

# Tradition and Customary Law in Tlemcen and the Hawz

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**Abstract:** This contribution deals with a theme relating to the Tlemcenois, a territory regrouping Tlemcen a medina, a pre-colonial city and former capital of the central Maghreb and the hawz, a set of localities of its periphery including Ain El Hûts. Thus defined, this territory is known for its ritual facilities including the Moorish bath, commonly called Hammam. Knowing that this social space, known for its functions, we approached this subject to highlight the mode of management, based on customary law, commonly called "Orf". This question falls within the framework of socio-anthropological studies. Indeed, the Moorish bath, in general, is considered as an annex of the mosque, a place and space of socio-cultural and especially cultural practices: it is recognized for its rituals including that of ablutions and body purification for women and men. For the local culture of the studied territory, the old Moorish baths are still managed according to the custom, respected by the respective population of the medina and the hawz. Moreover, all the uses and functions are rented to the individuals who frequent this public establishment. We have treated the traditional Moorish bath in Tlemcen and in the hawz (Ain El Hûts).

**Keywords:** Medina Equipment, Hammam, Moorish Bath, Custom, Customary Law, Rights and Obligations, Tlemcen, Algérie

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## 1. Introduction

By "Orf", we mean customary law [25]. In legal matters [7], it represents a set of rules, established and accepted unanimously in certain places or localities [12], for their application and execution with the aim of making of these conventions a law, adopted by the category or social groups [4]. All the cities of the Maghreb are known for their Hammam [2] customs, which are almost identical [10].

Going to the Moorish bath is a custom [5] and a customary tradition [5].

In the case of Tlemcen, the population is made up of Arabs and non-Arabs, as has been verified historically.

The social group of Arab origin includes the rural Arabs who became city dwellers over time, the Andalusians, who arrived after the reconquest of Spain, the chorfa, noble by their ancestry, whose ancestors are the brothers Idriss El Akbar and Souleimane. They are called "El Hdar" (civilized in the sense of city dwellers!) [25].

To this category, families of African origin or from the South of Algeria are added.

The "qaraghila" or "qouloughlis" are families of non-Arab origin. Converted to Islam, they accompanied the Barbarossa brothers in their expedition to the Maghreb for some and North Africa for others. Of several nationalities, they joined the ranks of these Muslim sailors and privateers [25].

A third group is made up of semi-rural people, living outside the city limits, the "Hawz"; but they keep the habits of the city dwellers through their frequent and usual contact. It is the "Hawzis" who are in perpetual contact with the inhabitants of the city since a small distance separate these "Hawzie" localities from the chief town, the former capital of the central Maghreb [25].

Their language is slightly deformed from "El Ala", the popular language of the city's inhabitants [15].

Customary law is defined as a set of laws, called customs.

Originally, this oral law was never written down, but established and respected by tacit consent of the population who had adopted it from father to son.

*"Under the influence of local necessities, writes Abdeslam Aboubekr, the needs increasing in a disproportionate way with the unavailable cash, one had recourse to various*

*modes to make up for this missing cash.*

*Hence, the various local uses, either in agriculture, or in trade and industry. Thus, although they are prohibited by the principles of Muslim law, which requires that the price in leases, in all contracts, be clearly fixed without any element of uncertainty, the lease for partial settlement, the lease for livestock, etc., are very common among the Muslims of Algeria."*

In the Hammam [9], the local usage for trade is meant to make it, on the whole, the customary law. This law-tradition or custom, is established, observed and respected by the population [11], in the case of the silence of the law.

This work presents the Hammam and the customary law to know and take note of an information, of great social and economic importance since it is a commercial use in this profession known as liberal.

To this end, we recall that there was, also, another custom:

*"During the Naïr, the khammas make gifts in kind, milk and stems of "doum", the dwarf palm tree. In return, they receive, mainly, fruits. The heads of the family generally give gifts to all the "Tarrahine El Khobz", the operators of the bread ovens, called banal ovens and "Hammamdjia", the servants of the Moorish baths."*

In essence, this custom presents a curious work on commercial and human relations in Tlemcen and its "Hawz".

This work is an attempt to study the Moorish bath from the point of view of "orf", i.e. customary law.

The Hammam [8], as we know, is a commercial establishment and offers its services to the population in exchange for a sum of money<sup>1</sup> [18] or a share of money.

The use of the hammam, as a place of purification [14], is associated with the conception of social and religious life [13].

