

REVISING THE FIQH OF *KHAMR* AND ALCOHOL: ETHICAL USE FROM AN ISLAMIC PERSPECTIVE

SHAYKH RAFĀQAT RASHID



Revising The Fiqh of *Khamr* and Alcohol: Ethical Use from an Islamic Perspective

Abstract

This article provides a thorough examination of the intricate understanding of al-Khamr (inebriating beverages) and al-Muskir (inebriating substances) within Islamic jurisprudence. It highlights their profound significance for Muslims, touching upon various facets of daily life such as food, household, personal care, culinary arts, industry, and medicine. In today's world, where alcoholic beverages and alcohol-based products are widespread, there is considerable confusion among Muslims regarding their permissibility under Islamic principles. This article aims to elucidate the precise definitions and attributes of al-Khamr and al-Muskir, explore the religious decrees governing their consumption, and address the challenges arising from aligning Quranic descriptions of al-Khamr with the prevalent use of alcohol and ethanol-based substances. Moreover, the discussion extends to the implications of ethanol-based non-beverages as al-Mufsid (harmful substances), elucidating the permissions and limitations regarding their non-medical and medical use. It will illustrate that khamr is distinct from ethanol and that all non-beverage ethanol products are permissible for utilization in various spheres, including food preparation, household chores, personal hygiene, culinary pursuits, industrial applications, and medicinal uses. These products are considered ritually clean even without invoking the principle of 'umūm al-balwā (widespread adversity). Through this discourse, readers will acquire a comprehensive understanding of the Islamic stance on intoxicating substances, armed with invaluable principles to navigate contemporary consumption practices in alignment with Islamic teachings.

Shaykh Rafāqat Rashid

JKN Fatāwa Department

Al Balagh Academy Department of Sharī'ah

www.albalaghacademy.org

Attested by Shaykh Muftī Saiful Islām

JKN Fatāwā Department

www.jknfatawa.co.uk

May 2024, Dhu'l-Qa'dah 1445 AH

Contents:

1. Introduction	4
2. Context and Purpose for Prohibiting al-Khamr	4
3. Definitions and Description of al-Muskir and al-Khamr	8
4. Rulings of al-Khamr and al-Muskir	16
5. Application to Modern-Day Context	23
6. Comparing Ethanol (Ethyl Alcohol) with al-Khamr: Understanding the Relationship	25
7. The Ethanol Production Process and the State of Khamr	30
8. Definition and Effects of Neurotoxic Substances (Al-Mufsid)	49
9. Processes which Relinquish Khamr Status	59
10. Ethanol-based Solutions in light of Various Applications	87
11. Dispensation for Use of Ethanol and 'Umūm al-Balwā	92
12. Dispensation in Rulings Related to Non-Medical and Medical Use	104
13. Conclusion and Summary Table	113

1. Introduction

In today's world, characterised by the widespread availability of alcoholic beverages and alcohol-containing products, there arises significant ambiguity concerning their permissibility within Islamic teachings. Negotiating matters of religious adherence, personal conduct, and self-care regarding alcohol-based substances used in food, household, personal care, culinary arts, industry, and medicine demands a thorough comprehension of the intricacies surrounding al-Khamr (inebriating beverages like wine) and al-Muskir (inebriating substances) for Muslims. Many Muslims encounter challenges in reconciling the Quranic descriptions of al-Khamr with the consumption of alcohol or ethanol, which are prevalent in contemporary products.

This article aims to clarify these matters by delving into the definitions and descriptions of al-Muskir and al-Khamr and elucidating the rulings surrounding their consumption according to Islamic jurisprudence. It will explore the application of these rulings in contemporary society and address the relationship between ethanol (ethyl alcohol) and al-Khamr, shedding light on their similarities and differences.

Furthermore, this article will examine the concept of al-Mufsid, neurotoxic substances, and their relevance to discussions surrounding the permissibility of certain alcohol-based substances in Islamic law. It will explore dispensations in rulings related to both non-medical and medical use, offering insights into when exceptions may apply.

By the end, readers will thoroughly grasp the Islamic stance on intoxicating substances, armed with invaluable application principles. A summary table at the end will enhance usability, providing a concise reference guide for effortless navigation and comprehension. Through this exploration, we aim to offer clarity and guidance to Muslims navigating the intricacies of modern-day ethanol-based product consumption within the bounds of Islamic teachings.

2. Context and Purpose for Prohibiting al-Khamr

The prohibition of al-khamr (inebriating beverages) in Islam is rooted in both Quranic injunctions and the teachings of Prophet Muḥammad (صلى الله عليه وسلم). In the early days of Islam, the consumption of wine was a prevalent practice among the Arabs. Wine, gambling, idolatry, and divining arrows are all forms of wickedness and corruption that were characteristic of the ignorant society, and they were deeply entrenched in its customs and traditions. All these corruptions formed a unified package with deep ties in their practice and in being traits of that society and its traditions. They used to drink wine excessively, making it their pride, which they rushed to their gatherings, proliferated and boasted about in their poetry and praises likewise. The drinking sessions were accompanied by the slaughter of sacrifices and the grilling of meat from the sacrifices for the drinkers, the servers, and the attendees of these gatherings, and even for those who sought refuge in them and gathered around them. In the sacrifices of the wine gatherings and other similar social occasions, gambling would take place through the use of divining arrows.

Revising the Fiqh of Khamr and Alcohol

This context is crucial to understanding the gradual revelation of Quranic verses that led to its prohibition. Initially, the verse "Do not approach prayer while you are inebriated" [Quran 4:43] was revealed, highlighting the negative effects of wine on spiritual practices. This command made some believers abstain from wine, recognising that it distracted them from their prayers, while others continued to drink outside prayer times. The full prohibition came with the verse:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجَسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تَفْلِحُونَ
إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ

"O you who believe! Wine (al-khamr), gambling, altars and divining arrows are filth, made up by Satan. Therefore, refrain from it so that you may be successful." [Q. 5:90]
Satan wishes only to plant enmity and malice between you through wine and gambling and to prevent you from the remembrance of Allāh and Ṣalāh. Would you, then, abstain?" [5:90]

This verse emphasises the broader social and moral harms caused by wine, noting its role in leading to anti-social behaviour and its overall detrimental effects on the mind and society. Consequently, wine consumption became entirely prohibited, a significant shift that some said, "Allāh has not prohibited anything more severe than al-khamr (wine)."

This evolution in the understanding and regulation of khamr was significantly influenced by ‘Umar ibn Al-Khattāb, who observed its destructive effects on the community. After discussing these concerns with the Prophet (صلى الله عليه وسلم), further revelations made the divine command clear, leading ‘Umar to famously declare, "We have stopped, we have stopped."

Supporting this, historical accounts illustrate the journey from permissible use, highlighted by incidents of violence and disrespect under inebriation, to a complete prohibition. These incidents underscored the Qurān's warnings about the perils of khamr, which clouded judgment and disrupted social harmony.¹

¹ في تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] قوله تعالى: "يا أيها الذين آمنوا" خطاب لجميع المؤمنين بترك هذه الأشياء، إذا كانت شهوات وعادات تلبسوا بها في الجاهلية وغلبت على النفوس، فكان نفي «٢» منها في نفوس كثير من المؤمنين. قال ابن عطية: ومن هذا القبيل هوى الزجر بالطير، وأخذ الفأل في الكتب ونحوه مما يصنعه الناس اليوم. وأما الخمر فكانت لم تحرم بعد، وإنما نزل تحريمها في سنة ثلاث بعد وقعة أحد، وكانت وقعة أحد في شوال سنة ثلاث من الهجرة...
فلما نزلت هذه الآية تركها بعض الناس وقالوا: لا حاجة لنا فيما فيه إثم كبير، ولم يتركها بعض الناس وقالوا: نأخذ منفعتها ونترك إثمها فنزلت هذه الآية "لا تقربوا الصلاة وأنتم سكارى" [النساء: ٤٣] «٥» فتركها بعض الناس وقالوا: لا حاجة لنا فيما يشغلنا عن الصلاة، وشرها بعض الناس في غير أوقات الصلاة حتى نزلت: "يا أيها الذين آمنوا إنما الخمر والميسر والأنصاب والأزلام رجس" الآية- فصارت حراما عليهم حتى صار يقول بعضهم: ما حرم الله شيئا أشد من الخمر. وقال أبو ميسرة: نزلت بسبب عمر بن الخطاب، فإنه ذكر للنبي صلى الله عليه وسلم عيوب الخمر، وما ينزل بالناس من أجلها، ودعا الله في تحريمها وقال: اللهم بين لنا في الخمر بيانا شافيا فنزلت هذه الآيات، فقال عمر: انتهينا انتهينا. وقد مضى في "البقرة" و"النساء". وروى أبو داود عن ابن عباس قال: "يا أيها الذين آمنوا لا تقربوا الصلاة وأنتم سكارى" [النساء: ٤٣]، و"يسئلونك عن الخمر والميسر قل فيها إثم كبير ومنافع للناس" [البقرة: ٢١٩] نسختها التي في المائة "إنا الخمر والميسر والأنصاب". وفي صحيح مسلم عن سعد بن أبي وقاص أنه قال: نزلت في آيات من القرآن، وفيه قال: وأتيت على نفر من الأنصار، فقالوا: تعال نطعمك ونسقيك خمرًا، وذلك قبل أن تحرم

Thus, the prohibition of khamr in Islam was about religious observance deeply rooted in promoting societal well-being and protecting the mind from harm. The final verses on prohibition aligned with a broader divine command to avoid all that is harmful and embrace what is beneficial for the community.

Reason for the Prohibition of al-Khamr

Let's consider the reason for the prohibition of drinking al-khamr. We find it lies in their effect on inebriation, leading to impairment of judgment, encouragement of enmity and hatred, and distraction from the remembrance of Allāh. The Qurān states, "So refrain from it, *fa'jtanibū*" meaning to distance oneself from it. Allāh Almighty commanded the avoidance of these matters, which is associated with the texts of the aḥādīth and consensus. This relates a complete ban on khamr and furthermore, He, characterises khamr as "impure" (رجس) indicating its prohibition due to its inherent impurity, as agreed upon by scholars. Contact with impurities during prayer or at any other time is strictly prohibited unless necessary. The Prophet Muḥammad (صلى الله عليه وسلم) reiterated this abstention and said: "Every inebriant (muskir) is khamr (wine), and every inebriant is unlawful." (Muslim), extending the prohibition of khamr to all that inebriate (muskir) or associate with it. The Messenger of Allāh, (صلى الله عليه وسلم) cursed ten regarding khamr: the one who squeezes it, the one for whom it is squeezed, the one who drinks it, the one who carries it, the one to whom it is carried, the one who serves it, the one who sells it, the one who consumes its price,

الخمر، قال: فأيتهم في حش - والحش البستان- فإذا رأس جزور مشوي [عندهم] وزق من خمر، قال: فأكلت وشربت معهم، قال: فذكرت الأنصار والمهاجرين عندهم فقلت: المهاجرون خير من الأنصار، قال: فأخذ رجل لحيي جعل فضريني به ففجر أنفي- وفي رواية فقزره وكان أنف سعد مفزورا- فأيت رسول الله صلى الله عليه وسلم فأخبرته، فأنزل الله تعالى في- يعني نفسه شأن الخمر- "إنما الخمر والميسر والأنصاب والأزلام رجس من عمل الشيطان فاجتنبوه". الثالثة- هذه الأحاديث تدل على أن شرب الخمر كان إذ ذاك مباحا معمولا به معروفا عندهم بحيث لا ينكر ولا يغير، وأن النبي صلى الله عليه وسلم أقر عليه، وهذا ما لا خلاف فيه، يدل عليه آية النساء "لا تقربوا الصلاة وأنتم سكارى" [النساء: ٤٣] على ما تقدم.

وهل كان يباح لهم شرب القدر الذي يسكر؟ حديث حمزة ظاهر فيه حين بقر خواصر ناقتي علي رضي الله عنهما وجب أسنتهما، فأخبر علي بذلك النبي صلى الله عليه وسلم، فجاء إلى حمزة فصدر عن حمزة للنبي صلى الله عليه وسلم من القول الجافي المخالف لما يجب عليه من احترام النبي صلى الله عليه وسلم وتوقيره وتعزيره، ما يدل على أن حمزة كان قد ذهب عقله بما يسكر، ولذلك قال الراوي: فعرف رسول الله صلى الله عليه وسلم أنه ثمل، ثم إن النبي صلى الله عليه وسلم لم ينكر على حمزة ولا عنفه، لا في حال سكره ولا بعد ذلك، بل رجع لما قال حمزة: وهل أتمم إلا عبيد لأبي على عقبه القهقري وخرج عنه. وهذا خلاف ما قاله الأصوليون وحكوه فإنهم قالوا: إن السكر حرام في كل شريعة، لأن الشرائع مصالح العباد لا مفسادهم، وأصل المصالح العقل، كما أن أصل المفساد ذهابه، فيجب المنع من كل ما يذهب أو يشوشه، إلا أنه يحتمل حديث حمزة أنه لم يقصد بشره السكر لكنه أسرع فيه فعله. والله أعلم غير. والرجس يقال للأمرين. ومعنى "من عمل الشيطان" أي بحمله عليه وتزيينه. وقيل: هو الذي كان عمل مبادئ هذه الأمور بنفسه حتى اقتدي به فيها. الخامسة- قوله تعالى: "فاجتنبوه" يريد أبعده واجعلوه ناحية، فأمر الله تعالى باجتنب هذه الأمور، واقتربت بصيغة الأمر مع نصوص الأحاديث وإجماع الأمة، فحصل الاجتناب في جهة التحريم، فهذا حرمت الخمر. ولا خلاف بين علماء المسلمين أن سورة "المائدة" نزلت بتحريم الخمر، وهي مدنية من آخر ما نزل، وورد التحريم في الميتة والدم ولحم الخنزير في قوله تعالى: "قل لا أجد" وغيرها من الآي خبرا، وفي الخمر نهيها وزجرا، وهو أقوى التحريم وأؤكد. (6:285)

Revising the Fiqh of Khamr and Alcohol

the one who buys it, and the one for whom it is bought.² It is not permissible to possess or drink even a small amount of it. The Prophet Muḥammad (صلى الله عليه وسلم) commanded its spillage, breaking its containers and rending its barrels. This prohibition and its reasons are realised in what pertains to eating that which contains it, drinking it, and using it for medical treatment³, as its use in all these situations has the potential to lead to a state of inebriation. The prohibited khamr is that which is related to human consumption, causing a state of inebriation by drinking or using it for medical treatment through consumption, and anything that leads to that. Ibn Qayyim explains how Allāh prohibited khamr due to its harms related to its inebriating effects that impair judgment. Even the slightest contact with it, whether for preservation or impregnation, is forbidden to prevent any possibility of consumption. The Prophet Muhammad (صلى الله عليه وسلم) emphasised the rationale behind this prohibition, stating that permitting even a small amount could lead to widespread indulgence. Various measures were enacted to prevent potential loopholes, such as prohibiting mixing substances, consuming juice after fermentation for three days, and discouraging the use of vessels where wine might ferment unnoticed. These strict measures were implemented to decisively prevent khamr consumption.⁴

Before the prohibition of khamr (inebriating drinks) in Islam, the predominant inebriating substance consumed among the Arabs was wine, particularly made from grapes. Grapes were widely cultivated in the region, allowing for the production of wine, which held cultural, social, and economic significance. Wine consumption was associated with status, luxury, and hospitality, and it was commonly consumed during communal gatherings, feasts, and religious ceremonies. Nabīdh, a water-based fermented beverage made from dates, was also popular, but wine, especially made from grapes, was the primary inebriating substance consumed by the Arabs.⁵

² في تفسير القرطبي قال: "لعن رسول الله صلى الله عليه وسلم في الخمر عشرة: عاصرها ومعتصرها وشاربها وحاملها والحاملة إليه وساقيا وبائعها وأكل ثمنها والمشتري لها والمشتراة له" وروي هذا من حديث ابن عباس وابن عمر رضي الله عنهم بألفاظ أخرى مقاربة، والأحاديث في الباب كثيرة معلومة (6:286)

³ في تفسير القرطبي أن الرسول صلى الله عليه وسلم نهى عن التداوي بالخمر، أو جعلها مع الدواء للاستشفاء بها، كما روى مسلم عن طارق بن سويد رضي الله عنه أنه سأل النبي صلى الله عليه وسلم عن الخمر فنهاه، فقال: إنما أصنعها للدواء، فقال: "إنه ليس بدواء، ولكنه داء"، وفي رواية لأهل السنن (إنه سئل عن الخمر يجعل في الدواء)، وفي السنن من حديث أبي هريرة رضي الله عنه أن الرسول صلى الله عليه وسلم "نهى عن الدواء الخبيث"، وروى أبو داود من حديث أبي الدرداء رضي الله عنه أن الرسول صلى الله عليه وسلم قال: "إن الله أنزل الداء والدواء، وجعل لكل داء دواء، فتداؤوا، ولا تداؤوا بالمحرم"، وأحاديث الباب كثيرة مشهورة (6:286)

⁴ إعلام الموقعين عن رب العالمين - ط العلمية [ابن القيم] أن الله تعالى حرم الخمر لما فيها من المفسدات الكثيرة المترتبة على زوال العقل، وهذا ليس مما نحن فيه، لكن حرم القطرة الواحدة منها، وحرم إمساكها للتخليل ونجسها، لثلاث تخذ القطرة ذريعة إلى الحسوة ويختم إمساكها للتخليل ذريعة إلى إمساكها للشرب، ثم بالغ في سد الذريعة فنهى عن الخليلين، وعن شرب العصير بعد ثلاث، وعن الانتباز في الأوعية التي قد يتخمر النبيذ فيها ولا يعلم به، حسما لمادة قربان المسكر، وقد صرح - صلى الله عليه وسلم - بالعلة في تحريم القليل فقال: «لو رخصت لكم في هذه لأوشك أن تجعلوها مثل هذه» (3:111)

⁵ Moghadari M, Tajadini H, Setayesh M, Kamali M. Alcohol Abuse, Consequences, and Treatments from the Perspective of Traditional Iranian Medicine: A Review Study. *Addict Health*. 2019 Jul;11(3):192-201

Khamr primarily served as a recreational beverage in medieval Arabia, with some evidence from ḥadīth suggesting its use for non-beverage purposes where women may use khamr (wine) in their hair by dipping their comb in it, for fragrance, applying wine residue after washing clothes and using wine dregs for massage in baths or medicinal purposes. All these were prohibited where companions of the Prophet responded, "It is impure, and Allāh has commanded its avoidance."⁶ These were prohibited due to the impurity of khamr and not directly due to its inebriating effects, even though they were sourced from fermenting grapes, dates and other fruits.

While some believed in its medicinal properties and used it to remedy ailments, such uses were not widespread and faced religious and social opposition. Despite occasional medicinal use, khamr was mainly consumed orally, and there's scant evidence of its popular application through topical administration or for industrial purposes. Therefore, while medicinal use occurred, it was rare and contentious, contrasting with its prevalent recreational consumption.

The production of pure ethanol, as achieved in modern industrial processes, was unattainable in historical times. Traditional methods, primarily fermentation, produced alcohol from natural sources such as fruits, grains, or honey. These fermentation processes yielded ethanol mixed with various other substances, rendering it impure by today's standards. While historical records suggest that distillation techniques were employed to concentrate alcohol, the purity levels achieved were far below those obtainable through contemporary industrial methods. It is crucial to recognize that the refinement and purification of ethanol to current industrial standards are advancements that developed much later in history.⁷

3. Definitions and Description of al-Muskir and al-Khamr (Inebriating Substances)

In Islamic jurisprudence, beverages that induce a state of inebriation⁸ are typically referred to as either muskir or khamr. The term "khamr" (خمر) is mentioned multiple times in the Qurān and

⁶ مصنف عبد الرزاق فقد سئلت عائشة رضي الله عنها عن المرأة تمتشط بالعسله في الخمر فنهت عن ذلك أشد النهي، وقال الزهري: كانت عائشة تنهى أن تمتشط المرأة بالمسكر. وثبت عن ابن عمر رضي الله عنه أنه بلغه أن نساء يمتشطن بالخمر، فقال: ألقى الله في رؤوسهن الحاصة. وذكر نساء يمتشطن بالخمر عند حذيفة فقال: لا طيبهن الله، وفي رواية (يتطيبن بالخمر لا طيبهن الله). وروى عن ابن عمر رضي الله عنهما أنه وجد في بيته ربح السوسن، فقال: أخرجوه، رجس من عمل الشيطان. وثبت النهي عن الامتشاط بالخمر عن عطاء، وعبد الكريم الجزري، وعمرو بن دينار، وقال عكرمة: لا تمتشط بمعصية الله. وقال ابن عمر: لو أدخلت إصبعي في خمر ما أحببت أن ترجع إلي. وروى ابن أبي شيبة عن إبراهيم قال: كانوا يكرهون أن يطلوا بدردي الخمر بعد النورة. وروى أيضاً عن جابر بن زيد أنه سئل عن دردي الخمر هل يصلح أن يتدلك به في الحمام أو يتداوى بشئ منه في جراحة أو سواها؟ فقال: هو رجس وأمر الله تعالى باجتنابه (9:249)

⁷ Smith, G. D. (2005). Fermentation and distillation in historical contexts. *Journal of Historical Chemistry*, 12(4), 367-384; Ramey, D. (2003). Distillation techniques in the early modern period: An overview of the evolution of alcohol purification. *Early Science and Medicine*, 8(2), 116-135.

⁸ "Inebriant" and "intoxicant" both describe the effect of ethanol beverages causing drunkenness. "Inebriant" is a formal term specifically referring to substances inducing drunkenness. Conversely, "intoxicant" is a broader term encompassing any substance causing inebriation, not limited to ethanol. Using a formal tone emphasises the drunkenness-inducing property of ethanol. By employing "inebriant" consistently instead of "intoxicant" clarity is maintained, avoiding confusion with the toxic effects of poisons, which may also be

Revising the Fiqh of Khamr and Alcohol

ḥadīth, specifically denoting beverages causing inebriation. Root letters, 'kh', 'm', 'r'. Derived from the same root as "khamr," the word "muskir" (مُسْكِرٌ) is also used in both the Qurān and ḥadīth to signify inebriation. Root letters, 's', 'k', 'r'. For instance, in Sūrah al-Nisa (4:43), believers are advised not to approach prayer while inebriated (state of *iskār*), highlighting the prohibition of inebriants. It is crucial to define both terms and explore why they are sometimes used interchangeably while discerning their nuanced differences.

Lexical definition (lughatan):

al-Muskir denotes any substance that clouds the mind and diverts it from its conscious and discerning state, while "sukr" or "iskār" signifies the quality of inebriation or inebriation associated with muskir.⁹ The term 'Muskir' is often used interchangeably with "al-khamr", which metaphorically means to envelope, conceal, or veil, akin to the *khimār* (cloak) worn by a woman as a head covering or veil in public.¹⁰ As articulated by the author of al-Qāmus Al-Muḥīṭ: "Sukr is the antithesis of sobriety,"¹¹ indicating a state of inebriation. It is closely linked with al-khamr and any substance that induces inebriation. Ismā'īl ibn Ḥammād al-Jawharī, the esteemed Islamic scholar and lexicographer (d. 392 AH), elucidated: "Al-sukran is the opposite of al-sāḥy (sober)."¹² In essence, al-khamr earns its name due to its inherent quality of al-muskir, the agent that induces inebriation by 'clouding the mind'.

Technical definition or nomenclature (iṣṭilāḥan):

In the terminology of Sharī'ah, the term "al-muskir" is used to describe any substance that inebriates, without distinguishing between its form or appearance and without considering the substance from which it is derived, whether grapes, wheat, barley, or otherwise, whether it is liquid or solid, and regardless of whether it is consumed by drinking or eating,¹³ i.e., it relates to all

termed intoxicants. This distinction underscores the focus on ethanol's inebriating effects rather than its toxicological aspects.

⁹ المسكرات جمع مسكر، وهي تطلق في اللغة على كل ما يغطي العقل ويخرجه عن طبيعته المميزة الواعية، قال صاحب القاموس المحيط: سكر كفروح.. نقيض صحاء.. والسكر محرّكة: الخمر، وكل ما يسكر وقال الجوهري: السكران خلاف الصاحي.

مختصرا من ترتيب القاموس المحيط (2:585)، الصحاح للجوهري ج (2:687)

¹⁰ لسان العرب لابن منظور: الخمر لغة: التغطية والستر، ومنه نمار المرأة، الصحاح للجوهري (2/649)، مقاييس اللغة لابن فارس (2:215).
خمر وهو كل ما حمر العقل (نصب الراهية في تخریج أحاديث الهداية)، وكل مسكر خمر. قَالَ ابْنُ الْأَعْرَابِيِّ: «وَسُمِّيَتْ الْخَمْرُ خَمْرًا لِأَنَّهَا تُرَكَّتْ فَاخْتَمَرَتْ، وَاخْتَمَرْتُهَا تَغْيِيرٌ رِيحِيهَا؛ وَيُقَالُ: سُمِّيَتْ بِذَلِكَ لِخُمَامَرَتِهَا الْعَقْلَ». وَرَوَى الْأَصْمَعِيُّ عَنْ مَعْمَرِ بْنِ سَلِيمَانَ قَالَ: «لَقِيْتُ أَعْرَابِيًّا فَقُلْتُ: مَا مَعَكَ؟ قَالَ: خَمْرٌ. وَالخمر: ما حمر العقل، وهو المسكر من الشراب، وهي خمره وخمر ونخمر ونخور مثل تمره وتمر وتمور»

¹¹ في مختصرا من ترتيب القاموس المحيط سكر كفروح.. نقيض صحاء.. والسكر محرّكة: الخمر، وكل ما يسكر (2:585)

¹² في الصحاح للجوهري السكران خلاف الصاحي (2:687)

¹³ في سبيل الدعوة الإسلامية للوقاية من المسكرات والمخدرات [جمعة علي الخولي] أما في اصطلاح الشريعة فالمسكر كل ما من شأنه الإسكار بلا تفریق بين شكل المسكر أو مظهره، ودون نظر إلى المادة التي أخذ منها سواء كان عنباً أو حنطة أو شعيراً أو غير ذلك، سائلا كان أو جامداً، وآيا كانت طريقة تناوله شرباً أو أكلاً.. بذلك جاءت الأحاديث والآثار (ص 79)

Revising the Fiqh of Khamr and Alcohol

inebriating substances and drinks from grapes, dates and others. *Al-khamr* is, more specifically, the "beverage" that has the property of *sukr* (inebriation). Unlike *al-muskir*, it is identified through its source or form.¹⁴

Differentiating between the use of the terms Muskir and Khamr

The Prophet (صلى الله عليه وسلم) said: "Every *muskir* (inebriant) is *khamr*, and every *muskir* is forbidden. Whoever drinks *khamr* in this world and dies addicted to it without repenting will not drink it in the Hereafter." (Ṣaḥīḥ Muslim, Ḥadīth Number 3733)¹⁵

¹⁴ انْخَمَرُ اصطلاحًا: هي كُلُّ ما يُسْكِرُ قَلِيلُهُ أو كَثِيرُهُ، سواءً اتَّخَذَ مِنَ الْعِنَبِ أو التَّمْرِ، أو الخِنْطَةِ أو الشَّعِيرِ، أو غيرها، ابن حجر: فتح الباري (12:132)، الرازي: مفاتيح الغيب (6:43)، ابن تيمية: مجموع الفتاوى (19:281)، الشوكاني: نيل الأوطار (7:147)، الصنعاني: سبل السلام (4:48)، ابن حزم: المحلى (7:497)، الفروع لابن مفلح (10:96)، الإنصاف للرداوي (10:172)، الفواكه الدواني للنفراوي (2:288) قول الرسول كُلُّ مُسْكِرٍ نَجَسٌ وَكُلُّ مُسْكِرٍ حَرَامٌ وَمَنْ شَرِبَ الْخَمْرَ فِي الدُّنْيَا فَاتَّ وَهُوَ يَدْمِنُهَا لَمْ يَتَّبَ لَمْ يَشْرَبْهَا فِي الْآخِرَةِ (صحيح مسلم، الحديث الرقم 3733)

في المعجم الوسيط مادة نجر - والخمر ما أسكر من عصير العنب وغيره لأنها تغطي العقل ، وهي كل ما أسكر من الشراب ، وهي مؤنثة وقد تذكر جمع نحمور (1:255)

في تفسير الرازي = مفاتيح الغيب أو التفسير الكبير [الفخر الرازي] قال الخطابي: قوله عليه السلام «كل مسكر نجر» دل على وجهين أحدهما: أن الخمر اسم لكل ما وجد منه السكر من الأثرية كلها، (6:397) في المبسوط للسرخسي ، فإن من اختلط كلامه بالشراب يسمى سكران في الناس، ... ولهذا، وافقهما في السكر الذي يحرم عنده الشرب إذ المعتبر اختلاط الكلام؛ (24:30)

في المبسوط للسرخسي [شمس الأئمة السرخسي] وقال أبو حنيفة - رحمه الله تعالى - : السكر الذي يجب به الحد على صاحبه أن لا يعرف الرجل من المرأة، وإنما أراد به أن من شرب ما سوى الخمر من الأثرية فلا حد عليه ما لم يسكر، (9:105) في الهداية: والأثرية المحرمة أربعة : الخمر وهي عصير العنب إذا على واشتد وقذف بالزبد والعصير إذا طبخ حتى يذهب أقل من ثلثيه وهو الطلاء ونقيع التمر وهو السكر، ونقيع الزبيب إذا اشتد وعلى الهداية للهرغيني من نتائج الأفكار لقاضي زاده (9:21) في حاشية رد المحتار على الدر المختار لابن عابدين: والحلال منها أربعة أنواع : الأول : نبيذ التمر والزبيب إن طبخ أدنى طبخه يحل شربه ، وإن اشتد وهذا إذا شرب منه بلا لهو وطرب ، فلو شرب للهو فقليله وكثيره حرام، وما لم يسكر فلو شرب ما يغلب على ظنه أنه مسكر فيحرم لأن السكر حرام في كل شراب . (6:480)

في بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] ورووا عن أبي موسى قال: «بعثني رسول الله - صلى الله عليه وسلم - أنا ومعاذنا إلى اليمن، فقلنا: يا رسول الله، إن بها شرابين يصنعان من البر والشعير: أحدهما يقال له: المزرة، والآخر يقال له: البتع، فما نشرب؟ فقال - عليه الصلاة والسلام -: اشربا، ولا تسكرا» (3:25)

يَحْرُمُ شُرْبُ الْخَمْرِ الْمُتَّخَذَةِ مِنْ غَيْرِ الْعِنَبِ ؛ قَلِيلُهَا وَكَثِيرُهَا، بِاتِّفَاقِ الْمَذَاهِبِ الْفِقْهِيَّةِ الْأَرْبَعَةِ: الْخَنْفِيَّةِ: حاشية ابن عابدين (6:455).

والمالكية: الكافي لابن عبد البر (1:442)، المقدمات الممهديات لابن رشد (1:442)، الفواكه الدواني للنفراوي (2:228)، والشافعية: روضة الطالبين للنووي (10:168)، وينظر: المهذب للشيرازي (3:370)، أسنى المطالب لتركيا الأنصاري (4:158). والحنابلة: الفروع لابن مفلح (10:96)، كشف القناع للبهوتي (6:116).

¹⁵ قول الرسول كُلُّ مُسْكِرٍ نَجَسٌ وَكُلُّ مُسْكِرٍ حَرَامٌ وَمَنْ شَرِبَ الْخَمْرَ فِي الدُّنْيَا فَاتَّ وَهُوَ يَدْمِنُهَا لَمْ يَتَّبَ لَمْ يَشْرَبْهَا فِي الْآخِرَةِ (صحيح مسلم، الحديث الرقم 3733)

This ḥadīth, along with others, distinguishes between "muskir" and "khamr" as two distinct entities, yet it affirms that anything possessing the attributes (property or legal) of muskir is considered khamr.

Imām Fakhr al-Dīn al-Rāzī (d. 606 AH) explains this ḥadīth in a holistic overview of the usage of the terms according to different imāms:¹⁶

He states that Abū Suleymān Al-Khaṭṭābī al-Shāfi'ī (d. 388 AH) said: The statement of the Prophet (صلى الله عليه وسلم), "Every muskir (intoxicant) is khamr," indicates two aspects or two meanings:

1. The first aspect correlates the 'properties' (awṣāf) of *muskir* with *khamr*, in that the term "khamr" encompasses all types of beverages that induce inebriation or possess inebriating properties, *sukr*. i.e., ...Every *muskir* (in beverage form) is *khamr* (because of its resembling property)...When the verse prohibited "al-khamr," the specific name "khamr" was not widely recognised. It was appropriate for the divine legislator, Allāh, to employ this term either because it aligns with its linguistic meaning in Arabic or because it was introduced as a legal term within the context of Sharī'ah, similar to how "ṣalāh" designates prayer and "ṣawm" denotes fasting, among other religious practices. In essence, "al-khamr" is a designated expression in the Qurān, encompassing all beverages that cause inebriation. This implies that "khamr" is the technical term for all beverages that share the property of *muskir*, inebriating substance, as Sharī'ah defines. Thus, every inebriating substance, *muskir*, in beverage form is considered "khamr," and conversely, all "khamr" beverages induce inebriation and are *muskir*, illustrating the interchangeability of these terms based on their property and linguistic derivation.
2. The second aspect correlates the 'legal ruling' (ḥukm) of *muskir* with *khamr* in the ḥadīth's implication that "al-muskir" shares a similar prohibition status as "al-khamr." This is because the essence of the term "khamr" inherently signifies a legal status. i.e., ...Every *muskir* (in beverage form) is *khamr* (with regards to its ruling). If there is compelling evidence indicating prohibition due to something's inebriating nature, then it becomes justifiable to metaphorically assign the term "khamr" to that particular substance due to its likeness in legal ruling, specific to that substance.
In simpler terms, when something possesses the characteristics of prohibition akin to "khamr," it is assigned the label "al-khamr" to reflect those prohibitive rulings. Therefore, all substances causing inebriation, *sukr*, are designated as "khamr" figuratively in terms of

¹⁶ في تفسير الرازي = مفاتيح الغيب أو التفسير الكبير [الفخر الرازي] قال الخطابي: قوله عليه السلام «كل مسكر خمر» دل على وجهين أحدهما: أن الخمر اسم لكل ما وجد منه السكر من الأشرطة كلها، والمقصود منه أن الآية لما دلت على تحريم الخمر، وكان مسمى الخمر مجهولا للقوم حسن من الشارع أن يقال: مراد الله تعالى من هذه اللفظة هذا إما على سبيل أن هذا هو مسماه في اللغة العربية، أو على سبيل أن يضع اسما شرعيا على سبيل الإحداث كما في الصلاة والصوم وغيرهما. والوجه الآخر: أن يكون معناه أنه كخمر في الحرمة، وذلك لأن قوله هذا خمر حقيقة هذا اللفظ يفيد كونه في نفسه خمرًا فإن قام دليل على أن ذلك ممتنع وجب حمله مجازا على المشابهة في الحكم، الذي هو خاصية ذلك الشيء (6:397)

Revising the Fiqh of Khamr and Alcohol

their legal status, thus demonstrating that these two terms aren't interchangeable in their essence but rather commonly used interchangeably due to their shared inebriating quality, prescribing the ruling of prohibition.

To summarise, linguistic derivations underscore that "khamr" acts as a veil over the intellect. Termed "muskir," it clouds the mind, effectively dulling or impairing it. The selection of the verb "khamr" (to cover) to denote it emphasises its profound influence. Essentially, "khamr" embodies "sukr" (inebriating effect) as "sukr" obscures the intellect, hindering its illumination from reaching the senses and faculties.

Given these derivations, the argument gains strength that "khamr" signifies "muskir" in beverage form. When multiple *ahādīth* support this correlation and this usage is transmitted to us from the Prophet (saw) and his companions, it is improper to view it merely as establishing a direct linguistic connection through reason and analogy (*qiyās*). Instead, it is a consequence of the term's *designation* (i.e., through sharing its property and legal status) through these lexical derivations that interconnect the term as has been transmitted from revelation.

Likewise, proponents of the Ḥanafī school of thought assert that the term "nikāh" (marriage) stems from "wata'" (copulation), just like khamr stems from muskir, supported by designation of lexical derivations. Similarly, "ṣawm" (fasting) is linked to "imsāk" (abstinence), substantiated through designation of derivations.¹⁷ This explanation indicates that "khamr" and "muskir" are not

¹⁷ Some words in Arabic are related to each other based on their meanings and roots. A connection exists between certain Islamic terms and their origins:

1. "Nikāh" (marriage) and "wata'" (copulation): The proponents of the Ḥanafī school, argue that the word for marriage, "nikāh" is derived from the word "wata'", which means copulation or sexual intercourse. This suggests that the term for marriage is closely linked to its physical aspect, much like how certain words in English might have origins related to their physical or functional aspects.

كتاب الزواج [ابن عثيمين] النكاح في اللغة: يكون بمعنى عقد التزويج ويكون بمعنى وطء الزوجة قال أبو علي القالي: "فرقت العرب فرقا لطيفا يعرف به موضع العقد من الوطء، فإذا قالوا: نكح فلانة أو بنت فلان أرادوا عقد التزويج، وإذا قالوا: نكح امرأته أو زوجته لم يريدوا إلا الجماع والوطء." (ص 12)

2. "Ṣawm" (fasting) and "imsāk" (abstinence): Similarly, the word for fasting, "ṣawm", is linked to "imsāk", which means abstinence (particularly from things like food, drink, or other physical needs and desires). This again shows how the term for fasting relates directly to the action of abstaining, which is the core of what fasting involves.

وجاء في لسان العرب لابن منظور: «الصوم في اللغة: الإمساك عن الشيء والترك له، وقيل للصائم: صائم لإمساكه عن الطعام، والمشرب والمنكح، وقيل للصائم: صائم لإمساكه عن الكلام، وقيل: للفرس صائم لإمساكه عن العلف مع قيامه، والصوم: ترك الأكل (12/351) (مادة صوم)

In a similar way, "Khamr" (an intoxicant, typically alcoholic beverage) and "muskir" (inebriating): The connection here is similar. "Khamr", which generally refers to alcoholic beverages, comes from "muskir", which means something that causes inebriation. This shows the word's origin is directly related to its effect on a person.

Revising the Fiqh of Khamr and Alcohol

synonymous. Rather, "khamr" arises from its linguistic derivations as transmitted from revelation, which it shares, in its designated meaning, with "muskir," and thus is named accordingly. Consequently, anything equivalent to "khamr" in terms of impairing the intellect is either "khamr" itself or is associated with "khamr" in its legal categorization and termed "muskir".¹⁸

In conclusion, it is evident that while "muskir" and "khamr" are closely related concepts within Islamic jurisprudence, they are not synonymous. The distinction lies in their specific attributes and legal implications. "Muskir" is more general and encompasses anything that clouds the mind and leads to inebriation, while "khamr" specifically denotes a specific type of 'beverage' with the inherent property to inebriate. This differentiation is crucial, as it guides understanding the prohibition and legal status of inebriating substances in sharī'ah law. While both terms share similarities in some of their rulings regarding prohibition, "khamr" is uniquely identified as a distinct beverage with properties resembling *muskir* in its effects and, more specifically, that which is produced in a particular way as a 'beverage' derived from specific sources and consumed through drinking (*sharāb*) and, inebriates.

What did classical Muslim jurists perceive as the effects of "muskir," which warrant prohibition, and are they equivalent to contemporary notions of inebriation?

Inebriating Substances (al-Muskir) and their Effects

The prohibition of *khamr* is rooted in its tendency to induce a state of inebriation (*al-sukr*), which impairs the preservation of sound reasoning (*hifz al-'aql*). Inebriation, or *al-sukr*, denotes a condition where an individual is influenced by wine or other mind-altering substances. The manifestations of inebriation can vary based on the type of substance consumed and the person's tolerance levels. Nonetheless, some typical signs and symptoms of inebriation are known today to include altered behaviour, mood changes, and cognitive impairment.

1. Altered Behaviour:

Slurred Speech

Impaired Coordination and Balance

Difficulty Walking or Standing

Impaired Judgment and Decision-Making

Impulsive or Reckless behaviour

Aggressive or Emotional Outbursts

The general idea here is that these Arabic words are not just arbitrary; their meanings are deeply connected to their linguistic roots, showing a clear link between the word and its definition or main characteristic. This sort of linguistic connection helps in understanding the deeper meanings and connotations of these terms in their cultural and religious contexts.

¹⁸ في تفسير الرازي من الحجّة أن سبب تحريم الخمر هو أن عمر ومعاذا قالوا: يا رسول الله إن الخمر مسلبة للعقل، مذهبة للبال، فبين لنا فيه، فهما إنما طلبا الفتوى من الله ورسوله بسبب كون الخمر مذهبة للعقل، فوجب أن يكون كل ما كان مساويا للخمر في هذا المعنى إما أن يكون خمرًا وإما أن يكون مساويا للخمر في هذا الحكم (6:398)

Revising the Fiqh of Khamr and Alcohol

2. Mood Changes:

Euphoria or Exaggerated Happiness

Irritability or Mood Swings

Emotional Lability (Rapidly Changing Emotions)

3. Cognitive Impairment:

Difficulty Concentrating or Focusing

Impaired Memory and Forgetfulness

Reduced Attention Span

Disorientation or Confusion

Effects of inebriating substances (al-muskir) as described by Muslim Jurists:

The most divergent standpoint regarding the impacts of inebriating substances, which cover all varieties and warrant legal sanctions, can be observed in the viewpoints of the Ḥanafī and Ṣhāfi'ī schools of thought:

Ḥanafī Perspective:

Imām Abū Hanīfah's (d. 150 AH) viewpoint asserts that the prescribed punishment for inebriation is not applicable unless an individual reaches an extreme level of drunkenness. This extreme level implies being so inebriated that one loses the ability to distinguish between fundamental elements, such as the earth and the sky, wool and cotton, or even genders and beings like humans and donkeys. This criterion applies to various forms of inebriating drinks.¹⁹

In contrast, Imām Abū Yūsuf (d. 182 AH) and Imām Muḥammad al-Shaybānī (d. 189 AH) hold that extreme inebriation is characterised by mixed-up speech and an inability to maintain coherent conversations or responses. They emphasise that customary behaviour plays a pivotal role in determining inebriation. If an individual's speech becomes incoherent due to the consumption of wine, they are considered inebriated by societal standards. This interpretation aligns with the Quranic verse: "Do not approach prayer while inebriated until you know what you are saying." [Q. 4:43] This viewpoint is widely upheld among the Ḥanafī scholars.

¹⁹ في المبسوط للسرخسي [شمس الأئمة السرخسي] وقال أبو حنيفة - رحمه الله تعالى - : السكر الذي يجب به الحد على صاحبه أن لا يعرف الرجل من المرأة، وإنما أراد به أن من شرب ما سوى الخمر من الأثرية فلا حد عليه ما لم يسكر، وحد سكره عندهما أن يختلط كلامه فلا يتميز جده من هزله؛ لأنه إذا بلغ هذا الحد يسمى في الناس سكران وإليه أشار الله عز وجل في قوله {يا أيها الذين آمنوا لا تقربوا الصلاة وأنتم سكارى حتى تعلموا ما تقولون} [النساء: ٤٣] وأبو حنيفة - رحمه الله تعالى - قال ما لم يبلغ نهاية السكر لا يلزمه الحد؛ لأن في الأسباب الموجبة للحد يعتبر أقصى النهاية احتيالا لدرء الحد، وذلك في أن لا يعرف الأرض من السماء والقرو من القباء والذكر من الأنثى إلى هذا أشار في الأثرية والله سبحانه وتعالى أعلم بالصواب وإليه المرجع والمآب (9:105)

Revising the Fiqh of Khamr and Alcohol

If a person can still differentiate between various elements, their intellect functions alongside the pleasure derived from drinking. In such cases, extreme inebriation is not deemed to have occurred, and the prescribed punishment does not apply. Many scholars believe that inebriation transpires when individuals lose awareness of their actions. An example is cited where the scholars of Balkh unanimously agreed that reciting Sūrah Al-Kāfirūn (Chapter 109) was used to test for inebriation. If the individual could recite it accurately, they were not considered inebriated.²⁰

Shāfi'ī and Ḥanbalī Perspective:

The Shāfi'ī school of thought emphasises observing the effects of inebriation on a person's gait, movements, and physical coordination. However, they acknowledge that the manifestation of these effects can vary among individuals. Not every stumble or imbalance in walking indicates inebriation, as the extent of inebriation hinges on how beverage consumption impacts an individual's behaviour.

It is noted that Sayyidunā 'Alī (رضي الله عنه), a companion of the Prophet (صلى الله عليه وسلم), highlighted the importance of evaluating an individual's words and statements rather than solely focusing on their physical movements. He pointed out that among the companions of the Prophet, judgments were based on their statements rather than just their manner of walking.²¹

According to the Ḥanbalī school, the inebriation caused by drinking wine leads to mixing in speech what wasn't present before drinking, alters one's demeanour from their sober state, and

²⁰ في المبسوط للسرخسي فخذ السكر الذي يتعلق به الحد عند أبي حنيفة أن لا يعرف الأرض من السماء، ولا الأثني من الذكر، ولا نفسه من حمار، وعند أبي يوسف ومحمد أن يختلط كلامه، فلا يستقر في خطاب، ولا جواب، واعتبر العرف في ذلك، فإن من اختلط كلامه بالشرب يسمى سكران في الناس، وتأييد ذلك بقوله تعالى {لا تقربوا الصلاة وأنتم سكارى حتى تعلموا ما تقولون} [النساء: ٤٣] وأبو حنيفة - رحمه الله - اعتبر النهاية، فقال في الأسباب الموجبة للحد تعتبر النهاية كما في السرفة، والزنا، ونهاية السكر هذا أن يغلب السرور على عقله حتى لا يميز شيئاً عن شيء.

وإذا كان يميز بين الأشياء عرفنا أنه مستعمل لعقله مع ما به من السرور، ولا يكون ذلك نهاية السكر، وفي التقصان شبهة العدم، والحدود تندرج بالشبهات، ولهذا، وافقهما في السكر الذي يحرم عنده الشرب إذ المعتبر اختلاط الكلام؛ لأن اعتبار النهاية فيه يندرج بالشبهات، والحل، والحرمة يؤخذ فيهما بالاحتياط، وأيد هذا ما روي عن ابن عباس - رضي الله عنهما - قال: من بات سكرانا بات عروس الشيطان، فعليه أن يغتسل إذا أصبح، وهذا إشارة إلى أن السكران من لا يحس بشيء مما يصنع به، وأكثر مشايخنا - رحمهم الله - على قولهما، وحكي أن أئمة بلخي - رحمهم الله - اتفقوا على أنه يستقرأ سورة من القرآن، فإن أمكنه أن يقرأها، فليس بسكران حتى حكي أن أميراً يبلغ أتابه بعض الشرط بسكران، فأمره الأمير أن يقرأ {قل يا أيها الكافرون} [الكافرون: ١]، فقال السكران للأمير: اقرأ أنت سورة الفاتحة أولاً، فلما قال الأمير: الحمد لله رب العالمين} [الفاتحة: ٢]: فقال قف، فقد أخطأت من وجهين تركت التعوذ عند افتتاح القراءة، وتركت التسمية (24:30)

²¹ في فتح القدير للكمال ابن الهمام وتكلمه ط الحلبي [الكمال بن الهمام] والشافعي يعتبر ظهور أثره في مشيته وحركته وأطرافه... بأن هذا يتفاوت: أي لا ينضب فك من صاح يتمايل ويزلق في مشيته وسكران ثابت وما لا ينضب لا يضبط به، ولأن الذي وقع في كلام علي - رضي الله عنه - بحضرة الصحابة اعتبار بالأقوال لا بالمشي حيث قال إذا سكر هذى إلخ (5:314)

Revising the Fiqh of Khamr and Alcohol

overwhelms their intellect in that he does not distinguish between his garment and another's when they are mixed, nor between his sandals and another's.²²

It's crucial to highlight that the full Quranic punishment was prescribed even for the consumption of a minimal amount of *khamr*. However, in cases involving water-based intoxicants like *nabīdh*²³ and *naqī'*²⁴, punishment was exclusively applied when clear signs of inebriation were evident.

In conclusion, classical Muslim jurists provide a detailed account of the effects of inebriating beverages (al-muskir or al-khamr), aligning closely with contemporary understandings of inebriation. The manifestations of inebriation described by these jurists encompass altered behaviour, mood changes, and cognitive impairment, mirroring the signs commonly associated with inebriation today. However, divergent perspectives exist within Islamic jurisprudence regarding the threshold for determining extreme inebriation and its legal ramifications related to punishment (*hudūd*).

Despite these differences, it is important to note that both perspectives emphasise the importance of assessing the impact of inebriating substances on an individual's behaviour and cognitive faculties as a measure of a beverage's legal status. Additionally, they underscore the gravity of inebriation in Islamic law, with clear guidelines for its prohibition and associated legal consequences.

