

The Quran's Prohibition of *Khamr* (Intoxicants): A Historical and Legal Analysis for the Sake of Contemporary Islamic Economics

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Introduction

Khamr according to most of the Islamic scholars means intoxicating drinks in general.¹ Therefore, any drink which disturbs the mind's ability to think and judge normally is considered to be *khamr*. In addition, this is the original meaning of the word *khamr* in the Arabic language according to the majority of linguistics scholars.²

The Islamic prohibition on drinking *khamr* (intoxicants) is well known. In the Holy Qur'an, it is explicitly expressed in the following words:

O you who have attained to faith! Intoxicants, and games of chance, and idolatrous practices, and the divining of the future are but a loathsome evil of Satan's doing: shun it, then, so that you might attain to a happy state! By means of intoxicants and games of chance Satan seeks only to sow enmity and hatred among you, and to turn you away from the remembrance of God and from prayer. Will you not, then, desist?' [5:90-91]

In the traditional Islamic sciences such as '*Ilm al-Fiqh*' and '*Ilm al-Tafsīr*', this issue has normally been considered and discussed as an independent item. The scholars have argued the exact meaning of *khamr* and its actual contents, the wording of prohibition, and its historical circumstances as well as its legal implications, the extent and breadth of the prohibition, and the prospective punishments for those who violate this prohibition. On some occasions, they have discussed the reasons behind the prohibition, though we find less definitive statements on this last point, since the sources are not explicit on the reasons, and the discussion has been made through legal reasoning or reflections within the framework of scriptural exegesis. In all cases, the arguments have been limited to the issue of the prohibition of *khamr* itself.

This limitation is quite understandable, because alcoholic beverages in traditional societies were served on particular occasions and consumed as such, and were not included in other daily food stuffs. In Islamic societies too, when forbidden beverages were made and

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1 Ḥanafī is the only school who stated otherwise in long details to be referred to in Kāsānī, Abū Bakr ibn Mas'ūd (d. 587/1191) book: *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, Bayrūt 1986 (2nd ed.), 5:112-113.

And for more on the *Jumhūr* opinion refer to: Ibn Qudāma, Muwaffaq al-Dīn (d.620/1223), *al-Mughnī*, Miṣr 1968, 9:159-160.

2 Ibn Manzūr, Muḥammad ibn Muḥarram (d.711/1311), *Lisān al-'Arab*, Bayrūt 1993 (3rd ed.), 4:255. Ghazālī, Abū Ḥamid Muḥammad ibn Muḥammad (d. 505/1111), *al-Mustasfā fī 'ilm al-uṣūl*, Bayrūt 1993 (1st ed.), 1:181-182. Where he discussed this point in depth.

consumed (illegally), they were drunk as such in their apparent forms. Once the prohibition was established, the prohibited drinks lost their social implications to a large extent, except for the prohibition itself. Today we may find, however, alcoholic substances in various hidden forms in ordinary processed food, such as cookies, which we had never previously imagined would contain prohibited “intoxicant” materials under normal circumstances.

In other words, we need further and wider investigations on Islamic dietary sanctions in the contemporary context, if we wish to understand the Islamic system of life in its entirety, so that we may understand each issue in an appropriate form to apply in today’s modern society and its food industry. This paper tries to shed light on this question by focusing on the most well-known of the dietary rules, the prohibition of *khamr*.

First, I will discuss the historical developments of the issues related to *khamr* in the Prophetic period, by examining the meanings of the related verses. I will then discuss the ‘*illa* and *ḥikma*, or reasons and benefits, behind the prohibition of *khamr*. Finally, I will propose some hypotheses to establish a contemporary understanding of the *khamr* issues, especially for the study of Islamic dietary rules and the modern Islamic food industry as part of Islamic Economics.

I. Historical Developments

1. General background

In general, *khamr* was prohibited after the battle of Uḥud according to all of the historians. However, they differed about the exact time of the battle, and most of them said it was in the 3rd year after the Hijra, the immigration to Madina, that coincides with the year of 625 C.E. Muḥammad ibn Ishāq and some other historians said it was after *Banū Naḍīr*’s evacuation from Madina which occurred in the 4th year AH, while al-Baghawī mentioned that the prohibition was after Battle of the Trench (Battle of Aḥzāb, or Battle of the Tribal Federation) in the 5th year AH. All the information indicates, therefore, that the prohibition was after the Hijra in 622 C.E., some time between the years of 3 AH and 5 AH.³

The Makkan period before the Hijra was about 12 years and a half. If we add the few years (3 to 5 years) in the Madinan period, we can determine that the prohibition happened after approximately 16 to 18 years had passed since the beginning of the Qur’anic revelation around 610 C.E. The Prophetic era, or the period of the Qur’anic revelation, ended in 632 C.E. with the passing away of Muhammad. Apparently, therefore, the prohibition of *khamr* belongs to a later stage of the Prophetic era. How shall we understand this?