Few articles relating to the hammam in the Maghreb have been published<sup>2</sup>.

## 2. Rights of the Customer

The customer can be a man or a woman, called respectively customer and client.

### 2.1. The Rights of the Customer

The customer has the right to his normal and ordinary bath, without any supplement of the service of the establishment.

He is free to return or not to return to the bath. He/she is entitled to the following only:

1. A place in the rest room to put away his clothes, rest and get dressed.
2. A place inside the oven.
3. An "Eub"<sup>3</sup> not more than two, and this in case of availability. A basin for washing and (if available) for rinsing with cleaner water.

4. A "sétra",<sup>4</sup> to enter the oven.

5. Water for bathing, during all his presence inside the oven.

6. A pair of "Araqueub"<sup>5</sup>.

7. A pair of loincloths (old Fouta!) to leave the study and have your body wiped wet.

The privileged customer has, as for him, as a regular of the establishment, other advantages and privileges.

In addition to the rights of the ordinary customer, he benefits from:

1. A special consideration.
2. An exceptional welcome by the owner of the establishment and the "Moutchou"<sup>6</sup>.
3. Better treatment by the staff of the establishment.
4. An improved service.
5. A pair of towels to cover the whole body, one for the lower part and the other to put on the shoulders. At the entrance of the oven, these two pieces are recovered; but the one for the lower part is replaced by a "Setra", a clean loincloth (or piece of linen) soaked in warm water that he must keep until he comes out of the oven, after having taken his bath.
6. A better pair of "ar-aeub
7. Accompaniment by the "Keyèss"<sup>7</sup>, the masseur who will personally take care of him.
8. A better place, according to his choice.
9. The installation.
10. Two "Eubab" to wash and rinse the body.
11. The distribution of water in priority, in the desired quantity.
12. Filling of the "Eubab" by the masseur.
13. Washing and cleaning of the designated place.
14. The water is mixed with water at the correct temperature.
15. The choice of a better place for the massage after sweating the body.
16. A clean "M'hakka" session, after being well washed.<sup>8</sup>
17. Massage sessions.
18. Additional exercises.
19. Washing and rinsing the body after three layers of soap.
20. A pair of loincloths (large terry towels that are one's own, clean and of good quality), brought by the masseur or the "moutchou"<sup>9</sup>.
21. Preparation of a comfortable bed to lie down and rest in.
22. Covering the whole body and head with clean, good quality loincloths or large "foutas"<sup>10</sup>.
23. A hot<sup>11</sup> or cold<sup>12</sup> drink.
24. Help in getting dressed.

4 Ordinary fabric loincloth.

5 Wooden skates.

6 The boy of the Moorish bath.

7 The professional masseur of the Moorish bath

8 The scrubber.

9 Employee, in charge of several services.

10 Known, in some regions, under the name of "Bchakir".

11 Generally, a tea.

12 A lemonade, also called "gazouz" (in the sense of carbonated).

1 Acceptée par les deux parties: consentement mutuel et coutumier.

2 Nous rappelons les travaux d'Abdelwahab Bouhdiba (Tunisie):

And a collective work:

3 Wooden conical basin.

25. Assistance to avoid any additional effort.
26. A new massage of the body to dry it out

## 2.2. The Rights of the Client

Women are not organized like men and they do not have at their disposal masseuses since they rub their bodies themselves until their skin becomes "red"<sup>13</sup>. They take care of the security of their affairs.

Modest or rich, the woman is simple in the bath. The ordinary or privileged client has the right to her normal and most ordinary bath, without asking for extra service from the establishment.

She is generally free to use the same bath.

She benefits, like all the women, from:

1. A place in the rest room for the storage of her suitcase, containing her new effects.
2. A place on a bench to get dressed.
3. A place inside the oven, thanks to the placement, carried out by the "tayyaba".<sup>14</sup>
4. A limited number of "Eubab"<sup>15</sup> no more than two, depending on the availability and the number of children she accompanies.
5. The amount of water for her needs (including the number of children) for the bath. She is better served only if she gives a tip to the "tayyaba".
6. Freedom of movement inside the bath.