4. Rulings of al-Khamr and al-Muskir

In the context of the legal assessments made by classical Muslim jurists regarding inebriating beverages, both *al-khamr* and *al-muskir*, a consensus (*ijmā'*) is reached that consuming *al-khamr* derived from uncooked grapes is impermissible, regardless of the quantity. However, the divergence in opinions arises when addressing substances other than grapes.

This shared consensus also extends to the notion that partaking in any inebriating beverage, referred to as *al-muskir*, sourced from substances other than grapes, constitutes a transgression.

²² في المغني لابن قدامة - ط مكتبة القاهرة [ابن قدامة] وحد السكر الذي يحصل به فسق شارب النبيذ، ويختلف معه في وقوع طلاقه، ويمنع صحة الصلاة منه، هو الذي يجعله يخلط في كلامه ما لم يكن قبل الشرب، ويغيره عن حال صحوه، ويغلب على عقله، ولا يميز بين ثوبه وثوب غيره عند اختلاطهما، ولا بين نعله ونعل غيره. ونحو هذا قال الشافعي، وأبو يوسف، ومحمد، وأبو ثور، وزعم أبو حنيفة، أن السكران هو الذي لا يعرف السماء من الأرض، ولا الرجل من المرأة. (9:165)

²³ Nabīdh is sourced from dried Fruit (mostly dates) by fermenting a water mixture that has been infused with the flavour of dried fruit, and the fruit is left at the bottom of the vessel. Some traditions expand the definition of this drink to include fresh fruit or cooked fruit juice.

²⁴ Naqī' is also sourced from dried Fruit (mostly raisins/dates) by fermenting a water mixture infused with the flavour of dried fruit. This is primarily done with raisins or dates. The fruit is removed from the drinking vessel after the flavour is transferred.

Among the Sunni schools of thought, two distinct viewpoints are discerned concerning the legal implications surrounding *al-khamr* and *al-muskir*:²⁵

- *First Opinion: The Ḥanafī Perspective* - As held by classical Muslim jurists from al-ʿIrāq, particularly al-Kūfah, including Ibrāhīm al-Nakhʿī (d. 96 AH), Sufyān al-Thawrī (d. 161 AH), Ibn Abī Laylā (d. 83 AH), and Abū Ḥanīfah (d. 150 AH):²⁶

The prohibitions related to *al-khamr* pertain specifically to those inebriants produced by cooking and fermenting grape juice. This prohibition metaphorically extends to non-grape inebriant beverages only if they induce inebriation.

Furthermore, for beverages other than grapes, the prohibition applies exclusively to the *quantity* that causes inebriation. If a small amount does not lead to inebriation, it is deemed permissible. This view was initially upheld by the Ḥanafī school but later evolved, with Imām Muḥammad al-Shaybānī (d. 189 AH) asserting that *al-khamr* encompasses all *muskir* inebriant beverages, regardless of quantity. In other words, the opinion shifted from the amount required to be inebriated to the *potential* to be inebriated.

- *Second Opinion: The Ḥijāzī Perspective* - As endorsed by classical Muslim jurists from al-Ḥijāz:²⁷

According to this viewpoint, the prohibition on *al-khamr* extends to all inebriating beverages, including those sourced from substances other than grapes. This prohibition is applicable irrespective of the quantity consumed as long as it has potential to cause inebriation. This perspective is adhered to by the remaining Sunni schools and some Ḥanafī scholars. In other words, the opinion relates to the *potential* to be inebriated and not the amount to be inebriated.

²⁵ في تفسير الرازي أما المقام الأول: في بيان أن الخمر ما هو؟ [النوع الأول من الدلائل على أن كل مسكر خمر] قال الشافعي رحمه الله: كل شراب مسكر فهو خمر، وقال أبو حنيفة: الخمر عبارة عن عصير العنب الشديد الذي قذف بالزبد (6:398)

²⁶ This view is ascribed to Ibrāhīm al-Nakhaʿī (d. 96/714), Sufyān al-Thawrī (d. 161/778), Ibn Abī Layla (d.

83/702), Sharīk b. ʿAbd Allāh b. Abī Sharīk (d. 177/793), and Abū Ḥanīfa (d. 150/767), along with most Kūfan and Baṣran jurists

في بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] أما الخمر فإنهم اتفقوا على تحريم قليلها وكثيرها، أعني: التي هي من عصير العنب. وأما الأنبذة فإنهم اختلفوا في القليل منها الذي لا يسكر، وأجمعوا على أن المسكر منها حرام، فقال جمهور فقهاء المجاز وجمهور المحدثين: قليل الأنبذة وكثيرها المسكرة حرام. وقال العراقيون إبراهيم النخعي من التابعين وسفيان الثوري، وابن أبي ليلى، وشريك، وابن شبرمة، وأبو حنيفة وسائر فقهاء الكوفيين وأكثر علماء البصريين: إن المحرم من سائر الأنبذة المسكرة هو السكر نفسه لا العين (3:23)

²⁷ ابن حجر: فتح الباري (12:132-144) الرازي: مفاتيح الغيب (6:43) ابن تيمية مجموع الفتاوى (19:281) وما بعدها (28:337) الشوكاني: نيل الأوطار (7:147) الصنعاني: سبل السلام (4:29,58) ابن حزم: المحلى (7:497).

During the early stages of Islamic jurisprudence, there was a unanimous consensus against the consumption of inebriants derived from grapes as a beverage. However, debates persisted regarding inebriants from non-grape sources.²⁸ Scholars from the Ḥijāz, including those from the Ḥanbalī, Mālikī, and Shāfi'ī schools, advocated for a comprehensive ban on inebriating beverages. In contrast, scholars from the Irāq region, particularly the Ḥanafīs, initially leaned towards prohibiting only khamr (wine) and muskir (non-khamr inebriating drinks) based on the quantity that would cause inebriation rather than their potential to inebriate. Over time, Ḥanafī scholars reassessed their stance following a re-evaluation of Imām al-Shaybānī's perspectives. This led to varying opinions and discussions centred on the definition and scope of 'al-khamr.'

During the early period of Islam, scholars from the Ḥijāz region enforced the prohibition of intoxicating beverages using two primary criteria: either they were made from grape juice or they were identified by specific names associated with their inebriating effects. This determination was based on the guidance found in ḥadīth literature and the knowledge of beverage names known to induce states of inebriation.

All fermented beverages originating from grape juice were unequivocally prohibited, as they were considered khamr, and there was unanimous consensus on this matter. However, when it came to beverages known by specific names, they were banned based on the understanding that they had the potential to cause inebriation if consumed to a certain extent. These beverages were labelled as khamr or not, due to this potential, despite having their own distinct names. Examples of such beverages include *naqī'*, *nabīdh*, *mizr*, *ji'a*, *fuqqā'*, *bit'*, *ghubayra*, *mayba*, *rūbā*, *bādhiq*, *ṭilā'*, *muthallath*, *munaṣṣaf*, and more.²⁹

²⁸ في المعجم الوسيط [مجموعة من المؤلفين] (الخمر) ما أسكر من عصير العنب وغيره لأنها تغطي العقل... وكل مسكر من الشراب (1:255)
²⁹ في بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] وسبب اختلافهم تعارض الآثار والأقيسة في هذا الباب، فللحجازيين في تثبيت مذهبهم طريقتان: الطريقة الأولى: الآثار الواردة في ذلك، والطريقة الثانية: تسمية الأنبذة بأجمعها خمرًا، فمن أشهر الآثار التي تمسك بها أهل الحجاز ما رواه مالك عن ابن شهاب عن أبي سلمة بن عبد الرحمن عن عائشة أنها قالت: «سئل رسول الله - صلى الله عليه وسلم - عن البتع، وعن نبيذ العسل؟ فقال: كل شراب أسكر فهو حرام» خرج البخاري. وقال يحيى بن معين: هذا أصح حديث روي عن النبي - عليه الصلاة والسلام - في تحريم المسكر. ومنها أيضا ما أخرجه مسلم عن ابن عمر أن النبي - عليه الصلاة والسلام - قال: «كل مسكر خمر، وكل خمر حرام». فهذان حديثان صحيحان، أما الأول فاتفق الكل عليه، وأما الثاني فانفرد بتصحيحه مسلم، وخرج الترمذي، وأبو داود، والنسائي عن جابر بن عبد الله أن رسول الله - صلى الله عليه وسلم - قال: «ما أسكر كثيره فقليله حرام». وهو نص في موضع الخلاف أما الاستدلال الثاني من أن الأنبذة كلها تسمى خمرًا فلهم في ذلك طريقتان: إحداهما: من جهة إثبات الأسماء بطريق الاشتقاق. والثانية: من جهة السماع. فأما التي من جهة الاشتقاق فإنهم قالوا: إنه معلوم عند أهل اللغة أن الخمر إنما سميت خمرًا لخمرتها العقل، فوجب لذلك أن ينطلق اسم الخمر لغيره على كل ما خامر العقل. وهذه الطريقة من إثبات الأسماء فيها اختلاف بين الأصوليين، وهي غير مرضية عند الخراسانيين. وأما الطريقة الثانية التي من جهة السماع فإنهم قالوا: إنه وإن لم يسلم لنا أن الأنبذة تسمى في اللغة خمرًا فإنها تسمى خمرًا شرعًا، واحتجوا في ذلك بحديث ابن عمر المتقدم، وبما روي أيضا عن أبي هريرة أن رسول الله - صلى الله عليه وسلم - قال: «الخمر من هاتين الشجرتين: النخلة، والعنب». وما روي أيضا عن ابن عمر أن رسول الله - صلى الله عليه وسلم - قال: «إن من العنب خمرًا، وإن من العسل خمرًا، ومن الزبيب خمرًا، ومن الخنطة خمرًا وأنا أنها كم عن كل مسكر». فهذه هي عمدة الحجازيين في تحريم الأنبذة (3:24)

The key criterion in determining what qualifies as khamr was its inebriating effect on the behaviour of the consumer, assessing whether a beverage had the potential to induce inebriation if consumed in significant quantities. Even a minimal amount of such a beverage, recognised for its inebriating properties, was deemed prohibited as khamr. Therefore, any beverage lacking the potential to cause inebriation would not be categorised as muskir or khamr, and thus would be permissible.

The Irāqī scholars approached this matter from a different perspective due to their environment, where they were surrounded by non-Muslim communities that experimented with a wider array of beverages for regular consumption. These beverages varied in names, sources, and production methods, making it challenging for them to distinguish which ones caused inebriation and which ones did not. While they unanimously agreed on the prohibition of all fermented beverages derived from grape juice, known as khamr, they also grappled with determining whether certain commonly consumed beverages inebriated or not based on the *quantity* that inebriates rather than the *potential* to inebriate.³⁰

Beverages were also categorised based on their (i) source and (ii) production methods, serving as indicators of their potential to induce inebriation. The focus of Irāqī scholars was primarily on identifying the source and production process as determinants of whether a specific beverage could cause inebriation when consumed to a certain amount rather than relying solely on its name for classification. They restricted their definition of khamr to beverages exclusively produced from grape juice and did not extend this classification to other types. However, once it became evident

³⁰ في فتح القدير للكمال ابن الهمام وتكلمته ط الحلبي [الكمال بن الهمام] قال (الأشربة المحرمة أربعة: الخمر وهي عصير العنب إذا غلى واشتد وقذف بالزبد، والعصير إذا طبخ حتى يذهب أقل من ثلثيه) وهو الطلاء المذكور في الجامع الصغير (وتقيع التمر وهو السكر، وتقيع الزبيب إذا اشتد وغلى) (10:89)

أنه يحل تناول بعض من الأشربة المذكورة ، ولا يحرم منه إلا المقدار المسكر ولهم في ذلك تفصيل هو
الحرام عندهم أربعة أنواع :

الخمر، الطلاء تقيع التمر ، تقيع الزبيب

جاء في الهداية للبرغيناني من نتائج الأفكار لقاضي: والأشربة المحرمة أربعة : الخمر وهي عصير العنب إذا غلى واشتد وقذف بالزبد والعصير إذا طبخ حتى يذهب أقل من ثلثيه وهو الطلاء وتقيع التمر وهو السكر، وتقيع الزبيب إذا اشتد وغلى (9:21)

وجاء في بدائع الصنائع للكاساني: أما السكر والفضيخ وتقيع الزبيب فيحرم شرب قليلها وكثيرها. بدائع الصنائع (5:114)
والحلال منها عندهم أربعة أنواع.

جاء في حاشية رد المحتار لابن عابدين: والحلال منها أربعة أنواع : الأول : نبيذ التمر والزبيب إن طبخه يحل شربه ، وإن اشتد وهذا إذا شرب منه بلا لهو وطرب ، فلو شرب للهو فقليله وكثيره حرام، وما لم يسكر فلو شرب ما يغلب على ظنه أنه مسكر فيحرم لأن السكر حرام في كل شراب . والثاني : الخليلطان من الزبيب والتمر إذا طبخه حتى يذهب ثلثه أو أكثر ، والثالث: نبيذ العمل والتين والبر والشعير والذرة يحل سواء طبخ أولاً بلا لهو وطرب والرابع : المثلث العنبي وإن اشتد وهو ما طبخ من ماء العنب حتى يذهب ثلثه ويبقى ثلثه إذا قصد به استمرار الطعام والتداوي والتقوى على طاعة الله تعالى ولو للهو لا يحل إجماعاً . فيكون عند الأحناف نبيذ التمر والزبيب . والتمر اسم جنس فيتناول اليابس والرطب والبسر، ويتخذ حكم الكل ، والنبيذ يتخذ من التمر والزبيب، أو العسل أو السبر أو غيره ، بأن يلتقى في الماء ويترك حتى يستخرج منه مشق من النبيذ وهو الإلقاء ، وأن يطبخ أدنى طبخه وهو أن يطبخ إلى أن ينضج ، وقيد به لأن غير المطبوخ من الأنبذة حرام فهذا حلال عندهم (6:480)

that certain beverages could lead to inebriation, they deemed them as muskir and extended the ruling of khamr to them, prohibiting their consumption, but only when consumed in sufficient quantities to cause inebriation, regardless of whether they had the potential to inebriate.³¹ While they also named beverages according to their source and production methods, their main concern was determining the *quantity* required to induce inebriation, rather than solely relying on the *potential* indicated by the name.³²

This differentiation stemmed from their distinction between khamr and muskir. While all khamr was considered muskir, not all muskir was classified as khamr, regardless of the quantity consumed.

The determining factor in classifying a beverage as khamr relied on its source, specifically grapes and dates. Conversely, the ruling regarding muskir, and thus its prohibition, was based on the potential for inebriation if consumed in sufficient quantity. However, with non-khamr beverages still classified as muskir, a small amount was not prohibited if it did not lead to inebriation upon consumption. The rationale behind the prohibition of inebriants is to hinder the remembrance of Allāh, fostering discord and enmity among people, as articulated by Allāh in the Qurān:

"Satan only wants to cause between you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer." [Al-Mā'idah: 91].

³¹ في بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] ورووا عن أبي موسى قال: «بعثني رسول الله - صلى الله عليه وسلم - أنا ومعاذا إلى اليمن، فقلنا: يا رسول الله، إن بها شرابين يصنعان من البر والشعير: أحدهما يقال له: المزر، والآخر يقال له: البتع، فما نشرب؟ فقال - عليه الصلاة والسلام -: اشربا، ولا تسكرا». . خرجه الطحاوي أيضا، إلى غير ذلك من الآثار التي ذكروها في هذا الباب، وأما احتجاجهم من جهة النظر فإنهم قالوا: قد نص القرآن أن علة التحريم في الخمر إنما هي الصد عن ذكر الله ووقوع العداوة والبغضاء كما قال تعالى: {إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء في الخمر والميسر ويصدكم عن ذكر الله وعن الصلاة} [المائدة: ٩١] . وهذه العلة توجد في القدر المسكر لا فيما دون ذلك، فوجب أن يكون ذلك القدر هو الحرام إلا ما انعقد عليه الإجماع من تحريم قليل الخمر وكثيرها، قالوا: وهذا النوع من القياس يلحق بالنص، وهو القياس الذي ينه الشرع على العلة فيه. (3:25)

³² السكر وهو اسم للنبي من ماء الرطب إذا غلا واشتد وقذف بالزبد، أو لم يقذف
القضيخ: وهو اسم للنبي من ماء البسر المنضوج وهو المدقوق إذا غلا واشتد وقذف بالزبد
تقيع الزبيب: وهو اسم للنبي من ماء الزبيب المنقوع في الماء حتى خرجت حلاوته إليه واشتد وقذف بالزبد.
الطلاء: وهو اسم للمطبوخ من ماء العنب إذا ذهب أقل من الثلثين وصار مسكرا ويدخل تحت الباذق والمنصف، لأن الباذق هو المطبوخ أدنى طبخه من ماء العنب والمنصف هو المطبوخ من ماء العنب إذا ذهب نصفه وبقي النصف، وقيل الطلاء هو المثلث وهو المطبوخ من ماء العنب حتى ذهب ثلثاه وبقي منتعاً وصار مسكراً
الجمهوري: وهو شراب شعبي مسكر يتخذ من العنب وهو المثلث يصب الماء بعد ما ذهب ثلثاه بالطبخ قدر الذاهب، وهو الثلثان ثم يطبخ أدنى طبخه ويصير مسكرا، وقد يسمى أبو سفيا
الخليطان: وهما التمر والزبيب، أو البسر والرطب إذا خلطا ونبذا حتى غليا واشتد
المزر: وهو اسم لنبيذ الذرة إذا صار مسكرا.
الجمعة: وهو اسم لنبيذ الخنطة والشعير إذا صار مسكرا.
البتع: وهو اسم لنبيذ العسل إذا صار مسكراً

This rationale is applicable to the inebriating threshold, not to quantities below it. Hence, such quantities must be forbidden, except for those instances where there is a consensus, such as the prohibition of small and large quantities of inebriating beverages (i.e., fermented grape juice). They argued that this analogy aligns with the text, serving as a mechanism for Sharī'ah to address its underlying rationale. They unanimously agreed that nabīḍh (water-based beverage) is permissible unless it leads to severe inebriation with the last cup that causes inebriation.³³

Over time, this stance evolved into a total prohibition, where even a small quantity of a potentially inebriating beverage was deemed impermissible. This shift occurred as the focus of the prohibition moved from the quantity of the beverage to its potential to cause inebriation, aligning with the sharī'ah principle of blocking the means (sadd al-dharā'i) to what leads to inebriation. Nevertheless, it remains clear that any beverage that lacks the potential to cause inebriation and is guaranteed not to induce inebriation would be considered permissible for consumption.³⁴

In summary, in the realm of Sunni tradition, there exists a prevailing standpoint that categorises all inebriating substances (*muskir*) in beverage form as either *khamr* or under *khamr*'s jurisdiction, regardless of their source. In contrast, the Ḥanafī school adopts a more restricted approach, reserving the label of *khamr* for inebriating beverages derived from grapes and/ or other fruits, only if they indeed lead to inebriation based on quantity. Over time, this Ḥanafī perspective has gradually harmonised more closely with the viewpoints of other schools. Consequently, any

³³ في بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] وأما احتجاجهم من جهة النظر فإنهم قالوا: قد نص القرآن أن علة التحريم في الخمر إنما هي الصد عن ذكر الله ووقوع العداوة والبغضاء كما قال تعالى: {إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء في الخمر والميسر ويصدكم عن ذكر الله وعن الصلاة} [المائدة: ٩١] . وهذه العلة توجد في القدر المسكر لا فيما دون ذلك، فوجب أن يكون ذلك القدر هو الحرام إلا ما انعقد عليه الإجماع من تحريم قليل الخمر وكثيرها. قالوا: وهذا النوع من القياس يلحق بالنص، وهو القياس الذي ينهى الشرع على العلة فيه. (3:25) واتفقوا على أن الانتباز حلال ما لم تحدث فيه الشدة المطربة الخمرية؛ لقوله - عليه الصلاة والسلام -: «فانتبذوا، وكل مسكر حرام». وما ثبت عنه - عليه الصلاة والسلام -: «أنه كان ينتبذ، وأنه كان يريقه في اليوم الثاني أو الثالث (3:26)

³⁴ في موسوعة الفقه الإسلامي للتويجيري - سد الذرائع الموصلة إلى تناول الخمر: سد الإسلام كل ذريعة توصل إلى الخمر، ومن ذلك: تحريم القطرة من الخمر .. وإمسائها لاتخاذها خلا .. النبي عن الانتباز فوق ثلاث .. النهي عن شرب العصير بعد ثلاث .. النهي عن الخليطين .. النهي عن الانتباز في بعض الأوعية كالقرع ونحوه.

١ - عن عمرو بن شعيب عن أبيه عن جده عن النبي - صلى الله عليه وسلم - قال: «ما أسكر كثيره فقليله حرام». أخرجه أحمد والنسائي
٢ - وعن أنس رضي الله عنه أن النبي - صلى الله عليه وسلم - سئل عن الخمر تتخذ خلا؟ فقال: «لا». أخرجه مسلم .
٣ - وعن ابن عباس رضي الله عنهما قال: خرج رسول الله - صلى الله عليه وسلم - في سفر، ثم رجع وقد نبذ ناس من أصحابه في حناتم وتغير ودباء، فأمر به فأهريق، ثم أمر بسقاء فجعل فيه زبيب وماء، فجعل من الليل فأصبح، فشرب منه يومه ذلك وليلته المستقبل، ومن الغد حتى أمسى، فشرب وسقى، فلما أصبح أمر بما بقي منه فأهريق. أخرجه مسلم.
٤ - وعن جابر بن عبد الله رضي الله عنهما أن النبي - صلى الله عليه وسلم - نهى أن يخلط الزبيب والتمر، والبسر والتمر. متفق عليه.
٥ - وعن زاذان قال: قلت لابن عمر: حدثني بما نهى عنه النبي - صلى الله عليه وسلم - من الأشربة بلغتك، وفسره لي بلغتنا، فإن لكم لغة سوى لغتنا، فقال: نهى رسول الله - صلى الله عليه وسلم - عن الخنتم، وهي الجرة، وعن الدباء، وهي القرعة، وعن المزفت، وهو المقير، وعن القير، وهي النخلة تنسح نسحا، وتنفق نقرا، وأمر أن ينتبذ في الأسقية. أخرجه مسلم (5:141)

Revising the Fiqh of Khamr and Alcohol

beverage with the potential for inebriation (*muskir*) is metaphorically equated with khamr, resulting in its prohibition for consumption. However, unlike other schools, the Ḥanafī perspective does not entail the application of the prescribed *ḥadd* punishment for the consumption of such substances.

Table 1. Summary of the Two Opinions Regarding Rulings of Khamr

Opinion	Which Jurists	Ruling of Muskir	Amount it applies to	Ruling of Khamr
1st opinion	Mainly jurists of al-‘Irāq (Ḥanafī)	ruling of intoxicants (<i>muskir</i>) is specifically to that which inebriates and is not synonymous with al-khamr	Applies only to the quantity that inebriates, but this has shifted to any quantity that has potential to inebriate	Al-khamr relates specifically to that beverage which is fermented from grape juice and metaphorically (<i>majāzan</i>) to that which is other than this if it inebriates i.e., other beverages do not accept all rulings of khamr, but less stringent rulings
2nd opinion	Mainly jurists of al-Ḥijāz (Mālikī, Shāfi‘ī, Ḥanbalī)	the ruling of intoxicants (<i>muskir</i>) is synonymous with al-khamr which applies to all quantities small and large	Applies to any quantity big or small, whether it inebriates or not	al-khamr extends to all drinks that inebriate including all that are sourced from other than grapes i.e., other beverages accept all rulings of khamr also

So, the principles unanimously agreed upon by all scholars are as follows:

1. Khamr specifically refers to that produced as a 'beverage', differentiating it from *muskir*, which is more general referring to any substance that inebriates.
2. The impact of inebriating substances (*al-muskir*) closely mirrors modern understandings of inebriation, serving as the determining factor for what is deemed prohibited. The focus lies not on the beverage's chemical composition but rather on its potential to induce inebriation as witnessed through its effect on behaviour.
3. All beverages fermented from uncooked grape juice are classified as khamr and are prohibited, regardless of the quantity consumed and there is scholarly consensus (*ijmā‘*) on this.
4. Any beverage with the *potential* to cause inebriation and induce inebriation when consumed is also to be prohibited (there is scholarly difference on which beverage falls into this category).
5. Certain fermented beverages, characterised by their origin and production process, remained permissible as they lacked the inherent potential to induce inebriation as a

Revising the Fiqh of Khamr and Alcohol

primary effect, even with substantial consumption. Consequently, any beverage devoid of the capacity to cause inebriation would be considered permissible, as it falls beyond the classifications of khamr and muskir. This distinction emphasises that not all fermented drinks were categorically prohibited in Islamic jurisprudence as long as they did not possess the inherent potential to cause inebriation.

5. Application to Modern-Day Context

In the early days of Islam, precise measurement of the concentration of inebriating substances in beverages was not feasible due to the lack of technological means. However, scholars recognised that certain sources of fermented beverages, such as grapes, and specific production methods were more likely to result in inebriation than others. This understanding was derived from observing individuals' state and behaviour after consuming such beverages.

Muslim jurists assessed the intensity or concentration of the inebriating substance based on the observable effects on individuals who consumed it. However, there was no established concept of standardised units for measuring the concentration of the muskir substance. Instead, certain named beverages were identified as stronger and more likely to cause inebriation or not, based on their source, production method, and observed effects. Consequently, these beverages were either permitted, avoided or prohibited, primarily based on their name or, more specifically, their source and production method.

Classical Muslim jurists prohibited beverages based on their known potential to inebriate. However, with modern advancements allowing for the accurate measurement of ethanol concentration in beverages, we can now precisely determine what has the potential to cause inebriation. Any beverage with a concentration or percentage of ethanol above a certain threshold is deemed capable of inebriating an individual and thus classified as khamr or muskir. Consequently, even consuming a small amount of such a beverage is prohibited.

We now know that the potential to inebriate is directly proportional to the concentration or percentage of ethanol, which varies for each individual.³⁵ Therefore, it would be appropriate to shift the focus from the names of beverages to the concentration or percentage of alcohol. If an alcoholic beverage has a low ethanol concentration, it lacks the potential to induce inebriation and is not considered khamr or muskir.

Is Khamr Synonymous with Alcohol?

Alcohol is the active substance in wine; without it, it would not be inebriating. When alcohol is added to a non-alcoholic drink in a specific proportion, it becomes inebriating once it is above a certain concentration. However, it should be noted that alcohol is not called "wine" linguistically, religiously, or customarily. This is because alcohol can be extracted from grapes, dates, and other

³⁵ Cederbaum AI. Alcohol metabolism. *Clin Liver Dis*. 2012 Nov;16(4):667-85; Trius-Soler, M., Praticò, G., Gürdeniz, G. et al. Biomarkers of moderate alcohol intake and alcoholic beverages: a systematic literature review. *Genes Nutr* 18, 7 (2023).

Revising the Fiqh of Khamr and Alcohol

sources such as wood, sugarcane, various plants, different fruits, and other alcoholic beverages and certain chemicals. It is not specific to beverages but is commonly associated with non-beverages.

Alcohol is a versatile substance with diverse applications across multiple industries. Primarily known for its role as a preservative and drying agent, it also functions as a solvent, effectively dissolving various substances. Moreover, alcohol's disinfectant properties make it invaluable in combating microorganisms, as a disinfectant and antiseptic agent. In manufacturing, it is found in producing alcoholic beverages, perfumes, cosmetics, and pharmaceuticals. Additionally, it plays a crucial role in chemical processes and serves as a fuel in certain applications, such as alcohol-based fuels used in specific vehicles. Beyond these applications, alcohol acts as a solvent for alkaline and fatty substances and as an antifreeze to prevent freezing in various scenarios. It is a potent antiseptic for skin and wound disinfection in the medical realm owing to its strong antimicrobial properties. Furthermore, alcohol's dual functionality as a solvent enhances its utility in pharmaceuticals, facilitating the dissolution and effective delivery of medications. Overall, its multifaceted nature renders alcohol indispensable across various industries and applications.

There are different types of alcohol. The alcohol relevant here is ethyl alcohol (ethanol); other alcohols are toxic and poisonous (*mufsid*) and not *khamr* or *muskir*.

When we refer to "alcohol" in the context of beverages, which is what we are concerned with here, they are typically referring to ethyl alcohol, which is also known as ethanol. Ethanol is the type of alcohol that is safe for human consumption within limits and is found in alcoholic beverages. It's important to note that while there are various types of alcohol, not all of them are suitable for consumption. Here's a brief explanation:

- *Ethyl Alcohol (Ethanol)*: Ethyl alcohol, or ethanol, is the type of alcohol that is found in alcoholic beverages like beer, wine, and spirits. It is the only type of alcohol that is safe for human consumption in moderate amounts. Ethanol is produced through the fermentation of sugars by yeast and can be concentrated through distillation.
- *Isopropyl Alcohol (Isopropanol)*: Isopropyl alcohol, commonly referred to as rubbing alcohol, is a different type of alcohol that is not safe for consumption. It is often used as a disinfectant, antiseptic, and solvent. Ingesting isopropyl alcohol can be toxic and harmful to the body.
- *Methanol (Methyl Alcohol)*: Methanol is another type of alcohol that is not safe for consumption. It is highly toxic and can cause blindness or even death if ingested. Methanol is sometimes used as an industrial solvent and in certain chemical processes.
- *Butanol, Propanol, and Others*: There are several other types of alcohols with different molecular structures, such as butanol and propanol. These alcohols can have various

industrial applications, including as solvents, fuels, and in the production of chemicals, but they are not safe for consumption.

Within the realm of alcoholic beverages, the term "alcohol" commonly refers specifically to ethyl alcohol, also known as ethanol. Ethanol is the psychoactive component responsible for the inebriating effects experienced when consumed in significant amounts. It is crucial for individuals to discern the variances among various types of alcohol and their applications in both beverages and non-beverage products.

6. Comparing Ethanol (Ethyl Alcohol) with al-Khamr: Understanding the Relationship

Ethanol differs from al-khamr both in (i) its shari'ah definition and (ii) its theological commitment. Ethanol, also known as ethyl alcohol, manifests as a clear, colourless liquid with a potent aroma and a sharp taste. Renowned for its flammability and rapid evaporation, ethanol exists in two primary forms globally: fermented and synthetic. The former, derived from corn or biomass materials, commonly serves as a fuel source, with a fraction utilised in the beverage industry.³⁶ Conversely, synthetic ethanol stems from ethylene, a petroleum by-product, predominantly finding application in industrial settings.³⁷ Given ethanol's ubiquitous presence across food, pharmaceuticals, cosmetics, and industrial processes, its ḥalāl status holds considerable significance.

In the context of Islamic jurisprudence, ethanol's association with inebriation in light of shari'ah necessitates scrutiny. Fermented from fruits, ethanol serves as the active ingredient in wine, thereby classifying it as a muskir (intoxicant) and rendering wine consumption as khamr (inebriating beverage). However, not all ethanols share this classification; synthetic and industrially produced variants may not conform to the shar'ī definition intrinsic to khamr as they are not beverages.

Ethanol's varied sources—from plants to industrial processes—complicate its legal categorisation.

From a theological perspective, the prohibition of khamr is firmly established based on explicit textual evidence from the Qur'an and Sunnah, constituting a qaṭ'ī (definitive) proof.³⁸ Ethanol-

³⁶ Erdei, B., Hancz, D., Galbe, M., & Zacchi, G. (2013). SSF of steam-pretreated wheat straw with the addition of saccharified or fermented wheat meal in integrated bioethanol production. *Biotechnology for Biofuels*, 6(169), 1e14.

³⁷ Chu, W., Echizen, T., Kamiya, Y., & Okuhara, T. (2004). Gas-phase hydration of ethene over tungstenezirconia. *Applied Catalysis A*, 259, 199e205.

³⁸ The certainty of the prohibition of khamr stems from the explicit guidance provided in the Qurān and Sunnah, as indicated by these verses. [Q. 5:90-91]

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَمُ رَجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ٩٠
إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ ٩١

Revising the Fiqh of Khamr and Alcohol

based and intoxicating beverages are inferred to fall under the rulings of khamr through legal analogy (qiyās), a process considered a non-definitive proof (ẓanni) and subject to scholarly interpretation (ijtihād). Classical Muslim jurists unanimously agree that any beverage fermented from grape juice, with the potential to cause inebriation, is prohibited in both large and small quantities. Denial of this prohibition is considered disbelief due to its unequivocal evidence.³⁹ However, beverages containing ethanol derived from sources other than grapes (such as dates, wheat, barley, etc.) are similarly prohibited according to all Sunni schools, but denial of this prohibition is not considered disbelief as it falls within the realm of scholarly interpretation (ijtihād).⁴⁰ This is because while khamr specifically denotes wine from grape juice, the prohibition

O believers! Intoxicants (khamr), gambling, idols, and drawing lots for decisions¹ are all evil of Satan's handiwork. So shun them so you may be successful. Satan's plan is to stir up hostility and hatred between you with intoxicants (khamr) and gambling and to prevent you from remembering Allah and praying. Will you not then abstain? (Q. 5:90-91)

قول الرسول كُلُّ مُسْكِرٍ نَخْرٌ وَكُلُّ مُسْكِرٍ حَرَامٌ وَمَنْ شَرِبَ الْخَمْرَ فِي الدُّنْيَا فَاتَّ وَهُوَ يُدْمِنُهَا لَمْ يَتَّبَ لَمْ يَشْرَبْهَا فِي الْآخِرَةِ (صحيح مسلم، الحديث الرقم 3733))

The Prophet (صلى الله عليه وسلم) said: "Every muskir (inebriant) is khamr, and every muskir is forbidden.

Whoever drinks khamr in this world and dies addicted to it without repenting will not drink it in the Hereafter." (Ṣaḥīḥ Muslim, Ḥadīth Number 3733)

³⁹ نقل الإجماع على حرمة الخمر المتخذة من العنب: ابن عبد البر قال ابن عبد البر: (وكذلك أجمعوا أن عصير العنب إذا غلى واشتد وقذف بالزبد، وأسكر الكثير منه أو القليل - أنه الخمر المحرمة بالكاتب والسنة المجتمع عليها، وأن مستحلها كفر يستتاب، فإن تاب والأقيل). (الاستدكار) (10:8). وابن القطان (وأجمعوا أن عصير العنب إذا غلى واشتد وقذف بالزبد، وأسكر الكثير منه أو القليل - أنه الخمر [المحرمة] بالكاتب والسنة المجتمع عليها، وأن مستحلها كفر). (الإقناع في مسائل الإجماع) (1:327). والقرطبي (فأما المستخرج من العنب المسكر التي، فهو الذي انعقد الإجماع على تحريم قليله وكثيره ولو نقطة منه، وأما ما عدا ذلك فالجمهور على تحريمه، وخالف الكوفيون في القليل مما عدا ما ذكر). (تفسير القرطبي) (6:295). وابن قدامة (فالمجمع على تحريمه عصير العنب إذا اشتد وقذف زبده، وما عداه من الأشربة المسكرة، فهو محرم). (المغني) (9:159). وابن تيمية (فإن خمر العنب قد أجمع المسلمون على تحريم قليلها وكثيرها، ولا فرق في الحس ولا العقل بين خمر العنب والتمر، والزبيب والعسل؛ فإن هذا يصد عن ذكر الله وعن الصلاة، وهذا يوقع العداوة والبغضاء). (الفتاوى الكبرى) (3:417). وابن حجر (وقد انعقد الإجماع على أن القليل من الخمر المتخذة من العنب يحرم قليله وكثيره، وعلى أن العلة في تحريم قليله كونه يدعو إلى تناول كثيره، فيلزم ذلك من فرق في الحكم بين المتخذة من العنب وبين المتخذة من غيرها). (فتح الباري) (10:40).⁴⁰ يحرم شرب الخمر المتخذة من غير العنب؛ قليلها وكثيرها، باتفاق المذاهب الفقهية الأربعة: الحنفية (حاشية ابن عابدين) (6:455).

والمالكية الكافي لابن عبد البر (1:442)، المقدمات الممهدة لابن رشد (1:442)، الفواكه الدواني للنفاوي (2:288)، والشافعية روضة الطالبين للنووي (10:168)، وينظر: المهذب للشيرازي (3:370)، (أسنى المطالب لتركيا الأنصاري (4:158). والخنابلة الفروع لابن مفلح (10:96)، كشاف القناع للبهوتي (6:166). والظاهرية قال ابن عبد البر: (وهو مذهب أهل الحجاز من الصحابة والتابعين، وذهب إليه من الفقهاء أئمة الفتوى بالأمصار... أبو ثور وإسحاق وداود). الاستدكار (8:21). وقال ابن حزم: (كل شيء أسكر كثيره أحداً من الناس، فالتقطه منه فما فوقها إلى أكثر المقادير: خمر حرام ملكه، ويعه، وشربه، واستعماله على أحد؛ وعصير العنب ونبيذ التين، وشراب القمح والسيكران، وعصير كل ما سواها وتقيعه، وشراؤه - طبخ كل ذلك أو لم يطبخ، ذهب أكثره أو أقله - سواء في كل ما ذكرنا، ولا فرق). المحلى (6:176)،

Revising the Fiqh of Khamr and Alcohol

of other alcohol-based beverages is determined through legal analogy (qiyās), which is a non-definitive form of evidence.

The industrial production of ethanol from grapes is relatively limited compared to other sources such as grains, sugarcane, and cellulosic biomass. Grapes are primarily cultivated for winemaking purposes, and the ethanol produced from grapes is predominantly used in the wine industry as a beverage. While there may be some industrial-scale production of ethanol from grapes for other purposes, such as medicinal tinctures or perfumes, it is not as widespread as ethanol production from other feedstocks. Due to their abundance and efficiency in ethanol production, most industrial ethanol production comes from non-grape sources, including grains, sugarcane, and cellulosic biomass.⁴¹

The industrial predominance of non-grape ethanol underscores its broader implications. While some scholars delineate khamr strictly within grape-derived contexts, others adopt a broader interpretation encompassing all inebriating beverages. Abū Ḥanīfah restricts it to when grape juice is boiled and gets excited and bubbles foam, as mentioned earlier.⁴² Due to the restriction of definition according to Abū Ḥanīfah and Abū Yūsuf anything other than grape juice containing *muskir* can be taken for medicinal purposes as long as it does not inebriate.⁴³ Most scholars of all schools agree that khamr is to be used in its general (āmm) sense as all drinks that inebriate the mind (al-muskir) and are not limited to grapes but include other sources.⁴⁴

وهو قول طائفة من السلف قال ابن عبد البر: (وهو قول جماعة من أهل المجاز والشام). الكافي (1:442). وقال ابن حجر: (وقال أهل المدينة وسائر المجازيين وأهل الحديث كلهم: كل مسكر نحر، وحكمه حكم ما اتخذ من العنب). فتح الباري (10:47). وقال أيضاً: (وقد نقل ابن المنذر عن الشافعي ما يوافق ما نقلوا عن المزني، فقال: قال: إن الخمر من العنب ومن غير العنب: عمر، وعلي، وسعيد، وابن عمر، وأبو موسى، وأبو هريرة، وابن عباس، وعائشة، ومن التابعين: سعيد بن المسيب، وعروة، والحسن، وسعيد بن جبير، وآخرون، وهو قول مالك، والأوزاعي، والثوري، وابن المبارك). فتح الباري (10:49).

⁴¹ Traditional alcoholic fermentation (first-generation bioethanol production) has used food crops as feedstocks (e.g., wheat, corn, potatoes, beets, sugarcane), as these materials are superior sources of easily accessible starch and sugar required for fermentation. However, as the global population grows and the amount of arable land remains limited, there has been increasing concern regarding fuel production from food crops. Therefore, non-edible sources of biomass, such as lignocellulosic materials and algae, are being explored as resources for environmentally sustainable bioethanol production. As a result, bioethanol production can be accomplished using an increasingly wide array of feedstock materials.

(Tse, Timothy J., Daniel J. Wiens, and Martin J. T. Reaney. 2021. "Production of Bioethanol—A Review of Factors Affecting Ethanol Yield" *Fermentation* 7, no. 4: 268.)

⁴² ابن عابدين: حاشية رد المحتار (6:448, 4:37), الزيلعي: تبين الحقائق (6:44), الشيرازي: المهذب (2:187), البهوتي: كشاف القناع (6:116)

⁴³ الكاساني: بدائع الصنائع (5:116), الرملي: نهاية المحتاج (8:12)

⁴⁴ الأدلة:

أولاً: من الكتاب - قوله تعالى: يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ [المائدة: ٩٠].

Ultimately, ethanol's prohibition hinges on its potential as a beverage to induce inebriation, irrespective of its source. This criterion dictates the permissibility of ethanol-containing products, emphasising their classification based on inebriating properties and their utility as a beverage rather than their mere presence of ethanol. This distinction underscores the nuanced interpretation of khamr, where ethanol's potential for inebriation, or concentration of ethanol, remains paramount.

Two critical considerations dictate whether a substance falls under the category of khamr, or is subject to the rulings pertaining to khamr, particularly concerning ethanol. Firstly, it hinges on the substance's capacity to induce inebriation; when ingested in significant quantities, it must lead to a state of inebriation. Secondly, it depends on the substance's primary designation as either a beverage or a non-beverage. Understanding these determinants necessitates a thorough examination of the ethanol production process alongside the intended purpose and usage of the substance.

1. The Ethanol Production Process:⁴⁵

ثانياً: مِنَ السَّنَةِ - - عن ابنِ عمرَ رضيَ اللهُ عنهما قال: قالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: ((كُلُّ مُسْكِرٍ نَجْمٌ، وَكُلُّ نَجْمٍ حَرَامٌ)) أخرجَه مسلم (٢٠٠٣)

وَجِهَ الدَّلَالَةُ مِنَ الآيَةِ وَالْحَدِيثِ: أَنَّ لَفْظَ النِّجْمِ عَامٌّ فِي كُلِّ مُسْكِرٍ، فَإِخْرَاجُ بَعْضِ الأَشْرِبَةِ المُسْكِرَةِ عَنْ شُمُولِ اسْمِ النِّجْمِ لَهَا: تَقْصِيرٌ بِهِ وَهَضْمٌ لِعُمُومِهِ إِعْلَامِ المَوْقِعِينَ لابنِ القَيِّمِ (1:168).

ثالثاً: مِنَ الآثَارِ

عن ابنِ عمرَ رضيَ اللهُ عنهما قال: سَمِعْتُ عُمَرَ رَضِيَ اللهُ عَنْهُ عَلَى مَنبَرِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ: (أَمَّا بَعْدُ، أَيُّهَا النَّاسُ، إِنَّهُ نَزَلَ تَحْرِيمُ النِّجْمِ، وَهِيَ مِنَ نَحْسَةِ: مِنَ العَنَبِ وَالتَّمْرِ، وَالعَسَلِ وَالحَنْظَلَةِ وَالشَّعِيرِ، وَالنِّجْمِ مَا خَامَرَ العَقْلَ) أخرجَه البخاري (٤٦١٩)، ومسلم (٣٠٣٢).
وَجِهَ الدَّلَالَةُ قَوْلُهُ: (وَالنِّجْمُ مَا خَامَرَ العَقْلَ) يَرِيدُ أَنَّهُ لَيْسَ بِمَقْصُورٍ عَلَى هَذِهِ النِّحْيَةِ الَّتِي كَانَتْ، وَأَنَّ العِلَّةَ النَّشْؤَ وَمَا خَامَرَ العَقْلَ. شرح الزرقاني على مختصر خليل (8:196)

رابعاً: أَنَّ الصَّحَابَةَ لَمَّا نَزَلَ تَحْرِيمُ النِّجْمِ فَهَمُّوا مِنَ الأَمْرِ بِاجْتِنَابِ النِّجْمِ تَحْرِيمَ كُلِّ مُسْكِرٍ، وَلَمْ يَفَرِّقُوا بَيْنَ مَا يُخَذُّ مِنَ العَنَبِ وَبَيْنَ مَا يُخَذُّ مِنْ غَيْرِهِ، بَلْ سَوَّوْا بَيْنَهُمَا، وَحَرَّمُوا كُلَّ مَا يُسْكِرُ نَوْعَهُ، وَلَمْ يَتَوَقَّفُوا وَلَا اسْتَفْصَلُوا، وَلَمْ يُشْكَلْ عَلَيْهِمْ شَيْءٌ مِنْ ذَلِكَ، بَلْ بَادَرُوا إِلَى إِتْلَافٍ مَا كَانَ مِنْ غَيْرِ عَصِيرِ العَنَبِ، وَهَمُّ أَهْلِ اللِّسَانِ، وَبَلَّغَتْهُمْ نَزْلُ القُرْآنِ، فَلَوْ كَانَ عِنْدَهُمْ فِيهِ تَرَدُّدٌ لَتَوَقَّفُوا عَنِ الإِرَاقَةِ حَتَّى يَسْتَكْشِفُوا وَيَسْتَفْصِلُوا وَيَتَحَقَّقُوا التَّحْرِيمَ؛ لِمَا كَانَ تَقَرَّرَ عِنْدَهُمْ مِنَ النَّبِيِّ عَنِ إِضَاعَةِ المَالِ، فَلَمَّا لَمْ يَفْعَلُوا ذَلِكَ وَبَادَرُوا إِلَى الإِتْلَافِ، عَلِمْنَا أَنَّهُمْ فَهَمُّوا التَّحْرِيمَ نَصًّا - فَتَحَ البَارِي لابنِ حجر (10:49).

خامساً: أَنَّهُ سُمِّيَتْ نَجْمًا لِخَامَرَتِهَا العَقْلَ، فَكُلُّ شَرَابٍ يُسْكِرُ فَهُوَ نَجْمٌ - تَبْيِينُ الحَقَائِقِ لِلزَّيْلَعِيِّ (6:44).
سادساً: أَنَّ العَرَبَ إِذَا سَمَّتِ النِّجْمَ بِهَذَا الاسْمِ؛ لوجودِ الإسْكَارِ وَالشَّدَّةِ المُطْرِبَةِ، فوجبَ إِجْرَاءُ العِلَّةِ حَيْثُ وَجَدَتْ، وَعَلِمْنَا أَنَّهُ عِلَّةٌ بِالطَّرِيقِ الَّذِي بِهِ نَعْلَمُ العِلَّلَ، وَهُوَ وجودُ الحُكْمِ بِوجودِهَا، وَارْتِفَاعُهُ بِارْتِفَاعِهَا - الإِشْرَافُ عَلَى نَكَتِ مَسَائِلِ الخِلاَفِ لِلقَاضِي عَبْدِ الوَهَّابِ المَالِكِيِّ (2:926).

⁴⁵ There are a number of traditions in which questioners are asked by authority figures (including the

Prophet) to explain the process by which an unfamiliar drink is prepared before ruling on its permissibility.

For example al-Bayhaqi, Sunan, 8:506, no. 17361- depicts the Prophet asking a visiting delegation to describe the manner in which they prepare two drinks that he subsequently identifies as bit' and mizr.

The ethanol production method directly influences the maximum attainable ethanol concentration or percentage, thereby affecting its potential to induce inebriation.

2. Intended Use and Purpose:

The classification between "khamr" (an inebriating beverage), non-khamr, and a poison ("mufsid") is primarily determined by the intended purpose of the ethanol. If ethanol is specifically produced for social or recreational consumption as a beverage with enough concentration to cause inebriation, it is categorised as "khamr."⁴⁶ In contrast, ethanol produced for purposes other than beverage consumption, such as industrial use, does not fall under the "khamr" category.

In truth, if we look at the reason for the prohibition of khamr, we find it lies in inebriation, impairment of reasoning, and the promotion of enmity, hatred, and turning away from the remembrance of Allāh and not merely the presence and absence of ethanol. Allāh says in the Qurān: "O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone altars [to other than Allāh], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful."

