to the faith essentially does not contaminate (in the Halakha it does contaminate, but to a far lesser degree than a Jewish corpse; in the Sharī'ah, most opinions⁶⁵ hold that it does not contaminate at all). Here again, however, the underlying motivations or principles are vastly different. The reason why a Gentile corpse does not defile in Jewish law is – like much of the Talmudic purity code – relatively inexplicable, but it unquestionably has something to do with the fact that the non-Jew cannot incur impurity and is therefore in a separate category (as well as with the fact that his 'intrinsic' defilement is the result of a rabbinical

the Jew in terms of purity law. For example, the Jew is pure, but his semen is defiling, whereas the non-Jew is a contaminant, but his semen is pure! See Mishna Miqvaot, 8: 4; Niddah 34a.

⁶⁵ A minority indeed holds that the dead Muslim (and *kāfir*) *does* contaminate, basing itself on a *ḥadīth* of Ibn Sīrīn, who reports that a Zanjī slave fell down the well of Zamzam in Mecca and died, and Ibn 'Abbās (or, in other versions, the Prophet) called for the well-water to be emptied out. Another argument advanced is that the human corpse is inedible, and, as such, should logically be impure like most inedible animals (*alladhī lā yu'kal lahmuhum* (they might have just as easily claimed that the human 'died of himself' – i.e., without proper *tadhkiya* or ritual slaughter – and as such should be impure like all animal *maytāt*). One response to this claim is that the human corpse is inedible in Islamic law not as a concomitant of its impurity, but *li-karamatihi*, like the horse. *Fuqahā'* who opine that the cadaver is defiling, mostly Ḥanafī as well as Mālik himself, also generally hold that the *ghusl* of a dead Muslim purifies his body, but not of a dead unbeliever, because the former is commanded to pray – and thus to be pure – and the latter not (the logic is difficult to understand). As for the vast majority – who consider all dead human bodies pure – they explain that the '*ghusl*' one is required to do after washing a corpse or attending a funeral is not immersion, but simply refers to a washing of the hands, no different from that of removing dirt. For these opposing view-points, see Shams al-Dīn al-Sarakhsī, *al-Mabsūṭ* (Beirut: Dār al-Ma'rifa, 1989), 1: 82, and Ibn Qudāma, *Mughnī*, 1: 45 and 192.

decree). Islam, on the other hand, considers all human beings identical in the matter of the *states* of impurity – and similarly immune to the status of impurity – whether Muslim or *kāfir*, alive or dead.⁶⁶ All are equal in their *ādamiyya*.⁶⁷

Conclusion

There are similarities and differences in the reasons why outsiders to the faith are barred from entering sacred areas in the Islamic and Jewish ritual-legal systems, but the underlying differences outweigh the surface similarities. Both religions deny infidels access to their most hallowed structures and spaces: Islam does so because non-Muslims obviously do not know enough about Islamic purity law to properly exit states of impurity they have contracted. One form of this impurity, *janāba*, is evidently possessed of a quality that makes it antithetical to the spiritual atmosphere that pervades the holy *ḥaram*. Judaism bars non-Jews from the Temple campus not because of what they know (or, rather, do not know) but because of what they are: intrinsically impure by virtue of their affiliation. These differences in outlook and approach harbor significant implications for the attitude to the ‘other’ in each system, implications which should certainly be studied further.

⁶⁶ See Nawawī, *Minhāj*, 2/4: 52. There is, however, an interesting tradition – in the ‘angels do not visit...’ genre – in which one of the three things which act as angel-repellent is in fact *jīfat al-kāfir*, the cadaver of an infidel (Abū Dāwūd, *Sunan, Tarajjul*, 4: 78, *ḥadīth* no. 4180).

⁶⁷ Ibn Qudāma, *Mughnī*, 1: 45.