When she arrives at the bath, she must bring her personal belongings, including

1. A pair of "ara-queub", wooden skates.
2. A "sétra", a cloth loincloth according to her taste to enter the steam room. For the new bride, it is brand new. At the entrance of the oven, this piece is kept. The woman, alone, rinses her "Setra", and soaks it in warm water to keep it until it comes out of the oven, as for the men.
3. A pair of loincloths (Fouta of exit!) to wipe the wet body after the exit of the oven. For the new bride, a pair of new towels to be able to cover all the body, the first one will cover for the lower part and the other one to put on the head and which falls on the shoulders. No one is at her service to bring her these clean and dry towels.
4. A rubbing cloth ("M'hakka") of her own. The majority of women keep these scrubbers, made by their ancestors.

To take a bath, she is obliged to come among the first to be able to claim:

1. A better place.
2. A better installation.
3. Her "Eubab" are according to the availability to wash and rinse her body, as well as for her children.

As the massage and other additional services are non-existent, the woman takes care of the correct procedure and the progress of her bath:

1. The drawing of water from the two "Bormats".<sup>16</sup>

2. The distribution of water according to the number of customers, and in quantity distributed by the "tayyaba", in charge of the discipline and the equitable distribution of water.
3. The filling of the "Eubab" is done by herself.
4. The washing of the square is her duty.
5. The cleanliness of the place depends on her will.
6. The water following the temperature supported by her, after mixing hot water with warm water.
7. To the choice of a place for a better perspiration of the body.
8. The rubbing sessions are limited. They rub the back in pairs.
9. Washing - rinsing of the body after the layers of soap is the responsibility of the woman except for the parts of the body, difficult to reach.

There is no privileged customer in the Hammam of Tlemcen and its "Hawz" (the surroundings!) since she takes care of herself: bath, clothing and perfumes [8].

In general, the women are used to only one establishment. She will be able to claim consideration and small privileges and rare advantages only on the basis of a payment of a tip, given directly to the "Tayyaba".

Only in one case, the wedding, the bride can, only, benefit from:

1. A special consideration, for her quality of new bride.
2. An exceptional welcome, in the presence of her guests, by the female staff of the establishment.
3. The best treatment is limited to the good follow-up of the course of the ceremony by the female staff of the bath. It is about "youm etschlil"<sup>17</sup> and "tsaghness".<sup>18</sup>
4. The improved service, provided only by members of his family.
5. The pair of "ara-queub" is part of her "barma".<sup>19</sup>
6. The accompaniment by the bride's relatives.<sup>20</sup>

No woman can ask for her effects, except in the case of a sick or old person who deserves respect for her advanced age. These old people are entitled to exceptional favors.<sup>21</sup>

After the bath, the woman must sponge her body to get dressed as soon as possible. It does not require, therefore:

1. The preparation of a bed or mattress to lie down or rest on.
2. The covering of the whole body and head with loincloths by another person, except for the bride who has her own large "foutas".
3. Help to get dressed.
4. The assistance of another person.

## 3. Obligations of the Customer

The man, as for the woman, must:

<sup>17</sup> The last bath of a young girl.

<sup>18</sup> The ceremony of the first collective bath of the new bride.

<sup>19</sup> A seal for the bath.

<sup>20</sup> The masseuse does not exist among women since the woman will take care, personally, of her business and her displacement and the washing of her children.

<sup>21</sup> Until reaching the free bath.

<sup>13</sup> In a popular expression: "hattsa ts-achchér el jelda" (until she flayed her skin!)

<sup>14</sup> A woman, in charge of a number of services inside the Moorish bath.

<sup>15</sup> Basins or conical buckets in wood.

<sup>16</sup> Basins

### 3.1. Pay the Fees

1. The price of a "Tsahmima", a bath (in the sense of taking a bath!) for the ordinary customer without consumption or additional service.
2. The price of consumption is extra and depends on the type of consumption (hot or fresh!).
3. This obligation is the same for women, all alone without accompanied persons.
4. Children are usually accompanied to the bath by their mothers. In the case of a bath for children, the price of the bath is determined according to the sex and age of the child:
  - 1) A child, of both sexes, does not pay for the bath until the age of five years.
  - 2) A child, of either sex, between the ages of five and eight, the mother gets half price.
  - 3) For a girl over ten years must pay the full rate.
  - 4) The boy of eight years is, automatically, excluded from the bath.
  - 5) The woman has to pay the amount fixed by the "Mâalèma" (the boss or the person in charge of the cash register!)

### 3.2. Comply with Discipline

#### 3.2.1. The Respect of the Place

The hammam is a space where the rules of hygiene and behavior are de rigueur. The ritual purification is a physiological and psychological activity.