However, ethanol not intended for beverage use does not cause these reasons for prohibition because it is not produced with the aim of causing inebriation, yet it can still pose significant risks other than inebriation, if it contains a potent concentration of ethanol or if it is mixed with toxic substances. In such cases, consuming large amounts of this type of ethanol with the aim of inebriation is futile as this could lead to poisoning before any inebriation effects are felt, as the body may react to the harmful components, preventing one from achieving the inebriating effects. Therefore, the intended use and the safety of the product are key factors in determining whether an ethanol beverage is classified as:

[أبو بكر البيهقي] - أخبرنا أبو الحسن محمد بن الحسين بن داود العلوي قراءة عليه، أن أبا محمد عبد الله بن محمد بن الحسن بن الشريقي، ثنا عبد الله بن هاشم بن حيان الطوسي، ثنا يحيى بن سعيد القطان، ثنا قرة، عن سيار أبي الحكم، عن أبي بردة، عن أبي موسى، قال: قلت: يا رسول الله إن عندنا أشربة، أو شراباً، هذا البتع والمزر من الذرة والشعير، فما تأمرنا فيهما؟ فقال: "أنها كم عن كل مسكر⁴⁶ جاء في حاشية رد المحتار: والحلال منها أربعة أنواع: الأول: نبيذ التمر والزبيب إن طبخه أدنى طبخه يحل شربه، وإن اشتد وهذا إذا شرب منه بلا هو وطرب، فلو شرب للهو فقليله وكثيره حرام، وما لم يسكر فلو شرب ما يغلب على ظنه أنه مسكر فيحرم، لأن السكر حرام في كل شراب. والثاني: الخليطان من الزبيب والتمر إذا طبخ أدنى طبخه وإن اشتد يحل بلا هو، والثالث: نبيذ العسل والتين والبر والشعير والذرة يحل سواء طبخ أو لا بلا هو وطرب، والرابع: المثلث العنبي وإن اشتد وهو ما طبخ من ماء العنب حتى يذهب ثلثاه ويبقى ثلثه إذا قصد به استمرار الطعام والتداوي والتقوى على طاعة الله تعالى ولو للهو لا يحل إجماعاً.. (6:480)

في الهداية في شرح بداية المبتدي [المرغيناني] قال: "وعصير العنب إذا طبخ حتى ذهب ثلثاه وبقي ثلثه حلال وإن اشتد" وهذا عند أبي حنيفة وأبي يوسف وقال محمد ومالك والشافعي: حرام، وهذا الخلاف فيما إذا قصد به التقوى، أما إذا قصد به التلهي لا يحل بالاتفاق وعن محمد مثل قولهما، وعنه أنه كره ذلك، وعنه أنه توقف فيه لهم في إثبات الحرمة قوله عليه الصلاة والسلام: "كل مسكر نمر" وقوله عليه الصلاة والسلام: "ما أسكر كثيره فقليله حرام" ويروى عنه عليه الصلاة والسلام: "ما أسكر الجرعة منه فالجرعة منه حرام" ولأن المسكر يفسد العقل فيكون حراماً قليلاً وكثيراً كالتمر ولهما قوله عليه الصلاة والسلام: "حرمت الخمر لعينها" ويروى "بعينها قليلاً وكثيرها، والسكر من كل شراب" خص السكر بالتحريم في غير الخمر (4:397)

Revising the Fiqh of Khamr and Alcohol

- (i) a non-khamr beverage (due to an insufficient concentration of ethanol to cause inebriation),
- (ii) as "khamr" (when it is a beverage with potential to inebriate), or,
- (iii) as a poison ("mufsid") when it is unsafe for consumption due to high concentrations of ethanol or harmful additives.

7. The Ethanol Production Process and the State of Khamr

There are four main processes relevant here in the production of ethanol.

- Aerobic fermentation
- Anaerobic fermentation
- Distillation
- Synthetic production

Aerobic and Anaerobic fermentation:

In a natural aerobic fermentation process, such as the fermentation of sugars by yeast in the presence of oxygen, the maximum concentration or percentage of alcohol that can be produced is generally lower than in anaerobic fermentation (fermentation in the absence of oxygen). In aerobic fermentation, yeast primarily undergoes respiration, using oxygen to convert sugars into energy, carbon dioxide, and water. This process produces less alcohol compared to anaerobic fermentation, where yeast converts sugars into alcohol and carbon dioxide in the absence of oxygen.

Aerobic:

In the context of aerobic fermentation of fruits, ethanol production typically remains below 1% Alcohol By Volume (ABV)⁴⁷, making it permissible to consume as it lacks the potential to inebriate. This inherently disqualifies it as muskir and, by extension, khamr. Natural fermentation under aerobic conditions yields ethanol concentrations within this range.

Ethanol, generated naturally during fermentation in environments rich in oxygen, undergoes a two-step metabolic pathway. Initially, sugars are metabolised into ethanol, followed by the conversion of ethanol into acetic acid. The presence of oxygen enables aerobic respiration, a more efficient process compared to fermentation. Yeast, the microorganisms responsible for ethanol production, switch to aerobic respiration in the presence of oxygen. This metabolic shift directs the

⁴⁷ The Alcohol By Volume (ABV) measurement measures the strength of alcoholic beverages. It is used to inform consumers about the percentage of alcohol contained in the beverage they are drinking. It is expressed as a percentage of ethanol present in the total volume of the beverage. For example, a beverage with an ABV of 8% contains 8 milliliters of pure ethanol for every 100 milliliters of the beverage. ABV is primarily used in the alcoholic beverage industry for labeling and regulatory purposes. It helps consumers gauge the strength of an alcoholic drink.

Revising the Fiqh of Khamr and Alcohol

utilisation of sugars towards aerobic pathways, preventing their conversion into ethanol. Moreover, in aerobic conditions, any ethanol produced is further metabolised into acetaldehyde and eventually into acetic acid. Consequently, the accumulation of ethanol is minimised. Ethanol production per unit of cell protein reaches its peak early in the process and gradually decreases as ethanol accumulates.⁴⁸

For example, research on ethanol levels in palm fruits revealed that unripe fruits had undetectable ethanol levels, while ripe hanging and over-ripe fallen fruits contained 0.6% and 0.9% ethanol, respectively—levels insufficient to induce inebriation. Ethanol concentration in over-ripe fallen fruits reached 4.5% after several days under anaerobic conditions. Similarly, fresh pineapples stored at 4°C showed ethanol levels increasing from 0.48% to 1% over ten days, remaining within safe limits. In contrast, grapes, with their high sugar content and conducive fermentation environment, exhibited higher ethanol production. Fresh grape juice increased from 0.29% to 2.11% ethanol after one day at room temperature, reaching the threshold for potential inebriation. After ten days, this concentration rose to 5.60%, highlighting variability in ethanol production based on fruit type and fermentation conditions.⁴⁹

Therefore, the ethanol produced in fruits, except for grapes, does not exceed 1% under aerobic fermentation, rendering it incapable of inebriation and, consequently, not falling under the category of muskir or khamr.

⁴⁸ Dashko S, Zhou N, Compagno C, Piškur J. Why, when, and how did yeast evolve alcoholic fermentation? *FEMS Yeast Res.* 2014 Sep;14(6):826-32. doi: 10.1111/1567-1364.12161.; G. Polenta, C. Budde, R. Murray, Effects of different pre-storage anoxic treatments on ethanol and acetaldehyde content in peaches, *Postharvest Biology and Technology*, 2005; 38(3):247-253; Levey, Douglas J. "The Evolutionary Ecology of Ethanol Production and Alcoholism." *Integrative and Comparative Biology* 44, no. 4 (2004): 284–89; Bui LT, Novi G, Lombardi L, Iannuzzi C, Rossi J, Santaniello A, Mensuali A, Corbineau F, Giuntoli B, Perata P, Zaffagnini M, Licausi F. Conservation of ethanol fermentation and its regulation in land plants. *J Exp Bot.* 2019 Mar 27;70(6):1815-1827.

⁴⁹ Ethanol levels in fresh fruits increase over time due to anaerobic fermentation of sugars (Logan & Distefano, 1998). A study examined ethanol content in unripe, ripe hanging, and over-ripe fallen palm fruits. Unripe fruits had no detectable ethanol, while ripe hanging and fallen fruits had 0.6% and 0.9% ethanol, respectively. Over-ripe fallen fruits had 4.5% ethanol (Dudley, 2004). Similarly, fresh pineapple ethanol increased from 0.48% to 1% after 10 days of storage at 4°C (Gunduz et al., 2013). Ethanol content was significantly increased in fresh grape juice, which saw ethanol rise from 0.29% to 2.11% after 1 day at room temperature, increasing dramatically to 5.60% after 10 days.

In summary, as fruits ripen and age, anaerobic fermentation significantly increases ethanol content, with over-ripe and older fruits having the highest ethanol levels. Although natural ethanol produced by natural fermentation under aerobic conditions is halāl by nature, high ethanol content in non-fresh grape juice needs to be labelled as non-ḥalāl juice.

(Logan, B. K., & Distefano, S. (1998). The ethanol content of various foods and soft drinks and their potential interference with a breath-alcohol test. *Journal of Analytical Toxicology*, 22.; Dudley, R. (2004). Ethanol, fruit ripening, and the historical origins of human alcoholism in primate frugivory1. *Integrative and Comparative Biology*, 44, 315-323.; Gunduz, S., Yalmaz, H., & Goren, A. C. (2013). Halal food and Metrology: Ethyl alcohol contents of beverages. *Journal Chemical Metrology*, 7, 7-9.)

Anaerobic:

Most alcoholic beverages undergo anaerobic fermentation, where yeast converts sugars into alcohol without oxygen. In this process, commonly used yeast strains in brewing and winemaking have an alcohol tolerance typically ranging from 12-18% alcohol by volume (ABV). Beyond this concentration, the yeast becomes toxified, and the zymase enzyme is inhibited, halting the fermentation process.⁵⁰ In anaerobic fermentation, yeast converts sugar into alcohol without oxygen. The maximum alcohol concentration achievable depends on factors such as yeast type, initial sugar concentration, temperature, and fermentation conditions. Yet, yeast viability diminishes in high alcohol concentrations. Once the alcohol concentration nears approximately 15%, yeast activity is significantly inhibited, leading to a slowdown or cessation of fermentation.⁵¹ Producing alcoholic beverages with alcohol content significantly above 18-20% ABV usually involves additional processes beyond traditional fermentation, such as distillation.

In summary:

1. Ethanol produced from aerobic fermentation will not produce much above 1% ethanol except with grape juice.
2. Ethanol produced from anaerobic fermentation will not produce much above 15%

➤ **a Non-khamr beverage, due to an insufficient concentration of ethanol to cause inebriation, (i.e., Ethanol < 1%), is Permissible**

If a 55 kg weight female consumed 1% ethanol within 1 hour, the inebriation limit will only be reached after ingesting a huge 4000 ml volume, [Blood Alcohol Concentration (BAC) of 0.09%]⁵².

⁵⁰ Thamilvanan, G., & Selvi, R. S. (2013). Distillation of ethanol from sugar molasses. *International Journal of Medicine and Biosciences*, 2, 33-35.

⁵¹ There are specialized yeast strains, often referred to as "high-alcohol" yeast strains, that have been bred or engineered to tolerate higher alcohol concentrations. Some of these strains can potentially ferment up to around 20% ABV or even slightly higher under optimal conditions.

⁵² The Blood Alcohol Concentration (BAC) measurement, measures the concentration of alcohol in a person's bloodstream. It is used to assess inebriation levels and is legally relevant in contexts such as driving under the influence (DUI) regulations. It is expressed as a percentage but reflects the mass of alcohol per volume of blood. For example, a BAC of 0.08% means there are 0.08 grams of alcohol per 100 milliliters of blood, which is the legal limit for driving in most countries. BAC is used in medical, legal, and forensic fields to understand the level of impairment of an individual due to alcohol. It is crucial for enforcing laws regarding driving, operating machinery, and assessing medical intervention for alcohol poisoning.

In contrast, ABV is a fixed measure indicating the alcohol content of beverages and remains constant for each specific drink. BAC, on the other hand, varies significantly between individuals depending on a wide range of factors including the amount and rate of alcohol consumption, body weight, metabolism rate, and the time span over which alcohol is consumed. A 55kg lady is more likely to be inebriated earlier and have a higher BAC than an average man and hence this physiological profile has been chosen as a cautionary measure.

Drinking 4 litres of 1% ethanol to reach inebriation is practically impossible; therefore, such a beverage or solution will not have the potential to inebriate.⁵³ There are many solutions and substances that contain a small amount of ethanol concentration, and they are considered ḥalāl in Islam, like vinegar,⁵⁴ bread, fruit juices, soy sauce and many other food products.⁵⁵ Our body produces its own endogenous ethanol, which can be as much as 0.15% BAC, considering that an average man would need to consume approximately 825 ml of a 1% ABV ethanol solution to reach this BAC of 0.15%. Hence, it is clear that less than 1% alcohol is found in many foods and even in our blood circulation, so it is not khamr or muskir as it does not have the potential to lead to an inebriation state.

⁵³ From a medical standpoint, consuming 4 litres of water within a span of 1 hour can result in a swift and severe condition known as hyponatremia. This disorder arises when the concentration of sodium ions in the bloodstream drops to dangerously low levels. The excessive intake of water overwhelms the kidneys' ability to expel it efficiently, leading to a dilution of the blood and a state of waterlogged tissues. This, in turn, facilitates the influx of water into brain cells, culminating in cerebral oedema, which can progress to coma and ultimately prove fatal. In contrast, achieving inebriation by consuming 4 litres of a beverage containing only 1% alcohol is virtually unattainable due to the impractical volume required.

(Sahay, M., & Sahay, R. (2014). Hyponatremia: A practical approach. *Indian Journal of Endocrinology and Metabolism*, 18, 760e771.)

⁵⁴ There are beverages which contain a small percentage of alcohol per volume, which are clearly permitted to be consumed in Islam. For example, vinegar, characterised by its tangy flavour, is prominent in the food industry and is derived from various natural sources. Regarding its ḥalāl status, vinegar is generally regarded as permissible and even recommended. It is established that the Prophet (صلى الله عليه وسلم) consumed vinegar and praised it in several authentic narrations. Among them: The Prophet (صلى الله عليه وسلم) said: "What an excellent condiment vinegar is!" (Narrated by Muslim)

ثَبِتَ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَكَلَ الْخَلُّ ، وَوَصَفَهُ لَهُ بِأَنَّهُ إِدَامٌ ، وَأَثْنَى عَلَيْهِ فِي مَجْمُوعَةٍ مِنَ الْأَحَادِيثِ الصَّحِيحَةِ ، فَمِنْ ذَلِكَ قَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : (نَعَمْ الْإِدَامُ الْخَلُّ) رَوَاهُ مُسْلِمٌ . (2051)
 وَرَوَى مُسْلِمٌ أَيْضًا (٢٠٥٢) بِسَنَدِهِ عَنْ طَلْحَةَ بْنِ نَافِعٍ ، أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ ، يَقُولُ : أَخَذَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِيَدِي ذَاتَ يَوْمٍ إِلَى مَنْزِلِهِ ، فَأَخْرَجَ إِلَيْهِ فَلَقَا مِنْ خُبْزٍ ، فَقَالَ : مَا مِنْ أَدَمٍ ؟ فَقَالُوا : لَا إِلَّا شَيْءٌ مِنْ خَلٍّ . قَالَ : فَإِنَّ الْخَلَّ نَعْمُ الْإِدَامُ . قَالَ جَابِرٌ : فَأَزَلْتُ أَحَبُّ الْخَلِّ مِنْذُ سَمِعْتَهَا مِنْ نَبِيِّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . وَقَالَ طَلْحَةُ : مَا زَلْتُ أَحَبُّ الْخَلِّ مِنْذُ سَمِعْتَهَا مِنْ جَابِرٍ . وَعَنْ أُمِّ هَانِئِ بِنْتِ أَبِي طَالِبٍ قَالَتْ : دَخَلَ عَلَيَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ : هَلْ عِنْدَكَ شَيْءٌ ؟ فَقُلْتُ : لَا ، إِلَّا كِسْرٌ يَابِسَةٌ وَخَلٌّ . فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : قَرِيبِي ، فَمَا أَقْفَرُ بَيْتٌ مِنْ أَدَمٍ فِيهِ خَلٌّ

Regarding its ethanol content, when vinegar's ethanol concentration reaches 1%, which is rare except for wine vinegar, it remains permissible (ḥalāl) as long as there is no deliberate intervention to accelerate the conversion of ethanol into acetic acid. Standards have been established to limit the ethanol content in vinegars to a maximum of 0.5% to 1%.

(Heikefelt, C. (2011), Chemical and sensory analyses of juice, cider and vinegar produced from different apple cultivars. In Department of plant breeding and biotechnology (Vol. 62) Alnarp: Swedish University of Agricultural Sciences.)

⁵⁵ Gorgus E, Hittinger M, Schrenk D. Estimates of Ethanol Exposure in Children from Food not Labeled as Alcohol-Containing. *J Anal Toxicol*. 2016 Sep;40(7):537-42.

The ḥadīth of the Prophet Muḥammad (صلى الله عليه وسلم) states that whatever inebriates in large quantities, a little of it is also forbidden (Tirmidhi, no. 1865), pertains specifically to khamr, where the concentration of ethanol is sufficiently high to cause inebriation. It does not apply to beverages with such low ethanol concentrations (below 1% ABV) that increasing their volume would not render them capable of inebriating. Classical Muslim scholars unanimously agreed that khamr must have the potential to inebriate upon consumption; it does not extend to substances lacking this potential.

Early Ḥanafī scholars specifically limited this ruling to the final gulp of a beverage that has the capacity to inebriate. In contrast, later Ḥanafī scholars and others did not distinguish based on quantity but rather focused solely on the potential for inebriation; any beverage with this potential is considered khamr or subject to the legal rulings of khamr. This potential is determined by a threshold level of ethanol concentration, not merely any presence of ethanol.

Therefore if <1% ethanol cannot inebriate even in large amounts beyond the capacity for a person to consume in one go to be inebriated, then ethanol of this concentration will not be khamr nor muskir.⁵⁶

Anaerobic:

In Islamic jurisprudence, al-khamr encompasses beverages derived from fruits or any natural sugar source through anaerobic fermentation, as these possess the potential to induce inebriation. Ethanol, the primary constituent of al-khamr, is the chemical agent responsible for its inebriating effects. Typically ranging between 1-15% Alcohol by Volume (ABV), beverages resulting from anaerobic fermentation are deemed potentially inebriating and thus classified as khamr or muskir, subject to the same prohibitions.

If the ethanol concentration remains below 1%, irrespective of quantity or volume during production, the beverage is not considered muskir, as it lacks the potential to cause inebriation. However, if it is deliberately crafted with the intent to produce an inebriating beverage, even if the ethanol content remains below 1%, the action is deemed impermissible due to the intention behind it, aligning with the Islamic principle that deeds are judged by intentions (niyyah). As Prophet Muḥammad (صلى الله عليه وسلم) stated, "Verily, deeds are only with intentions" (Ṣaḥīḥ al-Bukhārī).⁵⁷ Therefore, any endeavour aimed at creating alcoholic beverages for the purpose of inducing partial

⁵⁶ شرح معاني الآثار الطحاوي ٦٤٣١ - ما حدثنا فهد , قال: ثنا أحمد بن يونس قال: ثنا ابن شهاب , عن أبي ليلي , عن عيسى , «أن أباه بعثه إلى أنس في حاجة , فأبصر عنده طلاء شديدا» والطلاء: ما يسكر كثيرا , فلم يكن ذلك عند أنس نخرا , وإن كثيرا يسكر. وثبت بما وصفنا أن الخمر عند أنس , لم يكن من كل شراب ولكنها من خاص من الأشربة. وقد وجدنا من الآثار , ما يدل على ما ذكرنا أيضا , مما تأولنا عليه أحاديث أنس (4:214)

⁵⁷ إِنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَإِنَّمَا لِلكلِّ أَمْرٍ مَا نَوَى فَمَنْ كَانَتْ هِجْرَتُهُ إِلَى اللَّهِ وَرَسُولِهِ فَهِيَ هِجْرَتُهُ إِلَى اللَّهِ وَرَسُولِهِ وَمَنْ كَانَتْ هِجْرَتُهُ لِدُنْيَا يُصِيبُهَا أَوْ امْرَأَةٍ يَنْكِحُهَا فَهِيَ هِجْرَتُهُ إِلَى مَا هَاجَرَ إِلَيْهِ

or complete inebriation is prohibited, irrespective of the ethanol content being below 1%, even though the beverage itself will not be considered khamr or muskir.⁵⁸

*Explaining the positions of each Sunni school in light of ethanol concentration:*⁵⁹

It is agreed by all Classical scholars that fermentation of water-based drinks like nabīdh is permissible as long as it doesn't reach an intense level of inebriation, based on the Prophet's saying:

⁵⁸ في شرح مختصر الطحاوي للجصاص [أبو بكر الرازي الجصاص] ووجه آخر: وهو أنه لو صح أنه أراد تحريم القليل مما لم يسكر إذا كان مما يسكر كثيره، كان المعنى فيه: أنه متى قصد عند ابتداء شربه إلى بلوغ حد السكر: فكله عليه حرام؛ لأنه قصد بالشرب معصية، وأرادها بالشرب كله، كما أنه إذا نوى بمشيه أن يمشي إلى سرقة، أو إلى زنى: كان مشيه ذلك معصية، كذلك إذا شرب وهو يريد بذلك أن يشرب حتى يسكر: كان القليل محرماً. وقد حدثنا ابن قانع قال: حدثنا محمود بن محمد قال: حدثنا رحوية قال: حدثنا سوار بن مصعب عن الفضل عن أبي أمامة قال: قال رسول الله صلى الله عليه وسلم: "من شرب شراباً ينوي فيه السكر، فقد عصى الله ورسوله." * ووجه آخر: وهو أن الشراب إذا كان عنه السكر، فكله عامل فيه، وعن جميعه وقع، فصار جميعه مؤثراً فيه، كما أن الجراح الكثيرة إذا قتلت، كان جميعها موجبا للقتل، وكجماعة جرحوا رجلاً، وكل واحدة من الجراحات لو انفردت لم توجب الموت، ثم إذا اجتمعت فقتلت، كان القتل حادثاً عن جميعها، وكذلك حال السكر، وعلى هذا معنى قوله عليه الصلاة والسلام: "ما أسكر الفرق منه، فالجرعة منه حرام"، إذ كان جميعه مؤثراً في إيجاب السكر، وعلى الوجه الآخر، إذا قصد بها السكر. (2:369)

⁵⁹ عند المالكية :

في المنتقى شرح موطأ الإمام مالك للباقي قال مالك : السنة عندنا أن كل من شرب شراباً مسكراً فسكراً أو لم يسكر فقد وجب عليه الحد ، فإن من شرب مسكراً أي نوع كان من الأنواع المسكرة من عنب كانت أو من غير عنب مطبوخاً كان أو غير مطبوخ قليلاً شرب منه أو كثيراً فقد وجب عليه الحد سكر أو لم يسكر ، وهذا مذهب أهل المدينة مالك وغيره . (3:147)

عند الشافعية :

في مغني المحتاج للشريني كل شراب أسكر كثيره حرم هو وقليله جميع الأشربة من نقيع التمر والزبيب وغيرهما " (4:187) .

عند الحنابلة :

في المغني لابن قدامة أن كل مسكر حرام قليله وكثيره وهو نحر حركه حكم عصير العنب في تحريمه ووجوب الحد على شاربه (10:327)

عند الأحناف:

أنه يحل تناول بعض من الأشربة المذكورة ، ولا يحرم منه إلا المقدار المسكر ولهم في ذلك تفصيل هو الحرام عندهم أربعة أنواع : الخمر، الطلاء ، نقيع التمر ، نقيع الزبيب

جاء في الهداية : والأشربة المحرمة أربعة : الخمر وهي عصير العنب إذا على واشتد وقذف بالزبد والعصير إذا طبخ حتى يذهب أقل من ثلثيه وهو الطلاء ، ونقيع التمر وهو السكر ، ونقيع الزبيب إذا اشتد وعلى . (الهداية للمرغيناني من نتائج الأفكار لقاضي زاده (9:21)

وجاء في بدائع الصنائع : أما السكر والفضيخ ونقيع الزبيب فيحرم شرب قليلها وكثيرها الحلال منها عندهم أربعة أنواع (بدائع الصنائع للكاساني (5:114)

جاء في حاشية رد المحتار: والحلال منها أربعة أنواع : الأول : نبيذ التمر والزبيب إن طبخ أدنى طبخه يحل شربه ، وإن اشتد وهذا إذا شرب منه بلا لهو وطرب ، فلو شرب للهو فقليله وكثيره حرام ، وما لم يسكر فلو شرب ما يغلب على ظنه أنه مسكر فيحرم ، لأن السكر حرام في كل

شراب . والثاني : الخليلطان من الزبيب والتمر إذا طبخ أدنى طبخه وإن اشتد يحل بلا لهو ، والثالث: نبيذ العسل والتين والبر والشعير والذرة يحل سواء طبخ أولاً بلا لهو وطرب ، والرابع : المثلث العنبي وإن اشتد وهو ما طبخ من ماء العنب حتى يذهب ثلثاه ويبقى ثلثه إذا قصد به استقرار

الطعام والتداوي والتقوى على طاعة الله تعالى ولو للهو لا يحل إجماعاً .. فيكون عند الأحناف نبيذ التمر والزبيب ، والتمر اسم جنس فيتناول اليابس والرطب والبسر، ويتخذ حكم الكل ، والنبيذ يتخذ من التمر والزبيب ، أو العسل أو السبر أو غيره ، بأن يلقي في الماء ويترك حتى يستخرج

منه مشتق من التبد وهو الإلقاء ، وأن يطبخ أدنى طبخه وهو أن يطبخ إلى أن ينضج ، وقيد به لأن غير المطبوخ من الأنبة حرام فهذا حلال عندهم (حاشية رد المحتار على الدر المختار لابن عابدين (6:480)

"Ferment nabīdh, but every inebriant is unlawful." It is also confirmed that he used to ferment and drink nabīdh on the second or third day.⁶⁰ The Mālikī and Ḥanbalī schools have stated that there is no issue with "al-fuqqā'" (a drink made from wheat and dates, sometimes with added raisins or similar ingredients until they dissolve) because it is not inebriating; it is made to aid digestion. They also permit "sūbyā" drink, made from cooking rice intensely until it dissolves in water, then sweetening it with sugar. Additionally, they permit "ʿuqīd al-ʿinab" (grape syrup), which is grape juice boiled until it thickens and its intoxicating properties disappear at the beginning of boiling, referred to as "silent wine (al-rabu al-ṣāmit)." However, these beverages are only permissible if one is safe from it causing inebriation. This indicates that syrups and similar products are permissible due to the absence of inebriating effects.⁶¹

In summary, according to the Mālikī school of thought, the primary criterion for determining the permissibility of a beverage is its potential to cause inebriation, irrespective of its source (such as dates/raisins versus grain/honey) or method of preparation (cooked versus uncooked). Nabīdh and naqīʿ are considered lawful when fresh, as they typically contain minimal ethanol, if any. However, after three days, these drinks have fermented a significant amount of ethanol, resulting in an ethanol content exceeding 1% and thus becoming potentially inebriating. Mixtures containing substances prone to fermentation (such as dates, grapes/raisins, grain, honey) are prohibited because they tend to ferment more rapidly than single-source drinks, leading to an ethanol content likely to surpass 1%.

Consuming a juice- or water-based beverage reduced to one-third of its original volume by cooking is permissible, as it would typically contain less than 1% ethanol, provided it does not possess inebriating properties. However, if such beverages (both juice- and water-based) exhibit fizziness or bubbling, it indicates an ethanol content above 1%, rendering them prohibited.⁶²

⁶⁰ بداية المجتهد ونهاية المقتصد [ابن رشد الحفيد] واتفقوا على أن الانتباز حلال ما لم تحدث فيه الشدة المطربة الخمرية؛ لقوله - عليه الصلاة والسلام -: «فانتبذوا، وكل مسكر حرام». ولما ثبت عنه - عليه الصلاة والسلام -: «أنه كان ينتبذ، وأنه كان يريقه في اليوم الثاني أو الثالث (3:26)

⁶¹ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] وصرح المالكية والحنابلة بأنه لا بأس بالفقاع (وهو شراب يتخذ من قح وتمر، وقيل: ماجعل فيه زبيب ونحوه حتى انحل فيه) لأنه غير مسكر، وإنما يتخذ لهضم الطعام. ويحل عندهم شراب السوبيا: وهو ما يتخذ من الأرز بطبخه طبخا شديدا حتى يذوب في الماء، ويصفى ويوضع فيه السكر ليحلوه به. ويحل عقيد العنب: وهو ماء العنب المغلي حتى يعقد ويذهب إسكاره الذي حصل في ابتداء غليانه، ويسمى الرب الصامت. ولا تحل هذه الأشربة إلا إذا أمن السكر منها. وبه يظهر أن الدبس ونحوه من المربيات مباح لعدم الإسكار. (4:527)

⁶² في المدونة [مالك بن أنس] ما أسكر من الأشربة كلها فهو نحر يضرب صاحبه فيه ثمانين. وفي رأيته إذا شهد عليه بها أنها رائحة مسكر، نبيذا كان أو غيره، فإنه يضرب فيه ثمانين. قلت: من حنطة كان هذا النبيذ أو من شعير؟ قال: نعم، والسكركة وغيرها فإنها عنده نحر إذا كانت تسكر. قلت: رأيت عكر المسكر، أي جعل في شيء من الأشربة أو من الأطعمة في قول مالك؟ قال: سألت مالكا عن دردي النبيذ المسكر فقال مالك: لا يحل أن يجعل شراب يضرب به، فكذلك الطعام عندي لا يجعل فيه. قلت: رأيت النبيذ إذا انتبذته، يصلح لي أن أجعل فيه عجينا أو دقيقا أو سويقا أو ما يشبهه، ليشد به النبيذ قليلا أو ليحل به النبيذ؟ قال: سألت مالكا عنه فأرخص فيه وقال: لا أرى به بأسا، ثم سألته بعد فني عنه. قال: وقال لي مالك: وقد قال لي أهل المغرب إن ترابا عندهم يجعلونه في العسل، وإن هذه أشياء يريدون بها إجازة الحرام فكرهه. قال ابن

In contrast, the Shāfi'ī school of thought and Ḥanbalī school do not provide a detailed classification of drinks or delve into the cooking of juice. Once a general prohibition is established, these nuances become irrelevant. "Sukr" is viewed as a physical characteristic specific to certain substances, not determined by quantity but potential i.e., by concentration, which remains consistent regardless of quantity.⁶³ It is disliked (makrūh) to ferment substances that do not inebriate. This includes "al-

القاسم: وأنا لا أرى به بأسا ما لم يسكر. قلت: أرأيت البسر والتمر أو الرطب والتمر أو الزبيب والتمر، أيجمعان في التبيذ جميعا في قول مالك؟ قال: قال لي مالك: لا ينبذان جميعا وإن نبذا مختلفين شرابا حلالا، ولا أحب أن يخلط في إناء واحد ثم يشربا لأن النبي - صلى الله عليه وسلم - نهى أن يبيذ البسر والتمر جميعا، أو يشرب الزهو والتمر جميعا. قال: فهذه الأشياء كلها لا يجمع منها شيئا في الانتباز، ولا يجمع منها شيئا في إناء واحد يخلطان فيشربان جميعا وإن كانا حلالين كلاهما لنهي النبي - صلى الله عليه وسلم - الذي جاء فيه. قلت: وكذلك الخنطة والشعير لا يجمعان في الانتباز ولا في الشرب؟ قال: نعم في رأيي. قلت: أرأيت إن مزج نبيذه بالماء، أيكون هذا قد جمع شيئين في قدح واحد؟ قال: لا، لأن الماء ليس بنبيذ، وإنما يكره أن (4:523)

في النوادر والزيادات على ما في المدونة من غيرها من الأمهات [ابن أبي زيد القيرواني] فانخرم لم تحرم لطيب طعم ولا اللون ولا لرائحة، ولكن لما يكون عنها، ولا فرق بين مسكر العنب ومسكر التمر وغيره. وإنما سميت نحرما لمخامرتها العقل، والسكر إنما سمي سكرًا لأنه يسكر لمخامرة العقل. قال اللة عز وجل (ومن ثمرات النخيل والأعناب تتخذون منه سكرًا) فالسكر الخمر. وقال أنس: إن نحرهم كانت يوم نزل تحريمها من فضيخ التمر والرطب. وقد أمر من حضر من الانصار أن يريقها حتى نزلت الآية فلم يشكوا أنها الخمر. وعمر قد قال: نزل تحريمها يوم نزل وهي من نحرهم، ثم أجمل فقال: ألا وإن نحر ما خامر العقل، فتبين معناها. ولو كان إلى القياس وجب أن يقاس عصير العنب على (كل) مسكر التمر وغيره، لأن السكر مما عدا العنب ليس الغرض منه إلا السكر، فهو أخص بالتحريم، إذ من أجل السكر حرمت واحتيط على العباد فنعوا من قليلها إذ كان داعية إلى كثيرها. (14:283)

والنحر والسكر معنى واحد وقد قرن (العلة) النخيل والأعناب فيما يتولد عنهما مما يجب له هذا الاسم. وثبت أن النبي قال: كل مسكر حرام وقال: ما أسكر كثيرة فقليلة حرام وقال: كل مسكر نحر وخطب به عمر على الناس وقال: إن النحر من خمسة أشياء يوم نزل تحريمها. ثم قال: والنحر ما خامر العقل. وثبت أن النبي سئل عن البتع فقال: كل شراب أسكر فهو حرام...

ولما كان العصير من عنب أو فضيخ تمر لا يجب له اسم نحر أو المسكر إلا بحدوث الشدة دل على ان الشدة الحادثة أوجبت هذا الاسم لقليله وكثيرة، فصار تحريم قليله وكثيرة بهذه العلة الحادثة التي نقلت اسمه، فوجب لغيره من الأشربة حكمه أن يستحق الاسم والمعنى إذا قام فيه ما قام في العصير بالشدة من المعاني التي لها وجب الاسم، وله حرمت، فصار قليله وكثيرة معلولا مقيسا عليه، إذ وجب اسم النحر لقليله بهذا كما وحب لكثيرة. ولو كان قليله لم يسم نحرًا لعله الشدة ولكن لغير علة، لزمك أن قليل عصير العنب اسمه نحر قبل الشدة (14:285)

⁶³ في الحاوي الكبير [الماوردي] قال الماوردي: أصل المسكرات كلها الخمر، وما سواه من الأنبذة المسكرة تابع له ومستنتب منه. والنحر هو عصير العنب إذا صار مسكرًا بحدوث الشدة المطرية فيه فيصير نحرًا بشرطين: الشدة والسكر. وقال أبو حنيفة: لا يصير نحرًا بها حتى ينضم إليهما شرط ثالث وهو أن يقذف زبده. وليس قذف الزبد عندنا شرطًا؛ لأنه لا تأثير له في شربها. وفي تسميتها نحرًا تأويلان: أحدهما: لأنه ينجر عصيره في الإناء حتى يصير نحرًا أي يغطي ولو لم يغط لم يصير نحرًا والتخمير التغطية ومنه سمي نحر المرأة؛ لأنه يغطيها ويسترها. والثاني: لأنه يخامر العقل بالسكر أي: يغطيه ويخفيه قول الله تعالى: {ومن ثمرات النخيل والأعناب تتخذون منه سكرًا ورزقا حسنا} [النحل: ٦٧]. وفيه ثلاث تأويلات: أحدها: أن السكر ما أسكر من الخمر والتبيذ، والرزق الحسن وهو ما أنحر من التمر والزبيب، ونزلت هذه الآية قبل تحريم الخمر ثم حرمت الخمر من بعد، وهذا قول ابن عباس، ومجاهد وقتادة وسعيد بن جبير، وشاهده من اللغة قول الأخطل: (بئس الصحة وبئس الشرب شربهم... إذا جرى فيهم المزاء والسكر) والسكر: الخمر، والمزاء: نوع من التبيذ المسكر. والتأويل الثاني: أن السكر الخمر بلغة الحبشة. وقيل بلغة أزد عمان. والتأويل الثالث: أن السكر الطعام، والرزق الحسن: الاثنان، وهذا قول الأخفش (13:337)

Revising the Fiqh of Khamr and Alcohol

munaṣṣaf" which is made from dates and raisins, and "al-khalīṭān" which is made from a mixture of dates and raisins or grapes and raisins, as long as it has not been boiled or left for three days. If the duration is shortened, then there is no dislike. Therefore, fermentation (soaking dates, raisins, or grains in water) is permissible if it remains for a short period, such as a day or night, and so on, where the expectation of inebriation is unlikely. This is evidenced by the narration of Ibn Abbas, reported by Ahmad, Muslim, and Abu Dawud, that he used to soak raisins for the Prophet (صلى الله عليه وسلم), who would drink them on the day, the next day, and the day after until the evening of the third day, then he would order it to be discarded.⁶⁴

The Māliki school mentioned that it is disliked to ferment in "dabbā" and "muzaffat" containers only, but it is not disliked in other types of containers, such as pottery and others, as long as the duration is not extended to the point where inebriation is feared. The reason for the dislike is the fear of hastening inebriation due to what is fermented in them, as their nature facilitates it, unlike other containers.⁶⁵

On the other hand, the Shāfi'i and Ḥanbali schools, like the Ḥanafi school, allow fermentation in all types of containers.⁶⁶

The Ḥanafi school of thought, represented by both Abū Ḥanīfah and Muḥammad al-Shaybānī, generally permits the consumption of water-based drinks like nabīdh or naqī'ah.⁶⁷

في الشرح الكبير على المتنح - ط المنار [ابن أبي عمر] ولنا ما روى ابن عمر قال: قال رسول الله صلى الله عليه وسلم (كل مسكر حمر وكل حمر حرام) وعن جابر قال: قال رسول الله صلى الله عليه وسلم (ما أسكر كثيره فقليله حرام) رواهما أبو داود والاثرم وغيرهما وعن عائشة قالت سمعت رسول الله صلى الله عليه وسلم يقول (كل مسكر حرام وما أسكر منه الفرق فله الكف منه حرام) رواه أبو داود وغيره وقال عمر رضي الله عنه نزل تحريم الخمر وهي من العنب والتمر والعسل والبر والشعير، والخمر ما خامر العقل متفق عليه، ولأنه مسكر فأشبهه عصير العنب فأما حديثهم فقال أحمد ليس في الرخصة في المسكر حديث صحيح وحديث ابن عباس رواه سعيد عن مسعر عن أبي عون عن ابن شداد عن ابن عباس قال والمسكر من كل شراب، وقال ابن المنذر جاء أهل الكوفة بأحاديث معلولة ذكرناها مع عللها وذكر الأثرم أحاديثهم التي يحتجون بها عن النبي صلى الله عليه وسلم والصحابة فضعفها كلها وبين عللها، وقد قيل إن خبر ابن عباس موقوف عليه مع أنه يحتمل أنه أراد بالسكر المسكر من كل شراب فإنه يروي هو وغيره عن النبي صلى الله عليه وسلم انه قال (كل مسكر حرام) (مسألة) (ولا يجوز شربه للذة ولا للتداوي ولا لعطش ولا غيره إلا أن يضطر إليه لدفع لقمة غص بها فيجوز) (10:328)

⁶⁴ الفقه الإسلامي وأدلتة للزحبي [وهبة الزحبي] غير المسكر: يحل شرب كل الأشربة غير المسكرة؛ لأن الأصل في الأشياء الإباحة. لكن يكره تحريماً من غير المسكر (1): المنصف: وهو ما يعمل من تمر ورطب، واخليطان: وهو ما يعمل من بسر ورطب، أو تمر وزبيب، ما لم يغل، أو لم تأت عليه ثلاثة أيام، فإن قصرت المدة، فلا كراهة. فيباح الانتباز (طرح التمر أو الزبيب أو الحبوب في الماء) إذا بقي مدة يسيرة كيوم أو ليلة ونحوها بحيث لا يحتمل توقع الإسكار فيها، بدليل ما روى أحمد ومسلم وأبو داود عن ابن عباس: أنه كان ينقع الزبيب للنبي، فيشربه اليوم والغد وبعد الغد إلى مساء الليلة الثالثة، ثم يأمر به فيهراق. (4:562)

⁶⁵ الشرح الكبير: (2:117)، بداية المجتهد: (1:460)، القوانين الفقهية: ص 174

⁶⁶ شرح مسلم للنووي: ١٥٨ / ١٣، كشاف القناع: (6:120)، المغني (8:318)

⁶⁷ في المبسوط للسرخسي [شمس الأئمة السرخسي] وقال حماد بن أبي سليمان - رحمه الله - إذا طبخ حتى نضج حل شربه، وكان بشر المرسي يقول: إذا طبخ أدنى طبخه، فلا بأس بشربه، وكان أبو يوسف - رحمه الله - يقول أولاً: إذا طبخ حتى ذهب منه النصف، فلا بأس بشربه، ثم رجع، فقال ما لم يذهب منه الثلثان بالطبخ لا يحل شربه إذا اشتد، وهو قول أبي حنيفة - رحمه الله -، وعن محمد - رحمه الله - أنه كره الثلث

Regarding uncooked nabīdh and naqī'ah:

- *Other than grape juice*, if these beverages exhibit bubbling or intensification, they are considered prohibited but not classified as khamr. Uncooked nabīdh and naqī'ah made from raisins or dried dates are permissible as long as they retain their sweetness and have not intensified. However, once they intensify, there is a difference of opinion within the school. Al-Sarakhsī (d. 483 H) leans towards prohibition but acknowledges that such substances are not strictly classified as khamr. This situation arises when their ethanol content exceeds 1%, similar to grape juice. Al-Ṭahāwī (d. 321 H) deems lawful any water-based drink produced from sources other than grapes or dates, such as honey or grain, regardless of their physical characteristics or production methods. These beverages are unlikely to have an ethanol content above 1%, unlike grapes. Abū Ḥanīfah suggests that these substances become reprehensible (makrūh) and should be avoided once they mature and begin to bubble. Al-Shaybanī (d. 189 H) goes further by advising against the consumption of any drink that may lead to inebriation in large quantities. However, he does not explicitly forbid such drinks, stating, "I am not forbidding such a drink." We now understand that if left to ferment alone in aerobic conditions, these drinks are unlikely to exceed 1% ethanol content and thus would not be prohibited as muskir. However, if they begin to froth and bubble, there is a possibility that the ethanol content exceeds 1%, and they should

أيضا، وعنه أنه توقف فيه، وعنه أنه حرم ذلك كله إذا كان مسكرا، وهو قول مالك والشافعي، وطريق من توسع في هذه الأشربة ما ذكرنا أن قبل نزول التحريم كان الكل مباحا، ثم نزل تحريم الخمر، وما عرفنا هذه الحرمة إلا بالنص، فبقي سائر الأشربة بعد نزول تحريم الخمر على ما كان عليه قبل نزوله، ومن أثبت التحريم في الكل قال: نص التحريم بصفة الخمرية، والخمر ما خامر العقل، وكل ما يكون مسكرا، فهو مخامر للعقل، فيكون النص متناولا له، ولكنا نقول الاسم للتي من ماء العنب حقيقة، لسائر الأشربة مجازا ومتى كانت الحقيقة مرادة باللفظ تحي المجاز، وهبك أن الخمر يسمى لمعنى مخامرة العقل، فذلك لا يدل على أن كل ما يخامر العقل يسمى خمرًا. (24:6)

في شرح مختصر الطحاوي للجصاص [أبو بكر الرازي للجصاص] قال أبو جعفر: (وكل شيء من الأنبة - سوى نبيذ الزبيب - النقيع من العسل والذرة والزبيب والتمر وما سواهن، عتق أو لم يعتق، خلط بعضه ببعض أو لم يخلط، بعد أن يطبخ: فلا بأس به، وإنما المكروه نبيذ الزبيب المعتق إذا على، وهذا كله قول أبي حنيفة رضي الله عنه الذي رواه محمد عن أبي يوسف في كتاب الأشربة من الأصول. قال أبو بكر: لا فرق بين المعتق وغير المعتق من نبيذ الزبيب والتمر بعد أن يكون مطبوخا عند أبي حنيفة، والذي ذكره أبو جعفر عن أبي حنيفة من كراهة نبيذ الزبيب المعتق غير معروف، والأصل الذي يجمع مذهب أبي حنيفة في ذلك: ما رواه ابن رستم عن محمد قال: قال أبو حنيفة: الأنبة كلها حلال إلا أربعة أشياء: الخمر، والمطبوخ إذا لم يذهب ثلثاه ويبقى ثلثه - قال أبو بكر: يعني مطبوخ العنب -، ونقيع التمر - فإنه سكر -، ونقيع الزبيب. وأما أبو يوسف: فإنه كان يقول في سائر الأشربة إذا بقيت بعد البلوغ عشرة أيام: فلا خير فيها، ثم رجع إلى قول أبي حنيفة، روى ذلك ابن سماعه عنه. وحكي ابن شجاع عن الحسن بن أبي مالك أن أبا يوسف قيل له: هل في نفسك من النبيذ شيء؟ فقال أبو يوسف: وكيف لا يكون؟ في نفسي منه شيء، وقد اختلف فيه أصحاب رسول الله صلى الله عليه وسلم، في نفسي منه مثل الجبال. وأما محمد بن الحسن: فإن هشاما ذكر أنه سأله عن النبيذ ما أسكر كثيره؟ فقال: أحب إلى أن لا أشربه، ولا أحرمه. وقال في كتاب الأشربة من الأصول: وقال أبو يوسف: يكره كل شراب من الأنبة يزداد جودة على طول الترك، ولا أجيز بيعه، ووقته عشرة أيام، فإذا بقي أكثر من عشرة أيام: فهو مكروه، وإن كان يمحض في عشرة أيام، أو أقل: فلا بأس به. وهو قول محمد، ثم رجع أبو يوسف وحده، وقال: لا بأس بذلك كله. والذي ذكره أبو جعفر من قول أبي يوسف في كراهة المعتق، هو مرجوع عنه من قول أبي يوسف إلى قول أبي حنيفة، قد روى رجوعه جماعة. *فأما المحجة لما قدمنا ذكره من قول أبي حنيفة في إباحة ما خلا الأربعة الأشربة التي ذكرناها: فهي من جهة ظاهر الكتاب، والسنة، واتفاق السلف، والنظر. (6:348)

Revising the Fiqh of Khamr and Alcohol

be avoided. The Prophet (صلى الله عليه وسلم) and important companions consumed small quantities of these beverages, distinguishing them from khamr, which has been diluted. Al-Sarakhsī extends this prohibition to date and grape drinks regardless of their preparation, attributed to al-Shaybānī, who unconditionally prohibited them.

- *Regarding grape juice:* Abū Ḥanīfah and al-Shaybānī diverge on the issue of cooked juice. Abū Ḥanīfah permits any drink, including grape juice (whether fermented or not), derived from juice that has been reduced by cooking to one-third of its original volume, as there is a likelihood of it having a low concentration of ethanol due to evaporation. In this case, the juice is considered to have transformed into an entirely new substance that can be fermented into a lawful drink. This contradicts Muḥammad al-Shaybānī's stance, as there is still a chance it will contain over 1% ethanol. Al-Shaybānī, however, prohibits fermented grape juice regardless of its preparation, which is supported by the understanding that any fermenting grape juice will likely produce ethanol above 1%. This disagreement stems from al-Shaybānī's strict association of khamr with grape juice, irrespective of its production method. Any uncooked grape juice that begins to bubble naturally or acquires froth indicates fermentation and is classified as khamr, as it is likely to produce ethanol above 1%.

Table 2. All Classical Beverages Considered Prohibited and Permissible⁶⁸

1. Prohibited Ethanol- based Beverages (i.e., ethanol ABV > 1%)	
Al-khamr	<p>uncooked (i.e., not matured or touched by fire) grape juice after boiling, intensifying, skimming off the foam, settling from boiling, and becoming clear. This definition is the view of Abū Ḥanīfah because the essence of intoxication (al-iskār) is not complete except with skimming off the foam; hence, it does not become khamr without it.</p> <p>Abū Yusuf, Muḥammad al-Shaybānī, as well as other imāms of other schools: If it boils and intensifies, then it is khamr, even if it has not settled from boiling. Because the essence of inebriation is achieved without skimming off the foam, and this is the predominant view among the Ḥanafis.</p>
Al-Sukr	<p>uncooked soft dates that have not been touched by fire, or the unripe (نيء) from date water (نبيذ) when it boils, intensifies, and the foam (زبد) is skimmed off. According to Abū Ḥanīfah, its boiling subsides.</p>

⁶⁸ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] (7:490)

Revising the Fiqh of Khamr and Alcohol

Al-Faḍīkh	unripe (نيء) from dry grape water (ماء البسر) when it boils, intensifies, and the foam (زبد) is skimmed off, or not, as per previous disagreement. It is named "فضيح" because it breaks and softens (فضح).
Naqī' al-Zabīb	unripe (نيء) from soaked raisin water (ماء الزبيب) until its sweetness emerges, without cooking. It intensifies, and the foam (زبد) is skimmed off, or not, as per the previous disagreement.
Al-Ṭilā' or al-Muthallath	cooked grape water when two-thirds of it evaporates, and one-third remains, becoming inebriating, as per the correct view according to Hanafis. According to Abū Ḥanīfah and Abū Yusuf, it is prohibited if intended for amusement and pleasure, as most drinkers do. However, they permit it if intended for strength or medicinal purposes (though rare). It is completely prohibited, according to the majority of other scholars.
Al-Bādhiq or al-Munaṣṣaf	cooked grape water that is less than two-thirds cooked, whether less than one-third or half, becomes inebriating. The evidence that exceeding two-thirds is prohibited is established by 'Umar, who permitted what two-thirds evaporated, and one-third remained. Therefore, if less than two-thirds is evaporated, its inebriating strength remains.
Al-Jamhūrī	The mixture is where water is added until it melts and returns to its original amount, then cooked until slightly cooked, becoming inebriating. It is prohibited according to Abū Ḥanīfah and Abū Yusuf if intended for amusement and completely prohibited according to the majority of other scholars.
<p>2. Permissible Beverages according to the Weak Opinion (i.e., borderline ethanol ABV or below 1%)</p> <p>[As held by Abū Ḥanīfah and Abū Yusuf, there are four types, if the intention behind drinking them is for fortification, sustaining strength, or medicinal purposes.]</p>	
Nabīdh al-Tamar, al-Zabīb (Water-based beverage from dates and raisins, if cooked to the slightest extent of cooking)	cooked until they ripen, are permissible to drink. They are allowed if consumed without indulgence or entertainment and without causing inebriation. However, if one drinks expecting it to be inebriating, and it turns out to be so, the last cup that causes inebriation by drinking it is prohibited because inebriation is prohibited from all drinks.
Al-Khalīṭān	When cooked to the slightest degree, the mixture of raisins and dates is permissible to drink without indulgence, such as when consumed for fortification or to sustain oneself.