By its functions, it is and it remains a place for the care of the body.<sup>22</sup> The respect of the place is a "âada", a custom and an ancestral cultural practice [8].

The hammams [3] are not, socially speaking, Roman balneas, but institutions, developed in a systematic way with the Muslim religion. These Moorish baths preserve respectful habits and traditions and end up inculcating an exciting, constructive and instructive culture.

The structures remain the same without the modification of the functionality of the hammam [6].

They let us understand the marks of a civilization and the apprehension of the human body, the great concern of the hygiene by the principles of the body maintenance, and especially in the women who, generally, adopt, since their young age, the cult of the aesthetics and the beauty of the physique.

*"On the contrary, the bath is a place where one stays for a long time, where one stays and lives a rather important period of time" writes Abdelwahab Bouhadiba to say that the hammam, as rivaling the Roman baths, has a temporality of its own.* [6]

The distribution of its rooms imposes the respect by the use and the tradition. Its ritual equipment fully facilitates the use

of the place: the adjoining rooms reflect the complementarity and understanding of the heritage of the Arab-Muslim civilization.

Next to a hammam, no Moorish café is open. These establishments are usually in the alleys and streets less frequented by strollers or by individuals looking for a small business.

#### 3.2.2. The Mutual Respect of Individuals

*"Of course, in the hammam, the ladies, writes Abdelwahab Bouhadiba, were going even further. It is for them a -sortie-, a spectacle, an entertainment, a change of scene, a relaxation in the full sense of the word. So, they spent afternoons, even whole days there."* [6]

All these overruns in the space-time remain regulated by the good dress, good conduct and good behavior of individuals towards others. Respect for customers is mutual. The staff behaves, with great care.

The ritual purification of the body<sup>23</sup> is done in total discretion, out of sight of individuals.

Moreover, politeness is de rigueur: courtesy, mutual and ritual greetings. Moreover, Islam encourages, according to the principles of the Koran, politeness, propriety and respect for others.

## 4. Conclusion

Despite all the virtues of the traditional hammam, it is a place of body hygiene where customary law has its place. It affects relationships and behaviors to be able to remain a place of meeting, consultation and popularization. Communication occupies an important place in the life of the customers attending the same Moorish bath. The chatter and ostentation are de rigueur for a better exchange of views on the body [24] of the other.<sup>24</sup>

In the hammam [16], the hunt for the impure keeps away the evil spirits and the envious by the purification which is a technique of security. The principles of the hammam go from simple hygiene to the greatest ritual. Water, in general, fulfills several functions which aim at the social, cultural and religious life.

The custom imposes itself to ensure the good functioning of the establishment, generally, managed by the customary law.

As a highly eroticized place, it is associated with the principles of elimination of all defilements. This purification technique is a religious matter and not a matter of custom. It is, therefore, a matter of ritual purity [19].

Through the rules of customary law, the hammam encourages the recognition of the alternation that gives rhythm to the social, family and religious life of the individual. This form of respect and consideration refers any individual to purification, thus to cultural and cultic sacredness.

<sup>22</sup> To wash parts of the body (ablutions), or even the whole human body.

- to cleanse some parts of the body.

- to purify oneself in a ritual way in order to be able to do one's daily prayers and others.

- to perfume oneself (especially women).

<sup>23</sup> I am talking about the great ablutions and the operations of depilation. It should be noted, moreover, the religious obligation of body hygiene with all the ritual techniques of purification.

<sup>24</sup> Body shape, build and defects. Clothes and beauty products. Jealousy also has its place.

The hammam [22] is a place of observation and observance. Through purification, there is a hunt for impurity and adoption of the customary practice for bodily cleanliness.

Through customary law, the hammam becomes an important place that participates in the formation of the mentality of respect [21] for others, in the management of human relations [23].

Social life [17] is generally based on traditions that formulate the principles of customary law.

The hammam makes the life of individuals and the envy of others [20].