Nabīdh al-‘Asal, al-Tīn, al-Bir and al-Dharrah (Water-based beverage from Honey, fig, barley, and corn)	These are permissible, whether cooked or not, without indulgence or entertainment. Honey wine is called "al-Bit" when it becomes inebriating. Barley and wheat wine are called "al-Ji‘ah" when they become inebriating. Corn wine is called "al-Mirz" when it becomes inebriating. However, it remains permissible, according to Abū Ḥanīfah, for amounts below inebriation
Al-Ṭilā’ or al-Muthallath al-‘Anbī (grape juice) when intensified	cooked from grape juice until two-thirds are gone and one-third remains. It is permissible to drink if the intention is for fortification, sustaining oneself, or medicinal purposes in obedience to Allāh, according to Abū Ḥanīfah and Abū Yusuf.

The legal reasoning upheld by all Sunni schools underscores the importance of a beverage's potential to cause inebriation in determining whether it falls under the category of muskir or khamr. Analysis of the beverage's source and production methods is conducted to ascertain this potential, recognising that there must be a certain threshold of potency for it to be classified as muskir or khamr. Typically, this threshold is considered to be above 1% ethanol content.

- **"Khamr", when it is a beverage with potential to inebriate, (i.e., Ethanol >1%), then it is Prohibited (Muskir)**

When ethanol content is produced through anaerobic fermentation, producing a concentration of between 1-15% ethanol ABV (around 15% being the maximum concentration that can be obtained by anaerobic fermentation), it is treated as khamr as it inebriates, its status is forbidden (non-ḥalāl); preparing, carrying, and drinking it is forbidden as mentioned in the Holy Qurān. A small quantity is prohibited just as large as the concentration of ethanol remains the same regardless of the quantity of the beverage.⁶⁹

If the ethanol content is higher than 15%, it is usually inaccessible via fermentation. An alternative method is needed to achieve the desired high concentration, which is obtained either by distillation or synthetically.

⁶⁹ Complete inebriation is achieved when blood alcohol content (BAC) ranges between 0.08 and 0.10% depending on gender, weight and age. Utilising Widmark's formula (Widmark, 1981), a female with 55 kg weight, if consumed 10% (w/v) ethanol (e.g., Wine), inebriation is achieved within 1 hour after ingestion of 500 ml volume, equivalent to 50 g of absolute ethanol; this ratio may slightly decrease or increase depending on the individual sensitivity.

(Widmark, E. M. P. (1981). Principles and Applications of Medicolegal Alcohol Determination (pp. 107e108). Biomedical Publications.)

Distilled Ethanol:

Distillation is a method that separates ethanol from fermented liquids, leading to the creation of spirits such as whiskey, vodka, and rum with higher alcohol content. It works by exploiting the different boiling points of substances. In the realm of alcoholic beverage production, distillation is crucial for isolating ethanol from the fermented liquid (mash or wine) to produce these potent spirits. However, the maximum alcohol percentage attainable through distillation isn't determined by the alcohol tolerance of fermentation yeast. Instead, it's capped by the azeotropic point of the alcohol-water mixture, which is approximately 95.6% alcohol by volume (ABV) at standard atmospheric pressure. This means that even with multiple distillations, achieving pure ethanol (100% ABV) is impossible using simple distillation alone. Additional methods, such as molecular sieves or specialised distillation processes, are necessary to reach higher concentrations.

Alcoholic beverages are made industrially through fermentation, distillation, and sometimes additional steps for flavouring, ageing, and quality control. If consumed as alcoholic beverages, the ethanol concentration tends to vary from 2-60% or more.⁷⁰ These are all khamr or under the ruling of khamr as they are intended to inebriate as a beverage and are at a concentration that they can. Not all alcoholic beverages are produced through distillation. While many spirits like whiskey, vodka, rum, gin, and tequila are made through distillation, other alcoholic beverages are produced anaerobically using fermentation without distillation. For example, beer and wine are fermented beverages that do not undergo distillation. Beer is made by fermenting sugars derived from grains such as barley or wheat, while wine is produced by fermenting sugars found in grapes or other fruits. These beverages typically have lower alcohol content compared to distilled spirits. Some

⁷⁰ The percentage of alcohol found in alcoholic beverages can vary depending on the type of beverage and regional regulations. Here are some general guidelines:

- Beer: Beers typically have an alcohol by volume (ABV) content ranging from around 3% to 12%. Light beers might have an ABV as low as 2-3%, while stronger ales and craft beers can have ABV levels above 10%.
- Wine: Wines usually have an ABV ranging from about 8% to 15%. Lighter wines like many white wines can be on the lower end of this range, while full-bodied red wines and certain fortified wines can have higher ABV percentages.
- Spirits: Spirits, also known as distilled beverages or hard liquor, have significantly higher alcohol content. Common spirits like vodka, rum, gin, and whiskey typically have ABV percentages ranging from 40% to 60% or more. Some specialized spirits, like overproof rum or grain alcohol, can have ABV levels exceeding 60%.
- Fortified Wines: Fortified wines like sherry, port, and vermouth have had extra alcohol added to them during production. These beverages usually have ABV percentages in the range of 15% to 20% or higher.
- Liqueurs: Liqueurs are sweet, flavored spirits that often have added sugar and other flavorings. They typically have ABV levels ranging from 15% to 30% or more, depending on the specific liqueur.
- Ciders and Perry: These are alcoholic beverages made from fermented apples (cider) or pears (perry). Their ABV can vary widely, usually falling within the 4% to 8% range.

Revising the Fiqh of Khamr and Alcohol

traditional beverages like sake, mead, cider, and certain fruit wines are also produced through fermentation without distillation. These beverages retain the natural flavours of their ingredients and do not undergo the concentration process of distillation.

- **A poison ("mufsid") when it is unsafe for consumption due to high concentrations of ethanol or harmful additives, then it is Prohibited because it is Mufsid**

The majority of ethanol-containing products that are not intended for consumption as beverages do not fall under the category of khamr or its associated legal rulings in Islamic law. Rather, they should be classified as toxic substances or poisons (al-summ) which are harmful substances (mufsid) due to two main reasons: (i) their very high and potentially unsafe concentrations of ethanol, and (ii) the presence of other toxic ingredients that are inherent to their formulation, as these products are not designed for drinking. Industrially, ethanol intended for non-beverage uses is predominantly produced from non-fruit-based raw materials.⁷¹

Although these products contain more than 1% ethanol, they are not classified as alcoholic beverages because their primary purpose is not consumption for inebriation. Consuming them in large amounts can be extremely hazardous and toxic. These substances are designed primarily for their antiseptic, solvent, and preservative qualities in various applications, and using them as a drink can lead to severe health risks.

In the distillation process, naturally occurring sugars from sources like grains, fruits, or sugarcane undergo fermentation by yeast, resulting in alcohol production. This alcohol is then concentrated through distillation, where the fermented liquid is heated to vaporise the alcohol and condensed back into liquid form. Distilled ethanol finds applications in beverages, industry, and biofuel. However, liquids with high alcohol concentrations, like pure ethanol, are unsuitable for consumption and are not produced for beverage purposes. Concentrations above 50-60% ABV are deemed potentially hazardous and toxic if consumed rapidly or inappropriately. It's crucial to recognise that such high-alcohol liquids are usually intended for industrial or fuel use, not for drinking, due to their inherent toxicity.

Synthetic Ethanol:

Synthetic ethanol is chemically synthesised from non-biological sources and not through fermentation. This involves using chemical reactions to convert raw materials such as ethylene, natural gas, or acetic acid into ethanol. The process may involve catalysis and other chemical transformations to create ethanol molecules. Synthetic ethanol is generally produced in industrial

⁷¹ Ethanol used for industrial purpose, not for drinking, is commercially prepared from one of the following starting materials: ethylene, ethane, ethylacetate, ethylperoxide, ethylene oxide, ethylene glycol, acetic acid, acetaldehyde, acetic anhydride, carbon monoxide, carbon dioxide, dimethylether, propylene glycol, cellulose, glucose. (Jawad Alzeer, Khaled Abou Hadeed, Ethanol and its Halal status in food industries, *Trends in Food Science & Technology*, Volume 58, 2016, Pages 14-20),

Revising the Fiqh of Khamr and Alcohol

settings and is commonly used for industrial purposes, such as solvents, cleaning agents, and chemical feedstocks. It is less commonly used than distilled, producing less than 10% of all non-beverage ethanol.

The main difference between distilled and synthetic ethanol is their origin and production methods. Distilled ethanol is derived from natural fermentation processes involving sugars, while synthetic ethanol is chemically synthesised from non-biological sources. From a chemical perspective, both distilled and synthetic ethanol are the same compound with the same molecular structure (C₂H₅OH), and they exhibit the same chemical properties.

It's worth noting that most of the ethanol used for consumption in alcoholic beverages is produced through natural fermentation and distillation processes, while synthetic ethanol is primarily used for industrial and non-consumable applications due to its higher production costs and different production processes.

As previously stated, non-beverage products are classified as mufsid (harmful poison) rather than khamr (alcoholic beverage) due to two key reasons:

(i) High and Potentially Unsafe Concentrations of Ethanol:

Based on distilled and synthetic ethanol; there are certain types of ethanol:

- **Distilled Ethanol (95%-95.6%) ethanol:** This is the highest concentration of ethanol one can obtain by distillation; 95.6% ethanol is an azeotrope, which means the vapour state has the same ethanol-water ratio as the liquid state. This alcohol could be obtained synthetically in the lab from various starting materials or by fermentation of different biomasses. The quality of this alcohol is compatible with food industries and could be used in flavours, candy, personal care products and as a carrier for a wide spectrum of medicines such as cough, decongestants and iodine solutions through dilution.
- **Absolute (99-100%) ethanol:** Certain experiments are water-sensitive, so absolute ethanol is required. A common method to produce ethanol with a concentration higher than 95% is to use additives, such as toluene, heptane, cyclohexane, and 2-butanone, that disrupt the azeotrope composition and allow further distillation. For this reason, absolute ethanol contains trace amounts of these additives.
- **Denatured ethanol:** It is made unhealthy for human consumption by adding one or more chemicals. Denatured ethanol (either 95% or absolute) contains chemicals, such as methanol and isopropanol, therefore it is not safe to drink. Usually, it is cheaper than pure ethanol, as it is exempted from beverage taxes and frequently used as a cleaning and disinfectant agent. Ethanol is an effective disinfectant at concentrations between 70 and 90%, aqueous ethanol is a more effective protein denaturant than absolute ethanol. Denatured ethanol is commonly used in perfume industries.

Revising the Fiqh of Khamr and Alcohol

Unsafe elevated ethanol content and concentration

It is important to understand some key points supported by statistical analysis, which demonstrate the effects of different ethanol concentrations on BAC and the potential outcome of inebriation and/ or poisoning. Levels required to cause inebriation or inebriation are typically achieved at a Blood Alcohol Content (BAC) between 0.08% and 0.10%. Consuming 500 ml of a 10% ethanol solution (like wine) as a beverage, which contains 50 g of absolute ethanol, can lead to a state of inebriation within one hour for a 55 kg female who is likely to be inebriated sooner.

The following table shows the estimate of the alcohol concentration consumed as a *beverage* that corresponds to these BAC levels. It's important to note that the amount of alcohol consumed to reach these BAC levels can vary significantly based on factors like body weight, gender, metabolism, and the time span over which alcohol is consumed. The table shows an approximate range of alcohol consumption needed to reach these BAC levels for an average individual and on the inebriation and poisoning effect:⁷²

Table 3. BAC/Symptoms and Approximation of Ethanol Consumption

BAC Level	Common Symptoms and Impairments	Risks and Additional Effects	Approx. Alcohol Consumed as Beverage
0.02%	- Relaxed feeling - Altered mood - Slight warmth	Minimal but measurable impact on brain and body.	1 standard drink
0.05%	- Slight exaggerated behaviour - Louder speech and more gestures - Slight blurring of vision due to slight loss of small muscle control	Initial and brief stage of loss of control over motor functions.	2-3 standard drinks
0.08%	- Loss of coordination affecting balance, speech, reaction times, and hearing	Illegal to drive in most Countries: Significant impairment.	3-4 standard drinks
0.10%	- Slurred speech - Slow thinking and reasoning - Poor coordination of arms and legs	Reduced reaction time and control; notable impairment in motor functions.	4-5 standard drinks
0.15%	- Poor balance and control over voluntary muscles - Difficulty in walking and talking	High risk of falling and injuring oneself.	6-7 standard drinks
0.20-0.29%	- Confusion and disorientation - Altered pain sensation - Nausea and vomiting	Risk of serious injury due to lack of pain awareness; possibility of choking or aspirating on vomit.	8-10 standard drinks

⁷² Blood Alcohol Level, What is a blood Test? Medline Plus, <https://medlineplus.gov/lab-tests/blood-alcohol-level/> (Retrieved April 2024); Blood Alcohol Content calculator, IUPUI, <https://alcohol.iupui.edu/calculators/bac.html> (Retrieved April 2024)

Revising the Fiqh of Khamr and Alcohol

BAC Level	Common Symptoms and Impairments	Risks and Additional Effects	Approx. Alcohol Consumed as Beverage
	- Impaired gag reflex		
0.30-0.39%	- Possible unconsciousness - Severe increase in heart rate - Irregular breathing - Loss of bladder control	High potential for death; severe systemic impairments.	10-12 standard drinks
0.40% and over	- Potential coma - Sudden death due to cessation of heart or breathing	Extremely high risk of mortality; considered lethal BAC level.	12+ standard drinks

Note: A standard drink contains roughly 14 grams of pure ethanol, which corresponds to approximately 12 ounces of beer (355ml, less than a pint which is approx. 500ml), 5 ounces of wine (148ml- approx. a glass of wine), or 1.5 ounces of distilled spirits (44ml, just over a quarter wine glass). These estimates are based on averages and should be interpreted with caution. Individual differences and drinking circumstances play significant roles in actual BAC outcomes.

Increasing the ethanol concentration to 27% and consuming a volume of 500 ml can result in a blood alcohol concentration (BAC) of 0.30%, which is lethal and toxic. This high BAC can severely impair bodily functions and may lead to death. However, drinking smaller quantities can cause inebriation before reaching lethal levels, thus classifying such a beverage as khamr, according to Islamic teachings. Beverages with more than 1% ethanol are typically produced through fermentation and are deemed non-ḥalāl and prohibited as they fall under the classification of khamr.

Similarly, consuming 900 ml of a beverage with 15% ethanol concentration can also lead to a fatal BAC of 0.30% and thus is classified as khamr since smaller amounts can result in inebriation. If the ethanol concentration exceeds 15% in non-beverage applications, it typically cannot be achieved through fermentation alone; methods such as distillation or adding absolute ethanol are required. Producing ethanol as a non-beverage through distillation or synthetic production involves toxic additives, making even small quantities unsafe to consume. The consumption of such toxic substances can cause severe harm or death before inebriation occurs, akin to a suicide attempt, which is strictly forbidden in Islam.

Beverages containing 40-50% alcohol by volume (ABV), such as vodka, whiskey, rum, and gin, are generally regarded as safe for consumption, but excessive intake can still pose health risks. Legal regulations on alcohol concentration in beverages vary globally, with many countries allowing up to 75-80% ABV for commercial drinks. Examples include certain high-proof spirits like overproof rum or grain alcohol. However, these beverages are to be mixed or diluted or made into cocktails before consumption to mitigate toxicity and thus reduce the ethanol concentration ABV and are not to be consumed straight or undiluted. The maximum ABV consumed neat varies depending on tolerance and body weight. For most individuals, beverages with 40-50% ABV are manageable, while

Revising the Fiqh of Khamr and Alcohol

higher concentrations may necessitate dilution or mixing. ABV exceeding 60% can be lethal and toxic if consumed undiluted. Ethanol beverage with ethanol concentration above 60% will be considered khamr as it is produced as a beverage, but only if it is to be diluted so that it has the potential to cause inebriation, otherwise if it is a non-beverage, pure ethanol, and is consumed straight, it will be toxic and mufsid.

(ii) Presence of Toxic Ingredients

Non-beverage ethanol often includes additional ingredients not typically found in beverage ethanol. These ingredients are primarily used to denature the ethanol, making it unfit for human consumption or to adapt it for specific industrial or pharmaceutical applications. Here are the main types of additional ingredients used in non-beverage ethanol:

1. *Denaturants*: These are substances added to ethanol to make it toxic, bad-tasting, foul-smelling, or otherwise undesirable to drink. Common denaturants include:
 - Methanol: Often added to ethanol to render it poisonous.
 - Isopropanol: Used to add a bitter flavour and enhance toxicity.
 - Denatonium benzoate: Known as the most bitter chemical compound, used to impart an extremely bitter taste to discourage ingestion.
 - Acetone: Added for its strong, unpleasant smell and taste.
2. *Additives for Performance Enhancement*: In addition to denaturants, non-beverage ethanol may also contain other additives to enhance its performance for specific applications, such as:
 - Antioxidants: Added to prevent oxidation and stabilise the ethanol.
 - Colourants: These are used in some industrial applications to give the ethanol a distinct appearance for safety or process reasons.
 - Antifoaming agents: These are used during the fermentation or distillation processes to control foam.
 - Corrosion inhibitors: These are added when ethanol is used as a fuel or in environments where it may come into contact with metal surfaces.
3. *Purification Chemicals*: During the distillation and purification processes, substances like activated carbon or diatomaceous earth might be used to help remove impurities and ensure the ethanol meets the required standards for its intended use.

In contrast, beverage ethanol (ethanol intended for consumption in alcoholic drinks) is typically free from toxic additives. Beverage ethanol may still undergo processes to enhance flavour or purity, but it will not contain the toxic denaturants or some of the industrial performance enhancers found in non-beverage ethanol. The key difference lies in the purpose—beverage ethanol is made to be consumed, while non-beverage ethanol is tailored for industrial, pharmaceutical, or other technical uses where ingestion in large amounts is not only not intended but actively discouraged through the use of these additional ingredients.

Non-beverage ethanol is a poison due to the presence of denaturants and other toxic additives designed specifically to prevent its consumption. While ethanol itself is an inebriant, the additional

Revising the Fiqh of Khamr and Alcohol

chemicals in non-beverage ethanol make it hazardous and unsuitable for drinking. The primary purpose of these additives is to induce unpleasant effects or outright toxicity to deter misuse.

Inebriation by non-beverage ethanol, particularly if it is denatured, would be classified primarily as poisoning rather than simple inebriation. While the initial effects might include some typical symptoms of alcohol inebriation, such as euphoria and impaired coordination, the presence and impact of toxic additives make this situation much more dangerous and medically severe.

In summary, while there might be some overlap in initial symptoms, the consumption of non-beverage ethanol is considered a serious case of poisoning, requiring immediate and specialised medical intervention. Thus, while non-beverage ethanol contains ethanol, which is an inebriant, the product as a whole is more accurately described as a poison, reflecting its intended use, regulatory status, and the severe health risks associated with its consumption.

Non-beverage alcohol will be prohibited from being consumed in large amounts because of its toxicity, as attempts to drink toxic substances are considered suicide attempts in Islam. Hence, toxic ethanol solution (mufsid) is pure and can be prepared, held, transferred and used for disinfection and other industrial use as long as the amount consumed or used is safe because it is not under the category of khamr.

8. Definition and Effects of Neurotoxic Substances (Al-Mufsid) in the Sharī'ah

Muslim jurists have mentioned several other mind-altering substances that possess properties distinct from those of inebriation (sukr), yet similar in that they are mind-altering substances, placing them into different categories.⁷³ Among these categories is "Mufsid," which, in this context,

⁷³ في الفروق للقرافي = أنوار البروق في أنواع الفروق [القرافي] [الفرق بين قاعدة المسكرات وقاعدة المرقدات وقاعدة المفسدات] وذلك أن المتناول لما يغيب العقل إما أن يغيب معه الحواس أو لا فإن غابت معه الحواس كالبحر والشم والذوق فهو المرقد وإن لم تغب معه الحواس فإما أن تحدث معه نشوة وسرور وقوة نفس عند غالب المتناول له فهو المسكر وإما أن لا يحدث معه ذلك فهو المفسد فالمرقد ما يغيب العقل والحواس كالسكران بضم الكاف أوله مهمل أو معجم كما في الخطاب والمفسد ما يغيب العقل دون الحواس لا مع نشوة وفرح كالأفيون وعسل البلاذر الذي يشرب للحفظ (1:215)

في الفروق للقرافي فالمسكر يزيد في الشجاعة والمسرة وقوة النفس والميل إلى البطش والانتقام من الأعداء والمنافسة في العطاء وأخلاق الكرماء وهو معنى البيت المتقدم الذي وصف به الخمر وشاربها ولأجل اشتها هذا المعنى في المسكرات (1:217)

وبهذا الفرق يظهر لك أن الحشيشة مفسدة وليست مسكرة لوجهين أحدهما أنها تجدها تثير الخلل الكامن في الجسد كيفما كان فصاحب الصفراء تحدث له حدة وصاحب البلغم تحدث له سباتا وصمتا وصاحب السوداء تحدث له بكاء وجزعا وصاحب الدم تحدث له سرورا بقدر حاله فتجد منهم من يشتد بكأؤه ومنهم من يشتد صمته وأما الخمر والمسكرات فلا تكاد تجد أحدا ممن يشربها إلا وهو نشوان مسرور بعيد عن صدور البكاء والصمت وثنائهما أنها نجد شراب الخمر تكثر عربتهم ووثوب بعضهم على بعض بالسلاح ويهجمون على الأمور العظيمة التي لا يهجمون عليها حالة الصحو وهو معنى البيت المتقدم في قوله: وأسدا ما ينهنا اللقاء

ولا نجد أكلة الحشيشة إذا اجتمعوا يجري بينهم شيء من ذلك ولم يسمع عنهم من العوائد ما يسمع عن شراب الخمر بل هم همدة سكوت مسبوطين لو أخذت قاشهم أو سببتهم لم تجد فيهم قوة البطش التي تجدها في شربة الخمر بل هم أشبه شيء بالبهائم ولذلك إن القتل يوجدون كثيرا

Revising the Fiqh of Khamr and Alcohol

refers to neurotoxic substances. These substances encompass chemical agents or compounds capable of causing damage or harm to the nervous system, including the brain and nerves. They can potentially disrupt the normal functioning of nerve cells, even at small doses, leading to adverse effects on cognitive functions, emotions, and overall mental health. Despite initially inducing symptoms akin to inebriation (*muskir*) upon consumption, their effects escalate rapidly with increasing amounts, akin to any poison, as they are not produced for the purpose of a beverage.

The Mālikī jurist Shihāb al-Dīn al-Qarāfī (d. 684 H) explains in detail the difference between *muskir* and *mufsid*, in that when someone consumes a substance, there are two scenarios: either their ability to think is impaired, and their senses are lost, or their senses remain unaffected. In the first case, where the senses like sight, hearing, touch, smell, and taste are impaired due to sedating effect, it is referred to as *al-muraqqad* (sedating and anaesthetising). In the second case, if the senses remain intact, then there are two possibilities: either the person experiences a state of ecstasy, pleasure, and heightened inner strength, mainly affecting the individual consuming the substance, which is termed *al-muskir* (inebriant). Alternatively, if these effects don't manifest predominantly but other harmful or additional effects ensue, the substance falls into the category of *al-mufsid* (toxin or poison, which has neuro-toxic properties).

He further elaborates on the difference between *muskir* and *mufsid* as they can sometimes be confused at times due to some similar effects. He explains that *muskir* (inebriants) are substances that cloud the mind while inducing euphoria and pleasure, such as wine and beer, made from barley and dates, made from honey, and distilled spirits made from corn. Whilst *mufsid* (toxic substances), on the other hand, confuse the mind without inducing predominant pleasure, such as hemp and saqran. So, *muskir* inebriants increase courage, joy, self-confidence, inclination towards aggression and retaliation against enemies, whereas this is not the predominant effect of *mufsid*. By this distinction, he explains that it becomes clear that something like *ḥashīsh* (which was thought to be harmful) is *mufsid* and not *muskir* for two reasons. Firstly, it induces hidden confusion in the body, causing drowsiness and silence in some, crying and panic and/ or experiencing joy in others, according to their condition. Some of them intensify their crying, and some intensify their silence i.e., produce varied symptoms which are confusing. As for wine and inebriants, you hardly find anyone drinking them without being inebriated, far from shedding tears and silence. Secondly, we find that the drinkers of wine become more violent, their disputes escalate, and they attack great matters they wouldn't while sober... Yet, when the consumers of *ḥashīsh* gather, you don't find any of that between them, nor do you hear about the consequences of wine. Instead, they remain in a state of subdued silence. If you were to provoke them or cause them trouble, you wouldn't find in

من شراب الخمر ولا يوجدون مع أكلة الحشيشة فلهذين الوجهين أنا أعتقد أنها من المفسدات لا من المسكرات ولا أوجب فيها الحد ولا أبطل بها الصلاة بل التعزير الزاجر عن ملابسها

(تنبيه) تنفرد المسكرات عن المرقدات والمفسدات بثلاثة أحكام الحد والتنجيس وتحريم اليسير والمرقدات والمفسدات لا حد فيها ولا نجاسة فمن صلى بالبنج معه أو الأفيون لم تبطل صلاته إجماعاً ويجوز تناول اليسير منها فمن تناول حبة من الأفيون أو البنج أو السيكران جاز ما لم يكن ذلك قدراً يصل إلى التأثير في العقل أو الحواس أما دون ذلك فحائز لهذه الثلاثة الأحكام وقع بها الفرق بين المسكرات والآخري فتأمل ذلك واضبطه فعليه تتخرج الفتاوى والأحكام في هذه الثلاثة (1:218)

them the aggression you find in wine drinkers. They are more like animals, so there are many casualties from drinking wine but not from consuming ḥashīsh. For these reasons, Imām al-Qarāfi considers them under mufsid (toxic substances) rather than muskir (intoxicants). He further adds that there is no prescribed punishment for it, nor does it invalidate prayers as it is not to be considered as khamr, but rather a deterrent punishment (ta'zīr) should be applied to its users instead if consumed for recreational purposes.⁷⁴

The distinction between "muskir" (a substance which causes inebriation) and "mufsid" (harmful toxic substance) is evident despite initial symptom overlap. Muskir, exemplified by alcoholic beverages, induces euphoria and heightened emotional states, often leading to increased aggression and reckless behaviour. Conversely, mufsid substances may not initially induce euphoria but cause hidden confusion within the body, leading to subdued responses due to the toxicity, which may lead to fatal symptoms of poisoning. While both may initially show similar effects, muskir typically results in heightened emotional states and violent behaviour, while mufsid leads to passive behaviour and a lack of aggression. Therefore, the fundamental difference lies in the predominant outcomes and behavioural manifestations, with muskir inducing inebriation and mufsid causing confusion without predominant pleasure.

This is affirmed by all sunni schools that the main reasons why khamr is prohibited is because of euphoria and heightened emotional states, often leading to increased aggression and reckless behaviour. Allāh says, "Satan's plan is to stir up hostility and hatred between you with intoxicants and gambling and to prevent you from remembering Allāh and praying. Will you not then abstain?"

⁷⁴ في الفروق للقرافي = أنوار البروق في أنواع الفروق [القرافي] [الفرق بين قاعدة المسكرات وقاعدة المرقدات وقاعدة المفسدات] وذلك أن المتناول لما يغيب العقل إما أن يغيب معه الحواس أو لا فإن غابت معه الحواس كالبحر والسمع والشم والذوق فهو المرقد وإن لم تغب معه الحواس فإما أن تحدث معه نشوة وسرور وقوة نفس عند غالب المتناول له فهو المسكر وإما أن لا يحدث معه ذلك فهو المفسد فالمرقد ما يغيب العقل والحواس كالسكران بضم الكاف أوله مهمل أو معجم كما في الخطاب والمفسد ما يغيب العقل دون الحواس لا مع نشوة وفرح كالأفيون وعسل البلاد الذي يشرب للحفظ (1:215)

فالمسكر هو المغيب للعقل مع نشوة وسرور كأنتم والمزور وهو المعمول من القمح والبتع وهو المعمول من العسل والسكركة وهو المعمول من الذرة والمفسد هو المشوش للعقل مع عدم السرور الغالب كالبنج والسيكران (1:217)

...فالمسكر يزيد في الشجاعة والمسرة وقوة النفس والميل إلى البطش والانتقام من الأعداء والمنافسة في العطاء وأخلاق الكرماء ... وبهذا الفرق يظهر لك أن الحشيشة مفسدة وليست مسكرة لوجهين أحدهما أنا نجدها تثير الخلل الكامن في الجسد كيفما كان فصاحب الصفراء تحدث له حدة وصاحب البلغم تحدث له سباتا وصمتا وصاحب السوداء تحدث له بكاء وجزعا وصاحب الدم تحدث له سرورا بقدر حاله فتجد منهم من يشتد بكأؤه ومنهم من يشتد صمته وأما الخمر والمسكرات فلا تكاد تجد أحدا ممن يشربها إلا وهو نشوان مسرور بعيد عن صدور البكاء والصمت وثانيهما أنا نجد شراب الخمر تكثر عربديتهم ووثوب بعضهم على بعض بالسلاح ويهجمون على الأمور العظيمة التي لا يهجمون عليها حالة الصحو...

ولا نجد أكلة الحشيشة إذا اجتمعوا يجري بينهم شيء من ذلك ولم يسمع عنهم من العوائد ما يسمع عن شراب الخمر بل هم همدة سكوت مسبوتين لو أخذت قماشهم أو سببتهم لم تجد فيهم قوة البطش التي تجدها في شربة الخمر بل هم أشبه شيء بالبهائم ولذلك إن القتل يوجدون كثيرا من شراب الخمر ولا يوجدون مع أكلة الحشيشة فلهذين الوجهين أنا أعتقد أنها من المفسدات لا من المسكرات ولا أوجب فيها الحد ولا أبطل بها الصلاة بل التعزير الزاجر عن ملابسها (1:218)

[Q. 5:91] A small amount is prohibited because it can very quickly lead to consuming an amount sufficient to be inebriated.⁷⁵

Non-beverage ethanol solutions are not classified as khamr and, therefore, do not fall under the rulings associated with khamr. Several important Islamic legal principles and pharmacological effects support this position:

1. *Distinction Based on Principle of Default Purity and Permissibility:* In Islamic jurisprudence, substances are initially deemed pure and permissible unless unequivocally proven otherwise. Therefore, the onus of proof rests upon those asserting impurity or impermissibility.⁷⁶ To classify a substance as

⁷⁵ يَأْتِيهَا الَّذِينَ ءَامَنُوا إِذَا شَرِبُوا الْخَمْرَ وَالْمَيْسِرَ وَالْأَنْصَابَ وَالْأَزْلَمَ رَجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] ثم قال: "إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء" الآية. فكل هو دعا قلبه إلى كثير، وأوقع العداوة والبغضاء بين العاكفين عليه، وصد عن ذكر الله وعن الصلاة فهو كشر الخمر، وأوجب أن يكون حراما مثله. فإن قيل: إن شرب الخمر يورث السكر فلا يقدر معه على الصلاة وليس في اللعب بالنرد والشطرنج هذا المعنى، قيل له: قد جمع الله تعالى بين الخمر والميسر في التحريم، ووصفهما جميعا بأنهما يوقعان العداوة والبغضاء بين الناس. ويصدان عن ذكر الله وعن الصلاة، ومعلوم أن الخمر إن أسكرت فاليسر لا يسكر، ثم لم يكن عند الله افتراقهما في ذلك يمنع من التسوية بينهما في التحريم لأجل ما اشتركا فيه من المعاني. وأيضا فإن قليل الخمر لا يسكر كما أن اللعب بالنرد والشطرنج لا يسكر ثم كان حراما مثل الكثير، فلا يتكر أن يكون اللعب بالنرد والشطرنج حراما مثل الخمر وإن كان لا يسكر. وأيضا فإن ابتداء اللعب يورث الغفلة، فتقوم تلك الغفلة المستولية على القلب مكان السكر «١»، فإن كانت الخمر إنما حرمت لأنها تسكر فتصد بالإسكار عن الصلاة، فليحرم اللعب بالنرد والشطرنج لأنه يغفل ويلهي فيصد بذلك عن الصلاة. والله أعلم. (6:291)

فتح الباري وابن حجر (وقد انعقد الإجماع على أن القليل من الخمر المتخذة من العنب يحرم قلبه وكثيره، وعلى أن العلة في تحريم قلبه كونه يدعو إلى تناول كثيره، فيلزم ذلك من فرق في الحكم بين المتخذة من العنب وبين المتخذة من غيرها) (40:10).

⁷⁶ He is the One Who created everything (permissible) in the earth for you. [Q. 2:29]

He subjected for you whatever is in the heavens and whatever is on the earth (as permissible)—all by His grace. Surely in this are signs for people who reflect. [Q. 45:13]

Imām al-Qurṭubī affirms this interpretation, stating it allows for deriving benefits from all things. Many scholars assert that all things are permissible based on this verse until evidence of prohibition is established.

تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] وقد تقدم «١» هذا المعنى. وقال ابن كيسان: "خلق لكم" أي من أجلكم. وقيل: المعنى أن جميع ما في الأرض منعم به عليكم فهو لكم. وقيل: إنه دليل على التوحيد والاعتبار. قلت: وهذا هو الصحيح على ما نبينه. ويجوز أن يكون عني به ما هم إليه محتاجون من جميع الأشياء. الثانية- استدل من قال إن أصل الأشياء التي ينتفع بها الإباحة بهذه الآية وما كان مثلها- كقوله: "وسخر لكم ما في السماوات وما في الأرض جميعا منه «٢»" [الجاثية: ١٣] الآية- حتى يقوم الدليل على الحظر (1:251). مجموع الفتاوى لابن تيمية: الأصل في جميع الأعيان الموجودة على اختلاف أصنافها وتباين أوصافها أن تكون حلالا مطلقا للأدمين، وأن تكون ظاهرة لا يحرم عليهم ملاستها ومباشرتها وممارستها، وهذه كلمة جامعة، ومقالة عامة، وقضية فاصلة، عظيمة المنفعة، واسعة البركة، يفرع إليها حملة الشريعة فيما لا يحصى من الأعمال وحوادث الناس (21:535)

إعداد المهج للاستفادة من المنهج في قواعد الفقه المالكي للشنقيطي في شرح قول صاحب المنهج الطهارة الأعيان أصله: الأعيان جمع عين، والمراد به الشيء القائم بنفسه أي الأصل في الأشياء الطهارة حتى ثبت النجاسة (ص234).

الغياثي غياث الأمم في التياث الظلم لإمام الحرمين الجويني: إن الأصل طهارة الأشياء، وإن المحكوم بنجاسته معدود محدود (ص٤٣٩) وقال: فإن ما تقرر في قاعدة الشريعة استحباب الحكم بيقين طهارة الأشياء إلى أن يطرأ عليها يقين النجاسة...و ثم قال: والذي يقتضيه مذهب

khamr and consequently prohibited, it must meet specific criteria: it must be intended for beverage consumption and have the potential to induce inebriation. Historically, khamr was banned even for medicinal purposes because it was administered as a beverage capable of causing inebriation, unlike the non-beverage chemical suspensions used today in medical contexts. Non-beverage ethanol solutions, commonly employed in industrial or medical settings, do not fulfill these criteria. They are neither designed for beverage consumption nor intended to induce inebriation. Instead, their toxic and poisonous effects outweigh any potential for inebriation when consumed in quantities intended to cause inebriation, making the achievement of inebriation unlikely. Therefore, by default, they are permissible and not prohibited as muskir or khamr. However, they may become prohibited if they pose a risk of poisoning.

2. *Distinction Based on Effects Rather than Composition*: Classical Muslim jurists based their classification of mind-altering substances on their observable effects or symptoms rather than their chemical composition. While ethanol can indeed alter mental states, Muslim jurists did not automatically categorize any substance with mind-altering properties as khamr. Instead, Islamic law distinguishes between various substances based on their primary effects. For example, substances like muraqqad (sedatives), mukhaddir (narcotics), and mufsid (toxins) may affect the mind but are not considered khamr due to their distinct purposes and effects. Some of these substances are used for medicinal purposes, while others are inherently toxic and poisonous, neither of which are consumed to induce inebriation. Therefore, the classification of a substance or solution depends on its observable effects on human behaviour rather than merely its ethanol content. If an ethanol solution primarily exhibits toxic effects, leading to neurotoxicity before any potential inebriation occurs, it is more appropriately classified as a toxin (mufsid) rather than an inebriant.

الشافعي إجراء الأحكام على التحليل إلى أن يقوم دليل على الحظر والتحریم.. فإن قيل : من الأصول أن الأعيان الله تعالى، فلتبقي على الحظر إلى أن يرد من مالك الأعيان إطلاقاً... قلنا: هذا قول من يرى المصير إلى الحظر قبل ورود الشرائع، وهذا المذهب باطل قطعاً، وقد رددنا على منتحليه في أصول الفقه، فليطلبه من يحاوله في ذلك الفن . (ص 491)

الدراري المطية شرح الدرر البهية للشوكاني وقال الشوكاني : إن الأصل في كل شيء أنه طاهر، لأن القول بنجاسته يستلزم تعبد العباد بحكم من الأحكام، والأصل عدم ذلك، والبراءة قاضية بأنه لا تكليف بالاحتمال حتى يثبت ثبوتاً ينقل من ذلك. وليس من أثبت الأحكام المنسوبة إلى الشرع بدون دليل بأقل إثماً ممن أبطل ما قد ثبت دليله من الأحكام، فالكل إما من التقول على الله تعالى بما لم يقل، أو من إبطال ما قد شرعه لعباده بلا حجة (1:20)

في الأشباه والنظائر للسيوطي: «قاعدة: (الأصل في الأشياء الإباحة حتى يدل الدليل على التحريم). ويتخرج عن هذه القاعدة كثير من المسائل المشكل حالها: منها: الحيوان المشكل أمره. وفيه وجهان؛ أصلهما الحل، كما قال الرافعي. ومنها: النبات المجهول تسميته. قال المتولي: يحرم أكله، وخالفه النووي وقال: الأقرب الموافق للحكي عن الشافعي في التي في مثلها الحل (ص 60).

في نهاية السؤل وعلق الإسني على قوله تعالى: ﴿هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا فَقَالَ: إِنَّ الْبَارِي تَعَالَى أَخْبَرَنَا أَنَّ جَمِيعَ الْخَلْقَاتِ الْأَرْضِيَّةِ لِلْعِبَادِ، لِأَنَّ (مَا) مَوْضُوعَةٌ لِلْعَمُومِ، لَا سِيَّمَا وَقَدْ أَكَّدَتْ بِقَوْلِهِ: (جَمِيعًا)، وَاللَّامُ فِي (لَكُمْ) تَنْفِيدُ الْاِخْتِصَاصِ عَلَى جِهَةِ الْاِنْتِفَاعِ لِلْمَخَاطِبِينَ، أَلَا تَرَى أَنَّكَ إِذَا قُلْتَ: (الثَّوْبُ لَزِيدٍ) فَإِنَّ مَعْنَاهُ أَنَّهُ مَخْتَصٌّ بِتَنْفَعِهِ، وَحِينَئِذٍ فَيَلْزَمُ أَنْ يَكُونَ الْاِنْتِفَاعُ بِجَمِيعِ الْخَلْقَاتِ مَأْذُونًا فِيهِ شَرْعًا (2:353)

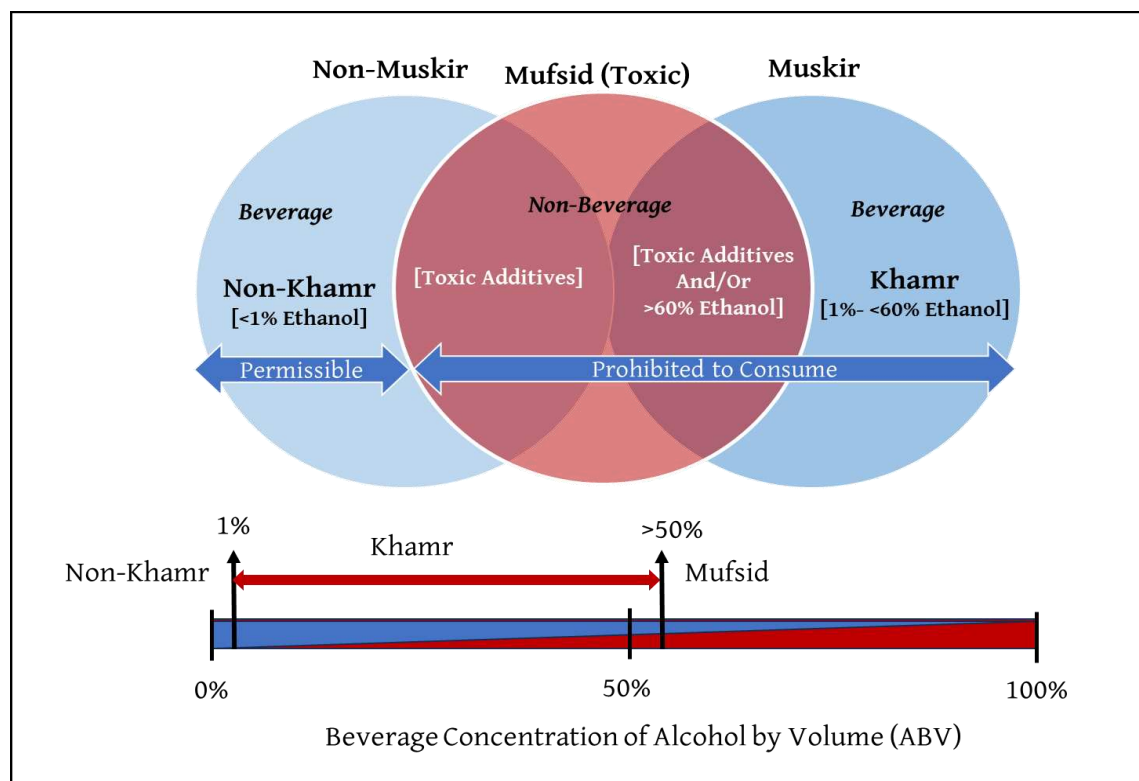
Revising the Fiqh of Khamr and Alcohol

3. *Distinction Based on the Primary Rationale behind the Prohibition of Alcoholic Beverages:* Islamic teachings hold that the prohibition of khamr stems from its potential to breed discord and hostility among individuals, as outlined in Quranic scriptures. If a substance primarily inflicts harm or leads to death before inducing inebriation, it fails to meet the Quranic rationale for the prohibition of khamr. Beverages that induce inebriation are prohibited due to their adverse effects on individuals, resulting in diminished inhibitions and reckless behaviour. However, if a substance serves purposes other than consumption or inebriation, it does not fall within the khamr category. This is because its composition does not correspond to the characteristics of a consumable beverage. Non-beverage ethanol often contains harmful substances such as methanol, isopropanol, acetone, or denatonium benzoate, which pose significant health hazards and are unsuitable for human consumption. These substances can lead to severe health complications that surpass the effects of typical alcohol inebriation.

4. *The Predominant Consequence of Ingesting Non-Beverage Ethanol is Poisoning rather than Inebriation:* Unlike typical alcohol consumption, which may lead to inebriation, non-beverage ethanol ingestion can result in poisoning. Mufsid (toxic substances), in a broader sense, refer to any substances that can cause harm or adverse effects to living organisms, including humans. A small amount does not quickly lead to consuming an amount sufficient to be inebriated like is the case for khamr, and hence the incentive to ban small amounts also, rather this is deterred on the basis of its additives and severe intensity of ethanol which burns if consumed. These effects can be immediate and can be physical, mental, or both. There are multiple symptoms, but the common neurological symptoms are headaches or migraines, dizziness or vertigo, confusion or difficulty concentrating, memory problems or cognitive impairments, mood swings or emotional disturbances, anxiety or depression and seizures or convulsions (in severe cases). Treatment for non-beverage ethanol poisoning involves addressing these toxic effects, often requiring antidotes like fomepizole for methanol poisoning, dialysis in severe cases, and supportive care to manage symptoms such as metabolic acidosis, respiratory distress, and potential organ failure. This approach sharply contrasts with managing alcohol inebriation, where the focus is primarily on allowing the body to metabolize the alcohol with supportive care. Consumption of non-beverage ethanol entails significantly higher risks, including potential blindness, organ damage, or even death, depending on the denaturants present. Therefore, management strategies prioritize addressing the toxic effects and immediate health risks rather than solely managing intoxication.

The illustration below clarifies the differentiation between non-inebriating (non-muskir) and inebriating (muskir) beverages, illustrating the point at which they transition into being deemed mufsid, and therefore permissible or prohibited.

Figure 1. Differentiation between non-inebriating (non-muskir) and inebriating (muskir) beverages.



These points establish that non-beverage ethanol solutions should not be considered khamr under Islamic law due to their intended use, effects, and possible transformation, distinguishing them significantly from ethanol used in inebriating beverages.

In summary: Any liquid containing ethanol below a 1% concentration is deemed non-khamr, regardless of its intended use as a beverage. Should it be consumed with the intention of inebriation, despite lacking the potential for inebriation, such an act is considered sinful. This is not due to its classification as khamr, but rather because of the sinful intent behind its consumption.

However, if the ethanol concentration exceeds 1%, regardless of the production method to produce a beverage, it is considered khamr. Consumption of such beverages is prohibited, and they are deemed impure. This classification extends to beverages derived from other than grapes or dates. Conversely, beverages not intended for consumption, such as medicinal purposes, are not classified as khamr, regardless of source or ethanol concentration. This is because they are not intended for beverage consumption in quantities significant enough to induce inebriation. Instead, they may contain ingredients or excipients that are toxic and unsafe if consumed in large amounts before inebriation occurs, thus qualifying as mufsid rather than khamr. The following table provides a simple outline for easy reference.

Table 4. Permissibility of Ethanol with respect to Concentration, Purpose and Process of Production

Purpose	Process of Production Concentration of Ethanol (ABV)			
	Aerobic or generally (<1%)	Anaerobic (1-15%)	Distillation (1->100%)	Synthetic (1->100%)
Beverage	Permitted (Non-Khamr) except from grapes/ dates (khamr)	Prohibited (Khamr)	Prohibited (Khamr) Mufsid if > 60%	Prohibited (Khamr) Mufsid if > 60%
Non-Beverage	Permitted (Non-Khamr) or (Mufsid)	Permitted (Mufsid)	Permitted (Mufsid)	Permitted (Mufsid)

Addressing the Cautionary Principle:

It can be argued that ethanol generally should be avoided as a point of caution even if the production process and intention are not for beverage purposes, there is a remote chance that individuals may have an inebriation effect through consumption of these non-beverages. The Prophet (صلى الله عليه وسلم) ordered avoiding doubtful matters. In the authentic ḥadīth of Nu‘mān ibn Bashīr, may Allah be pleased with him, he reported that he heard the Prophet (صلى الله عليه وسلم) saying: "The lawful is clear, and the unlawful is clear, and between them are doubtful matters that many people do not know about. Whoever avoids doubtful matters clears his religion and honour, but whoever falls into doubtful matters falls into the unlawful, like a shepherd who grazes near a sanctuary, all but grazing therein." There may be doubt of unlawfulness due to the presence of alcohol. The Prophet (صلى الله عليه وسلم), mentioned that whoever avoids doubtful matters has cleared his religion and honour, so it is best to avoid them.⁷⁷

It is important to understand the context of this ḥadīth in light of our understanding of the use of ethanol for beverage and non-beverage purposes. The statement "The lawful is clear, and the unlawful is clear, and between them are doubtful matters" means that things fall into three categories: what Allah explicitly permits is lawful, such as "Lawful to you are the good foods and [the game] caught by what you have trained of hunting animals" [Qurān 5:4], and similar verses. What Allah explicitly prohibits is unlawful, such as "Prohibited to you are your mothers, your daughters" [Quran 4:23], and "Forbidden to you is the game of the land as long as you are in the state of ihram" [Qurān 5:4]. Prohibitions include clear and hidden sins and anything for which Allah

⁷⁷ أن الرسول صلى الله عليه وسلم أمر باتقاء الشبهات، ففي الصحيحين من حديث النعمان ابن بشير رضي الله عنهما قال: سمعت رسول الله صلى الله عليه وسلم يقول: "إن الحلال بين، والحرام بين، وبينهما أمور مشبهات لا يعلمهن كثير من الناس، فمن اتقى الشبهات استبرأ لدينه وعرضه، ومن وقع في الشبهات وقع في الحرام، كالراعي يرعى حول الحمى يوشك أن يرتع فيه "

has set a limit, punishment, or warning. Doubtful matters are those on which the evidence from the Quran and Sunnah conflicts, and thus, one should refrain from them out of caution.