## References

- [1] Abou Bekr (Abdeslam) Usage de droit coutumier dans la région de Tlemcen in *Revue Africaine*, 1936, pp 813-66.
- [2] Achour (Christiane) et autres Espaces en littérature. Etude de quelques romans algériens. pp. 279-295 Collectif (présentation de Nadir Marouf). *Espaces maghrébins: pratiques et enjeux*. Alger-Oran, ENAG URASC, 1989, 322 p (actes du colloque de Taghit, 23-26 novembre 1987).
- [3] Beaussier (Marcelin) *Dictionnaire pratique Arabe- Français* Alger, la Maison Des Livres, 1958 (Nouvelle édition, revue, corrigée et augmentée par M. Mohamed Ben Cheneb.
- [4] Bourdieu (Pierre) *La domination masculine* Paris, Le seuil, 2002, 177p.
- [5] Bonte (Pierre) et Izard (Michel) (S/D) *Dictionnaire de l'ethnologie et de l'anthropologie* Paris, Quadrige/PUF, 2007, 842 p (3<sup>ème</sup> édition).
- [6] Bouhadiba (Abdelwahab) *La sexualité en Islam* Paris, Quadrige/PUF, 1975, 320 p.
- [7] Charnay (Jean-Paul) *La vie musulmane en Algérie d'après la jurisprudence de la première moitié du XX<sup>e</sup> siècle* Paris, Quadrige-PUF, 1991, 429 p.
- [8] Chebel (Malek) *Dictionnaire des symboles musulmans. Rites, mystique et civilisation* Paris, Albin Michel, 1995, 501 p.
- [9] Collectif (sous la dir. de Mohammed Ali Amir-Moezzi) *Dictionnaire du Coran* Paris, Robert Lafont, 2007.
- [10] Douglas (Mary) *De la souillure. Essai sur les notions de pollution et de tabou* Paris, La Découverte, 2001, 206 p.
- [11] Ferréol (Gilles) *Vocabulaire de la sociologie* Paris, PUF, 1997, 127 p (Collection Q. S. J.).
- [12] Grand-Guillaume (G.) *Nedroma. L'évolution d'une medina* Suisse E. J. Brill-Leiden, 1976, 195 p.
- [13] Hamidullah (Muhammed) *Initiation à l'Islam* Alger, La Mosquée des Etudiants de l'Université d'Alger, 1981, 311p.
- [14] Ibn Abī Zayd Ak-Qayrawānī (Abou Muh'ammed Abdallāh) *La Risāla ou Eptre sur les éléments du dogme et de la loi de l'Islām selon le rite mālīkite* Alger, Editions Populaires de l'Armée, 1983, 371 p.
- [15] Lentin (Albert) *Supplément au dictionnaire pratique Arabe-Français de Marcelin Beaussier* Alger, La Maison Des Livres, 1959.
- [16] Louis (A) «Hammam» In *Encyclopédie de l'Islam* Paris, Ed. Maisonneuve et Larose, 1974 (nouvelle édition).
- [17] Marçais (Georges) «Dar» In *Encyclopédie de l'Islam* Paris, Ed. Maisonneuve et Larose, 1974 (nouvelle édition).
- [18] Maunier (René) *Coutumes algériennes* Paris, Editions Domat-Montchrestien, 1935, 202 p.
- [19] Moezzi (Mohammed Ali Amir) (S/D) *Dictionnaire du Coran* Paris Robert Lafont, 2007, 981 p.
- [20] Pauty (Edmond.) *Vue d'ensemble sur les hammams de Rabat-Salé*, in *Revue Africaine* n° 88 (1944), pp. 202-226.
- [21] Pont-Humbert (Cathérine) *Dictionnaire des symboles, des rites et des croyances* Paris, Ed. J. C. Lattès, 1995, 434 p.
- [22] Reig (Daniel) *Dictionnaire Arabe –Français et Français-Arabe –Essabil* Paris, Bibliothèque Larousse, 1983.
- [23] Tillon (Germaine) *Le harem et les cousins* Paris, Le Seuil, 2008, 212 p.
- [24] Zannad (Traki) *Symboliques corporelles et espaces musulmans* Tunis, Cérés Production, 1984 *Espaces humides féminins dans la ville. le dar el arbi et le hammam. Etude de cas: la médina de Tunis*. Pp. 233-239 Collectif (présentation de Nadir Marouf). *Espaces maghrébins: pratiques et enjeux*. Alger-Oran, ENAG-URASC, 1989, 322 p (actes du colloque de Taghit, 23-26 novembre 1987).
- [25] *Entretiens avec des personnes âgées dont: -Hadj Abdellah Boutaleb -Mohammed Ben Ahmed -Hadj Khira Benguedih -Fatima –Zohra M'hidi.*