There is a difference of opinion among scholars regarding the doubtful matters mentioned by the Prophet (صلى الله عليه وسلم) in this ḥadīth. Some consider them unlawful, as not avoiding them implies falling into the unlawful. Others consider them lawful, as indicated by the analogy of the shepherd grazing near the sanctuary, suggesting permissibility and cautious avoidance. Yet another group refrains from categorizing these doubtful matters as either lawful or unlawful, considering the Prophet's placement of them between clear lawful and unlawful matters, indicating the need to abstain from them out of caution (tawaqquf) as well. This reflects the principle of taqwa (God-consciousness).

Some scholars categorize doubtful matters into three types: those initially known to be prohibited but later become doubtful due to uncertainty, such as food whose purification is in doubt until confirmed; those initially considered permissible but later doubted regarding their permissibility, such as a man questioning his wife's divorce or a slave's emancipation; and those falling into the third category, where the default ruling is permissibility until certainty is attained regarding their prohibition. The third category involves situations where one is unsure whether something is permissible or prohibited, and both possibilities seem equally likely, with no clear evidence pointing to either direction. In such cases, it's best to abstain, as exemplified by the Prophet Muhammad (صلى الله عليه وسلم) when he found a fallen date in his house and refrained from eating it, saying, "Had I not feared that it might be from charity, I would have eaten it".

However, if there's a valid reason to choose one possibility over the other based on non-definitive proof, such as leaving the use of water that has changed slightly in colour or odour due to a perceived risk of impurity or omitting prayer in a place where there's a possibility of unseen impurity, like dried urine, or refraining from washing a garment for fear of unseen impurity, then this caution is unwarranted. Refraining in such cases would be excessive and unnecessary, as there's no real basis for doubt, which may lead to undue hardship. Ultimately, the decision should not be based on unfounded conjecture.⁷⁸

⁷⁸ شرح الأربعين النووية لابن دقيق العيد [ابن دقيق العيد] هذا الحديث أصل عظيم من أصول الشريعة قال أبو داود السجستاني: الإسلام يدور على أربعة أحاديث ذكر منها هذا الحديث وأجمع العلماء على عظيم موقعه وكثير فوائده. قوله: "إن الحلال بين وإن الحرام بين وبينهما أمور مشتهيات" يعني أن الأشياء ثلاثة أقسام: فما نص الله على تحليله فهو الحلال كقوله تعالى: {أحل لكم الطيبات وطعام الذين أوتوا الكتاب حل لكم}. وقوله: {وأحل لكم ما وراء ذلكم} ١. ونحو ذلك، وما نص الله على تحريمه فهو الحرام البين، مثل قوله تعالى: {حرمت عليكم أمهاتكم وبناتكم} ٢. الآية. {وحرم عليكم صيد البر ما دمتم حرما} ٣. وكن تحريم الفواحش ما ظهر منها وما بطن، وكل ما جعل الله فيه حدا أو عقوبة أو وعيدا فهو حرام، وأما المشتهيات فهي كل ما تتنازعه الأدلة من الكتاب والسنة وتتجاوز المعاني فالإمساك عنه ورع. وقد اختلف العلماء في المشتهيات التي أشار إليها النبي صلى الله عليه وسلم في هذا الحديث فقالت طائفة: هي حرام لقوله: "استبرأ لدينه وعرضه" قالوا: ومن لم يستبرأ لدينه وعرضه فقد وقع في الحرام، وقال الآخرون: هي حلال، بدليل قوله صلى الله عليه وسلم في الحديث "كل راعي يرعى حول الحمى" فيدل على أن ذلك حلال وأن تركه ورع. وقالت طائفة أخرى: المشتهيات المذكور في هذا الحديث لا نقول إنها حلال ولا إنها حرام فإنه صلى الله عليه وسلم جعلها بين الحلال البين والحرام البين فينبغي أن نتوقف عنها وهذا من باب الورع أيضا... وقال بعض العلماء:

Revising the Fiqh of Khamr and Alcohol

Regarding differentiating between ethanol and khamr is clear, where khamr is defined as a beverage which has potential to cause inebriation, whereas ethanol is found in substances which have non-beverage uses, produced differently having different effects and with different properties. We have already deduced that by default all substances are permissible unless proven with good evidence of impermissibility, which is not the case here, rather the contrary there is a strong case of permissibility suggesting that this issue is not of the third category but of the first, which is clear permissibility.

Consider the analogy of tobacco. Let's say tobacco was prohibited because of its transient mind-altering neurological stimulant effects. Tobacco is taken from tobacco leaves, and its use as chewing tobacco is known to have neurological effects. Different substances are made with different constituents and concentrations of tobacco, all having different levels of neurological stimulant effect. We now know that this primarily stems from the presence of nicotine, a highly addictive chemical compound naturally found in tobacco leaves. Nicotine acts as a stimulant in the central nervous system, leading to various physiological and psychological effects upon consumption. When nicotine is inhaled through smoking or absorbed through other forms of tobacco use, it quickly enters the bloodstream and reaches the brain and can have the same effect. Despite nicotine's association with tobacco use, nicotine has various other applications and potential uses. It can be used as a natural insecticide to control pests in agriculture. It also has potential use as a cognitive enhancer, such as improving attention, memory, and executive function, with potential use in conditions such as Alzheimer's disease, attention deficit hyperactivity disorder (ADHD), and cognitive decline associated with ageing. It has also been incorporated into some skincare products for its anti-inflammatory and antioxidant properties. The nicotine would be prohibited because of its effects as a substance found in tobacco and hence prohibiting tobacco if used recreationally, but it would be absurd to consider everything that contains nicotine to be prohibited or considered tobacco because it contains nicotine.

Similarly, is the case of wine or other fermented fruit juices which cause inebriation (i.e. muskir or khamr). Wine is fermented from grapes and fruits and its use as a beverage is known to have the inebriation effect. Different beverages are made with different constituents and concentrations of fermented juices all having different levels of inebriation effect. We now know that this primarily stems from the presence of ethanol concentration, the chemical compound naturally found in wine and hence khamr. Ethanol acts as an inebriant, leading to various physiological and psychological

المشروبات ثلاثة أقسام: منها ما يعلم الإنسان أنه حرام ثم يشك فيه هل زال تحريمه أم لا، كالذي يحرم على المرء أكله قبل الذكاة إذا شك في ذكاته لم يزل التحريم إلا بيقين الذكاة والأصل في ذلك حديث عدي المتقدم ذكره. وعكس ذلك أن يكون الشيء حلالاً لا يشك في تحريمه كرجل له زوجة فشك في طلاقها أو أمة فيشك في عتقها. فما كان من هذا القسم فهو على الإباحة حتى يعلم تحريمه والأصل في هذا الحديث عبد الله بن زيد فيمن شك في الحدث بعد أن تيقن الطهارة القسم الثالث: أن يشك في شيء فلا يدري أحلال أم حرام ويحتمل الأمرين جميعاً ولا دلالة على أحدهما فالأحسن التنزه كما فعل النبي صلى الله عليه وسلم في التمرة الساقطة حين وجدها في بيته فقال: "لولا أنني أخشى أن تكون من الصدقة لأكلتها". وأما إن جوز نقيض ما ترحح عنده بأمر موهوم لا أصل له كترك استعمال ماء باق على أوصافه مخافة تقدير نجاسة وقعت فيه أو كترك الصلاة في موضع لا أثر فيه مخافة أن يكون فيه بول قد جف أو كغسل ثوب مخافة إصابة نجاسة لم يشاهدها ونحو ذلك فهذا يجب أن لا يلتفت إليه فإن التوقف لأجل التجويز هوس والورع منه وسوسة شيطان إذ ليس فيه من معنى الشبهة شيء والله أعلم (ص 43)

Revising the Fiqh of Khamr and Alcohol

effects upon consumption. When ethanol is consumed through other sources that are not produced for beverage use, it quickly enters the bloodstream and reaches the brain and can have the same effect. Despite ethanol's association with khamr, ethanol has various other applications and potential uses as detergents, fuel, sanitizers etc. The ethanol would be prohibited because of its effects as a substance found in beverages as khamr and hence prohibiting ethanol if used recreationally, but it would be absurd to consider everything that contains ethanol to be prohibited or considered khamr because it contains ethanol.

The same applies to caffeine, a widely consumed stimulant in coffee, tea, and energy drinks. When consumed in beverages, caffeine can provide a temporary boost in energy and alertness, making it popular among many people. However, excessive doses of caffeine in a solution not intended as a beverage can lead to negative health effects such as jitteriness, insomnia, and increased heart rate which can be harmful. Despite the energy boost effects associated with consuming caffeine in beverages, it is also used in various other products for unrelated purposes. For example, caffeine is commonly found in skincare products for its ability to reduce puffiness and tighten the skin. It is also used in some medications to treat migraines and enhance the effectiveness of pain relievers. If it was to be consumed in large amounts to achieve the same effect, then this would be toxic and a harmful poison. The use of caffeine in beverages is associated with temporary stimulating effects. However, when used in skin care products or medications, its consumption is not the same, as it serves different purposes, and its effects are controlled and regulated. Similarly, consuming non-beverage ethanol at very high concentrations, if taken straight, would be considered *mufsid* (a poison) and not khamr, which is prohibited in Islam.

There are many other similar examples; consider a versatile ingredient like sugar. When used in baking, it contributes sweetness and texture to cakes and pastries, enhancing their flavour. In this context, sugar is an essential component of these desserts. However, if the same sugar is utilised in making homemade skincare scrubs, it serves a completely different purpose. Here, sugar acts as a natural exfoliant, helping to remove dead skin cells. Similarly, ethanol, when found in beverages like wine or spirits, serves as the primary inebriating agent, leading to its classification as 'khamr'. However, when ethanol is utilised in other applications, such as pharmaceuticals, disinfectants, or perfumes, its role and effects are distinct. In these cases, it serves a specific function unrelated to intoxication and does not carry the same implications as an alcoholic beverage.

In summary, while pure ethanol and alcoholic beverages like wine and spirits share ethanol as a common component, they differ significantly in their properties, manufacturing processes, uses, and effects.

9. Processes which Relinquish Khamr Status

Ethanol beverages that have the potential to induce inebriation are classified as khamr and/or fall under the rulings associated with khamr. Ethanol from beverages is generally not used for industrial purposes due to its high cost and purity requirements. Instead, industrial ethanol, often

Revising the Fiqh of Khamr and Alcohol

derived from sources like sugarcane, corn, or biomass, is used. However, some industrial processes, like certain perfumes and flavourings, may use small amounts of food-grade ethanol. Still, it's not a common practice due to cost and regulatory considerations.⁷⁹

Ethanol beverages, such as beer, wine, and spirits, have applications beyond recreational consumption.

Here are some alternative uses:

3. *Cooking and Flavouring*: Many culinary recipes call for enhancing the flavours of dishes with wine, beer, or spirits.
 - Wine (9-16% ABV): Used in sauces, marinades, braises, and reductions. Red wine is often used in hearty dishes like stews and roasts, while white wine is used in lighter sauces and seafood dishes.
 - Beer (4-6% AV): Used in batters for frying, stews, soups, and as a flavour enhancer in dishes like beer cheese soup or beer-battered fish.
 - Spirits (40-60% ABV, e.g., rum, brandy, whiskey): These are used in desserts like flambés, sauces such as bourbon glaze, and cakes and candies as flavouring agents.
4. *Preservation*: Alcohol (>40% ABV) is a preservative due to its antimicrobial properties. It has been historically used to preserve fruits, herbs, and other food items. Fruits can be soaked in alcoholic beverages to create preserves or flavourings, such as brandied cherries or rum-soaked raisins.
5. *Medicinal Purposes*: While not as common today, historically, alcoholic beverages were used for medicinal purposes. Some herbal remedies are prepared by soaking herbs in alcohol beverage to extract their medicinal properties. However, it's essential to note that the medicinal use of alcohol beverage is limited due to its potential negative health effects.
6. *Fuel*: Ethanol (approx. 95% ABV) derived from beverages can be used as a fuel source, although this is less common due to its higher cost than ethanol produced from other sources such as corn or sugarcane. However, in some cases, surplus or waste alcoholic beverages are converted into ethanol fuel through processes like distillation.

There are two processes which can potentially render alcoholic beverages, khamr, permissible. These processes usually occur when khamr is processed or used or consumed in other pure substances. The processes are the *Transformation (Istiḥālah)* and *Dissolution (Istihlāk)* of khamr. Ethanol's properties may change through chemical transformation (istiḥālah), such as when it becomes a completely different substance through chemical reactions or through dissolution (istihlāk), where its presence becomes negligible as it dissolves in the pure liquid. Both these processes can render an otherwise prohibited substance, like ethanol-based beverages, pure and permissible. These processes support the idea that if khamr is added to other substances in food, drinks, and other products, the final product would not be contaminated and would be permissible to consume.

⁷⁹ European Renewable Ethanol, <https://www.epure.org/about-ethanol/beverage-industrial-use/> (retrieved May 2024)

Istiḥālah and Istihlāk are two potential processes Muslim jurists have outlined that can relinquish Khamr status and its impurity in a product, thereby making it uncontaminated.

Transformation of khamr (Istiḥālah):

Transformation (Istiḥālah) is defined by Muslim jurists as an essential (haqīqī) change in the essence of the thing, such that after the change, it becomes a new, different entity, not the original one in terms of its essence.⁸⁰

If an ethanol-based beverage is changed to vinegar naturally, then all Muslim jurists agree that this is no longer khamr and is considered permissible to consume. This has undergone the process of istiḥālah, rendering the khamr as another substance which is both permissible and pure to consume.⁸¹ The difference of opinion exists if this is not naturally converted to vinegar, but there is human intention or intervention to cause the change.

1. It is permissible to transform, it can be consumed, and it is pure: This is attributed to Abū Ḥanīfah.
2. It is not permissible to transform, but if it undergoes transformation, it becomes pure and can be consumed: This is attributed to Mālik.
3. It is not permissible to transform; even if it undergoes transformation, it remains impure, Attributed to the Shāfi'ī and Ḥanbalī schools. It has also been said that it is permissible to consume and is pure if it is moved from sunlight to shade, uncovering it, and similar actions, without introducing anything into it. Yet another opinion states that it is not permissible under any circumstances, as some followers of the Shāfi'ī and Ḥanbalī schools assert.⁸²

⁸⁰ تعريف الحنفية: عرف الحنفية الاستحالة بأنها: تغير العين، وانقلاب حقيقتها -حاشية ابن عابدين (1:316) تعريف المالكية: قال في مواهب الجليل في سياق الكلام عن طهارة فأرة المسك: وإنما حكم لها بالطهارة، والله أعلم؛ لأنها استحالت عن جميع صفات الدم، ونجرت عن اسمه إلى صفات واسم يختص بها، فظهرت لذلك -مواهب الجليل (1:97) تعريف الشافعية: عرفها الشافعية بأنها تغير صفات الشيء بأن ينقلب من صفة إلى صفة أخرى؛ كهيئة وقعت في ملاحظة، فصارت ملحاً، أو أحرقت، فصارت رماداً -حواشي الشرواني على تحفة المحتاج شرح المنهاج (1:303) تعريف الحنابلة: قال في المطالع: «الاستحالة استفعال من حال الشيء عما كان عليه زال وذلك مثل أن تصير العين النجسة رماداً، أو غير ذلك -المطلع على أبواب المقتع (ص 35)

⁸¹ تخلل الخمر وتخليلها: اتفق الفقهاء على أن الخمر إذا تخللت بنفسها، جاز أكلها، لقوله صلى الله عليه وسلم: «نعم الأدم الخلل»

مجموع الفتاوى ابن تيمية -اتفقوا كلهم، على الخمر إذا صارت خللاً، بفعل الله تعالى صارت حلالاً طيباً (21:71)

⁸² مجموع الفتاوى ابن تيمية -أما التخليل ففيه نزاع، قيل يجوز تخليلها كما يحكى عن أبي حنيفة. وقيل: لا يجوز؛ لكن إذا خللت طهرت كما يحكى عن مالك وقيل يجوز بنقلها من الشمس إلى الظل وكشف الغطاء عنها ونحو ذلك؛ دون أن يلقى فيها شيء. كما هو وجه في مذهب الشافعي وأحمد. وقيل لا يجوز بحال. كما يقوله من أصحاب الشافعي وأحمد وهذا هو الصحيح؛ فإنه قد ثبت عن النبي صلى الله عليه وسلم {أنه سئل عن خمر ليتامى فأمر بإراقتها، فقيل له: إنهم فقراء فقال: سيغنيمهم الله من فضله} فلما أمر بإراقتها ونهى عن تخليلها وجبت طاعته فيما أمر به ونهى عنه. فيجب أن تراق الخمرة ولا تخلل. هذا مع كونهم كانوا يتامى ومع كون تلك الخمرة كانت متخذة قبل التحريم فلم يكونوا

عصاة. (21:483)

To provide more detail there are two opinions regarding whether that which is transformed through istiḥālah becomes pure:⁸³

- *First Opinion:* Transformation (Istiḥālah) purifies substances that is considered impure if no remaining traces of the impurity, including its taste, colour, or smell, remain.⁸⁴ This stance is upheld by the Ḥanafī school of thought, represents a viewpoint within the Mālikī and Zāhiri schools, and is also a perspective among the Ḥanbalis, as detailed in 'Al-Inṣāf', based on a narration from Imām Aḥmad. It is a recognised opinion among the Shāfi'īs as well. This position was favoured by prominent scholars, including Ibn Taymiyyah (d. 728 AH) and his disciple Ibn al-Qayyim (d. 751 AH). This view is widely accepted by the majority of scholars.⁸⁵
- *Second Opinion:* Transformation (Istiḥālah) does not purify impure substances, which is the position of the Shāfi'ī and Ḥanbalī schools, as well as a view held by the Mālikī school and the opinion of Abū Yusuf from the Ḥanafī school. However, they differ amongst themselves whether this is just in the case of khamr fermented from grapes and not regarding that other than dates, which are purified.⁸⁶

In summary: The Ḥanafī and Mālikī schools maintain the permissibility of converted vinegar through human intervention, while the Shāfi'ī and Ḥanbalī schools do not share this view.

According to them, the product retains its original status of prohibition and impurity—despite the transformation. They argue that human intervention, being unnatural, cannot render khamr pure upon its conversion to vinegar. In the case of ethanol-based beverages, if the chemical composition of ethanol undergoes a substantial change resulting in a different substance, this process, known as istiḥālah, diverges in interpretation among the schools. The Ḥanafī and Mālikī schools deem the product pure, whereas the Shāfi'ī and Ḥanbalī schools maintain its prohibition due to impurity.⁸⁷

⁸³ حاشية ابن عابدين (1:315), بدائع الصنائع (1:85), تبين الحقائق (1:76), مراهب الجليل (1:106), المحلى (1:168) المغني

, (1:56) الإنصاف (1:318) المجموع, (2:532) مجموع الفتاوى (21:481) بدائع الفوائد (3:639) إعلام الموقعين (2:14)

⁸⁴ مجموع الفتاوى (21:481)

⁸⁵ مجموع الفتاوى (21:510)

⁸⁶ تفصيل عند السادة الشافعية: فالخمر المتخذ من العنب يحرم تخليلها ويحرم استخدام خلها باتفاق، وأما الخمر المتخذ من غير العنب كالمتخذة من التمر فاختلوا فيها: فذهب البعض إلى حرمة تخليلها وحرمة استخدام خلها، وذهب البعض الآخر إلى إباحة ذلك. ينظر: شرح الزرقاني على مختصر خليل (1:51) حاشية الدسوقي على الشرح الكبير (1:42)، المجموع للإمام النووي (2:576) مغني المحتاج (1:236)، الإقناع في حل ألفاظ أبي شجاع (1:94)، المغني لابن قدامة. (9:172)

⁸⁷ مجموع الفتاوى: فقد رأينا طيب المطعم يؤثر في الحل، وخبثه يؤثر في الحرمة، كما جاءت به السنة في لحوم الجلالة، ولبنها، وبيضها، فإنه حرم الطيب؛ لاغتذائه بالخبث وكذلك النبات المسقي بالماء النجس، والمسمد بالسرقة، عند من يقول به

وقال: «المطعم إذا خبث وفسد، حرم ما ثبت منه من لحم، ولبن، وبيض كالجلالة والزرع المسمد، وكالطير الذي يأكل الجيف

وقال: «الاستقراء دلنا، أن كل ما بدأ الله بتحويله، وتبديله، من جنس إلى جنس مثل جعل الخمر خللاً، والدم منياً، والعلقة مضغة، ولحم

الجلالة الخبيث طيباً، وكذلك بيضا ولبنها، والزرع المسقى بالنجس، إذا سقي بالماء الطاهر، وغير ذلك فإنه يزول حكم التنجس، ويزول حقيقة

When ethanol-based beverages are used, they are typically added in small quantities to other substances without undergoing a chemical reaction or altering their properties. In scenarios like using ethanol as an extract, it's often employed for a specific purpose and subsequently disposed of or evaporated, leaving no residual presence in the final product. However, in most cases, ethanol-based beverages remain integrated with the added substances and are consumed alongside them, particularly when incorporated into products intended for oral consumption, such as those where ethanol serves as a solvent, preservative, or flavouring agent. From a fiqh perspective, in the majority of these instances, ethanol-based beverages do not undergo a transformation, even when utilised to produce non-beverage items. This remains true except in cases where ethanol is transformed into ethylene, ethyl esters, or acetaldehyde. However, even this transformation may not be considered *istihālāh* by certain Sunni schools, emphasising the crucial role of human intervention in this context.⁸⁸

Dissolution of Khamr (Istihlāk):

Istihlāk is defined by Muslim jurists as the *introduction* of something impure into a large quantity of pure liquid, where it either disappears or mixes in a way that eliminates the existing characteristics i.e., dissolves. This is a type of transformation (*istihālāh*) intended to occur when impurity 'falls' into water or other liquids, leaving no trace, disappearing within it, and losing its characteristics. Most jurists believe that water contaminated by impurities remains unaffected and stays pure if the water is abundant enough not to be contaminated. This is the case if it is flowing, according to the Ḥanafī school, if the properties of the pure water remain unchanged because of the dominance of water not being affected by the impurity, according to the Mālīkī school, and in the Shāfi'ī and Ḥanbalī schools, when the quantity of water reaches the measure of two qullas (large amounts of water) it will not be affected.⁸⁹

Drinking water mixed with khamr is prohibited due to the presence of the impure properties of khamr, and the drinker is reprimanded. If the khamr content exceeds the water content, punishment is mandated because the identity and essence of khamr (i.e., a beverage with the potential to cause inebriation) is maintained. Similarly, drinking cooked khamr is prohibited

التجسس واسمه التابع للحقيقة، وهذا ضروري لا يمكن المنازعة فيه، فإن جميع الأجسام المخلوقة في الأرض فإن الله يحولها من حال إلى حال ويبدلها خلقاً بعد خلق ولا التفات إلى موادها وعناصرها.

وأما ما استحال بسبب كسب الإنسان؛ كإحراق الروث حتى يصير رماداً ووضع الخنزير في الملاحظة حتى يصير ملحاً، ففيه خلاف مشهور وللقول بالتطهير اتجاه وظهور، ومسألتنا من القسم الأول والله الحمد. (21:601)

⁸⁸ حاشية ابن عابدين = رد المحتار ط الحلبي [ابن عابدين] ولم يعول الشرنبلالي في شرحه على هذا الجواب، وكأنه والله تعالى أعلم، لأن الخمر حرمت لعينها، ولا نسلم انقلاب العين بهذا الطبخ، ولذا لو وقعت قطرة منها في الماء الغير الجاري، أو ما في حكمه نجسته، وإن استهلكت فيه وصار ماء وكذا لو وقعت في قدر الطعام نجسته، وإن صارت طعاماً كما لو وقعت فيه قطرة بول، وأما طهارتها بانقلابها خلا فهي ثابتة بنص المجتهد أخذنا من إطلاق حديث «نعم الإدام الخل» فليتأمل (6:450)

⁸⁹ البحر الرائق (8:24) وإعانة الطالبين (3:33) ومغني المحتاج (1:69) والشرح الكبير (2:305)

Revising the Fiqh of Khamr and Alcohol

because cooking doesn't make something forbidden permissible, and if consumed, punishment is mandated as the identity and essence of khamr is also maintained. The Ḥanafī school also dislikes eating bread leavened with khamr due to the presence of khamr particles, and there is a punishment for it. However, there is no punishment for it in other schools, but they still prohibit it, with the disagreement mainly concerning terminology and semantics of what constitutes khamr.⁹⁰ In other words, if the khamr maintains its properties, as being a beverage that has the potential to cause inebriation, after being added to anything pure then the pure substance will be considered impure and contaminated. If khamr loses its properties when added to large amount of pure liquids which dominate, then it will be inconsequential through *istihlāk*.

All juristic schools acknowledge the principle of *istihlāk*, which involves the inconsequence of added impurity, like blood, urine and khamr to pure liquids. However, they diverge in their criteria for determining the extent of pure liquid required and the degree of change in attributes for the pure liquid to be considered contaminated. According to this principle, the pure liquid should fully dissolve, eliminating all characteristics of the added khamr, and the volume of the pure liquid should be sufficient to ensure that the khamr becomes negligible. The overarching goal of *istihlāk* is to ensure the added khamr is inconsequential, maintaining the purity of the liquid. On the contrary, the act of adding water or a pure substance to khamr (dilution) presents a distinct situation.

Distinction between dissolution of khamr and dilution

When a significant amount of pure liquid is added to khamr, diluting it to the extent that it no longer has the ability to cause inebriation, the khamr ceases to retain its classification as khamr or muskir. Consequently, such a solution should be considered pure, as it no longer qualifies as khamr. It's important to differentiate between dissolution (*inḥilāl*), which is the common understanding of *istihlāk* relating to purity, and dilution (*tarqīq*) of khamr. While both are recognised by Muslim jurists as forms of *istihlāk* (purification through mixing), they are approached differently when it relates to khamr. *Istihlāk* occurs when either (1) the impurity loses its colour, taste, or smell due to significant dilution, effectively neutralising its impure properties in favour of the dominant pure water; or (2) when the impurity becomes negligible relative to the pure solution, effectively being dissolved and nullified (*itlāf*).⁹¹ The latter scenario is commonly associated with *istihlāk*.

While the first perspective may seem similar to the second, when applied to khamr, it introduces the additional concept of dilution (*tarqīq*) of khamr, which affects rulings related to khamr beyond mere purification.

⁹⁰ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] خلط الخمر بغيرها: يحرم بالاتفاق شرب الماء الممزوج بالخمر، لما فيه منذرات الخمر، ويعزر الشارب، ويجب الحد إن كانت الخمر أكثر من الماء، لبقاء اسم الخمر ومعناها. كما يحرم شرب الخمر المطبوخة؛ لأن الطبخ لا يحل حراما، ولو شربها يجب الحد، لبقاء اسم الخمر ومعناها ويكره تحريمها عند الحنفية أكل الخبز المعجون بالخمر، لوجود ذرات الخمر فيه، وفيه التعزير. ويحرم ذلك عند غير الحنفية، ولا حد فيه عند الكل، والخلاف في التسمية والاصطلاح فقط. (4:524)

⁹¹ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] يطلق الاستهلاك في الاصطلاح على معنيين: الأول: ألا يبقى للمستهلك لون، ولا طعم، ولا ريح. قال في حاشية الجمل في سياق الكلام عن استهلاك الخمر: الاستهلاك أن لا يبقى له طعم، ولا لون، ولا ريح. الثاني: الإيتلاف. وهو أشهر من السابق، ويستعمله الفقهاء بكثرة (7:499)

Dissolution (inḥilāl) and dilution (tarqīq) are two distinct processes often encountered in the chemical and other scientific contexts:

1. Dissolution (istihlāk): refers to the process of an impure, solid, insoluble liquid, or water-soluble liquid like blood, urine and khamr becoming solvated (dissolved) or dispersed in a pure solvent or water and polluting it. In other words, it's the breaking down of impure solid or liquid substances into individual molecules or ions dispersed uniformly throughout the pure solvent. This process typically occurs when an impure solid or impure miscible liquid substance is added to a pure liquid solvent, and it dissolves or disperses to form a homogeneous mixture, which may become contaminated depending on the amount of solute. An example of dissolution is when sugar (solid) is added to water (liquid) and completely dissolves to form a sugar solution. The water is sweetened by the added sugar, but if the water dominates significantly, the sugar is inconsequential in its sweetness and cannot be tasted. Al-Zuhaylī describes this as a type of istihlāk through consumption by blending with other substances (الاستهلاك الفئائي للشيء مع غيره). This method involves mixing an impure substance with a pure one in such a way that the impure substance becomes indistinguishable and loses its original properties, making something perish or become as if it has perished, or mixing it with other substances so that it merges and cannot be separated, like consuming fat in bread. The mixture becomes pure as long as the impurity's characteristics (colour, taste, smell) are completely gone. An example is mixing impure fat with flour, where the fat blends so thoroughly with the flour that it no longer retains its impure characteristics, making the product pure.⁹²
2. Dilution (tarqīq) refers to the process of reducing the concentration of an impure solute, which has particular implications for khamr beyond its purity. This is achieved by adding more solvent (such as water) to the solution, thereby decreasing the number of impure solute particles per unit volume and resulting in a less concentrated khamr solution. Unlike dissolution which concerns purity, dilution does not entail breaking down solid or liquid

⁹² حكم استعمال الدواء المشتمل على شيء من نجس العين | (أ. د. وهبة الزحيلي) - الاستهلاك الفئائي للشيء مع غيره: وهو لغة: إهلاك الشيء وإفناؤه، وشرعاً: هو تصيير الشيء هالكاً أو كالهالك مثل لبس الثوب حتى يبلى، أو خلطه بغيره بحيث يندمج به، ويتعذر فصله أو إفراده عنه كاستهلاك السمن في الخبز، واستخلاص البروتين من شعر الآدمي واستعماله في تركيب الطحين. وإذا استعمل النجس مع غيره من المواد الطاهرة، يصبح طاهراً، وتزول عين النجاسة، دون أن يبقى له أثر من لون أو رائحة أو طعم، فيصبح طاهراً يحل الانتفاع به، ومجمله في استعمال الأدهان والألبان والأشربة الطيبة والخبيثة في صناعة أشياء أخرى، وذلك يدخل تحت مفهوم الاستحالة بالمعنى المتقدم، فيزول الاسم الأصل وتعدم الأوصاف والخواص السابقة، فيتغير الحكم الشرعي، لأن الحكم يدور مع الأسماء والصفات وجوداً وعدماً. قال ابن حزم: الدم والخمر والبول وكل ما في العالم، لكل منه صفات، ما دامت فيه، فهو نحر له حكم الخمر، أو دم له حكم الدم، أو بول له حكم البول، أو غير ذلك، فإذا زالت عنه، لم تكن تلك العين نحرراً ولا ماء ولا دماً ولا بولاً ولا شيئاً الذي كان ذلك الاسم واقعاً من أجل تلك الصفات عليه. وإذا وقعت هذه الأشياء في الماء، فليس ذلك الجرم الواقع يعد نحرراً ولا دماً ولا بولاً، بل هو ماء على الحقيقة أو لبن على الحقيقة، وهكذا في كل شيء. <https://almoslim.net/node/268904>

Revising the Fiqh of Khamr and Alcohol

substances, nor does it involve dispersion; rather, it increases the solution's volume while maintaining the constant amount of impure solute. For instance, adding water to a concentrated salt solution reduces its concentration and results in a diluted salt solution. The salt concentration is reduced due to the addition of water until the solution no longer tastes salty. In terms of purity, the disappearance of its taste, smell, and colour indicates its purification. Al-Zuhaylī describes this as a type of *istihlāk* where there is consumption by overwhelming quantity (الاستهلاك بالمكثرة). If a substance becomes impure and then is overwhelmed by a large quantity of water, it becomes pure. This is supported by the ḥadīth about the well of Buḍā'a, where it was mentioned to the Prophet (peace be upon him) that menstrual cloths, dog meat, and decaying matter were thrown into the well. The Prophet said, "Water is pure and nothing makes it impure." This ḥadīth indicates that water does not become impure by the mere presence of something in it, whether small or large, even if some or all of the characteristics of the impurity (colour, taste, smell) change. However, there is consensus that if one of the water's characteristics changes due to impurity, it loses its purifying quality. Thus, the ruling is based on whether the water's characteristics remain unchanged, regardless of the quantity involved.⁹³

However, in the context of khamr specifically, another significant outcome of dilution is that the concentration of khamr can be greatly reduced, eliminating its potential to cause inebriation (*sukr*).

When khamr, an inebriating, impure beverage, is mixed or added to water, even in small amounts, the water becomes impure due to contamination, rendering it impermissible for consumption if the water volume is not large or flowing. However, if a large amount of pure water is added to khamr in a container, effectively diluting it, and the dilution is significant enough to reduce the ethanol concentration below the threshold for inebriation, then the resulting solution is no longer khamr and is permissible and may also become pure depending on the amount of water added, thereby making it lawful for consumption and other uses.

Conceptualising the Dilution (tarqīq) of Khamr

The concept of dilution (*tarqīq*) arises from adding pure liquids or substances to khamr, thereby affecting its permissibility and purity through *istihlāk*, particularly in ethanol-based beverages where there is concern about the ethanol concentration potentially causing inebriation. Dilution aims to reduce the ethanol concentration to a level below 1%, which typically renders it non-inebriating and potentially purifies it from its impure state.

⁹³ حكم استعمال الدواء المشتمل على شيء من نجس العين | (أ. د. وهبة الزحيلي) - الاستهلاك بالمكثرة: إذا كان الشيء متنجساً ثم غلبه الماء طهر، في رأي الخنفية والمالكية، بدليل حديث بئر بضاعه (٤٧)، حين ذكر للنبي صلى الله عليه وسلم أنه يلقي فيها الحَيْضُ (٤٨) ولحوم الكلاب والنَّتِن، فقال: "الماء طهور لا ينجسه شيء" (٤٩) الحديث يدل على أن الماء لا يتنجس بوقوع شيء فيه، سواء كان قليلاً أو كثيراً، ولو تغيرت أوصافه، أو بعضها، لكنه قام الإجماع على أن الماء إذا تغير أحد أوصافه بالنجاسة خرج عن الطهورية، فكان الاحتجاج به، لا بتلك الزيادة، فلا ينجس الماء بما لاقاه، ولو كان قليلاً إذا تغير، وهو مذهب مالك وجماعة، والمالكية لا حد للكثرة عندهم، فليس لها حد مقدر...

An illustrative example is during the process of *istiḥālah* from *khamr* to vinegar, where any residual ethanol, which has not transformed to vinegar, is diluted and becomes pure, thus resulting in a final solution that is permissible and pure. Classical Muslim jurists hold that if a person treats *khamr* by adding vinegar, salt, or other pure substances until it turns acidic, the majority of the ethanol transforms into vinegar, leaving only a minimal percentage or concentration of ethanol which is also purified. They deem this vinegar permissible for consumption, likening this transformation process to tanning leather, which purifies it. This view is supported by the Prophet's saying: "The best of your vinegar is the vinegar of *khamr*" and also: "Vinegar is a good condiment." The residual ethanol remaining in the transformed *khamr*, now vinegar, is inconsequential due to its significantly reduced concentration. This reduction renders it irrelevant to the purity and permissibility of the final vinegar.

Classical jurists consider the final solution pure and permissible despite the presence of some ethanol or *khamr* remnants and this is due to the dilution or reduced concentration of *khamr*. According to Abū Ḥanīfah, transformation (*istiḥālah*) is defined as the change from bitterness (*murrāh*) to acidity (*ḥumūdah*), such that no trace of bitterness remains, in other words the acidity dominates enough to overpower the taste of bitterness. If any bitterness persists, drinking it remains impermissible, because according to him, *khamr* does not become vinegar unless the full transformation to its essential meaning is completed i.e., it no longer can inebriate. This is akin to how juice does not become *khamr* until it fully acquires the characteristic of fermentation. However, Abū Yusuf and Muḥammad al-Shaybānī argue that *khamr* transitions into vinegar upon the appearance of slight acidity, without necessitating the complete disappearance of bitterness, emphasizing the adequacy of vinegar's distinctive properties. Similarly, juice becomes *khamr* with the appearance of the characteristics of fermentation according to them. It appears that this is the opinion of the rest of the jurists of other schools.⁹⁴ This suggests that even slight acidity would suffice in considering the solution as vinegar and not *khamr*. There will indeed be remnants of ethanol, albeit in a diluted and reduced concentration, but they are inconsequential.

Adding to Khamr to make Permissible and Pure

According to certain classical Muslim jurists, particularly Ḥanafī scholars, the addition of a sufficient amount of pure water to *khamr* renders it permissible and pure once its ethanol concentration falls below 1%. This purification extends to its container as well, making both the *khamr* and its vessel pure and permissible for use.

⁹⁴ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] ويعرف التخلل عند أبي حنيفة بالتغير من المرارة إلى الحموضة، بحيث لا يبقى فيها مرارة أصلاً، فلو بقي فيها بعض المرارة، لا يحل شربها؛ لأن الخمر عنده لا تصير خلا إلا بعد تكامل معنى الخلية فيه، كما لا يصير العصير عنده خمرا إلا بعد تكامل معنى الخمرية، كما سأذكر في حد الشرب. وقال صاحبان: تصير الخمر خلا بظهور قليل من الحموضة فيها، اكتفاء بظهور الخلية فيها، كما أن العصير يصير خمرا بظهور دليل الخمرية عندهما. ويظهر أن هذا هو رأي بقية الفقهاء. (4:529)

Revising the Fiqh of Khamr and Alcohol

For example, transforming khamr through treatment by adding foreign pure substances such as salt, vinegar, fish, hot bread, onions, or by exposing it to fire until it becomes acidic, is permissible according to the Ḥanafī school. Drinking it becomes permissible because it is considered a corrective action, and corrective actions are permissible by analogy to tanning leather, which purifies it. They did not distinguish between the transformation itself and the deliberate act of transforming by others. Transformation eliminates the harmful qualities and introduces beneficial properties to khamr, and corrective measures are permissible.⁹⁵

The addition of these purifying substances to khamr removes its harmful attributes, rendering it suitable for consumption and permissible. When khamr transforms into vinegar, not only does the liquid inside the vessel become purified, but even the vessel itself becomes purified if washed with vinegar. This distinction emphasizes that adding a purifying substance to khamr fundamentally alters its status. Once khamr loses its inebriating potential through transformation into vinegar or any process that renders it non-khamr, it becomes pure. Consequently, anything it touches or purifies also becomes pure.

On the contrary, according to al-Shāfi‘ī, treating khamr with pure substances does not render it permissible or pure afterwards, as the command is to avoid it entirely. Introducing such treatment would contradict the directive to abstain from khamr. Moreover, any pure liquid or substance added to khamr becomes impure upon contact, maintaining its impurity even after khamr transforms into vinegar.

If khamr undergoes natural processes, such as being moved from shade to sunlight and fermenting. As a result, it may become permissible and pure according to the majority view and also according to al-Shāfi‘ī's preferred opinion, as this is a natural transformation. However, the scenario differs when a pure substance is intentionally added through human intervention. In such cases, the impurity persists regardless of any transformation into vinegar.⁹⁶

⁹⁵ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] أما تخليل الخمر بعلاج بإلقاء جسم غريب عنها كالمالح أو الخل أو السمك أو الخبز الحار، أو البصل، أو بإيقاد النار قريبا، حتى صارت حامضا، فيجوز، ويحل شربها عند الحنفية، لأنه إصلاح، والإصلاح مباح، قياسا على دبع الجلد، فإن الدباغ يطهره... لم يفرق بين التخلل بنفسه، والتخليل، فالنص مطلق. ولأن التخليل يزيل الوصف المفسد، ويجعل في الخمر صفة الصلاح، والإصلاح مباح، كما تقدم، لأنه يشبه إراقة الخمر. (4:529)

⁹⁶ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] أما إذا خلل الخمر صاحبها بإلقاء علاج فيها من خل أو ملح أو غيرهما، حتى صارت حامضا، فيحل شربها، ويكون التخليل جائزا عند الجمهور، قياسا على (٧:٤٩٧) دبع الجلد، فإن الدباغ يطهره، ولقوله عليه السلام: «خير خلكم خل نحرتم» وقوله أيضا: «نعم الإدام الخلل» ولم يفصل بين تخلل الخمر بنفسها والتخليل، ولأن التخليل يزيل الوصف المفسد، ويجعل في الخمر صفة الصلاح، والإصلاح مباح. وإذا صارت الخمر خلا يطهر ما يجاورها من الإناء، ويطهر أعلى الإناء إذا غسل بالخل. وقيل: يطهر تبعًا، وهو المقتى به

وقال الشافعي: لا يحل التخليل بالعلاج، ولا تطهر الخمر حينئذ، لأننا مأمورون باجتنابها، فيكون التخليل اقترابا من الخمر على وجه القول، وهو مخالف للأمر بالاجتناب، ولأن الشيء المطروح في الخمر يتنجس بملاقاتها، فينجسها بعد انتقالها خلا. وإذا نقلت الخمر من الظل إلى الشمس أو بالعكس، فتخلت، تحل عند الجمهور، وكذا عند الشافعية في الأصح (7:499)

To clarify, the Shāfi'ī position centres on istiḥālāh, the process of transforming khamr into vinegar, which they maintain remains impure if achieved through human intervention as they consider transformation of khamr through human intervention as something which is not permitted. Even though khamr has transformed into vinegar, the final solution remains prohibited due to the persistent impurity.

Distinguishing between Prohibition Due to Inebriation and Due to Impurity

The confusion arises from conflating classical Muslim jurists' discussions on the purity of liquids when impurities are added with the unique concept of loss of the potential for inebriation by diluting khamr using sufficient pure water. When khamr's ethanol concentration falls below 1% ABV through dilution, it loses its inebriating properties, ceases to be considered khamr or muskir, and consequently should become pure.

Conversely, when khamr is added to water or any other pure substance, regardless of the quantity added, the focus shifts exclusively to the purity of the resultant mixture. Even a small amount of khamr can compromise the purity of the substance or liquid, thereby rendering it impure and prohibited for consumption.

The Shāfi'ī scholars clearly differentiate between rulings of the prohibition of khamr as an inebriating substance and its status as an impure substance. When khamr is diluted with water or another pure liquid, it loses its classification as khamr, ceasing to be considered an inebriating beverage. However, it remains impure unless the water added is above 2 qullas. This distinction implies that when khamr loses its inebriating properties through dilution, it may be permissible for medicinal use in cases of necessity. This allowance is not because it is still classified as khamr, which is generally prohibited for medical purposes according to the majority Shāfi'ī opinion, but because it retains its impurity due to inadequate dilution with water or other pure liquids. Therefore, the impurity of the liquid persists even when it no longer functions as an inebriant.

The Shāfi'ī scholar Imām al-Ramlī (d. 957 AH) states: "The more correct opinion is the prohibition of it (i.e., khamr) as an absolute [ethanol-based] beverage for treatment. However, if it is mixed (istihlāk) [i.e., dissolved or diluted] with another medicine (i.e., pure liquid), it is permissible to use it for treatment, similar to the absoluteness of the remainder of other impurities [i.e., blood, urine, which are other than khamr], if it is necessary or a trustworthy physician informs of its benefit and prescribes it, ensuring that a pure alternative is not available."⁹⁷

الزرقاني على مختصر خليل - وقول ز في التنبيه الأول إذا تخلل الخمر طهر إناءه الخ هذا نص عليه الأبي عن عياض في شرح مسلم ونقله الشيخ أبو زيد ونصه وفي الأبي من كلام عياض أن الإناء يتنجس بالخمر الذي حل فيه أولاً فإذا انقلبت خلا انقلبت سائر الأجزاء التي دخلته فزال حكم النجاسة (1:51)

⁹⁷ نهاية المحتاج للرملي والأصح تحريمها (أي الخمر) صرفاً لدواء... أما مستهلكة مع دواء آخر، فيجوز التداوى بها كصرف بقية النجاسات، إن عرف، أو أخبره طبيب عدل بنفعها وتعيينها بأن لا يغنى عنها طاهره. (8:14)

Revising the Fiqh of Khamr and Alcohol

The question arises: why does khamr remain impure despite mixing with another pure liquid or transforming into vinegar, which is generally considered pure? Additionally, if human intervention is prohibited, why do Shāfi'ī scholars argue that consuming it does not incur legal punishment (ḥudūd) for the drinker?⁹⁸ Certainly, we recognise that when a ruling is established based on a specific reason (‘illah), it ceases to apply when that reason no longer exists. Therefore, since the impurity and prohibition of khamr are contingent upon their potential for causing inebriation, making it permissible and pure occurs through removing this potential. Consequently, its impurity and prohibition should be lifted because it no longer meets the definition of khamr.

Moreover, since the ruling of impurity and prohibition includes prescribed punishments (ḥudūd) for the consumer and legal penalties for the drinker of khamr, why do scholars negate the obligation of punishment for the drinker if it is still to be considered khamr.⁹⁹

A detailed explanation is presented by the renowned Shāfi'ī jurist al-Māwardī (d. 450 AH) whilst disagreeing with the explanation put forth by the Shāfi'ī jurist al-Isfarāyīnī (d. 418 AH). Al-Isfarāyīnī posited that if vinegar is poured into khamr, the added vinegar becomes impure upon contact with the khamr, and this impurity persists rendering the resulting transformation of khamr into vinegar impure. He also claimed that this is the jurisprudence of the matter and its strongest evidence. However, al-Māwardī (d. 450 AH) argues against this view, asserting that there is no evidence or condition indicating that the added vinegar renders the transformed khamr into vinegar impure upon contact with it. Water, being the strongest in purification, becomes impure by contact with impurity if it encounters it, yet it being impure does not prevent its removal and the purity of its location. Stones become impure in cleansing during instinjā by contact with impurity in their place, yet they do not prevent purification of the area wiped. The same applies to alum and alkali used in tanning; they become impure by contact with the skin of a dead animal, yet this does not prevent their purification of the animal skin. If all of this were impure with contact with khamr and made everything around them impure, then purification would not occur with it.¹⁰⁰

⁹⁸ الحاوي الكبير [الماوردي] لا يحل تخليل الخمر، فإن خللها بخل أو ملح ألقاه فيها فهي نجسة لا يحل شربها لكن لا يفسق مستحلها، ولا يحل شاربها (6:115)

⁹⁹ الحاوي الكبير [الماوردي] قالوا: ولأن الحكم إذا ثبت لعله زال بزوالها فلها كان تنجيسها وتحريمها عندكم بحدوث الشدة فيها وعندنا لانطلاق اسم الخمر عليها وكان تخليلها يزيل الشدة منها وينقل اسم الخمر عنها وجب أن يزيل تنجيسها وتحريمها. قالوا: ولأن من حكمها مع تنجيسها وتحريمها تفسيق متناولها ووجوب الحد على شاربها، فلها كان تخليلها مانعا من تفسيق متناولها، ومسقطا لوجوب الحد على شاربها وجب أن يكون رافعا لتنجيسها وتحريمها (6:115)

¹⁰⁰ الحاوي الكبير [الماوردي] وكان الإسفراييني يعتمد في هذه المسألة على أن الخلل إذا ألقى في الخمر فقد نجس بملاقاة الخمر فلا يظهر بانقلابها خلا لنجاسة ما ألقى فيها من الخلل كما لو كان الخلل نجسا من قبل ويزعم أن هذا فقه المسألة وأقوى دلائلها وهذا ليس بصحيح لأنه لا دليل في المسألة أو رهن منه لظهور فساده بكل ما تقع الطهارة به لأن الماء وهو أقوى الأشياء في التطهير ينجس بملاقاة النجاسة إذا ورد عليها ولا يمنع من إزالتها وطهارة محلها. والأجور تنجس في الاستنجاء بملاقاة النجاسة في محلها ولا تمنع إزالة حكمها. والشث والقرظ في الدباغ ينجس بملاقاة جلد الميتة ولا يمنع من تطهيره ولو كان هذا كله نجسا قبل الملاقاة لم تقع به الطهارة فما المانع أن يكون حكم الخلل كذلك (6:114)

Revising the Fiqh of Khamr and Alcohol

Al-Māwardī clarifies the reason behind the impurity of the final solution even after transforming khamr into pure vinegar by adding vinegar. He points out that the added vinegar becomes impure upon contact with khamr and does not have the ability to purify other substances once it itself becomes impure, primarily because its use is forbidden. According to him, substances that are permissible in their use or production have the potential to purify other items. Conversely, those that are prohibited do not purify other substances when they themselves become impure. For example, since khamr is inherently impure and its production is prohibited, it does not have the capacity to purify other items.

The impurity of khamr is effectively removed by its transformation into vinegar through the addition of vinegar, but the impurity of the added vinegar persists upon contact with the khamr. Thus, the resulting solution is impure due to this added impure vinegar, not because of the khamr itself, which has been converted into pure vinegar. Consequently, the transformation of khamr into vinegar does not entail the prescribed punishments (ḥudūd) for those who consume it, as it no longer falls under the classification of khamr.¹⁰¹

However, the dynamics change when discussing dilution: if sufficient pure water is added to khamr instead of other additives like vinegar, this dilution reduces its alcohol concentration to a level where it no longer retains its defining characteristics or potential to cause inebriation. In such instances, according to some, the original khamr beverage gradually ceases to be impure because it no longer meets the criteria for classification as khamr after the addition of sufficient pure liquid or water. However, some hold that despite dilution, the final product may still become impure upon contact, rendering it impermissible to consume not due to its status as khamr but because of its impurity from the added water if the act of adding water is seen as forbidden.

On the contrary, and more importantly, if the original ethanol-based fermented solution is not considered khamr but rather a beverage with no or uncertain potential for inebriation (non-khamr) (i.e., ethanol content <1%) or classified as mufsid due to a high concentration of ethanol (i.e., ethanol content > 60%), dilution becomes permissible according to Muslim jurists as this is not khamr and therefore is pure. Adding water in such cases ensures that the solution remains pure and permissible. We will come back to this shortly. However, there are differences in interpretation among scholars regarding whether other pure liquids besides water can also serve as purifying agents in such scenarios.

¹⁰¹الخواوي الكبير[الماوردي] وأما قياسهم على الدباج في جلد الميتة فباطل بلحم الميتة لأنه لا سبيل إلى طهارته وإن كانت نجاسته لعارض. ثم المعنى في دباج جلد الميتة أنه يستباح بفعل غير محظور فجاز أن يطهر به ولما كان التخليل محظورا لم يجوز أن يطهر به... والوجه الثاني: أنه نجس. فعلى هذا الفرق بين البيض وبين الخمر من وجهين: أحدهما: أن الفعل في البيض غير محظور فجاز أن يطهر به وفي الخمر محظور فلم يجوز أن يطهر به. والثاني: أن ما هو نجس من البيض لم يحدث فيه فعل وإنما كان في غيره فجاز أن يطهر به كما يطهر الخمر بالاستحالة وليس كذلك الخمر النجس لأن فعل التخليل حادث فيه فلم يجوز أن يطهر به وأما قولهم: إن العلة إذا زالت وجب زوال حكمها فالجواب: أن نجاسة الخمر قد زالت وإنما بقي نجاسة الخمر. وأما قياسهم على سقوط الحد وزوال التفسيق فيقال بموجبه لأن نجاسة الخمر قد زالت وإنما بقيت نجاسة أخرى وهي نجاسة الخمر. (6:114)

What types of liquids are Purifying Agents

Scholars have diverged on whether water is indispensable for purifying substances from impurities, dismissing other liquids like vinegar as ineffective in this regard. Two principal opinions emerge:

1. The first opinion: Water is required to remove impurities (i.e., other pure liquids will not suffice), and this is the view of the majority: the Mālikī, Shāfi'ī, and Ḥanbalī schools, as well as the position of Zufar and Muḥammad al-Shaybānī from the Ḥanafī school.¹⁰²
2. The second opinion: Water is not required to remove impurities (i.e., other pure liquids will also remove impurities), and this is the Ḥanafī school's view, as well as a narration from Aḥmad, and it is the opinion of Dāwūd al-Zāhirī and Ibn Taymiyyah preferred this view.¹⁰³

All classical Muslim jurists unanimously agree on the purifying property of pure water, but they diverge when considering the efficacy of other pure liquids. In cases of dilution, adding pure water to a non-khamr beverage is universally considered permissible, while there is variation among jurists regarding adding it to khamr. If the concentration of ethanol in the non-khamr or khamr beverage is significantly reduced or becomes negligible through dilution, it ceases to be classified as an inebriant. Instead, it becomes permissible and pure for use and consumption according to their respective legal rulings.

One justification for considering significantly diluted khamr, such as when it is excessively diluted with pure water, is that the reduction of impurity to a negligible and inconsequential level aligns with the principle that minimal amounts of impurity do not affect rulings concerning purity. According to the Shāfi'ī school, some claim that if the khamr mixed with liquids is minimal to the extent of being negligible, it will be pure. They mentioned that impurity if it is imperceptible to the senses, meaning it cannot be seen with the eye due to its negligibility, such as if it changes the colour of a garment and it falls on it without being visible due to its negligibility, or like urine splashing onto it. Al-Māwardī asserts this view.¹⁰⁴

¹⁰² مواهب الجليل للحطاب (1:234)، وينظر: بداية المجتهد لابن رشد (1:83). المجموع للنووي (1:95)، مغني المحتاج للشربيني (1:85).
كشاف القناع للبهوتي (1:181)، شرح منتهى الإرادات للبهوتي (1:114). بدائع الصنائع للكاساني (1:83)، البحر الرائق لابن نجيم (1:233).

¹⁰³ البحر الرائق لابن نجيم (1:233)، وينظر: بدائع الصنائع للكاساني (1:83). المغني لابن قدامة (1:9)، الإنصاف للمرداوي (1:223).
قال ابن تيمية: (الرأخ في هذه المسألة: أنّ النجاسة متى زالت بأي وجه كان، زال حكمها؛ فإن الحكم إذا ثبت بعلة، زال بزوالها). مجموع فتاوى ابن تيمية (21:475).

¹⁰⁴ المجموع شرح المذهب، كتاب الطهارة (1:126)

Revising the Fiqh of Khamr and Alcohol

The Mālikī school has three opinions regarding the transformation of khamr by adding pure substances:¹⁰⁵

1. Prohibition: Because the Prophet (صلى الله عليه وسلم) ordered the spilling of a leather skin bag of khamr, which was gifted to him by a man. If its transformation were permissible, he would not have permitted its spilling, nor would he have warned against its transformation.
2. Permissibility with dislike: Because the reason for the prohibition of strong, fermented khamr is the inebriating intensity. If this intensity is removed, the prohibition is also removed, just as if it were transformed on its own.
3. Detailed: It is permissible to transform khamr that was produced through fermentation without intending it to be khamr. It is not permissible to transform khamr that is specifically made as khamr for this purpose.

Mālikī scholars also note that if khamr is diluted with a pure liquid, and it can be ascertained that the concentration of khamr has indeed been significantly reduced, then they also allow the use of this solution for medicinal purposes in cases of need. The variation in permissibility among their scholars lies in the accuracy of determining whether this medication is effective.

The great Mālikī scholar Imām al-Ḥaṭṭāb states: "As for consuming it (al-khamr) and using it as medication internally, there is a consensus on its prohibition... Al-Zanātī mentioned mixing (istihlāk) [i.e., diluting] khamr in medicine through cooking or formulation until its taste and smell disappear, and empirical observation showing the success of that medicine [as an effective treatment], with opinions varying between permissibility and prohibition. He said: If the empirical observation does not prove its success [as an effective treatment], then it is not permissible by consensus."¹⁰⁶

The Ḥanbalī scholars are of the same opinion as the Shāfi'ī scholars where they claim that it is not permissible to transform khamr through any process, nor does it become pure at that time, because we are commanded to avoid it. Transforming it would be an approach towards khamr through indirect means, which contradicts the command to avoid it. The substance that is initially khamr becomes impure upon contact with it, and it remains impure even after its transformation. Moreover, the Prophet (صلى الله عليه وسلم) ordered the pouring out of khamr after the revelation of the verse from Surah Al-Mā'idah prohibiting it. Abū Ṭalḥah reported that he asked the Prophet

¹⁰⁵ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] وللمالكية في تحليل الخمر بمعالجة أقوال ثلاثة: قول بالمنع أو التحريم، لأن النبي صلى الله عليه وسلم أمر بإراقة راوية نمر، أهدها له رجل (1)، ولو جاز تحليلها، لما أباح له إراقها، ولنبيه على تحليلها. وقول بالجواز مع الكراهة؛ لأن علة تحريم الخمر الشدة المطربة، فإذا زالت زال التحريم، كما لو تخلت بنفسها. وقول بالتفصيل: يجوز تحليل الخمر الذي تخمر عند صاحبه، بدون قصد الخمرية، ولا يجوز تحليل الخمر المتخذة نمرًا. (4:531)

¹⁰⁶ مواهب الجليل للمطاب "أما أكله والتداوى به في باطن الجسد، فالاتفاق على تحريمه.... وحكى الزناني فيما إذا استهلكت الخمر في دواء بالطبخ أو التركيب حتى يذهب عنها ويموت ريحها، وقضت التجربة بإنجاح ذلك الدواء قولين بالجواز والمنع، قال: وإن لم تقض التجربة بإنجاحه، لم يجز باتفاق، انتهى. والظاهر المنع مطلقاً." (1:119)

(صلى الله عليه وسلم) about orphaned children who inherited khamr, and he said, 'Pour it out.' Abū Ṭalḥah asked, 'Can we not transform it?' The Prophet (صلى الله عليه وسلم) said, 'no'.¹⁰⁷

In summary: In matters concerning the transformation of khamr intentionally through human intervention, three main legal positions are distinguished among Islamic jurists. According to the Ḥanafī school, attributed to Abū Ḥanīfah, it is permissible to transform khamr, and once transformed, it is considered pure and can be consumed. On the other hand, the Mālikī school holds that while it is not permissible to intentionally transform khamr, if transformation occurs unintentionally, the resulting product becomes pure and can be consumed. Conversely, the Shāfi'ī and Ḥanbalī schools maintain that it is not permissible to transform khamr under any circumstances. If khamr undergoes any transformation, intentional or unintentional, it remains impure and prohibited for consumption according to their legal interpretation. The impurity is not because of the transformed khamr, which is pure, but due to the added substance becoming impure on contact and persisting as impure.

Table 5. Transformation of Khamr Intentionally through Human Intervention

	When pure substance like vinegar is added – transforming the khamr to vinegar	Khamr or non-Khamr	When pure water is added	Permissible to consume
Ḥanafī	Pure and permissible (whether intended or not)	Non-Khamr	Pure if a sufficient amount of water added	Yes, if sufficient dilution
Mālikī	Pure and permissible (only if NOT intended)	Non-Khamr	Pure if NOT intended and a sufficient amount of water added	Yes, if sufficient dilution – if loss of taste, colour and smell
Shāfi'ī	Not Pure nor Permissible	Non-Khamr	Impure	Yes, if sufficient dilution – 2 qullas
Ḥanbalī	Not Pure nor Permissible	Non-Khamr	Impure	Yes, if sufficient dilution – 2 qullas

As previously mentioned, if (i) a non-khamr beverage (containing less than 1% ethanol) or (ii) a non-beverage substance that is classified as a mufsid (containing more than 60% ethanol) is diluted with water to the point where it no longer has an inebriating effect, then such a mixture is both

¹⁰⁷ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] وقال الشافعية والحنابلة: لا يحل تخليل الخمر بالعلاج، ولا تطهر حينئذ؛ لأننا مأمورون باجتنابها، فيكون التخليل اقتراباً من الخمر على وجه التمول، وهو مخالف للأمر بالاجتناب، ولأن الشيء المطروح في الخمر يتنجس بملاقاتها، فينجسها بعد انتقالها خلا، ولأن الرسول صلى الله عليه وسلم أمر بإهراق الخمر بعد نزول آية المائدة بتحريمها. وعن أبي طلحة: أنه سأل النبي صلى الله عليه وسلم عن أيتام ورثوا خمرًا، فقال: «أهرقها» قال: «أفلا أخللها؟ قال: لا» وهذا نهى يقتضي التحريم. ولو كان إلى استصلاحها سبيل مشروع لم تجز إراقته، بل أرشدهم إليه، لاسيما وهي لأيتام، يحرم التفريط في أموالهم (4:531)

Revising the Fiqh of Khamr and Alcohol

permissible and pure for use and consumption. This is because neither the original non-khamr beverage nor the mufsid substance is considered khamr or impure to begin with. Therefore, diluting to non-inebriating levels does not violate any prohibitions.

It is agreed amongst Muslim jurists that ethanol-based beverage (not considered as legal khamr because of low concentration ethanol), whether derived from grape juice or not, undergoes substantial dilution with water, its ethanol concentration (ABV) decreases accordingly i.e., like nabīdh. Should this concentration fall further below 1%, the beverage has no inebriating properties and is not considered khamr.¹⁰⁸ Today, advancements allow us to pinpoint that less than 1% ethanol in any beverage does not induce inebriation. Diluting a beverage to this extent retains it as non-khamr. This practice of dilution as a means of ensuring safety traces back to the Prophet (صلى الله عليه وسلم) and his companions, highlighting its historical significance and effectiveness.

Dilution of inebriating beverages, as exemplified by the Prophet (صلى الله عليه وسلم) and his Companions

The companion ‘Umar is cited more often than any other companion in this regard. A man once gulped down a drink [nabīdh] of ‘Umar en route to Madinah and became inebriated. ‘Umar allowed him to become sober and then meted out the punishment (ḥadd) for drinking on him. ‘Umar then diluted that drink by adding water and then drank from it.” He has been reported to have drunk nabīdh which is thought to be muskir after diluting them with water.¹⁰⁹

¹⁰⁸ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] يطلق الاستهلاك في الاصطلاح على معنيين : الأول: ألا يبقى للمستهلك لون، ولا طعم، ولا ريح. قال في حاشية الجمل في سياق الكلام عن استهلاك الخمر: الاستهلاك أن لا يبقى له طعم، ولا لون، ولا ريح. الثاني: الإتلاف.

وهو أشهر من السابق، ويستعمله الفقهاء بكثرة (7:499)

¹⁰⁹ في السنن الكبرى - البيهقي - ط العلمية [أبو بكر البيهقي] ١٧٤١٦ - وأما الرواية فيه عن عمر بن الخطاب، رضي الله عنه، فأخبرنا أبو عبد الله الحافظ، ثنا أبو العباس محمد بن يعقوب، ثنا الحسن بن مكرم، ثنا أبو النضر، ثنا أبو خيثمة، ثنا أبو إسحاق، عن عمرو بن ميمون، قال: قال عمر رضي الله عنه: " إنا لنشرب من النبيذ نبيذا يقطع لحوم (5:91)

في المصنف - ابن أبي شيبة - ت الحوت [أبو بكر بن أبي شيبة]

٢٣٨٧٧ - حدثنا أبو بكر قال: حدثنا أبو معاوية، عن الأعمش، عن إبراهيم، عن همام، قال: أتى عمر بنبيذ زبيب من نبيذ زبيب الطائف، قال: فلما ذاقه قطب فقال: " إن لنبيذ زبيب الطائف لغراما، ثم دعا بماء فصبه عليه فشرب، وقال: «إذا اشتد عليكم فصبوا عليه الماء واشربوا» ٢٣٨٧٨ - حدثنا أبو بكر قال: حدثنا عبدة بن سليمان، عن يحيى بن سعيد، عن سعيد بن المسيب، أن قوما من ثقيف لقوا عمر بن الخطاب وهو قريب من مكة، فدعاهم بأنبيذتهم، فأتوه بقدرح من نبيذ فقربه من فيه، ثم دعا بماء فصبه عليه مرتين أو ثلاثا، فقال: «اكسروه بالماء»

(5:80)

في السنن الكبرى - البيهقي - ط العلمية [أبو بكر البيهقي]

وأما الأثر الذي أخبرنا أبو عبد الرحمن السلمي، وأبو بكر بن الحارث الأصهباني، قالوا: أنبأ أبو الحسن علي بن عمر الحافظ، ثنا عبد الله بن محمد بن عبد العزيز، ثنا خلف بن هشام، ثنا حماد بن زيد، عن يحيى بن سعيد، عن سعيد بن المسيب، قال: تلتقت ثقيف عمر رضي الله عنه بنبيذ، فوجده شديدا فدعا بماء فصب عليه مرتين أو ثلاثا "

Dāraquṭnī has recorded the following narrations and has dismissed the authenticity:

- 1) Saʿīd ibn Dhī Laʿwah relates, “A Bedouin once drank nabidh [a drink made by soaking dates or raisins in water and consuming it before it becomes intoxicating] from the water skin of ‘Umar and became inebriated. ‘Umar meted out the punishment for drinking on him”¹¹⁰ (Sunan Dāraquṭnī, Ḥadīth: 4685)
- 2) Abū Ishāq reports from ‘Āmir ibn Maymūn who says, ‘A Bedouin once drank nabidh from the water skin of ‘Umar and became inebriated. ‘Umar meted out the punishment for drinking on him”¹¹¹ (Sunan Dāraquṭnī, Ḥadīth: 4691)

Imām Dāraquṭnī states that both these narrations are unauthentic.¹¹²

١٧٤٤٩ - وأخبرنا أبو الحسين بن الفضل القطان، ببغداد، أنبأ عبد الله بن جعفر، ثنا يعقوب بن سفيان، ثنا أبو اليمان، أخبرني شعيب، قال: وحدثنا الحجاج، ثنا جدي، جميعاً عن الزهري، أخبرني معاذ بن عبد الرحمن التيمي، أن أباه عبد الرحمن بن عثمان، قال: صاحبت عمر بن الخطاب رضي الله عنه إلى مكة، فأهدى له ركب من ثقيف سطحتين من نبيد، والسطيحة فوق الإداوة ودون المزاوة، قال عبد الرحمن بن عثمان: فشرّب عمر بن الخطاب رضي الله عنه إحداهما، قال حجاج: طيبة، ثم أهدى له لبن فعده عن شرب الأخرى حتى اشتد ما فيها، فذهب عمر بن الخطاب رضي الله عنه ليشرب منها فوجده قد اشتد، فقال: "اكسروه بالماء" فإنما كان اشتداه، والله أعلم، بالحموضة أو بالحلاوة، فقد روي عن نافع مولى [٥٣١] ابن عمر أن عمر بن الخطاب رضي الله عنه قال ليرفأ: اذهب إلى إخواننا فالتمس لنا عندهم شراباً، فأتاهم فقالوا: ما عندنا إلا هذه الإداوة وقد تغيرت، فدعا بها عمر رضي الله عنه فذاقها، فقبض وجهه، ثم دعا بماء فصب عليه ثم شرب قال نافع: والله ما قبض وجهه إلا أنها تخللت (8:530)

¹¹⁰ حدثنا روح بن الفرج، قال: ثنا عمرو بن خالد، قال: ثنا زهير، قال: ثنا أبو إسحاق، عن عامر، عن سعيد بن ذي لعة قال: "أتي عمر - رضي الله عنه - برجل سكران فجده، فقال: إنما شربت من شرابك، فقال: وإن كان"

¹¹¹ حدثنا أبو بكر، قال: ثنا أبو داود، قال: ثنا زهير بن معاوية، عن أبي إسحاق، عن عمرو بن ميمون، قال: "شهدت عمر بن الخطاب - رضي الله عنه - حين طعن، فجاءه الطبيب فقال: أي الشراب أحب إليك؟ قال: النبيذ، فأتى بنبيذ فشربه فخرج من إحدى طعناته. حدثنا روح بن الفرج، قال: ثنا عمرو بن خالد، قال: ثنا زهير، قال: ثنا أبو إسحاق، عن عمرو بن ميمون مثله. وزاد: قال عمرو: وكان يقول: "إننا نشرب من هذا النبيذ شراباً يقطع لحوم الإبل في بطوننا من أن يؤذينا. قال: وشربت من نبيده فكان كأشد النبيذ حدثنا فهد، قال: ثنا عمر بن حفص، قال: ثنا أبي، عن الأعمش، قال: حدثني أبو إسحاق، عن سعيد بن ذي حدان - أو ابن ذي لعة - قال: "جاء رجل قد ظمئ إلى خازن عمر - رضي الله عنه - فاستسقاها فلم يسقه، فأتى بسطيحة لعمر - رضي الله عنه - فشرّب منها فسكّر، فأتي به عمر - رضي الله عنه - فاعتذر إليه وقال: إنما شربت من سطحتك، فقال عمر - رضي الله عنه -: إنما أضربك على السكر، فضربه عمر - رضي الله عنه -"

¹¹² سنن الدارقطني (٤٦٨٥): حدثنا عبد الله بن جعفر بن خشيش، نا سلم بن جنادة، نا وكيع، عن عمرو بن منصور المشرقي، عن عامر، عن سعيد بن ذي لعة أن أعرابياً شرب من إداوة عمر نبيداً فسكّر، «فضربه عمر الحد» لا يثبت هذا .

سنن الدارقطني (٤٦٩١): قال: ونا وكيع، عن سفيان، عن أبي إسحاق، عن عامر، أن أعرابياً شرب من إداوة عمر نبيداً فسكّر، «فضربه عمر الحد» هذا مرسل ولا يثبتان.

نصب الرأية: قوله: روي أن عمر رضي الله عنه أقام الحد على أعرابي سكر من النبيذ، قلت: أخرجه الدارقطني في «سننه» عن سعيد بن ذي لعة أن أعرابياً شرب من إداوة عمر نبيداً فسكّر، فضربه الحد، انتهى. قال الدارقطني: هذا لا يثبت، انتهى. ورواه العقيلي في «كتابه»، وزاد فيه: فقال الأعرابي: إنما شربته من إداوتك، فقال عمر: إنما جلدناك على السكر، انتهى. وأعله بسعيد بن ذي لعة، وأسند تضعيفه عن البخاري، وقال

However, the Ḥanafī scholar Imām al-‘Aynī (d. 855 AH) provides support for these transmissions through a number of chains verifying the reliability of the narrators.¹¹³

A reliable version is as follows:

Imām ‘Abdur Razzāq has recorded a similar narration. This narration states:

“A man once gulped down a drink [nabidh] of ‘Umar en route to Madinah and became inebriated.

‘Umar allowed him to become sober and then meted out the punishment for drinking on him.

‘Umar then diluted that drink by adding water and then drank from it.”¹¹⁴

البيهقي في «المعرفة»: قال البخاري: سعيد بن ذي لعة عن عمر في النبيذ يخالف الناس في حديثه، لا يعرف، وقال بعضهم: سعيد بن حدان، وهو وهم، انتهى. وقال في «التنقيح»: قال ابن المديني: سعيد هذا مجهول، وقال أبو حاتم: لا أعلم روى عنه غير الشعبي، وأبي إسحاق، انتهى. طريق آخر: رواه ابن أبي شيبة في «مصنفه» حدثنا ابن مسهر عن الشيباني عن حسان بن مخارق، قال: بلغني أن عمر بن الخطاب سأل رجلا في سفر، وكان صائما، فلما أظفر أهوى إلى قربة لعمر معلقة فيها نبيذ فشرب منها، فسكر، فضربه عمر الحد، فقال: إنما شربت من قربتك، فقال له عمر: إنما جلدناك لسرك، انتهى.

طريق آخر: روى الزهري عن السائب بن يزيد عن عمر أنه قال: بلغني أن عبيد الله بن عمر، وأصحابه شربوا شرابا، وأنا سائل عنهم، فإن كان يسكر حدتهم، قال السائب: فأنا شهدت عمر حدهم، انتهى. ينظر «الأطراف».

طريق آخر: رواه عبد الرزاق في «مصنفه» أخبرنا ابن جريج عن إسماعيل أن رجلا عب في شراب نبيذ لعمر بن الخطاب بطريق المدينة، فسكر، فتركه عمر حتى أفاق، ثم حده، انتهى.

أحاديث الباب: أخرج الدارقطني في «سننه» عن عمران بن داود عن خالد بن دينار عن أبي إسحاق عن ابن عمر أن رسول الله صلى الله عليه وسلم أتى برجل قد سكر من نبيذ تمر، فجلده، انتهى. وعمران بن داود - بفتح الدال والواو - فيه مقال، وأخرجه في «الأشربة» عن أبي العوام القطان حدثني عمرو بن دينار عن ابن عمر به، ورواه إسحاق بن راهويه في «مسنده» أخبرنا وكيع ثنا سفيان عن أبي إسحاق عن النجراني عن ابن عمر، قال: أتى النبي صلى الله عليه وسلم بسكران فضربه الحد، وقال له «ما شرابك؟» قال: تمر وزبيب، فقال: «لا تخلطوهما جميعا، يكفي أحدهما من صاحبه»، انتهى.

أثر: أخرجه الدارقطني في «سننه» عن وكيع عن شريك عن فراس عن الشعبي أن رجلا شرب من إداوة علي نبيذا بصفين، فسكر، فضربه الحد، انتهى. ورواه ابن أبي شيبة في «مصنفه»... إلخ (3:349)

¹¹³ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] قلت: الكل يرجع إلى معنى واحد، وهو أنه يحرم منه بعد الإسكار ملء الكف والجرعة والحسوة، لا أنه قبل الإسكار يحرم شيء من ذلك. ثم إنه أخرج ما روى عن عمر بن الخطاب - رضي الله عنه - من تسع طرق. الأول: عن فهد بن سليمان، عن عمر بن حفص النخعي الكوفي شيخ البخاري ومسلم، عن أبيه حفص بن غياث النخعي، عن سليمان الأعمش، عن إبراهيم النخعي، عن همام بن الحارث النخعي الكوفي، عن عمر - رضي الله عنه - وهذا إسناد صحيح، ورجاله كلهم رجال الصحيح ما خلا فهدا. وقال ابن حزم: هذا خبر صحيح. وأخرجه ابن أبي شيبة في «مصنفه»: ثنا أبو معاوية، عن الأعمش، عن إبراهيم، عن همام قال: «أتي عمر - رضي الله عنه - بنبيذ زبيب من نبيذ زبيب الطائف». (16:92)

¹¹⁴ مصنف عبد الرزاق (17015): عبد الرزاق قال: أخبرنا ابن جريج قال: أخبرني إسماعيل، «أن رجلا عب في شراب نبيذ لعمر بن الخطاب بطريق المدينة فسكر فتركه عمر حتى أفاق فجلده، ثم أوجعه عمر بالماء فشرب منه قال: ونبيذ نافع بن عبد الحارث لعمر بن الخطاب في المزاد وهو عامل مكة فاستأخر عمر حتى عدا الشراب طوره، ثم عدا فدعا به عمر فوجده شديدا فصنعه في الجفان، فأوجعه بالماء، ثم شرب وسقى الناس»

Revising the Fiqh of Khamr and Alcohol

This version explicitly states that the man gulped down the drink [nabidh] which turned out to be too strong. Had he tasted it first, he would have realised this. Other narrations state that at times ‘Umar would taste the nabīdh first, and would dilute it if needed.¹¹⁵

Some argue that this nabīdh was not inebriating, and the Prophet (صلى الله عليه وسلم), along with ‘Umar and other companions, diluted it due to its strength, excessive sweetness, acidity, or thickness, rather than solely because it was inebriating.¹¹⁶

¹¹⁵ مصنف ابن أبي شيبة (٢٤٣٤٦-٢٤٣٤٧-٢٤٣٤٨-٢٤٣٤٩): حدثنا أبو الأحوص ، عن أبي إسحاق ، عن عمرو بن ميمون ، قال : قال عمر : إنا نشرب هذا الشراب الشديد ، لنقطع به لحوم الإبل في بطوننا أن يؤذينا ، فمن رابه من شرابه شيء ، فليمزجه بالماء. حدثنا وكيع ، قال : حدثنا إسماعيل بن أبي خالد ، عن قيس بن أبي حازم ، قال : حدثني عتبة بن فرقد ، قال : قدمت على عمر ، فدعا بعس من نبيذ قد كاد يصير خلا ، فقال : اشرب ، فأخذته فشربته ، فما كدت أن أسيغه ، ثم أخذته فشربه ، ثم قال : يا عتبة ، إنا نشرب هذا النبيذ الشديد لنقطع به لحوم الإبل في بطوننا أن يؤذينا. حدثنا أبو معاوية ، عن الأعمش ، عن إبراهيم ، عن همام ، قال : أتني عمر بن عبد الله بن زبير من نبيذ زبيب الطائف ، قال : فلما ذاقه قطب فقال : إن لنبيذ زبيب الطائف لعمرا ، ثم دعا بماء فصبه عليه فشرب ، وقال : إذا اشتد عليكم فصبوا عليه الماء واشربوا. حدثنا عبدة بن سليمان ، عن يحيى بن سعيد ، عن سعيد بن المسيب ؛ أن قوما من ثقيف لقوا عمر بن الخطاب وهو قريب من مكة ، فدعاهم بأنبيذهم ، فأتوه بقدر من نبيذ فقره من فيه ، ثم دعا بماء فصبه عليه مرتين ، أو ثلاثا ، فقال : اكسروه بالماء. السنن الكبرى وفي ذيله الجوهر النقي: وأما الأثر الذي أخبرنا أبو عبد الرحمن السلمي وأبو بكر بن الحارث الأصهباني قالوا أخبرنا أبو الحسن : علي بن عمر الحافظ حدثنا عبد الله بن محمد بن عبد العزيز حدثنا خلف بن هشام حدثنا حماد بن زيد عن يحيى بن سعيد عن سعيد بن المسيب قال : تلقت ثقيف عمر رضي الله عنه بنبيذ فوجده شديدا فدعا بماء فصب عليه مرتين أو ثلاثا. وأخبرنا أبو الحسين بن الفضل القطان ببغداد أخبرنا عبد الله بن جعفر حدثنا يعقوب بن سفيان حدثنا أبو اليمان أخبرني شعيب قال وحدثنا الحجاج حدثنا جدي جميعا عن الزهري أخبرني معاذ بن عبد الرحمن التيمي أن أباه عبد الرحمن بن عثمان قال : صاحبت عمر بن الخطاب رضي الله عنه إلى مكة فأهدى له ركب من ثقيف سطحتين من نبيذ والسطيحة فوق الإداوة ودون المزاوة. قال عبد الرحمن بن عثمان : فشرب عمر بن الخطاب رضي الله عنه إحداهما قال حجاج : طيبة ثم أهدى له لبن فعدله عن شرب الأخرى حتى اشتد ما فيها فذهب عمر بن الخطاب رضي الله عنه ليشرب منها فوجده قد اشتد فقال : اكسروه بالماء. {ق} فإنما كان اشتداه والله أعلم بالحموضة أو بالخلوة فقد روى عن نافع مولى ابن عمر أن عمر بن الخطاب رضي الله عنه قال ليرفأ : اذهب إلى إخواننا فالتمس لنا عندهم شرابا فأتاهم فقالوا : ما عندنا إلا هذه الإداوة وقد تغيرت فدعا بها عمر رضي الله عنه فدأقها فقبض وجهه ثم دعا بماء فصب عليه ثم شرب. قال نافع : والله ما قبض وجهه إلا أنها تخلت. وأخبرنا أبو الحسين بن بشران أخبرنا أبو الحسين : أحمد بن محمد بن جعفر الجوزي حدثنا ابن أبي الدنيا حدثني إبراهيم بن سعيد أخبرنا محبوب بن موسى أخبرنا عبد الله بن المبارك عن أسامة بن زيد عن نافع قال : والله ما قبض عمر رضي الله عنه وجهه عن الإداوة حين ذاقها إلا أنها تخلت. وروينا عن سعيد بن المسيب عن عمر رضي الله عنه بنحو من رواية نافع. ويذكر عن قيس بن أبي حازم عن عتبة بن فرقد قال : كان النبيذ الذي شرهه عمر رضي الله عنه قد تخلل. ويذكر عن زيد بن أسلم أن أصحاب رسول الله - صلى الله عليه وسلم - كانوا إذا حمض عليهم النبيذ كسروه بالماء. (8:305)

¹¹⁶ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] فإن قلت: قال ابن حزم: هذا لا حجة لهم فيه؛ لأنه ليس فيه أن ذلك النبيذ كان مسكرا، ولا أنه كان قد اشتد، وإنما فيه إخبار عمر - رضي الله عنه - بأن نبيذ الطائف له عرام وشدة، وأنه كسر هذا بالماء ثم شرهه، فالأظهر فيه: أن عمر - رضي الله عنه - خشي أن يعرم ويشد فتعجل كسره بالماء، وهذا موافق لقوله لا لقولهم أصلا. وقال أبو جعفر النحاس في هذا الحديث: هذا لعمرى إنسان مستقيم ولا حجة لهم فيه، بل الحجة عليهم؛ لأنه إنما يقال: قطب لشدة حموضة الشيء، ومعنى قطب في كلام العرب: خالطت بياضه حمرة، مشتق من قطبت الشيء أقطبه: إذا خلطته. (16:93)

Al-^cAynī and others argue against this view, suggesting it is an incorrect analysis. They contend that the nabīdh was diluted because of its potential to cause inebriation, and by diluting it, this potential was either completely eliminated or significantly reduced, thereby making it permissible to consume as it no longer had the ability to inebriate. Claims regarding excessive sweetness and acidity, as proposed by al-Bayhaqī, Ibn Ḥazm, and others, are considered speculative. These arguments are countered by a narration from Ibn Jurayj reported by Ismā'īl in 'Abd al-Razzāq's "Muṣannaf," which states that a man offered nabīdh to 'Umar on the road to Madīna, causing him to become inebriated. 'Umar responded by leaving him until he sobered up, then punishing him and making him drink water to dilute the nabīdh.

He added that: "Nāfi' ibn al-Ḥārith offered 'Umar ibn al-Khattāb nabīdh at the auction, while he was working for him. 'Umar delayed until the nabīdh amounted to its limit. 'Umar then called for it and found it to be strong, so he diluted it with water and drank, and he also gave it to the people."

So, his statement "he became inebriated" and the account of the nabīdh being left to ferment until it was intense i.e., muskir, refutes the interpretations of al-Bayhaqī and others where they interpret this as intensity in acidity, sweetness or thickness.¹¹⁷

In numerous traditions, it is reported that the Prophet (صلى الله عليه وسلم), consumed diluted nabīdh. These narrations contain various indications suggesting that there was uncertainty regarding whether the nabīdh had the potential to cause inebriation before the Prophet (صلى الله عليه وسلم) diluted it.

Ibn 'Umar said, "I saw a man who came to the Messenger of Allāh, (صلى الله عليه وسلم) with a cup of nabīdh while he was at the corner (of the Ka'ba). He offered the cup to him, and he raised it to his lips but found it strong, so he returned it to its owner. Then a man from the people said to him, 'O Messenger of Allāh, is it forbidden?' He said, 'Pour it out, bring it here.' So, it was brought, and he took the cup, then he called for water and poured it into it. Then he raised it to his lips again and frowned. Then he called for water again and poured it into it. Then he said, 'When these vessels surpass the limit that does not cause inebriation to the limit that does, dilute them with water.'¹¹⁸

¹¹⁷ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] وأما قوله: لأن اشتداده قد يكون من حموضته. فهو قول بالظن، والظن لا يغني عن الحق شيئاً...

فإن قيل: روى البيهقي هذا فقال: إنما كان اشتداده بالحموضة أو بالحلاوة. قلت: يضعف هذا التأويل ما رواه عبد الرزاق في "مصنفه": عن ابن جريج، أخبرني إسماعيل: "أن رجلاً عب في شراب نبذ لعمر - رضي الله عنه - بطريق المدينة فسكر، فتركه عمر - رضي الله عنه - حتى أفاق، فغده ثم أوجعه عمر بالماء فشرب منه." قال: "ونبذ نافع بن الحارث لعمر بن الخطاب - رضي الله عنه - في المزاد - وهو عامل له - فاستأنخر عمر - رضي الله عنه - حتى عدا الشراب طوره، فدعى به عمر فوجده شديداً، فأوجعه بالماء ثم شرب وسقى الناس." فقوله. فسكر يضعف تأويل البيهقي (16:96)

¹¹⁸ وأخرجه النسائي: أنا زياد بن أيوب، ثنا هشيم، أنا العوام، عن عبد الملك بن نافع، قال: قال ابن عمر: "رأيت رجلاً جاء إلى رسول الله - صلى الله عليه وسلم - بقدر فيه نبذ وهو عند الركن، ودفع إليه القدح، فرفعه إلى فيه فوجده شديداً، فرده على صاحبه، فقال له رجل من القوم: يا رسول الله، أحرام هو؟ فقال: علي بالرجل، فأتي به، فأخذ منه القدح، ثم دعا بماء فصبه فيه، ثم رفعه إلى فيه فقطب، ثم دعا بماء أيضاً فصبه فيه، ثم قال: إذا اغتلمت عليكم هذا الأوعية فاكسروا متونها بالماء." المجتبى (8:323 رقم 5694).

Imām al-ʿAyni not only supports the reliability of the aḥādīth¹¹⁹ but also elaborates on the popular meanings of the the prophet's (صلى الله عليه وسلم) saying "فقطب" in the aḥādīth which means he frowned or scowled, suggesting that either it was distasteful, or it was legally problematic. This is further elaborated with his saying "إذا اغتلمت هذه الأسقية" meaning "when these vessels surpass the [legal] limit that does not cause inebriation to the limit that does". Its origin is from "غلم" and "اغتم", meaning the arousal of sexual desire in men and women as a result of inebriation. "Al-Asqiyah" is the plural of "سقاء", which means a bucket or vessel.

His saying "متونها" means their strength and vigour, in the sense of strength and intensity of potential for inebriation. His saying "لو أنهكته" means if you indulged excessively in drinking it and increased the quantity, it would overpower me due to its strength and potency i.e., in terms of its muskir property.

His saying "إنما البغي" transgression is exceeding the limit.¹²⁰ In other words this is transgressing the legal limit. All these statements point to the fact that the nabīdh was doubtful in its potential to inebriate and hence water was added to dilute and reduce the concentration and to ensure the inebriation potential is no more.

Moreover, on several occasions, the companions asked the Prophet (صلى الله عليه وسلم) whether nabīdh was prohibited due to its potential to cause inebriation, prompting him to dilute it with water. This indicates that the companions themselves recognized the need for dilution was because of its potential to cause inebriation.

Al-ʿAynī, a Ḥanafī jurist, asserts that it can be inferred from this incident the permissibility of consuming a small amount of potent nabīdh, as explicitly indicated by the aḥādīth. What causes inebriation in large quantities may be permissible in small amounts as long as it does not lead to inebriation. The Prophet (صلى الله عليه وسلم) drank from the vessel of nabīdh, which was strong. When

¹¹⁹ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] وأخرج ما روي عنه عن النبي -عليه السلام- من ثلاث طرق: الأول: عن أبي أمية عبد الملك بن مروان الرقي، عن أبي نعيم الفضل بن دكين شيخ البخاري، عن عبد السلام بن حرب الملائي، عن ليث بن أبي سليم القرشي، عن عبد الملك بن نافع الشيباني الكوفي ابن أخي القعقاع بن شور، ويقال: عبد الملك بن القعقاع، ويقال: عبد الملك بن أبي القعقاع، عن عبد الله بن عمر - رضي الله عنهما - وأخرجه النسائي (1): أنا زياد بن أيوب، ثنا هشيم، أنا العوام، عن عبد الملك بن نافع، قال: قال ابن عمر: "رأيت رجلا جاء إلى رسول الله - صلى الله عليه وسلم - بقدر فيه نبيذ وهو عند الركن، ودفع إليه القدح، فرفعه إلى فيه فوجده شديدا، فرده على صاحبه، فقال له رجل من القوم: يا رسول الله، أحرام هو؟ فقال: علي بالرجل، فأتي به، فأخذ منه القدح، ثم دعا بماء فصبه فيه، ثم رفعه إلى فيه فقطب، ثم دعا بماء أيضا فصبه فيه، ثم قال: إذا اغتلمت عليكم هذا الأوعية فاكسروا متونها بالماء. (16:101)

¹²⁰ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] قوله: "فقطب" أي عبس وجهه من التقتيب، وقد ذكرناه عن قريب. قوله: "إذا اغتلمت هذه الأسقية" أي إذا جاوزت حدها الذي لا يسكر إلى حدها الذي يسكر. وأصله من غلم غلما وغلما وغلما وغلما وهو هيجان شهوة النكاح من المرأة والرجل وغيرهما. والأسقية جمع سقاء وهي الدلو. قوله: "متونها" أي قوتها وشدها المتون والمتانة بمعنى. قوله: "لو أنهكته" أي: لو بالغت في شربه وكثرت منه لأخذني من شدته وقوته. قوله: "إنما البغي" أي: تجاوزت الحد. (16:103)

Revising the Fiqh of Khamr and Alcohol

asked if it was forbidden, he replied, "No," indicating that drinking from potent nabīdh is permissible as long as it does not cause inebriation.¹²¹

He further comments, responding to the argument that "It is confirmed from Abū Hurayrah's saying 'Every inebriant is prohibited'", which seems to contradict the aforementioned ḥadīth and their supporting narrations. Al-ʿAynī clarifies that there is no contradiction, as previously mentioned. When Abū Hurayrah said "Every muskir is prohibited," he meant it in reference to the quantity of muskir. This interpretation is supported by what Wakīʿ reported from ʿAlī ibn al-Mubārak, from Yaḥyā ibn Abī Labīd, from Sālim, who heard Abū Hurayrah saying: "If the sweetness of nabīdh remains, add water to it. Its prohibition goes away, and only its permissibility remains." And Allāh knows best.

Al-ʿAynī elaborates that the ḥadīth of Abū Hurayrah mentioned does not unconditionally indicate the permissibility of drinking a small amount of strong nabīdh. Rather, he only permitted its consumption after diluting it with water to reduce its intensity. This implies that prior to dilution, it was not permissible to drink it.¹²²

Imām al-Ṭaḥāwī states that the explanation of the meanings of the ḥadīth is:¹²³

¹²¹ نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] ويستنبط منه: إباحة القليل من النبيذ المشتد؛ لأنه يدل صريحا عليه. وأن ما أسكر كثيره فقليله يباح ما لم يسكر، (16:107)

¹²² نخب الأفكار في تنقيح مباني الأخبار في شرح معاني الآثار [بدر الدين العيني] فإن قيل: صح عن أبي هريرة من قوله -عليه السلام-: "كل مسكر حرام" فهذا ينافي ما روي عنه من المذكور. قلت: لا منافاة؛ لأننا قد ذكرنا أن المراد من قوله -عليه السلام-: "كل مسكر حرام" هو القدر المسكر، ويؤيد ذلك ما رواه وكيع، عن علي بن المبارك، عن يحيى بن أبي ليبيد، عن سالم، سمع أبا هريرة يقول: "من رابه من نبيذه فليسن عليه الماء، فيذهب حرامه ويبقي حلاله"، والله أعلم

ش: تقرير السؤال أن يقال: إن حديث أبي هريرة المذكور لا يدل على إباحة شرب القليل من النبيذ المشتد مطلقا؛ لأنه إنما أباح -عليه السلام- شربه بعد كسره بالماء وذهاب شدته، فدل على أنه قبل ذلك غير مباح (16:123)

¹²³ شرح معاني الآثار لطحاوي: قال: فهذا عمر قد حد في الشراب الذي يسكر، فهذا يخالف لما رويتم عن عمرو بن ميمون وغيره عنه. قيل له: ما هذا يخالف لذلك، لأن عمر قال في هذا الحديث: وأنا سائل عما شرب، فإن كان يسكر جلدته. فقد يحتمل أن يكون أراد بذلك: المقدار الذي شرب، أي: فإن كان ذلك المقدار يسكر، فقد علمت أنه قد سكر، ووجب عليه الحد. وهذا أولى ما حمل عليه تأويل هذا الحديث، حتى لا يضاد ما سواه من الأحاديث التي قد رويت عنه. وقد روي عن أبي هريرة أيضا في هذا:

ما حدثنا ربيع المؤذن، قال: ثنا أسد بن موسى، قال: ثنا مسلم بن خالد، قال: حدثني زيد بن أسلم، عن سمي، عن أبي صالح، عن أبي هريرة قال: قال رسول الله صلى الله عليه وسلم: «إذا دخل أحدكم على أخيه المسلم فأطعمه طعاما، فليأكل من طعامه، ولا يسأل عنه، فإن أسقاه شرابا فليشرب منه، ولا يسأل عنه، فإن خشني منه، فليكسره بشيء» ففني هذا الحديث إباحة شرب النبيذ. فإن قال قائل: إنما أباحه بعد كسره بالماء، وذهاب شدته. قيل له: هذا كلام فاسد، لأنه لو كان في حال شدته حراما، لكان لا يحل، وإن ذهب شدته بصب الماء عليه. ألا ترى أن نحرما لو صب فيها ماء، حتى غلب الماء عليها، أن ذلك حرام. فلما كان قد أبيض في هذا الحديث الشراب الشديد، إذا كسر بالماء، ثبت بذلك أنه قبل أن يكسر بالماء غير حرام. فثبت بما روينا في هذا الباب، إباحة ما لا يسكر، من النبيذ الشديد، وهو قول أبي حنيفة، وأبي يوسف، ومحمد رحمهم الله تعالى (4:215)

Revising the Fiqh of Khamr and Alcohol

"Umar setting a limit (i.e., amount) concerning the drink that inebriates, which contradicts what you have narrated from 'Amir ibn Maymūn¹²⁴ and others from him." It was said to him: "How does this contradict that?" Because 'Umar said in this ḥadīth: "And I ask about what he is drinking, so if he is inebriated, he is lashed." It is possible that he meant by that: the amount he drank, meaning: if that amount inebriates, then I know that he has become inebriated, and the punishment becomes obligatory upon him. This is the most likely interpretation of this ḥadīth, so it does not contradict other aḥadīth narrated from him. It was also narrated from Abū Hurayrah in this regard: The Messenger of Allāh (peace be upon him) said: "When one of you invites his Muslim brother to his house and serves him food, let him eat from his food and not ask about it. If he offers him a drink, let him drink from it and not ask about it. If he fears harm from it (i.e., inebriation), let him break it (i.e., dilute it) with water." In this ḥadīth, drinking nabīdh is allowed.

Imām al-Ṭaḥāwī continues: If someone says: He only allowed it after diluting it with water and reducing its intensity (i.e., it was khamr before and was diluted to non-khamr). It is said to him: This is a flawed argument, because if it were forbidden in its intense state (i.e., it was khamr with definite potential for inebriation), it would not be permissible even if its intensity were removed by pouring water over it (because it would still remain impure). Don't you see that if nabīdh were poured into water until the water dominated over it, that would still be forbidden (because of its impurity and not that it is khamr). So, since drinking strong nabīdh was permitted in this ḥadīth when diluted with water, it is established that it was permissible before dilution with water, and it has been established in this chapter the permissibility of what does not inebriate, from strong nabīdh, which is the opinion of Abū Ḥanīfah, Abū Yūsuf, and Muḥammad, may Allah have mercy on them."

Imām al-Ṭaḥāwī's explanation clarifies that the ****nabīdh**** mentioned in the aḥadīth is not inherently impure. However, there may have been concerns about its potential to cause inebriation due to its intensity and strength, though it would not be classified as khamr. To address these concerns, water was added to dilute the beverage. Since nabīdh is not khamr, or in cases where there is only a slight possibility that it could cause inebriation, the act of adding water and diluting it preserves both its purity and permissibility for consumption.

It is suggested that the drink in question might have been muthallath or a nabīdh equivalent to it, implying a potential for inebriation if consumed in very large quantities due to it containing a small percentage of ethanol. Differences of opinion, especially among Ḥanafi scholars and other schools, arise regarding the permissibility of muthallath and similar nabīdh beverages, thereby affecting their purity status. By diluting such beverages with water, any potential for inebriation is mitigated as this reduces the ethanol concentration, rendering it a pure non-inebriating beverage.

¹²⁴ This is referring to the ḥadīth mentioned earlier by Abū Ishāq reporting from 'Amir ibn Maymūn who says, 'A Bedouin once drank nabidh from the water skin of 'Umar and became inebriated. 'Umar meted out the punishment for drinking on him' (Sunan Dāraquṭnī, Ḥadīth: 4691)

Revising the Fiqh of Khamr and Alcohol

In al-Mabsūṭ Imām al-Sarakhsī, states that there is evidence that if the beverage *muthallath*¹²⁵ is thick, there is no harm in diluting it with water (tarqīq), then drinking from it, as ‘Umar did. The basis for this is what was narrated: "The Prophet (صلى الله عليه وسلم), sought a drink from al-‘Abbās during the Farewell Pilgrimage. He brought him a drink, but when he was about to drink it, he turned his face away. Then he called for water, poured it into it, and then drank it. He said, 'If any of these drinks cause you discomfort, then dilute them with water.'" ‘Umar was also reported to have brought nabīdh from raisin (or naqī‘ which is normally sourced from raisins), called for water, poured it into it, and then drank it.¹²⁶

Imām al-Marghīnānī mentions that this is applicable to the last cup that one consumes because it is the one that is actually inebriating, and the one onto which water is poured after two-thirds of it has evaporated through boiling (i.e., *muthallath*) until it becomes diluted, then cooked until it reaches the ruling of the original mixture. This is because pouring water only weakens it (in its concentration), unlike when water is poured onto juice and then boiled until two-thirds of the whole mixture evaporates, because the water evaporates first due to its lightness, or some of both liquids evaporate, so two-thirds of the grape juice is not lost, even if the grapes are boiled as they are, then squeezed. The minimal cooking is sufficient in a narration attributed to Abū Ḥanīfah, while in another narration attributed to him, it is not permissible unless two-thirds are evaporated through cooking, which is the more correct view because the juice remains unchanged, becoming like it was after the pressing.¹²⁷

Boiling nabīdh causes ethanol to evaporate first due to its lower boiling point than water, resulting in a final beverage with reduced ethanol concentration. If 2/3 of the volume is lost through evaporation, the remaining liquid may be thicker, stronger in taste, and more intense, but with lower concentration of ethanol. Adding water further dilutes it, ensuring it no longer has the potential to cause inebriation and thus is not considered muskir.

According to the Ḥanafī scholars, fermented uncooked grape juice is khamr, which is unlawful in all quantities and ritually impure. Uncooked nabīdh and naqī‘ made from raisins or dried dates are

¹²⁵ Muthallath is produced from a drink (of any origin) reduced through low heat cooking to 1/3 of its original volume.

¹²⁶ في المبسوط للسرخسي وفيه دليل أن المثلث إن كان غليظا لا بأس بأن يرقق بالماء، ثم يشرب منه كما، فعله عمر - رضي الله عنه -، والأصل فيه ما روي «أن النبي - صلى الله عليه وسلم - استسقى العباس في حجة الوداع، فأتاه بشارب، فلما قربه إلى فيه قطب وجهه، ثم دعا بماء، فصبه عليه، ثم شربه، وقال - عليه الصلاة والسلام - إذا رابكم شيء من هذه الأشربة، فاكسروا متونها بالماء»، وعن عمر - رضي الله عنه - أنه أتى بنيذ الزيب، فدعا بماء، وصبه عليه، ثم شرب (8:24)

¹²⁷ في الهداية في شرح بداية المبتدي [المرغيناني] ثم هو محمول على القدر الأخير إذ هو المسكر حقيقة والذي يصب عليه الماء بعد ما ذهب ثلثاه بالطبخ حتى يرق ثم يطبخ طبخة حكمه المثلث، لأن صب الماء لا يزيده إلا ضعفا، بخلاف ما إذا صب الماء على العصير ثم يطبخ حتى يذهب ثلثا الكل، لأن الماء يذهب أولا للطفته، أو يذهب منهما فلا يكون الذاهب ثلثي ماء العنب ولو طبخ العنب كما هو ثم يعصر يكتفى بأدنى طبخة في رواية عن أبي حنيفة، وفي رواية عنه لا يحل ما لم يذهب ثلثاه بالطبخ، وهو الأصح؛ لأن العصير قائم فيه من غير تغير فصار كما بعد العصر، (4:397)

Revising the Fiqh of Khamr and Alcohol

permissible so long as they remain sweet and have not intensified. Once intensified, there is a difference of opinion within the school, with al-Sarakhsī leaning towards prohibition but also conceding that such substances are not strictly khamr. Turning to cooked substances, al-Sarakhsī affirms the dominant Ḥanafī opinion that, if grape and date juices are cooked until they are reduced to one-third of their original volume (muthallath), they remain lawful even if they subsequently ferment into an inebriating drink. Water-based drinks (nabīdh) derived from raisins and dried dates need only be cooked at a low temperature for a brief (unspecified) period before they acquire the same unconditional lawfulness. Inebriants drawn from other sources (e.g., grain, honey) are also lawful because they are closer in stature to food than to drink.¹²⁸

The parallels between al-Marghīnānī and the other Ḥanafī jurists break down with respect to date/raisin-based naqī' and nabīdh. Although he affirms that drinks of this sort are lawful so long as they are fresh and uncooked, he declares them unlawful once they begin to bubble and intensify. While al-Ṭahāwī suggested avoiding these drinks and al-Sarakhsī implied prohibition, al-Marghīnānī unambiguously deems them unlawful. Al-Marghīnānī, however, does not go so far as to label these drinks khamr, thereby significantly reducing their potential punitive consequences. While he acknowledges the opinion of Abū Ḥanīfah and Abū Yūsuf that drinks made from non-grape/date sources (e.g., honey, grain) are lawful and not punishable even in cases of inebriation, he claims that al-Shaybānī declared these drinks unlawful and authorized punishment for inebriation.¹²⁹

In the Mukhtaṣar al-Ṭahāwī, it is stated: "The drink made from dates or raisins, if each is boiled even minimally, is permissible." This is the case even if it becomes strong, as long as one drinks it with the firm belief that it will not inebriate, without any intention of amusement or frivolity. This is according to Abū Ḥanīfah and Abū Yūsuf. However, according to Muḥammad and al-Shāfi'ī, it is prohibited. The discussion regarding this is similar to the discussion about grape-based drinks that have been boiled until two-thirds evaporate.¹³⁰

While 'Abd al-Rashīd b. Abī Ḥanīfa al-Walwālījīya (d. 540 AH) permitted the consumption of muthallath, he depicted al-Shaybānī as a staunch opponent of all intoxicants. 'Alā' al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī (d.587 AH) also allowed muthallath (so long as it is not consumed to the point of inebriation) and interpreted "muskir" as "the last cup that inebriates."¹³¹

According to the Mālikī's the only physical evidence for inebriation is the "intensification" of a drink, usually accompanied by a loss of sweetness.¹³² Applying heat may cause the top and bottom

¹²⁸ كتاب المبسوط للسرخسي (24:4)

¹²⁹ الهداية في شرح بداية المبتدي [المرغيناني] (4:399)

¹³⁰ الهداية في شرح بداية المبتدي [المرغيناني] وقال في المختصر: ونبذ التمر والزبيب إذا طبخ كل واحد منهما أدنى طبخة حلال، وإن اشتد إذا شرب منه ما يغلب على ظنه أنه لا يسكره من غير هو ولا طرب وهذا عند أبي حنيفة وأبي يوسف وعند محمد والشافعي حرام، والكلام فيه

كالكلام في المثلث العيني ونذكره إن شاء الله تعالى. (4:396)

¹³¹ الفتاوى اللؤلؤية للولولجي (6:2944-6)

¹³² النوادر والزيادات على ما في المدونة من غيرها من الأمهات (ابن أبي زيد القيرواني) (14:285)

Revising the Fiqh of Khamr and Alcohol

of a drink to mix and accelerate fermentation. Once cooking has begun, it must continue until two-thirds of the original volume has evaporated, at which point the drink is (theoretically) no longer an inebriant. Saḥnūn (d. 244 AH) affirms the need to cook to this extent but adds that subsequent fermentation makes the drink unlawful.¹³³

The proof of permissibility of nabīdh from a legal perspective stems from the historical context in Madina, where drinks made from dates, unripe dates, and other palm tree products were widely consumed after the prohibition of wine. Early scholars reported that at that time, nabīdh was not present in Madina. If these drinks had been prohibited along with wine, the Prophet (صلى الله عليه وسلم) would have clearly informed the people, given their common consumption and prevalence. Such information would have spread widely, similar to the prohibition of wine. However, since there was no such widespread communication about the prohibition of these drinks, it indicates they were not included in the prohibition of khamr (wine). Therefore, the Prophet (صلى الله عليه وسلم) did not inform them of their prohibition, underscoring their permissible status.¹³⁴

However, Muslim jurists, in particular the Ḥanafī jurists recognized that there were some nabīdh and naqīʿ drinks based on source and process of production like heating until 2/3 evaporated that reduced their potential for inebriation. If such doubts existed then water would be added to dilute removing doubt of its potential for inebriation. Two approaches used by Muslim jurists to ensure this was by either boiling and evaporating 2/3rd of the volume or by diluting, both of which reduce the ethanol concentration of the final product.¹³⁵

The same principle applies to an ethanol-based solution classified as a mufsid, which contains more than 60% ethanol. Such a solution is not considered khamr, and if it is significantly diluted so that the ethanol concentration drops to less than 1%, it becomes permissible and pure to use. This is because the dilution process reduces the ethanol content to a level where it no longer has any inebriating effect. Since the original mufsid substance is neither khamr nor impure, and the final diluted product also remains free from these classifications, diluting it to non-inebriating levels does not violate any prohibitions.

¹³³ المدونة للملك ابن أنس (4:523)

¹³⁴ شرح مختصر الطحاوي للجصاص [أبو بكر الرازي الجصاص] وأما وجه إباحته من طريق النظر: فهو أنه لما كانت بلوى أهل المدينة عامة بشرب نبيذ التمر والبسر، وسائر ما يخرج من النخل، ثم حرمت الخمر، وليس بالمدينة منها شيء على ما روي عن جماعة من السلف، فلو كان التحريم شاملا لما ذكرنا من الأنبذة، لكان من النبي صلى الله عليه وسلم توقيف لهم عليه، لعلمه عليه الصلاة والسلام بظهور شربهم إياها، وعموم بلواهم بها.

ولو وقفهم عليه، لورد النقل به متواترا مستفيضا، كوروده في تحريم الخمر، إذ كانت الحاجة إلى معرفة حكم هذه الأثرية، أمس منها إلى معرفة حكم الخمر، لقلة الخمر عندهم، وكثرة سائر الأنبذة المتخذة من النخل عندهم، فثبت بذلك أنها لم تدخل في تحريم الخمر، وأن النبي صلى الله عليه وسلم لم يوقفهم على تحريمها. (6:372)

¹³⁵ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] (7:499)

Revising the Fiqh of Khamr and Alcohol

The great Mālikī scholar, al-Qarāfī (d. 684 AH) sums this up well when he asserts that khamr is banned because it inebriates, but once its effects wear off (i.e., with evaporation or dilution), drinking is allowed again. Juice is allowed because it is harmless and does not cause mental or moral damage; if it did, it would be banned. Generally, if there is no reason to ban something, it is permitted, and if there is no reason to allow something, it is banned.¹³⁶

Furthermore, prominent classical jurists from other schools state the same, that the impurity and prohibition of wine is related to its inebriating effect - drunkenness. So, if the cause (‘illah) disappears, the ruling disappears, because the ruling revolves around the presence or absence of the cause (‘illah).¹³⁷

However, if an ethanol-based mufsid solution is diluted to a concentration intended for consumption as a beverage and results in an inebriating level (between 1% and 60% ethanol), it is classified as khamr. Consequently, it is both prohibited and impure. The key distinction lies in the intention behind its preparation: when the solution is meant for consumption as a beverage and possesses an inebriating effect, it is considered khamr. Conversely, when the solution is intended for non-beverage purposes, it is typically denatured or mixed with harmful substances, making it unsafe and unsuitable for consumption. In such cases, even if consumed in large quantities, it does not inebriate but instead leads to potentially fatal consequences. Therefore, it is categorized as a mufsid and not khamr, due to its toxic nature rather than any inebriating potential.

In summary:

1. *Diluting khamr*: When khamr (an inebriating substance) is diluted to an ethanol concentration of less than 1%, it is no longer considered khamr but remains impure. However, if further water is added, leading to the complete loss of taste, smell, and colour, the substance may also be considered pure according to the majority opinion. The different schools of thought require varying degrees of dilution to determine its purity.

¹³⁶ في الفروق للقرافي = أنوار البروق في أنواع الفروق [القرافي] تحريم الخمر معلى بالإسكار فتي زال الإسكار زال التحريم وثبت الإذن وجاز أكلها وشربها وعلّة إباحتها شرب العصير مسالته للعقل وسلامته عن المفسد فعدم هذه المسألة والسلامة علة لتحريمه فظهر أيضا في هذه المسألة أن عدم التحريم علة الإذن وعدم علة الإذن علة التحريم. (2:35)

¹³⁷ أن النجاسة والحرمية في الخمر متعلقة بالشدة المطربة - الإسكار، فإذا ذهب العلة ذهب الحكم؛ لأن الحكم يدور مع العلة وجودا وعدما وبالتخليل - شرح الخرشبي على مختصر خليل (1:88)، الشرح الكبير للشيخ الدردير (1:52)، الكافي في فقه الإمام أحمد لابن قدامة (1:159)

هذا الوجه: بتسليم أن نجاسة الخمر قد زالت بالتخليل، لكن بقي نجاسة الخ - الكبير الحاوي (6:115)

مجموع الفتاوى [ابن تيمية] إذا عرف أصل هذه المسألة: فالحكم إذا ثبت بعلّة زال بزوالها؛ كالخمر لما كان الموجب لتحريمها ونجاستها هي الشدة المطربة فإذا زالت بفعل الله طهرت؛ بخلاف ما إذا زالت بقصد الآدمي على الصحيح (21:503) فنقول: إذا وقع في المائع القليل نجاسة فصب عليه مائع كثير فيكون الجميع طاهرا إذا لم يكن متغيرا وإن صب عليه ماء قليل دون القلتين فصار الجميع كثيرا فوق القلتين ففي ذلك وجهان في مذهب أحمد: أحدهما: وهو مذهب الشافعي في الماء أن الجميع طاهر. والوجه الثاني: أنه لا يكون طاهرا حتى يكون المضاف كثيرا. (21:505)

Revising the Fiqh of Khamr and Alcohol

2. *Non-khamr ethanol solution:* If the ethanol-based solution is initially non-khamr due to its low ethanol concentration or there is some doubt about its potential to inebriate, further dilution with water ensures that the solution is permissible and pure.
3. *Mufsid ethanol solution:* If the solution is classified as mufsid (containing more than 60% ethanol), it is not considered khamr. By significantly diluting it to reduce the ethanol concentration to less than 1%, the solution becomes permissible and pure, as this process converts it from a non-khamr solution to one that remains non-khamr.
4. *Diluting mufsid to khamr:* If a mufsid ethanol-based solution is diluted to a concentration that has the potential to inebriate (1% to 60%), it becomes classified as khamr. This applies if the solution is intended as a beverage. However, if the solution is intended for non-beverage purposes, it is often denatured or mixed with toxins, classifying it as a mufsid and preventing it from being considered khamr.

10. Ethanol-Based Liquids in light of Various Applications

In view of these processes (transformation, dissolution and dilution), there are different roles and behaviours of ethanol-based beverages in light of the Shari'ah in various applications.

1. Ethanol as a Transient Component:

In this context, "transient" means that ethanol is temporary or short-lived within the product or process. It is used during the manufacturing or preparation stage but does not remain in the final product, or it evaporates shortly after application.

For example in cleaning products or as a solvent in paint, ethanol helps dissolve other substances and then evaporates quickly, leaving no trace once its job is done. In these cases, ethanol facilitates certain chemical reactions or aids in application and disappears.

- a. **Laboratory Cleaning:** Ethanol is used to sterilize and clean glassware and instruments in labs. It effectively removes residues and sterilises surfaces, then evaporates quickly, leaving no trace.
- b. **Perfume Application:** In perfumes, ethanol serves as a carrier for fragrance oils, helping to disperse the scent evenly as it is sprayed. After application, the ethanol evaporates, leaving the fragrance compounds on the skin.
- c. **Photographic Film Processing:** Ethanol can be used to process photographic films. It acts as a drying agent to speed up the drying process without leaving streaks or water spots on the film.

Shari'ah Perspective: The ethanol is used during the manufacturing or preparation stage but does not remain in the final product, or it evaporates shortly after application so no remnants remain,

Revising the Fiqh of Khamr and Alcohol

and the final product does not have the potential to cause inebriation and so is pure and permissible.

2. Ethanol Chemically Transformed (Istiḥālah):

When ethanol is described as being "chemically transformed," it means that it undergoes a chemical reaction that alters its molecular structure, resulting in a different chemical substance.

For example, ethanol reacts with acetic acid to produce ethyl acetate. In this case, ethanol is no longer ethanol in the final product; it becomes part of a new compound. This transformation is fundamental to the production of various chemicals and pharmaceuticals, where ethanol acts as a precursor or reagent.

Examples:

- Ethanol to Ethylene: Ethanol can be dehydrated to form ethylene, a critical petrochemical used as a precursor to produce plastics, antifreeze, and detergents.
- Biodiesel Production: Ethanol can react with oils (like vegetable oil or animal fats) to produce ethyl esters, which are commonly used in biodiesel. This process involves transesterification, where ethanol replaces glycerol in fat molecules.
- Ethanol to Acetaldehyde: In chemical synthesis, ethanol can be oxidised to acetaldehyde, which is used as an intermediate in producing acetic acid (vinegar), pharmaceuticals, and perfumes.

Sharīah Perspective: The ethanol undergoes a chemical reaction that alters its molecular structure, resulting in a different chemical substance (istiḥālah) and so is permissible and pure as long as it is not harmful (poisonous) according to the majority Sunni opinion.

3. Ethanol as a Permanent Fixture:

As a "permanent fixture," ethanol remains in the final product as part of its composition. It is integral to the product's functionality or its desired characteristics.

For example, in alcoholic beverages, ethanol is the primary component that provides the drink's characteristic effects and flavours. Similarly, ethanol remains a significant part of hand sanitizers to ensure their effectiveness as antiseptics.

Examples:

- Alcoholic Beverages: Beyond just spirits, wines, and beers, ethanol is also essential in liqueurs and fortified wines, where it stabilises and preserves the flavour profiles while contributing to the alcohol content.

Revising the Fiqh of Khamr and Alcohol

- **Hand Sanitizers:** In addition to typical hand sanitizers, ethanol is used as a permanent ingredient in various disinfecting wipes and sprays to ensure ongoing antimicrobial efficacy.
- **Medicinal Tinctures:** Ethanol is used to extract and preserve the medicinal properties of herbs in tinctures. It acts as a solvent and a preservative, remaining in the product to maintain shelf stability and potency.

Shari'ah Perspective: The ethanol remains in the final product as part of its composition. It is integral to the product's functionality or its desired characteristics. In cases where ethanol is a permanent fixture in products, its concentration can vary significantly based on the application and intended use.

There are certain products where the ethanol concentration starts off as *mufsid*, with levels exceeding 60%, but through intense dilution, it is reduced to less than 1%, thereby transforming it into a non-khamr substance. When ethanol is used for non-beverage purposes, such as in pharmaceuticals, personal care products, or industrial applications, it is often diluted from its high concentration (typically around 95-99.9%) to a lower concentration suitable for the specific application. The amount of water added depends on the desired final concentration of ethanol.

Not all non-beverage ethanol is produced and diluted from high-concentration distilled ethanol. The production and processing of ethanol for non-beverage purposes depend on the intended application and the required purity or concentration of the ethanol. Here's an overview:

1. *High-Concentration Distilled Ethanol:*

- **Applications:** This type of ethanol, typically at 95-99.9% purity, is often used in applications requiring very high purity, such as pharmaceuticals, laboratory use, personal care products (like hand sanitizers), and certain industrial processes.
- **Process:**
 - **Fermentation and Distillation:** Ethanol is produced by fermenting sugars and then distilling the alcohol to achieve a high concentration.
 - **Dilution:** If the application requires a lower concentration of ethanol, the distilled ethanol is then diluted with water to the desired concentration.
 - **Denaturing:** For some non-beverage applications, the ethanol is denatured after dilution to make it unfit for consumption.

2. *Direct Use of Ethanol from Fermentation:*

- **Applications:** In some cases, ethanol produced via fermentation may be used directly without further concentration or dilution. This is more common in industrial applications where high purity or concentration is not required.
- **Process:**

Revising the Fiqh of Khamr and Alcohol

- **Fermentation:** Ethanol is produced by fermenting sugars derived from biomass sources like corn, sugarcane, or other agricultural products.
- **Minimal Processing:** The resulting ethanol may be used as-is or with minimal processing for applications such as biofuels (e.g., E85 fuel) or as a solvent in certain manufacturing processes.

3. Denatured Ethanol (Also Known as Industrial or Technical Grade Ethanol):

- **Applications:** This is commonly used in industrial applications, cleaning products, and as a solvent in manufacturing. Denatured ethanol can range in concentration and may not always start as high-purity distilled ethanol.
- **Process:**
 - **Varied Concentrations:** Ethanol for industrial use might be produced at a lower concentration and then denatured directly, or it could be produced at a high concentration, diluted, and then denatured.
 - **Denaturing Agents:** Various denaturants are added to ethanol to make it unsuitable for drinking. This step is essential for regulatory reasons and for specific industrial applications.

4. Fuel Ethanol:

- **Applications:** Ethanol used in fuel (e.g., ethanol mixed with gasoline) does not always require high purity or concentration.
- **Process:**
 - **Lower Purity Ethanol:** Fuel ethanol is often produced via fermentation, with or without distillation, depending on the required ethanol content. The focus is on producing large quantities rather than achieving the highest purity.
 - **Blending:** Ethanol may be blended with gasoline to create fuel blends like E10 (10% ethanol) or E85 (85% ethanol). This ethanol may not go through the same rigorous purification as ethanol intended for pharmaceutical or food use.

5. Specialized Ethanol (e.g., Cosmetic or Food Additives):

- **Applications:** Ethanol used in cosmetics, food additives, or pharmaceuticals requires high purity and is generally produced via distillation.
- **Process:**
 - **High Purity Required:** Ethanol is distilled to remove impurities and achieve the required purity level.
 - **Dilution:** It may be diluted to the desired concentration for specific formulations in personal care products or pharmaceuticals.

Revising the Fiqh of Khamr and Alcohol

Summary:

While high-concentration distilled ethanol is a common starting point for many non-beverage ethanol products, it is not the only source. Ethanol for non-beverage purposes can come directly from fermentation (with minimal processing), or it might be distilled to a high concentration and then diluted for specific applications.

Examples of specific applications:

- **Cosmetics and Personal Care Products:** Ethanol is often used in very low concentrations, potentially less than 1%, in products like lotions, creams, and some hair care products. In these instances, its primary function might be to help dissolve other ingredients or act as a preservative or antibacterial agent. The concentration is kept low to minimise skin irritation and drying effects.
- **Pharmaceutical Products:** Ethanol is used in some medicinal formulations such as cough syrups and mouthwashes where it may be present in very low concentrations. It serves as a solvent or preservative and is diluted to levels that are effective yet safe for consumption or topical application, often adhering to regulatory limits.

There are some products when the ethanol has additives used to make it unsuitable for consumption:

- **Denatured Alcohol:** For industrial, cleaning, or laboratory uses where ethanol's effectiveness as a solvent is needed, but without the tax of beverage-grade ethanol, it is often denatured. This process involves adding substances such as methanol, isopropanol, or bitterants to ethanol, making it poisonous, unpalatable, or both. Denatured alcohol is harmful if ingested, but it remains effective and more economical for non-consumptive uses.
- **Antiseptic Products:** In products like hand sanitisers, ethanol may be included at concentrations of over 60% to ensure antimicrobial efficacy. While these are not denatured in the traditional sense with harmful chemicals, they may include other additives like thickeners, emollients, or scents which are not intended for ingestion and can be harmful if consumed.

The method of diluting ethanol to non-inebriating levels or altering it with additives varies based on its intended application. In contexts where ingestion might present hazards, such as non-beverage uses, ethanol is commonly denatured or blended with additives to deter consumption. Consequently, it ceases to be categorized as khamr, instead classified as either non-khamr or mufsid. Conversely, in beverage applications, all ethanol remains khamr and is thus prohibited.

11. Sharḥ Dispensation in Use of Ethanol and ‘Umūm al-Balwā

Even if we consider the notion that all ethanol-based non-beverages are also prohibited, due to their classification as khamr, they would still be deemed permissible under dispensation, due to the principle of widespread adversity (‘umūm al-balwā).

Advocates for classifying alcohol-based non-beverages as khamr, may argue that any liquid containing ethanol, irrespective of its intended purpose, inherently carries the inebriating property of "muskir." They assert that this holds true regardless of whether these liquids contain additional toxic additives or not, which may act as poisons. Furthermore, adhering to the principle that all substances categorized as "muskir" are also labelled as "khamr," it logically follows that any ethanol-based substance exceeding 1% ABV falls within the classification of "khamr." To support the contention that all ethanol-containing substances are labelled as "muskir" and potentially "khamr," one must acknowledge ethanol's inherent inebriating properties, even at concentrations as low as 1% alcohol by volume (ABV). The argument emphasizes that while high concentrations of ethanol can indeed be lethal or cause severe harm, even smaller amounts possess the potential to induce inebriating before reaching harmful levels or exhibiting the effects of poison. Therefore, ethanol, regardless of its concentration or admixture with other toxic substances, retains its "muskir" characteristic. The fundamental nature of the substance as "muskir" remains unaltered despite the introduction of additional toxic components. Consequently, in cases where such combinations exist, the resulting mixture retains the classification of "khamr."

Even if we were to concede to this argument, it's crucial to recognize the widespread presence and versatile utility of ethanol-based products in our daily lives. Ethanol seamlessly integrates into various aspects of our existence, spanning from culinary practices to personal care, healthcare, household maintenance, and industrial applications. Within households, ethanol plays a ubiquitous role, appearing in a plethora of consumables, household items, and cleaning agents. Found in cooking ingredients, food items, and beverages, it's a staple in kitchens. Additionally, its effectiveness as a disinfectant is harnessed in household cleaners, hand sanitizers, and personal hygiene products. Ethanol's appealing scent enhances perfumes, and its volatility aids in culinary preparations, adding to its versatility. In professional settings, ethanol maintains its influence, permeating workplaces across different sectors. Industries rely on it for disinfection protocols, industrial solvents, and chemical processes. Laboratories utilize its properties as a reagent for various analytical procedures and experiments. Moreover, ethanol finds application in public spaces, fuelling transportation systems, enhancing beverages, and enriching cosmetic formulations.

The widespread presence of ethanol poses a significant challenge due to its potential impurity, even if it is not consumed. If ethanol, especially in its commonly available forms, is equated with "muskir" and thereby "khamr," it becomes inherently impure (najas). This impurity isn't confined to the substances themselves but extends to our bodies. Contact with ethanol-based products inadvertently introduces impurities onto our skin, clothes, surfaces and belongings. For individuals adhering to religious practices like ṣalāh (Islamic prayer), these impurities present a dilemma. They hinder the attainment of ritual purity, or "taharah," which is an essential prerequisite for prayer.

Despite our earnest endeavours to purify ourselves, the ubiquitous presence of ethanol-based products presents a formidable obstacle to achieving total purification and avoiding contact with ethanol. This obstacle can be daunting and may seem insurmountable, resulting in considerable hardship for many individuals. As a result, those advocating for the legal classification of all ethanol substances as "khamr" face the arduous challenge of abstaining from these omnipresent products and environments.

In situations where abstaining from liquids devoid of ethanol poses hardship, the principle of "umūm al-balwā" is invoked. This principle addresses widespread adversity in cases where no alternative is feasible. It acknowledges the substantial challenges presented by prevailing circumstances and seeks pragmatic solutions by easing certain rulings, ensuring that undue hardship is not imposed on devout Muslims. "Umūm al-balwā" offers a framework for navigating the complexities of modern life while adhering to the overarching rulings and principles of Islamic law. This principle finds application in various scenarios where hardship is apparent, such as the concession given during the difficulty of avoiding inhaling smoke while fasting in enclosed, smoky environments, or the allowance for menstruating women to compensate for missed prayers over several days during each menstrual cycle. It also encompasses exemptions from requirements such as ensuring the complete removal of minuscule impurities from the body before prayer and avoiding contact with the impure saliva of domestic cats that frequently interact with household furniture and occupants.

In Shariah (Islamic law), "عموم البلوي" (umūm al-balwā) refers to the principle of legal interpretation that takes into account the general welfare or public interest of the community. It is derived from the Arabic words "عموم" (umūm), meaning general or universal, and "بلوي" (balwā), meaning affliction or adversity. The concept of widespread adversity, "umūm al-balwā," encompasses incidents that impact all parties involved, or situations burdened with obligations that are challenging to avoid or resolve without encountering further hardship. In such cases, legal facilitation and alleviation become necessary to mitigate the difficulties faced.¹³⁸

¹³⁸ في نظرية الضرورة الشرعية تعريف الدكتور وهبة الزحيلي ، حيث قال: او عموم البلوي شيوع البلاء، بحيث يصعب على المرء التخلص، أو الابتعاد عنه (123) وقد نقل عنه هذا التعريف الدكتور يعقوب الباحسين في رفع الحرج (435)، وصالح اليوسف في المشقة تجلب التيسير (232)

في التحرير في قاعدة المشقة تجلب التيسير وكذا تعريف الدكتور عامر الزبياري، حيث قال: «أنا عموم البلوي فالمراد به هو: شيوع البلاء بحيث يتعذر على الإنسان أن يتخلص، أو يتعد عنه . (82)

وكما هو ظاهر فهو قريب من تعريف الدكتور وهبة الزحيلي، إلا أن الدكتور عامر الزبياري لم يصرح بما يفيد اطلاعه على ذلك التعريف. ويقرب من ذلك تعريف صالح اليوسف

في المشقة تجلب التيسير حيث قال صالح اليوسف: وعموم البلوى هو ما تمن الحاجة إليه في عموم الأحوال، وينتشر وقوعه بحيث يعسر الاستغناء، ويعسر الاحتراز عنه إلا بمشقة زائدة (232)

Revising the Fiqh of Khamr and Alcohol

This principle is frequently invoked in Islamic jurisprudence to interpret legal rulings or formulate new ones in response to significant hardships encountered in upholding religious imperatives that are arduous to avoid or adhere to. It acknowledges the dynamic nature of Islamic law, which is flexible and responsive to evolving circumstances, societal needs, and adversities. Consequently, legal rulings can be adjusted to promote the overall welfare of the community, even when specific situations are not explicitly addressed in the Qurān or Sunnah.

To provide clarity, it's essential to delineate three primary distinctions between the principle of *ʿumūm al-balwā* and other dispensational principles:

- The first distinction lies in the *nature* of other principles of facilitation and dispensation, which often relate to factors affecting human legal capacity, known as *ʿawāriḍ al-ahliyyah*. These factors, such as insanity (*junūn*), forgetfulness (*nisyān*), sleep (*nawm*), sickness (*maraḍ*), and more, constitute absolving states that excuse individuals from legal obligations. In contrast, the principle of *ʿumūm al-balwā* doesn't revolve around deficiencies in *ʿawāriḍ al-ahliyyah*. Instead, it addresses situations where individuals possess full legal capacity (*ahliyyat al-adāʾ al-kāmilah*) but encounter severe hardship in avoiding the adversity they are obligated to evade.¹³⁹
- The second distinction pertains to the *flexibility* of other principles of facilitation and dispensation, which exhibit varying details and remain consistent across different circumstances, unlike *ʿumūm al-balwā* which varies with time and place. These principles' applications vary depending on the situation. For instance, forgetfulness (*nisyān*) universally qualifies as a reason for facilitation whenever it arises, with its relevance unaffected by changing circumstances—it applies in all instances requiring obligation. Its applicability may fluctuate, present in one scenario but absent in another, even involving the same individual. Conversely, the principle of *ʿumūm al-balwā* showcases variability in its details and applications across different situations. While it might be applicable in one scenario, if circumstances shift and the adversity is alleviated, its consideration may cease, and vice versa. Example is Imām Abū Ḥanīfah initially allowed reciting prayers in the Persian language during the early Islamic period of the Persian conquest, recognizing the linguistic challenge faced by the new converts as *ʿumūm al-balwā*. However, as their proficiency in Arabic improved over time, he reversed this ruling. This illustrates the adaptability of fatwas to changing circumstances, particularly when applying general principles. When the context shifts and the principle of generalization no longer holds universally, the fatwā may be adjusted accordingly.¹⁴⁰ Also Imām Muḥammad al-Shaybānī initially decreed that prayer remains valid if a garment is lightly soiled with impurities from pathways, like animal droppings, as long as the contamination is minimal. However, upon witnessing widespread contamination (*ʿumūm al-balwā*) caused by mud mixed with these impurities after rainfall, he concluded that extensive and severe soiling does not

¹³⁹ في رفع الحرج الدكتور يعقوب الباسين (233)

¹⁴⁰ الهداية مع فتح القدير (1:248)، وتبيين الحقائق (1:110)

Revising the Fiqh of Khamr and Alcohol

nullify prayer. This illustrates the adaptability of fatwas to changing circumstances and the degree of contamination.¹⁴¹

- The third distinction lies in the *scriptural evidence* of other principles of facilitation and dispensation which have explicit textual evidence confirming the facilitation, unlike ‘umūm al-balwā, which considers facilitation as established by implicit textual evidence related to removing harm or hardship (raf‘ al-ḥarj). It comprises a set of circumstances that collectively indicate the consideration of ‘umūm al-balwā as a factor in facilitation.¹⁴²

Conditions are established for the eligibility of applying ‘umūm al-balwā. It can be illustrated that if all ethanol-containing liquids are categorized as khamr, then this invokes the principle of ‘umūm al-balwā.

- ***The first condition: The Intention and Motive must be Permissible***

One should not intend to exploit ‘umūm al-balwā to desire dispensation for disobedient or prohibited actions. The ‘umūm al-balwā should not involve disobedience. If any action is not permitted by the Shari‘ah, then the principle of ‘umūm al-balwā cannot justify facilitation. This condition aligns with the jurisprudential principle (al-qā‘idat al-fiqhiyyah) that “permissions are not granted for acts of disobedience”¹⁴³. This is in line with the Quranic verse, “He has only forbidden you carrion, blood, swine, and what is slaughtered in the name of any other than Allah. But if someone is compelled by necessity—neither driven by desire nor exceeding immediate need—they will not be sinful. Surely Allah is All-Forgiving, Most Merciful.” [Q. 1:173] In other words if the primary motive and desire is to permit something which is normally prohibited, then the application of ‘umūm al-balwā is not justified.

This is evidenced by the discussions of some jurists.¹⁴⁴ For instance, some Hanbali scholars mentioned that if a woman drinks a permissible medication to induce menstruation with the intention of obtaining permission to break her fast during Ramaḍān, it is not permissible for her to do so.¹⁴⁵

Another indication of this condition's requirement is that the intention of enduring hardship by a responsible person for the sake of increasing reward is an invalid intention because the legislator does not intend hardship through obligation. Therefore, such an intention contradicts the legislator's intention and is considered invalid.¹⁴⁶ If it is established that the responsible person

¹⁴¹ بدائع الصنائع (1:81)، والهداية مع فتح القدير (1:181) فتح القدير (1:179)، ورد المختار على الدر المختار (1:213)

¹⁴² في رفع الحرج، للدكتور صالح بن عبد الله بن حميد (262)

¹⁴³ . “الرخص لا تناط بالمعاصي” الأشباه والنظائر لابن السبكي (1:135)، والمنثور في القواعد (2:167)، والأشياء والنظائر لسيوطي (260).

¹⁴⁴ المنثور في القواعد الفقهية [بدر الدين الزركشي] (2:170)

¹⁴⁵ كشف القناع (1:218)

¹⁴⁶ المنثور في القواعد (2:119)، والأشباه والنظائر لسيوطي (263).

Revising the Fiqh of Khamr and Alcohol

should not intend the hardship itself for the sake of increasing reward, then it is not permissible for them to intend seeking permission from the standpoint of precedence. Therefore, if one engages in a situation that is generally considered adversarial with the intention of obtaining permission, it is not permissible for them to seek permission, and the widespread adversity in this case is not considered a reason for facilitation.

If someone consumes ethanol-based non-beverages with the intention of becoming inebriated, it is prohibited due to their intention, even if the substance is consumed for medicinal purposes or lacks the potential to cause inebriation. The prohibition stems from the intention to inebriate, which is inherently forbidden.

Furthermore, any leniency in rulings concerning ethanol-based non-beverages that seeks to permit consumption for the purpose of inebriation would contradict the principle of *‘umūm al-balwā*. In practice, such consumption is impractical because these non-beverages are typically unsafe due to their toxic effects. The harmful consequences of consuming these substances would manifest before any inebriating effects could occur, making the pursuit of inebriation through such means both dangerous and ineffective.

However, ethanol-based beverages, categorized as *khamr*, remain strictly prohibited regardless of intention. Any beverage with inebriating properties, regardless of the amount consumed, is forbidden and considered impure. This prohibition upholds the fundamental principle for which *khamr* is banned, ensuring that the harmful effects of inebriation are avoided.

- ***The second condition: ‘Umūm al-balwā must be certain in its significance of hardship, not speculative.***

This condition encompasses two components; certainty of significance and actuality to all individuals:

1. *Certainty of Significance* - *‘umūm al-balwā* must be significant enough that it is difficult to avoid it as there are no practical and non-arduous means to overcome it. If avoiding or dispensing with it is not difficult, and there are means to overcome it, then it is not considered as part of qualified *‘umūm al-balwā*. For example, if a person is faced with two paths to avoid impurity landing on their person, one with mud and the other without, and they choose the path with mud, they are not excused because the mud is not difficult to avoid as they could have easily just taken the other clean path.¹⁴⁷ This principle would similarly extend to ethanol-based liquids that are ubiquitous and commonly used in all environments, where there are no feasible alternatives readily available to avoid their use without undue hardship.
2. *Actuality to all individuals* - *‘umūm al-balwā* is considered to be actual for all accountable individuals if its occurrence is general, such that the difficulty of avoidance or dispensing with it encompasses all of them or majority of them. There are those who argue that, if avoiding or

¹⁴⁷ حاشية الدسوقي (1:68)

dispensing with it is not difficult for some of them in an incident considered general, then ʿumūm al-balwā may or may not be considered to be realized for that individual or those individuals. For example, as some scholars have mentioned rain is considered an excuse for combining prayers for someone who is inconvenienced by it (al-muḥtāj) due to their clothing according to some sunnī schools. However, for those who are not inconvenienced (ghayr al-muḥtāj) at all because they are near the mosque, live in it, have shelter on their way to it, or similar circumstances, rain is not considered an excuse for them. Combining prayers is not permissible for them because widespread adversity is not realized for them, but rather they are merely inconvenienced.¹⁴⁸ Some Hanbali scholars have indicated that if the general reason for permissibility is fulfilled on basis of ʿumūm al-balwā, then the permissibility is established for those who are not affected by this reason where they assert that if public necessity arises, it establishes a ruling in favour of those who do not have a necessity also (ghayr al-muḥtāj), such as permitting the ownership of dogs for hunting and livestock for those who do not need them as general dispensation, whether there is hardship or not is considered equal.¹⁴⁹ Scholars generally agree that if a dispensation is qualified through principle of general need (al-ḥājat al-ʿāmm), it establishes the ruling also for someone who does not have a need, such as the dispensation and permission to own hunting dogs and livestock for someone who does not need them. In the case of general permissibility, the presence or absence of hardship is equal. According to the Hanbali school of thought, according to some scholars, it is permissible to combine prayers in the rain for someone who prays individually in their home, or not in the mosque, or for someone who is on their way to the mosque with shade preventing water from reaching them, or for someone whose location is near the mosque, or within a short distance from it, even if they only experience a slight inconvenience if all the community are considered a group where majority are impacted. The consideration of widespread adversity when its occurrence is general for individuals, even if not realized for all accountable individuals, is what has been reported from ʿUmar ibn al-Khattāb regarding his consideration of widespread famine as an excuse to consume what is prohibited, and considering it as a mitigating factor for punishment of those who committed theft in that situation. He used to say: "There is no cutting off (of hands) in a year of famine." This preceded the tacit consensus (al-ijmāʿ al-sukūti), as ʿUmar ibn al-Khattāb considered widespread famine as a mitigating factor for theft, without making a distinction between the one in dire need and others.¹⁵⁰ This indicates that if widespread adversity is general for individuals, its realization for each individual is not required; rather, its realization for the collective is sufficient to be an excuse for everyone. Just

¹⁴⁸ انظر البيان والتحصيل (1:403)، والمجموع (4:380)

¹⁴⁹ المغني الآن الحاجة العامة إذا وجدت أثبتت الحكم في حق من ليست له حاجة، كالسلم وإباحة اقتناء الكلب للصيد والماشية في حق من لا يحتاج إليهما (3:134)

شرح منتهى الإرادات لأن الرخصة العامة يستوي فيها حال وجود المشقة و عدمها (1:281)
¹⁵⁰ شرح منتهى الإرادات (1:281) المغني (3:134) والفروع (2:69) والانصاف (2:339)،

like when it comes to public harm and the rules of applying the principle of need for a specific group is in order for dispensation, al-ḥājat al-khāṣah (also termed al-ḥājat al-fiqhiyyah) this does not provide dispensation to everyone, but limited to only one or a group of people that undergo hardship (al-muḥtāj), whereas when this is a need for everyone generally or majority, al-ḥājat al-‘āmmah (or al-ḥājat al-uṣūliyyah) then this is given more weight and given the higher dispensation status of necessity (ḍarūrah) in its normative force and hence provides dispensation to everyone, those undergoing hardship (al-muḥtāj) as well as those who are not undergoing hardship directly (ghayr al-muḥtāj), but are members of the public concerned, and are impacted indirectly.¹⁵¹

Avoiding ethanol-based liquids would be a need for everyone generally, al-ḥājat al-‘āmmah and hence provides dispensation to everyone, those undergoing hardship (al-muḥtāj) as well as those who are not undergoing hardship directly (ghayr al-muḥtāj), and this facilitation will also extend to circumstances where some non-ethanol-based liquid alternatives are available because once the principle is invoked it applies generally and consistently for everyone and in all circumstances until the adversity is removed for everyone.

- **The third condition: There is no Alternative Means**

The principle of ‘umūm al-balwa cannot be applied in situations where hardship can be easily avoided through alternative means. If an alternative course of action is available and does not involve undue difficulty, then the principle does not provide grounds for leniency.

Imām Nawawī highlighted that forgiveness for unintentional contact with dry impurities on clothes is granted when such impurities are acquired incidentally while walking, suggesting that encountering these impurities is an inherent risk of walking. However, if someone deliberately soils their garments with impurities, they would be required to wash them. This is because the act of soiling in this case is not inherent to the nature of walking, but rather a result of the individual's choice, which could have been avoided.¹⁵²

Similarly, Al-Dasūqī explains the limitations imposed by some scholars regarding the forgiveness of mud from rain. If a person intentionally soils themselves with mud, forgiveness is not granted. Additionally, choosing to walk through a muddy path when a clear alternative is available, without a valid reason, does not align with the inherent nature and circumstances of the action.¹⁵³ In such cases, seeking permission through dispensation is not permissible, as there are viable alternatives that could have prevented the soiling. Therefore, the general prevalence of hardship (‘Umūm al-Balwa) is not considered a valid basis for facilitation when the hardship can be easily avoided.

Similarly, using stones for purification, which is permissible due to the general hardship of repeated urination and defecation, is not permitted if one purifies with something impure, a

¹⁵¹ البرهان في أصول الفقه [الجويني، أبو المعالي] (ص 945)

¹⁵² في المجموع للنووي (2:598)

¹⁵³ في حاشية الدسوقي (1:68)

Revising the Fiqh of Khamr and Alcohol

medicinal substance, or food meant for consumption only as these items are either impure and should not be used or have important benefits and should not be deliberately made impure. This is primarily because alternative means such as stones are available. Besides, in such cases, the action is considered disobedience and does not suffice for purification.¹⁵⁴

Regarding ethanol-based non-beverages, if there is no other alternative and there is no intentional inclination toward consuming them to induce inebriation, but rather its use is for alternative purposes that do not involve inebriation then 'umūm al-balwa can apply. This holds true in their use in medications such as cough linctus and inhalers and other uses where there is a need to consume.

- ***The fourth condition: 'Umūm al-balwa does not Conflict with Scripture.***

There is disagreement among scholars regarding which takes precedence; 'umūm al-balwa or scripture: acting based on 'umūm al-balwā or acting based on imperatives in scriptural texts both definitive (qaṭ'ī) and/or not definitive (ẓannī).¹⁵⁵

In cases where Sharī'ah law mandates definitive obligations (qaṭ'ī), widespread customary practices ('urf/ 'ādah) or exemptions from burdensome tasks may not override these obligations. This means that a clear scriptural prohibition is generally not overridden by the customs of a society or exemptions granted due to the difficulty of upholding the prohibition. Allowing customs to dictate legislation undermines the principles of law and renders them ineffective.¹⁵⁶ Examples of this include: The widespread consumption of khamr, which may become customary in some countries despite its clear prohibition in legal texts which is definitive (qaṭ'ī). In such cases, it's impermissible to consider this custom.¹⁵⁷ Likewise, the exposure of a woman's modesty in public, which may become customary in some places despite the clear prohibition of unnecessary exposure in legal texts which is definitive (qaṭ'ī). In such cases, this custom cannot be considered.¹⁵⁸

In situations where Sharī'ah law mandates obligatory rulings, but the prohibition in the legal text related to certain acts is not definitive (ẓannī), customary practices can still be permitted. Additionally, the ruling may be eased or exemptions granted if there is significant hardship in avoiding such practices while remaining obedient to Sharī'ah law. In such cases, while the general prohibition is maintained based on the definitive legal rulings found in scriptural texts, exemptions are granted for non-definitive legal deductions derived from the general prohibition. This is particularly applicable in cases of widespread hardship and difficulty in avoiding customary

¹⁵⁴ الأشباه والنظائر لابن السبكي (1:135)، والمنشور في القواعد (2:128).

¹⁵⁵ انظر: رفع الحرج، للدكتور يعقوب الباسين (101)

¹⁵⁶ المدخل الفقهي العام (2:888)

¹⁵⁷ انظر: رسالة نشر العرف ضمن مجموع رسائل ابن عابدين (2:116) والعرف والعادة في رأي الفقهاء أحمد فهمي أبو سنة (61) والقواعد

الفقهية الكبرى وما تفرع عنها لصالح بن غانم السدلان (358).

¹⁵⁸ العرف والعادة في رأي الفقهاء (61)

practices based on the general principle of 'umūm al-balwā.¹⁵⁹ In such cases, while the general prohibition remains in place, it is refined and tailored to match the explicitness of the definitive scriptural text, rather than the broader interpretation derived through legal reasoning. Therefore, leniency is applied to interpretations of the text that are not definitive or open to ijtihād in order to alleviate the hardship of avoiding practices that pose widespread difficulty of 'umūm al-balwā.¹⁶⁰ An example of this concept is when the scriptural text prohibits selling something one does not possess, derived from the principle of avoiding deception or manipulation (gharar) in transactions. Muslim jurists face contemporary challenges with pre-manufactured sales¹⁶¹, where sellers offer goods they don't yet possess for pre-order (salam). This practice may be considered prohibited due to the principle of gharar, but its application is a matter of debate among jurists based on the specifics of such transactions. This is an issue of ijtihād, where the text is not explicit but deduced from the principle of gharar.

Despite the general prohibition of gharar, jurists permit this practice due to widespread usage and the hardship that prohibiting it would cause. They uphold the definitive text directly associated with gharar while narrowing the prohibition to its definitive understanding, allowing for the ease of non-definitive deductions and applications, which are left to legal reasoning. This maintains the definitiveness of the scriptural text while considering the practical realities and hardships faced by

¹⁵⁹ العرف والعادة في رأي الفقهاء (63)، والمدخل الفقهي العام لمصطفى أحمد الزرقا (2:595). وضوابط المصالح في الشريعة الإسلامية: محمد سعيد رمضان البوطي (21:250) ورفع الحرج للدكتور يعقوب الباحسين (351، 240)، والعرف وأثره في الشريعة والقانون لأحمد بن سير المباريكا (95)، والقواعد الفقهية الكبرى وما تفرع عنها (371)

¹⁶⁰ المدخل الفقهي العام (2:896) والقواعد الفقهية الكبرى وما تفرع منها (371)

¹⁶¹ The technical term for pre-manufactured sales is "pre-sale" or "pre-order." This refers to a sales transaction where customers purchase goods or services before they are produced or become available for general sale. It allows businesses to gauge demand and secure revenue before investing in production. In Islamic jurisprudence (fiqh), the concept of pre-sale or pre-order is referred to as "Salam" (سلم). Salam is a type of sale contract where payment is made in advance for goods that are to be delivered at a later specified date. It is commonly used in Islamic finance for transactions involving agricultural products or other commodities.

فَعَنْ حَكِيمِ بْنِ حَزَامٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: أَتَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَقُلْتُ: يَا بُنَيَّ الرَّجُلُ يُسَأَلُ مِنَ الْبَيْعِ مَا لَيْسَ عِنْدِي، أَتَبَاعُ لَهُ مِنَ السُّوقِ ثُمَّ أُبَيْعُهُ؟ قَالَ: (لَا تَبِيعَ مَا لَيْسَ عِنْدَكَ) رواه الترمذي (1332) والنسائي (4613) وأبو داود (3503) وابن ماجه (2187) وأحمد (14887). وصححه الألباني في "إرواء الغليل". (1292)

قال ابن القيم في «تهذيب سنن أبي داود»: أما قوله -صلى الله عليه وسلم-: «ولا تبع ما ليس عندك» فطابق لهنه -صلى الله عليه وسلم- عن بيع الغرر؛ لأنه إذا باع ما ليس عنده، فليس على ثقة من حصوله، بل قد يحصل له، وقد لا يحصل، فيكون غرراً، كبيع الآبق، والشارد، والطير في الهواء، وما تحمل ناقته ونحوه

اختلف الناس في تفسير حديث: «لا تبع ما ليس عندك» إلى ثلاثة أقوال، ذكرها ابن تيمية في مواضع من كتبه، ونقله عنه موافقاً له تلميذه ابن

القيم

نقل ابن القيم رحمه الله كلام شيخه موافقاً له في زاد المعاد (5:811)، وخالف الشافعي في قوله بأن حديث حكيم بن حزام في بيع الأعيان

people. Therefore, the custom is not seen as contradicting the text but rather as an accommodation of circumstances to avoid undue hardship.¹⁶²

In another example, there is a discussion regarding impurity (najs) and the impermissibility of praying with it on one's person or clothes, which is definitive in scriptural text. However, classical Muslim jurists differ on the permissibility of praying when there are impure substances such as droppings, dung, or urine from animals, which is non-definitive (ẓanni).

The urine of animals whose meat is eaten is considered a minor impurity (al-najāsāt al-khafīfah). Therefore, prayer is permissible if a person's garment is affected to the extent of a quarter, such as a quarter of the arm. This is the opinion of scholars Abū Ḥanīfah and Abū Yūsuf. On the other hand, the dung of horses and the droppings of cattle are considered major impurities (al-najāsāt al-ghalīẓah) according to Abū Ḥanīfah, similar to impurities from animals whose meat is not permissible to consume. This ruling is derived from the Prophet Muhammad's action of discarding dung, stating, "This is filth or waste." However, according to Abū Yūsuf and Muhammad al-Shaybānī, they are considered minor impurities. In their view, the validity of prayer is not affected by a garment touched by them until it becomes abundant and foul. This interpretation is based on the understanding that there is room for interpretation in this matter and a necessity to ease the hardship related to ʿumūm al-balwā, due to the roads being filled with these impurities by animals. This serves as an example of how a major impurity is eased to a minor impurity based on the principle of ʿumūm al-balwā.

As for the droppings of birds whose meat is eaten and dries up or turns white in the air, like pigeons, the Hanafi school considers them pure due to the general necessity of their presence, which fills the roads and spaces. However, Imām Muḥammad al-Shaybānī held a different view by considering the urine of animals whose meat is eaten, including horses, as pure. He argued that even foul dung does not render things impure, noting the hardships caused by the widespread presence of dung in roads and spaces, to the extent of entering irrigation channels during the caliphate. This perspective is aligned with the views of Imām Mālik and Imām Aḥmad. The Shafi'i school, meanwhile, allows exemption for abundant droppings of birds to avoid undue hardship.¹⁶³

¹⁶² رسالة نشر العرف ضمن مجموع رسائل ابن عابدين (2:116) والعرف والعامية في رأي الفقهاء (64)، والمدخل الفقهي العام (2:896) القواعد الفقهية الكبرى وما تفرع عنها (372).

¹⁶³ الفقه الإسلامي وأدلته للزحيلي [وهبة الزحيلي] بول ما يؤكل لحمه نجس نجاسة مخففة، فتجوز الصلاة معه إذا أصاب المرء ما يبلغ ربع الثوب. وهو رأي الشيخين أبي حنيفة وأبي يوسف. وأما روث الخيل وخبث البقر، فنجس نجاسة مغلظة عند أبي حنيفة مثل غير ما أكل اللحم، لأنه صلى الله عليه وسلم رمى الروثة، وقال: هذا رجس أو ركس. ونجس عند الصاحبين نجاسة مخففة، فلا يمنع صحة الصلاة بالثوب المتنجس به حتى يصبح كثيرا فاحشا، لأن للاجتهاد فيه مساعا، ولأن فيه ضرورة لامتلاء الطرق به، ورأي الصاحبين هو الأظهر لعموم البلوى بامتلاء الطرق بها. والكثير الفاحش: ما يستكثره الناس ويستفحشونه، كأن يبلغ ربع الثوب. وعلى هذا: يكون بول ما يؤكل لحمه، ورجيع (نحو) الكلب، ورجيع ولعاب سباع البهائم كالفهد والسبع والخنزير، وخرء الدجاج والبط والأوز لنتنه، من النجاسة الغليظة بالاتفاق، ويعنى قدر الدرهم منها. وبول الفرس، وبول ما يؤكل لحمه، وخرء طير لا يؤكل كالعصقر والحدأة في الأصح لعموم الضرورة، من النجاسة الخفيفة، ويعنى منها ما دون ربع الثوب، أو البدن أي ما دون ربع العضو المصاب كاليد والرجل إن كان بدنا. وأما الربع فأكثر فهو كثير فاحش. وأما خرء الطير المأكل اللحم الذي يذرق (أو يزرق) في الهواء، كالحمم، فهو طاهر عند الحنفية، لعموم البلوى به بسبب امتلاء الطرق والخانات بها. كما

Revising the Fiqh of Khamr and Alcohol

This serves as an example where a minor impurity is deemed pure based on the principle of 'umūm al-balwā.

Even though impurities are prohibited and invalidate prayer, which is definitive (qaṭʿī), determining what constitutes major or minor impurity and the allowable amount is subject to interpretation and ijtihād, making it non-definitive (zannī). Therefore, in situations where there is widespread hardship (umūm al-balwā) in removing all traces of impurity, Muslim jurists allow for certain concessions. For major impurities, less than a dirham's worth is exempt, while for minor impurities, less than a quarter of a garment or limb is considered permissible. Moreover, when it comes to avoiding impure substances on paths, ground, and buildings, jurists ease the rulings and permit prayer even with major impurities, treating them as minor impurities. Similarly, minor impurities are treated as if they are pure. In cases where rulings are non-definitive, lighter judgments are applied, or dispensations are made in situations of widespread hardship. In essence, while the prohibition remains intact, there is leniency in the application of the rulings.

At times, a ḥadīth may extend a prohibition to prevent actions leading to what is forbidden. It's crucial to thoroughly examine each ḥadīth individually, considering its narration, context, and reasons for its occurrence. Often, such aḥadīth aim to strengthen or generalize a ruling to prevent harm or sin, invoking the principle of sadd al-dharāʿī (blocking the means).

In situations where a general prohibition may cause significant hardship in avoiding prohibited actions, the force of the ruling in view of 'umūm al-balwā (widespread hardship) is eased to alleviate such difficulties. The ruling is then reverted to its original state, removing the extended or generalized application established based on the principle of blocking the means.¹⁶⁴

The aḥadīth that classify all inebriants as khamr (wine) and prohibit even small amounts do so because they are considered potential means that can lead to inebriation. Many classical scholars argue that prohibiting small amounts aims to prevent further consumption leading to intoxication, implementing a preventive measure (sadd al-dharāʿī), rather than solely based on the intrinsic properties of the amount of liquid that causes inebriation.

Early Hanafi scholars allowed the consumption of fermented beverages from sources other than grape juice and smaller amounts of non-grape ethanol beverages as long as they did not cause inebriation. They interpreted the prohibition as applying only to the last cup that causes inebriation. However, later scholars considered this a total ban, invoking the principle of sadd al-dharāʿī based on the wording "Therefore, refrain from it so that you may be successful" [Q. 5:90], which suggests prevention and application on a wider scale.

أن الإمام محمد حرم آخرًا بطهارة بول ما يؤكل لحمه ومنه الفرس، وقال: لا يمنع الروث وإن فحش، لما رأى من بلوى الناس من امتلاء الطرق وانخاناتها، لما دخل الري مع الخليفة. وقاس المشايخ عليه طين بخارى؛ لأن ممشى الناس والدواب واحد. وهذا يتفق مع رأي مالك وأحمد. وقال الشافعية (٢): يعنى عن ذرق الطير إذا كثر لمشقة الاحتراز عنه. وأرى الأخذ بالأيسر في هذه الأمور ما لم يكثر النجس (1:314) رد المحتار: (1:295) وما بعدها، الباب شرح الكتاب لعبد الغني الغنيمي الميداني الدمشقي (1:56) مغني المحتاج: (1:188) .¹⁶⁴ رفع الحرج (293)، وانظر: العرف والعادة في رأي الفقهاء (98).

Revising the Fiqh of Khamr and Alcohol

When there is widespread hardship, the principle of *‘umūm al-balwā* can be invoked, allowing for a lenient ruling to revert to the original definitive ruling of prohibiting beverages with the clear potential to cause inebriation and antisocial behavior, rather than any non-beverage containing ethanol that is not known to lead consumers to such actions.

Avoiding both these factors—intended use as a beverage and the potential for inebriation—are sufficient to prevent the consumer from displaying antisocial behaviour. This consideration allows for the permissibility of all ethanol-based non-beverages, as they are not intended as beverages and rarely cause inebriation unless severely abused. Even in cases of abuse, the consumer is likely to become ill before experiencing significant inebriation effects, leading to antisocial behaviour. Any observed behavioural issues resulting from excessive consumption are more likely due to the toxic effects of the liquid on the mind and body.

If the principle of *‘umūm al-balwā* is to be invoked, then it can be invoked to allow dispensation for all non-beverages as they are not intended to be used as a beverage and the potential for inebriation is rare if at all. This would mean that they are permissible to use and are not impure.

- ***The fifth condition is that the concession granted during ‘umūm al-balwā must be restricted to that specific situation and cease when the adversity ends.***

Scholars assert that “if a concession is contingent upon a certain condition being lawful, and that condition later becomes prohibited, then the concession no longer applies”¹⁶⁵. This is in line with the Quranic verse, “He has only forbidden you carrion, blood, swine, and what is slaughtered in the name of any other than Allah. But if someone is compelled by necessity—neither driven by desire *nor exceeding immediate need*—they will not be sinful. Surely Allah is All-Forgiving, Most Merciful.” [Q. 1:173]

This is because if the widespread adversity ceases to exist and there is no longer a need as alternatives are readily available, the concession becomes speculative, thereby losing the validity of the second condition, which requires the *‘umūm al-balwā* to be certain about the hardship, not speculative.

For example, Tayammum is invalidated in the presence of water, because Tayammum is permissible due to the absence of water; thus, if water is found, Tayammum becomes void. To appoint someone else to bear witness is permissible when the original witness is either terminally ill, incapacitated, or on a journey where returning is impractical, causing the necessity for reliance on the testimony of their substitute witness. However, if the original witness recovers from illness or completes their journey, it is no longer permissible to rely on the testimony of the other. Instead, the testimony of the original witness must be obtained because the concession during widespread adversity is restricted to those specific circumstances and ceases when they cease.¹⁶⁶

¹⁶⁵ “إن فعل الرخصة متى توقف على وجود شيء نظر في ذلك الشيء، فإن كان تعاطيه في نفسه حراماً امتنع معه فعل الرخصة، وإلا فلا” المنثور في القواعد (2:119)، والأشباه والنظائر للسيوطي (263).

¹⁶⁶ القواعد الفقهية وتطبيقاتها في المذاهب الأربعة [محمد مصطفى الزحيلي] (1:396)

Revising the Fiqh of Khamr and Alcohol

This condition falls under the legal principle that, “a concession valid due to necessity ceases with the cessation of that necessity”. When the necessity ends, and people continue to act according to the concession granted during widespread adversity out of habit, it becomes subject to the conditions of considering the widespread adversity as a customary practice.¹⁶⁷

The utilization of ethanol-based non-beverages is increasingly prevalent, due to the growing recognition of their benefits and expanding applications beyond their traditional uses.

Consequently, the general acceptance (‘umūm al-balwā) of such practices becomes more assured with the passage of time.

Hence, it becomes apparent that even those who adopt a broader interpretation of "khamr," equating it with ethanol, irrespective of its concentration or whether inebriating effects are present due to preceding toxic additives, are compelled to acknowledge that, given the extensive use of ethanol, the principle of ‘umūm al-balwā must be invoked. This principle permits the acceptance of ethanol-based non-beverages and deems them permissible and pure.

Conversely, the current issue revolves around considerations concerning khamr (i.e., ethanol-based beverages), where exceptions under khamr rulings permit their use in specific medical and non-medical contexts.

12. Dispensation in Rulings Related to Khamr in Non-Medical and Medical Use

Khamr, typically synonymous with wine and other alcoholic beverages, has ignited debates among classical jurists regarding its potential application in healing contexts where the majority argue that there is no cure with khamr as is asserted by the Prophet ﷺ. We have already addressed the fundamental question: Does alcohol or ethanol indeed fall under the classification of khamr, and does it possess inebriating qualities (al-muskir)? Ethanol is not synonymous with khamr. Rather, the concentration (above 1% ethanol) and purpose of use (use as a beverage) relate khamr status.

Additionally, scholars have addressed whether khamr holds a state of ritual purity (ṭāhirah) or impurity (nājisah), a determination intricately linked to the categorization of khamr based on it being an alcoholic beverage.¹⁶⁸ Such verdicts are important as anything which is ritually impure cannot be utilized unless with dispensations in the sharī‘ah.

¹⁶⁷ “ما جاز لعذر بطل بزواله “ انظر: الأشباه والنظائر للسيوطي (176)، والأشباه والنظائر لابن نجيم. (95)

¹⁶⁸ حاشية ابن عابدين = رد المحتار ط الحلبي [ابن عابدين] أقول: ولم يعول الشرنبلالي في شرحه على هذا الجواب، وكأنه والله تعالى أعلم، لأن الخمر حرمت لعينها، ولا نسلم انقلاب العين بهذا الطبخ، ولذا لو وقعت قطرة منها في الماء الغير الجاري، أو ما في حكمه نجسته، وإن استهلكت فيه وصار ماء وكذا لو وقعت في قدر الطعام نجسته، وإن صارت طعاما كما لو وقعت فيه قطرة بول، وأما طهارتها بانقلابها خلا فهي ثابتة بنص المجتهد أخذنا من إطلاق حديث «نعم الإدام الخلل» فليتأمل (6:450)

Revising the Fiqh of Khamr and Alcohol

Non-beverage ethanol, not khamr, is currently used in the production of medicinal products in several ways:¹⁶⁹

- as a pharmaceutical aid (excipient or "inactive" ingredient) in liquid formulations of many finished pharmaceutical products.
- as a processing aid in the manufacture of pharmaceutical products, particularly in the preparation of extracts of medicinal plants, the recrystallisation (purification) of drug substances, the granulation stage in tablet manufacture, the application of film coating to tablets and the sealing of hard gelatin capsules. Although most of the alcohol is removed from the product during processing, trace amounts can remain in the final formulation,
- as an active ingredient in a small number of preparations, including external applications to cleanse, disinfect, cool or harden the skin or to remove certain toxic substances; injectable preparations for perineural and periganglionic infiltration to relieve intractable pain and some proprietary nutritional amino-acid preparations for intravenous infusion in which alcohol is included as a source of energy.

The key point to grasp here is that in the modern context, khamr (alcoholic beverage) is not conventionally used as a medicine or an excipient in medicine. Instead, the ethanol found in medications is typically sourced from sources other than fruits and is processed through production lines that yield high concentrations of ethanol, which could be considered harmful. The method of production plays a crucial role in determining whether the substance is intended for inebriation or for legitimate medical purposes, where inebriation is neither intended nor acceptable for consumption as a beverage. This distinction influences its classification as permissible or forbidden.

The crux of the matter is that the ethanol content in medication today generally does not originate from grapes, dates or other fruits and, therefore, does not fall under the category of "khamr" but rather under non-khamr or mufsid.

Nevertheless, there remains significant value in comprehending the traditional Islamic legal rulings concerning the utilization of "khamr" (alcoholic beverages) for medicinal purposes, as prescribed historically, as these principles may still hold relevance in certain contemporary contexts.

Al-Khamr in Medicine

There are two general summarised views regarding the permissibility of al-khamr in medical treatment on the basis of this:

¹⁶⁹ 79th Session, agenda item 7.2. WORLD HEALTH ORGANIZATION ORGANISATION MONDIALE DE LA SANTÉ, Dec 1986

https://iris.who.int/bitstream/handle/10665/161924/EB79_9_eng.pdf;jsessionid=5D575BBB86F13EA9F7245D0DF61AE216?sequence=1

Revising the Fiqh of Khamr and Alcohol

1. It is not permissible to use al-khamr as medication – This is according to majority of Ḥanafī, Mālikī, Shāfi‘ī, and all Ḥanbalī scholars.¹⁷⁰
2. It is permissible to use al-khamr as medication – This is according to some Ḥanafī, Shāfi‘ī scholars, but with conditions.¹⁷¹

Ḥanafī Perspective:

Abū Ḥanīfah stipulated that grape juice, when boiled intensely to the point where the foam is discarded, constitutes khamr and is therefore prohibited. According to both Abū Ḥanīfah and Abū Yūsuf, beverages derived from sources other than grape juice and dates can be utilized for medicinal purposes, provided they do not induce inebriation, as they are classified as muskir rather than khamr. Furthermore, according to the opinions of the ṣāhibayn, beverages not derived from dates or grapes (can be ingested as medicine even without dilution, as long as they do not possess inebriating properties.¹⁷²

According to the Ḥanafī school, permissibility, as outlined by Abū Yusuf, arises in cases of necessity (ḍarūrah) for medicinal treatment, even if the treatment involves substances that are otherwise prohibited (tadāwī bil-muḥarram), including khamr. Imām Abū Ḥanīfah allows for the medicinal use of such substances but prohibits their consumption for mere thirst quenching.¹⁷³

In adherence to these principles, alcoholic beverages may be utilized for medicinal purposes in situations of compelling need (ḍarūrah), provided their effectiveness is established, and they are sourced from materials other than grape juice or dates. The permissibility of these medications persists as long as they do not induce inebriation.¹⁷⁴

¹⁷⁰ جاء في بدائع الصنائع: ولا يجوز الانتفاع بها للمداواة وغيرها، لأن الله تعالى لم يجعل شفاعنا فيما حرم علينا (5:113).

وجاء في الفتاوى الهندية: يحرم الانتفاع بها للتداوي وغيره (5:410).

جاء في المنتقى للبايجي: وأما التداوي فالمشهور من المذهب أنه لا يحل ذلك، (3:141)

جاء في التاج والإكليل المختصر خليل للمواق بهامش مواهب الجليل للخطاب فيكون عند المالكية التداوي بالخمر لا يحل، وإذا قلنا أنه لا يجوز التداوي بها، ويجوز استعمالها للضرورة، فالفرق أن التداوي لا يتيقن البرء بها فلم يجز أن يستعمل المحذور فيه، وأما الأكل والشرب للجوع والعطش فإنه يتيقن البرء به، فلذلك جاز استعماله (3:223)

جاء في المجموع شرح المهذب للنووي: أن المذهب الصحيح تحريم الخمر للتداوي والعطش وهذه هي الرواية الصحيحة عند الشافعية (9:51)

جاء في كشاف القناع عن متن الإقناع للبهوتي: ولا يجوز التداوي بشيء محرم أو يشيء فيه محرم ولا يشرب مسكر (6:200)

وجاء في المغني لابن قدامة: أن شربها صرفاً أو ممزوجة بشيء يسير لا يروي من العطش أو شربها للتداوي لم يبيح له ذلك وعليه الحد (10:330)

¹⁷¹ جاء في رد المحتار على الدر المختار شرح تنوير الإبصار لابن عابدین: هل يجوز شرب العليل من الخمر للتداوي؟ فيه وجهان: وجه قال: لا

يجوز وهذا ذكر، والوجه الثاني قال: إذا علم وليس له دواء غيره يجوز لأن الاستشفاء بالحرام إنما لا يجوز إذا لم يعلم أن فيه شفاء أما إذا علم وليس له دواء غيره يجوز (7:180)

ما جاء في مغني المحتاج للشريني: الثاني: يجوز التداوي بها أي بالقدر الذي لا يسكر كيفية النجاسات ويجوز شربها الإساعة اللقمة بها. وقيل يجوز التداوي بها دون شربها للعطش، وقيل عكسه، وشربها لدفع الجوع كشرها لدفع العطش (4:188)

¹⁷² تبين الحقائق (6:47)، رد المحتار (5:292)، الهداية مع النهاية والكفاية (9:32)

¹⁷³ تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] وقال أبو حنيفة: يجوز شربها للتداوي دون العطش، (2:231)

¹⁷⁴ الكاساني: بدائع الصنائع (5:116) الرمي: نهاية المحتاج (8/12)

Shāfi'ī Perspective:

According to Shāfi'ī scholars, the principle of tadāwī bil-muḥarram, utilizing prohibited substances for medicinal purposes, is generally permitted in cases of necessity (ḍarūrah), with the exception of khamr. However, if the alcoholic content in khamr becomes negligible after being mixed with a pure liquid (mustahlik), then its use is permissible when no alternative is available.¹⁷⁵

Al-Qāḍī Abū al-Ṭayyib al-Ṭabarī al-Shāfi'ī (d. 450 AH), a prominent Shāfi'ī jurist, permits the use of such substances for medicinal purposes but prohibits their consumption for mere thirst relief. On the other hand, some Shāfi'ī scholars from Baghdad allow the consumption of alcoholic beverages to alleviate severe thirst but restrict their use for medicinal purposes, asserting that quenching thirst holds greater priority than medicinal needs.¹⁷⁶

Indeed, within the Shāfi'ī school, there exist divergent views among scholars concerning the permissibility of employing prohibited substances for medicinal purposes. However, the central tenet revolves around the principle of necessity (ḍarūrah), wherein tadāwī bil-muḥarram, the use of prohibited substances for medication, is generally deemed permissible in cases of dire necessity.

Mālikī and Ḥanbalī Perspective:

Both Mālikī and Ḥanbalī scholars concur on the prohibition of using khamr for tadāwī bil-muḥarram. However, akin to some Shāfi'ī opinions, certain Mālikī scholars hold that if khamr is mixed and its alcoholic content becomes negligible, its use becomes permissible in cases of dire necessity (ḍarūrah)¹⁷⁷. They also permit its use if it has been subjected to fire, as this transformative process alters its nature.

According to Abū Marwān 'Abd al-Malik ibn Ḥabīb al-Sulami al-Mālikī (d. 238 AH), such transformed khamr is permissible for medicinal purposes and even during prayer, as it becomes ritually pure.

¹⁷⁵ في المجموع شرح المذهب للإمام النووي (9:50)

في كتاب نهاية المحتاج إلى شرح المنهاج [الرملي، شمس الدين] (والأصح تحريمها) صرفا (لدواء) نخبر «إن الله لم يجعل شفاء أمتي فيما حرم عليها» وما دل عليه القرآن من إثبات منافع لها فهو قبل تحريمها أما مستهلكة مع دواء آخر فيجوز التداوي بها كصرف بقية النجاسات إن عرف، أو أخبره طبيب عدل بنفعها وتعيينها بأن لا يغني عنها طاهر، (8:14)

¹⁷⁶ تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] وقال أبو حنيفة: يجوز شربها للتداوي دون العطش، وهو اختيار القاضي الطبري من أصحاب الشافعي، وهو قول الثوري. وقال بعض البغداديين من الشافعية: يجوز شربها للعطش دون التداوي، لأن ضرر العطش عاجل بخلاف التداوي (2:231)

¹⁷⁷ ابن قدامة: المغني (11:83).

في كتاب مواهب الجليل في شرح مختصر خليل [الرعي، الخطاب] أما أكله والتداوي به في باطن الجسد فالانفاق على تحريمه كما نقله المصنف في التوضيح في كتاب الشرب عن الباجي وغيره وصرح بذلك ابن ناجي والجزولي وغيرهما لكن حكى الزناتي فيما إذا استهلكت الخمر في دواء بالطبخ أو بالتركيب حتى يذهب عينها ويموت ريحها وقضت التجربة بإنجاح ذلك الدواء قولين بالجواز والمنع قال: وإن لم تنقض التجربة بإنجاحه لم يجوز بانفاق انتهى (1:119)

Revising the Fiqh of Khamr and Alcohol

Similarly, ‘Abd al-Malik Ibn ‘Abd al-‘Azīz al-Mājīshūn al-Mālikī (d. 213 AH) asserts that khamr is purified through burning, thus permitting its usage.¹⁷⁸

Certain scholars consider it permissible to consume khamr if only a small amount is mixed into a dominant liquid to the extent that its smell, colour, and taste are no longer discernible (istiḥlāk). This opinion is supported by Ibn Taymiyyah and Ibn Ḥazm al-Zāhirī (d. 456 AH).¹⁷⁹

It's essential to clarify that the discussions above primarily address the use of khamr for medicinal purposes, focusing on alcoholic beverages with high ethanol content derived from fruits, including spirits, wine, beer, cider, and similar drinks. However, when alcohol or ethanol is produced through industrial processes, such as from petroleum, it is not intended for beverage consumption and does not fall under the category of khamr. Instead, it would be classified as a non-khamr substance, especially if denatured, and thus the rulings of classical Muslim jurists regarding khamr do not apply to them.

Al-Mufsid in Medicine

Toxic substances/ poisons (al-summ) fall under al-mufsid and refer to any chemical, plant, living thing, or mineral substance that, when ingested by a human, causes immediate specific disturbance or functional disorder, and may lead to death, depending on its type, quantity, and method of entry. In the medical field, the use of substances with potentially toxic properties is widespread. Many medications, such as chemotherapy drugs, contain elements that are inherently toxic, and their administration depends on precise dosing. It might be surprising that toxic substances can serve as medicines, but their therapeutic use dates to ancient times and continues today, notably in treatments for conditions like cancer. Intriguingly, the symbol of the pharmaceutical profession frequently features a snake releasing its venom into a cup, symbolizing the historical link between medicine and poisons or toxins.

The scholars of Islamic jurisprudence (fiqh) have differed on the ruling regarding using poison or any substance mixed with poison, and their opinions can be categorized into two main views:

- *The first view:*

Some scholars hold that using mufsid, poison (al-summ) or any substance containing poison is not permissible if the quantity taken could lead to death or likely result in death. They argue that if it is harmful and offers no benefit, it should be completely prohibited. Some Ḥanafīs, Shāfi'is, Hanbalīs, and Zāhirīs follow this opinion.¹⁸⁰

¹⁷⁸ تفسير القرطبي = الجامع لأحكام القرآن [القرطبي، شمس الدين] وأما التداوي بها فلا يخلو أن يحتاج إلى استعمالها قائمة العين أو محرقة، فإن تغيرت بالإحراق فقال ابن حبيب: يجوز التداوي بها والصلاة. وخففه ابن الماجشون بناء على أن الحرق تطهير لتغير الصفات (2:230)

¹⁷⁹ مجموع الفتاوى لشيخ الإسلام (21:502) ابن حزم: المحلى (7:422)،

¹⁸⁰ ابن عابدين: حاشية رد المحتار (4:207) النووي: المجموع (3:8) (9/34) ليهوتي: كشف القناع (2:76) المرادوي: الإنصاف (4:272)

ابن حزم: المحلى (7:418).

Revising the Fiqh of Khamr and Alcohol

- *The second view:*

Other scholars believe that using mufsid, poison (al-summ) or any substance mixed with poison can be permissible if there is a necessity for it. They argue that if it is at a safe dose and beneficial, it can be used for treatment when necessary. This opinion is followed by the majority of Ḥanafis, Mālikīs, and Shāfi'is.¹⁸¹

In conclusion: The second view, which is widely accepted among scholars, presents a compelling argument that the use of harmful substances or those containing poison can indeed be permissible under necessity. Advocates of this perspective assert that when administered at safe dosages and deemed beneficial, such substances can serve as viable treatments, even in conditions where necessity is not immediately apparent. They argue that since the dosages are regulated and proven to be safe, the substance poses no harm within prescribed limits. Therefore, its use is justified and permissible when indicated for medical treatment.

Applying al-Khamr Topically:

All schools accept that khamr is impure (najs) and there is agreement on this among the schools.¹⁸²

¹⁸¹ ابن عابدين: حاشية رد المحتار (4:208) الخطاب: مواهب الجليل (3:230) المواق: التاج والإكليل (3:228) النووي: المجموع (8:93) الماوردي: الحاوي الكبير (12:93) الهيثمي: تحفة المحتاج (9:388) ابن قدامة: المغني (1:241) البهوتي: شرح منتهى الإرادات (3:407) المرادوي: الإنصاف (2:463) ابن مفلح: الفروع (2:132) البهوتي: كشاف القناع (2:76) الشوكاني: نيل الأوطار (9:76).
¹⁸² اختلف العلماء في نجاسة الخمر على قولين:

القول الأول: أن الخمر نجسة نجاسة عينية، وذلك باتفاق المذاهب الفقهية الأربعة: الحنفية: البحر الرائق لابن نجيم (8:247)، وينظر: بدائع الصنائع للكاساني (1:66).
والمالكية: مواهب الجليل للخطاب (1:126)، وينظر: شرح مختصر خليل للخرشي (1:84).
والشافعية: لمجموع النووي (2:563)، تحفة المحتاج لابن حجر الهيتمي (1:303).
والحنابلة: الفروع لابن مفلح (1:327)، الإنصاف للمرادوي (1:229)، وينظر: المغني لابن قدامة (9:171).
وحكي الإجماع على ذلك قال ابن رشد: (والنجاسات على ضربين: ضرب اتفق المسلمون على تحريم بيعها، وهي الخمر، وأنها نجسة، إلا خلافاً شاذاً في الخمر «أعني: في كونها نجسة».) بداية المجتهد (١٤٥/٣). وقال النووي: (ونقل الشيخ أبو حامد الإجماع على نجاستها). المجموع (2:563). وقال العيني: (قد انعقد الإجماع على نجاستها، وداود لا يعتبر خلافه في الإجماع). (البنية) (1:447). وقال إبراهيم بن مفلح: (الخمر يجر العقل، أي: يغطيه ويستره، وهي نجسة إجماعاً). المبدع (1:195).
الأدلة:

أولاً: من الكتاب - قوله تعالى: يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ [المائدة: ٩٠].

وجه الدلالة: أن قوله تعالى: رِجْسٌ يدلُّ على نجاستها، فإنَّ الرِّجْسَ في اللِّسَانِ: النَّجَاسَةُ - تفسير القرطبي (6:289). ، ولا يضُرُّ قَرْنُ الْمَيْسِرِ وَالْأَنْصَابِ وَالْأَزْلَامِ بِهَا، مع أن هذه الأشياء طاهرة؛ لأنَّ هذه الثلاثة خرجت بالإجماع، فبقيت الخمر على مقتضى الكلام - المجموع للنووي (2:564).

ثانياً: من السنة - عن أبي ثعلبة الخشني رضي الله عنه قال: ((قلت: يا رسول الله، إننا بأرض قوم أهل كِبَابٍ، أفأكلُ في آنتيمهم؟ قال: لا تأكلوا فيها إلا أن لا تجدوا غيرها، فاغسلوها وكُلوا فيها)) أخرجه البخاري (٥٤٧٨)، ومسلم (١٩٣٠).

- Hanafis, represented by Abū Ḥanīfah and Abū Yusuf, permit the use of muskir as long as it is not derived from grapes or dates. They consider it ritually clean (tāhir), differing in opinion from those who deem muskir derived from dates and grapes impure (najs).
- Other scholars, including Rabī'at Ibn Abī 'Abd al-Raḥmān al-Mālikī (d. 136 AH), al-Muzanī al-Shāfi'ī (d. 264 AH), Layth Ibn Sa'd (d. 175 AH), alongside certain later Baghdad scholars and those from the Mālikī school, as well as al-Zāhirī, do not classify khamr as impure (i.e., not al-najāsat al-ḥissīyah)¹⁸³. This perspective finds support among contemporary figures like al-Nawāb Ṣādiq Ḥasan Khān, Shaykh Ṭāhir ibn Ashūr, Shaykh Rashīd Riḍā', and Shaykh Ṣāliḥ al-Uthaymīn.¹⁸⁴

وجهُ الدَّلالةِ: أَنَّ الأصلَ في حالِ المُشْرِكِينَ أَنَّهُمْ يَطْبُخُونَ في قُدُورِهِمْ لَحْمَ الخنزيرِ وَيَشْرَبُونَ في آنِيَتِهِم الخَمْرَ، فلم يُجْزِ استِعْمَالُهَا إِلَّا بعدَ الغَسْلِ والتَّنْظِيفِ ((معالم السنن)) للخطابي (4:257).

القول الثاني: أَنَّ الخمرَ طاهرةٌ، وهو قولُ ربيعةَ بنِ أبي عبدِ الرَّحْمَنِ، والليثِ بنِ سَعْدٍ، والمُزَنِّيِّ، وداوودَ الظَّاهِرِيِّ قال القرطبي: (وخالفهم في ذلك ربيعةٌ، والليث بن سعد، والمزني صاحب الشافعي، وبعض المتأخرين من البغداديين والقرويين، فأوا أنها طاهرةٌ، وَأَنَّ المحرم إنما هو شربها). تفسير القرطبي (6:288). وقال النووي: (الخمر نجسةٌ عندنا وعند مالك وأبي حنيفة وأحمد وسائر العلماء، إِلَّا ما حكاه القاضي أبو الطيب وغيره عن ربيعةَ شَيْخِ مالك، وداود: أَنَّهُمَا قالَا: هي طاهرةٌ). المجموع (2:563)،

واختاره الصنعانيُّ قال الصنعاني: (فإذا عَرَفْتَ هذا فتحريمُ الخمرِ والخمرِ الذي دَلَّتْ عليه النصوصُ، لا يلزمُ منه نجاستُهما، بل لا بدَّ من دليلٍ آخرَ عليه، وإلا بَقِيَتْ على الأصلِ المتفقِ عليه من الطهارةِ، فن أدعى خلافه، فالدليلُ عليه). سبل السلام (1:36)، والشوكانيُّ قال الشوكاني: (ليس في نجاسةِ المُسْكِرِ دليلٌ يَصُلُحُ للتمسُّكِ به). السيل الجرار (ص ٢٥). والألبانيُّ قال الألباني: (وغير هؤلاء كثيرون من المتأخرين من البغداديين والقرويين فأوا جميعاً أَنَّ الخمرَ طاهرةٌ، وَأَنَّ المحرم إنما هو شربها، كما في «تفسير القرطبي» «٦/٨٨» وهو الراجح، وللأصلِ المشار إليه أنفاً [وهو أَنَّ الأصلَ الطهارةُ، فلا ينقلُ عنها إلا ناقلٌ صحيحٌ لم يعارضه ما يساويه أو يُقدِّمُ عليه]، وعدمُ الدليلِ المعارضِ). تمام المنة (ص: 54)، وابن عثيمين قال ابن عثيمين: (الخمر ليست بنجسةٍ، ولو كانت على صِفَتِهَا خَمْرًا). الشرح الممتع (1:27). الأدلة:

أولاً: من السنة ١- عن أنسِ رَضِيَ اللهُ عَنْهُ: ((كنتُ ساقِي القَوْمِ في مَنْزِلِ أَبِي طَلْحَةَ، وكان خمرهم يومئذٍ الفَضِيخَ، فأمر رسولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مُنادياً ينادي: أَلَا إِنَّ الخمرَ قد حَرِّمَتْ، قال: فقال لي أبو طلحة: اخرج فأهرقها، فخرَّجْتُ فَهَرَقْتُهَا، خَرَّتْ في سِكَكِ المَدِينَةِ)) أخرجه البخاري (٢٤٦٤) واللفظ له، ومسلم (١٩٨٠).

وجهُ الدَّلالةِ: أَنَّ طُرُقَاتِ المُسْلِمِينَ لا يجوزُ أن تكونَ مَكَانًا لإِرافَةِ النجاسةِ؛ ولهذا يحرمُ على الإنسانِ أن يبولَ في الطَّرِيقِ، أو يصبَّ فيه النجاسةَ، ولا فَرْقَ في ذلك بين أن تكونَ واسعةً أو ضيقةً، كما جاء في الحديث: ((اتَّقُوا اللَّعَانِينَ، قالوا: وما اللَّعانانِ يا رسولَ اللهِ؟ قال: الذي يتخَلَّى في

طريقِ النَّاسِ، أو في ظِلِّهِمْ)) أخرجه مسلم (٢٦٩). وينظر: تفسير القرطبي (6:288)، الشرح الممتع لابن عثيمين (1:430).

٢- عن ابنِ عَبَّاسٍ رَضِيَ اللهُ عَنْهُمَا: ((أَنَّ رجلاً أَهدى لرسولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ راويةَ خمرٍ، فقال له رسولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: هل عَلِمْتَ أَنَّ اللهُ قد حَرَّمَها؟ قال: لا، فسارَ إنساناً، فقال له رسولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمَ سارَرْتَهُ؟ فقال: أَمَرْتُهُ ببيعِها، فقال: إِنَّ الذي حَرَّمَ شُرْبَها حَرَّمَ بيعِها، قال: ففتَحَ المَزادَةَ حتى ذهبَ ما فيها)) أخرجه مسلم (١٥٧٩).

¹⁸³ في تفسير القرطبي هم الجمهور من تحريم الخمر، واستخبات الشرع لها، وإطلاق الرجس عليها، والأمر باجتنابها، الحكم بنجاستها. وخالفهم في ذلك ربيعة والليث بن سعد والمزني صاحب الشافعي، وبعض المتأخرين من البغداديين والقرويين فأوا أنها طاهرة، وأن المحرم إنما هو شربها.

وقد استدل سعيد بن الحداد القروي على طهارتها بسفكها في طرق المدينة، (6:288)

¹⁸⁴ الروضة الندية لصديق حسن خان (1:20)، التحرير والتنوير لابن عاشور (7:25)، تفسير المنار لرشيد رضا (7:48)، الشرح الممتع علي زاد المستتقع للعثيمين (15:195)

Revising the Fiqh of Khamr and Alcohol

- According to Ibn Taymiyyah, khamr becomes ritually clean if it is mixed for dissolution in any pure liquid in a quantity exceeding two Qulla¹⁸⁵, as long as the properties of the pure liquid remain unchanged.¹⁸⁶
- However, scholars from the Mālikī, Shāfi'ī, and Ḥanbalī schools maintain that khamr remains impure (najis) even if mixed (dissolved) in a substantial amount of another liquid other than water, unless it is mixed in more than 2 qullas of pure water or its taste, smell, and color disappear.¹⁸⁷

The common substances used in a medical setting containing ethanol are non-khamr and/or mufsid not khamr so they are all pure and permissible. Everything by default is considered pure. This includes the following:

- Rubbing Alcohol (Isopropyl Alcohol): Rubbing alcohol, commonly used as a disinfectant and antiseptic, typically contains isopropyl alcohol at concentrations of 70% or higher. The remaining portion of the solution is usually water. It is used for cleaning wounds, skin preparation before injections, and as an antiseptic. It is not an ethanol and so permissible.
- Cough Linctus and Syrups: Some cough linctus and syrups may contain small amounts of alcohol as a solvent for the active ingredients. The alcohol content in these formulations is usually low, often around 5% or less.
- Tinctures: Tinctures are liquid extracts made by soaking herbs or other plant materials in alcohol. The alcohol acts as a solvent to extract the active compounds from the plant material. The alcohol content in tinctures can vary depending on the specific preparation, but it's typically in the range of 25% to 60%.
- Mouthwashes and Oral Rinses: Some mouthwashes and oral rinses contain alcohol as an antimicrobial agent. The alcohol concentration in these products can vary, but it's generally around 20% to 30%. Alcohol-based mouthwashes are used to help control bacteria and reduce bad breath.
- Topical Antifungal Solutions: Certain antifungal solutions for treating fungal infections of the skin, like athlete's foot, may contain alcohol as a carrier for the active antifungal agent. The alcohol concentration in these solutions is usually around 10% to 25%. They are toxic

¹⁸⁵ The volume of 2 Qulla as a measurement of liquid can vary depending on the specific region where it is used. However, traditionally, a Qulla is approximately equal to 2.25 liters or about half a gallon. Therefore, 2 Qulla would be roughly equivalent to 4.5 liters or approximately 1.2 gallons. It's important to note that the exact value of a Qulla can differ between regions, so this approximation may vary depending on local customs and practices.

¹⁸⁶ ابن تيمية: مجموع الفتاوى (21:514, 34:212)

¹⁸⁷ في المجموع شرح المهذب للنووي رحمه الله تعالى: "أما غير الماء من المائعات وغيرها من الرطبات، فينجس بملاقة النجاسة وإن بلغت قلالا. وهذا لا خلاف فيه بين أصحابنا. (1:125)

في مواهب الجليل للحطاب وقال خليل رحمه الله تعالى: "وينجس كثير طعام مائع بنجس قل" وقال الحطاب: "لا خصوصية للطعام بما ذكره. بل هو حكم سائر المائعات." (1:108)

في المغني لابن قدامة رحمه الله تعالى في هذه المسئلة ثلاثة أقوال أولها: "أنه ينجس بالنجاسة وإن كثرة." وقال في الأخير: "والأول أولى."

Revising the Fiqh of Khamr and Alcohol

and are not inebriants and so not for consumption therefore permissible to use topically but not for consumption.

- **Astringents and Antiseptics:** Alcoholic solutions are used as astringents to tighten and cleanse the skin, as well as antiseptics to prevent infection. These solutions can contain varying alcohol concentrations depending on the intended use. The alcohol concentration in these solutions is usually around 10% to 25%. They are toxic and are not inebriants so not for consumption therefore permissible to use topically but not for consumption.
- **Hand Sanitizers:** Hand sanitizers often contain ethyl alcohol (ethanol) as the active ingredient. The concentration of alcohol in these products usually ranges from 60% to 80%. Hand sanitizers are used to reduce the risk of infection by killing germs on the hands. They are toxic and not for consumption therefore permissible to use as sanitizer but not for consumption.

Using al-Khamr in Food/ Beverage:

Regarding the use of al-Khamr in food and beverages:

1. **Ḥanafi School:** Initially, Abu Ḥanifah permits the use of muskir (inebriants) in food and drink as long as it does not reach inebriating levels. However, later scholars, following the authoritative position of Imām Muḥammad al-Shaybānī, adopt a stricter stance, prohibiting both large and small amounts of muskir.
2. **Other Schools:** All other Islamic legal schools deem the use of khamr in any quantity, whether small or large, as impermissible.

Again, it is important to realize that the ethanol produced for dissolution, preservation, colouring, emulsification etc. is not intended as a beverage to be drunk but is usually produced at high concentration through distillation or synthetic production. It also has additives not approved for beverage consumption. Therefore, majority of this ethanol is not khamr, but is either non-khamr or mufsid. It is usually diluted so that it is safe to be used in the production of food and other non-alcoholic beverages.

Types of Food Containing Ethanol¹⁸⁸:

1. **Foods containing less than 1% ethanol**, such as fruit juices, yoghurt, and dough, are akin to nabīdh, a traditional fermented drink, where a small amount of alcohol is inherent in production. Since the alcohol content is less than 1% and incapable of causing inebriation, these foods are permissible for consumption, analogous to nabīdh, which can be consumed within three days.¹⁸⁹

¹⁸⁸ التوصيات للندوة الفقهية الطبية الثامنة المنعقدة في الكويت في الفترة من ٢٢ - ٢٤ مايو ١٩٩٥ م أولاً: التوصيات المنظمة الإسلامية

للعلوم الطبية العوضي، عبدالرحمن عبدالله، الكويت .

¹⁸⁹ المجموع شرح المهذب (2:565)

2. **Alcohol added for purposes such as dissolution, preservation, colouring, antioxidant properties, and emulsification** in fizzy drinks typically constitutes approximately 0.1-0.2% of the product. When this alcohol is thoroughly mixed with a dominant pure liquid to the extent that no distinct properties remain, it falls under the concept of *istihlāk* and is permissible, not classified as *khamr*.
3. **Foods flavoured with ethanol**, such as sweets, chocolates, and products mimicking rum, wine, cherry, or brandy flavours, are considered prohibited as some flavourings are derived directly from alcoholic beverages and may contain ethanol as a component. In such cases, the ethanol content in the final product may be present, although typically in small amounts. It may also be possible that ethanol may be used as a solvent or carrier for flavourings, particularly in products with strong or complex flavours. However, manufacturers often use ethanol-free alternatives to achieve similar flavour profiles. While foods flavoured with ethanol may exist, not all such products necessarily contain ethanol or ethanol as a beverage as part of their ingredients. It's essential to check product labels or contact manufacturers directly for specific information on ethanol content.

In summary, while the Ḥanafī school initially allowed for some flexibility regarding the use of alcohol in food and drink, subsequent interpretations align with stricter prohibitions, in line with the consensus of other Islamic legal schools. However, nuanced distinctions are made regarding the permissibility of alcohol content in various food products, depending on factors such as concentration, purpose, and intention. If ethanol is a beverage, then this is *khamr* and prohibited, but if it is produced industrially as a preservative, solvent or flavouring, it will be permitted.

13. Conclusion and Summary Table

In conclusion, the principles elucidated by classical Muslim scholars and jurists regarding the distinctions between "*al-Muskir*" and "*al-khamr*" hold profound importance in navigating contemporary debates on inebriating substances. The nuanced understanding provided by these scholars offers valuable insights into the prohibition and legal ramifications of inebriating substances in Islamic law. However, the complexity of these concepts, coupled with the prevalence of modern-day products containing alcohol or ethanol, often leads to confusion and the application of blanket rulings that may not fully align with the intricacies outlined by classical scholarship.

Therefore, it is imperative for Muslims to delve deeper into the teachings of classical scholars and jurists, understanding the nuances and principles they expounded upon. By doing so, we can better apply these teachings to modern-day contexts, ensuring that our actions align with the spirit and principles of Islamic law. This entails a critical examination of the effects and properties of inebriating substances, as well as a careful consideration of their legal implications.

The following table succinctly outlines the practical relevance of the essay's discussions, providing a clear guide for applying the concepts discussed to real-world scenarios.

Table 6. Permissibility and Purity of Ethanol-Based Solutions Related to Process

Purpose (% ABV after dilution with water)		Process of Production Concentration of Initial Ethanol			
		Aerobic or generally (<1%)	Anaerobic (1- 15%)	Distillation (1- >100%)	Synthetic (1- >100%)
Beverage	< 1% ABV	Permitted and Pure (Non-Khamr) except from grapes/ dates (khamr)	Non-Khamr <i>But impure unless significantly diluted</i>	Non-Khamr <i>But impure unless significantly diluted</i> (>60% = Mufsid Permitted and Pure)	Non-Khamr <i>But impure unless significantly diluted</i> (>60% = Mufsid Permitted and Pure)
	1-15% ABV	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)
	15-60% ABV	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)	Prohibited and Impure (Khamr)
	>60% ABV	Permitted and Pure (Mufsid)	Permitted and Pure (Mufsid)	Permitted and Pure (Mufsid)	Permitted and Pure (Mufsid)
Non-Beverage		Permitted and Pure (Non-Khamr) or (Mufsid)	Permitted and Pure (Mufsid)	Permitted and Pure (Mufsid)	Permitted and Pure (Mufsid)

The following table categorises different alcohol uses, including beverages, medicinal tinctures, industrial solvents, food flavourings, pharmaceuticals, and fuel. It specifies the ethanol percentage, whether it is consumed as a beverage, and its ruling according to Islamic jurisprudence (Khamr non-khamr or Mufsid).

Even those who interpret "khamr" broadly, equating it with ethanol regardless of concentration or its potential to cause inebriation due to previous toxic additives, must recognise the principle of *‘umūm al-balwā* in light of ethanol's widespread use. This principle allows for the acceptance of ethanol-based non-beverages and considers them permissible and pure in cases where their avoidance would pose an undue hardship.

Table 7. Rulings of Common Ethanol-Based Substances

Use	Ethanol Percentage	Beverage?	Classification	Ruling
Alcoholic Beverages				
- Wine	5-8%	Yes	Khamr	Prohibited and Impure
- Beer	3-8%	Yes	Khamr	Prohibited and Impure
- Spirits	30-50%	Yes	Khamr	Prohibited and Impure
- Alcohol-free beer	<0.05%	Yes	Non-Khamr	Permissible and Pure (disliked as imitating prohibited beverage)
Medicinal Tinctures				
- Cough Syrup	10-20%	No	Mufsid (if consumed in large amounts)	Permissible and Pure
- Antiseptic Solution, disinfectant sprays	70-90%	No	Mufsid (if consumed)	Permissible and Pure
- Mouthwash, oral applications	20-30%	No	Mufsid (if consumed in large amounts)	Permissible and Pure
- Topical Products - Hand sanitisers, rubbing alcohol	50-70%	No	Mufsid, pure (if applied)	Permissible and Pure
Industrial Solvents				
- Paint Thinner	10-25%	No	Mufsid (if consumed)	Permissible and Pure
- Cleaning Products	5-10%	No	Mufsid (if consumed)	Permissible and Pure
- Disinfectants	70-90%	No	Mufsid (if consumed)	Permissible and Pure
Food Flavouring and Extract				
- Vanilla Extract	35%	No	Mufsid (if consumed in large amounts)	Permissible and Pure
- Almond Extract	50%	No	Mufsid (if consumed in large amounts)	Permissible and Pure
- Rum Flavouring	35-50%	No	If not rum beverage derived, then Mufsid (if consumed in large amounts) If derived from ethanol rum beverage (Khamr)	Permissible and Pure Prohibited and Impure
Types of Vinegar				

Revising the Fiqh of Khamr and Alcohol

Red, White, Spirit, Apple, Malt Vinegar	Mainly below 1% but can rarely reach 2% with red wine vinegar	No	Non-Khamr as it is transformed to vinegar	Permissible and Pure
Cosmetic				
- Perfumes and colognes	70-90%	No	Mufsid (if consumed)	Permissible and Pure
- Hair styling products	10-20%	No	Mufsid (if consumed)	Permissible and Pure
- Topical Applications	50-70%	No	Pure (if applied)	Permissible and Pure
Fuel				
- Ethanol Fuel	85-100%	No	Mufsid (if consumed)	Permissible and Pure