In this regard, there was a famous dispute which involved scholars of *Uṣūl al-Fiqh* (Jurisprudence) and *‘Ilm al-Kalām* (Speculative Theology) about the original state of things

3 For more, refer to Ibn Hishām, ‘Abd al-Malik (d. 218/833), *al-Sīra al-Nabawīya*, Cairo 1955 (2nd ed.), 2:190–191, and in more detail in Ibn Kathīr, Ismā‘īl ibn ‘Umar (d. 774/1373), *al-Bidāya wa-al-nihāya*, Dimashq 1988 (1st ed.), 3:127–128. 4:10.

like *khamr* before it was sanctioned by a Qur'anic verse:

The first opinion says that the original state of things is *tahrīm* (being forbidden) until the Qur'an sanctions otherwise. To this position belong some of the Ḥanafī and Ḥanbalī jurists, some of the Mu'tazilī theologians, and the literalists among the Mālikī jurists.

The second opinion says *tawaqquf*, that is, temporary cessation or suspension until a clear sanction is given. To this position belong most of the Shāfi'ī jurists, including the famous theologian Abū al-Ḥasan al-Ash'arī, some of the Ḥanafī jurists, including another famous theologian Abū Manṣūr al-Māturīdī, and Ibn al-Ḥājjib from the Mālikī school of law.

The third opinion assigns *ibāḥa* (neutrality) as the normal state of things unless *taklīf*, or assignment of responsibility to do it as a duty or to avoid it as forbidden exists. Therefore, all things are *mubāḥ* (permitted) until the Qur'an gives a sanction to change this state. To this position belong most of the Ḥanafī jurists, some of the Mālikī jurists, some of the Shāfi'ī jurists, and some of the Mu'tazilī theologians.

All scholars who were involved in this legal and theological dispute displayed each position's textual supports and reasoning. Finally, the third opinion became predominant. According to this position, al-Jaṣṣāṣ, a well-known scholar of legal exegesis of the Qur'an, stated that all scholars agreed without dispute on *khamr* being "*mubāḥ*" in the early stages. In other words, *khamr* was neither forbidden nor recommended before the final prohibition was clearly sanctioned. Muslims were drinking alcoholic beverages even after the Hijra, and alcoholic beverages were one of the traded commodities of the time. All of this was done with the acknowledgment of Prophet Muhammad.

Going back to the social and economic context of the prohibition of *khamr*, drinking *khamr* was not only a social phenomenon but also a central economic icon in the Arab's manufacturing and trade in those days. Beside the local *khamr* industry, *khamr* was an essentially imported item, mainly from the Levant, while local production was mainly for local consumption, because the wine industry in the Arabian peninsula didn't meet the entire need due to the high demand and the scarcity of grape vineyards there.

In the Qur'an, there are three places with verses addressing the issues of *khamr*, and in two of them, *khamr* was mentioned together with gambling.⁴ Gambling, which should be treated separately as an issue in Islamic economics, had a huge impact on the pre-Islamic *Jāhiliyya* society and its economies. The "twins"⁵ of drinking and gambling were among

4 It is worth mentioning that according to the latest scientific researches — which could be found at: scientificamerican.com — : addictive drugs and gambling rewire neural circuits in similar ways, whereas "Research to date shows that pathological gamblers and drug addicts share many of the same genetic predispositions for impulsivity and reward seeking." ... and "Even more compelling, neuroscientists have learned that drugs and gambling alter many of the same brain circuits in similar ways." <<http://www.scientificamerican.com/article/how-the-brain-gets-addicted-to-gambling/?page=1>>

5 More on the relationship between *khamr* and gambling in Ibn 'Āshūr, Muḥammad al-Ṭāhir (d. 1393/1973) commentary: *Tafsīr al-tahrīr wa-al-tanwīr*, Tūnis 1984, 2:345–346.

the three main pleasures of life in those days, the third being the sexual one. Moreover, according to the historical incidents some of the exegeses understood this combination of *maysir* (gambling) to be a means to perfect the drinking atmosphere. In other words with *khamr* as in the *Jāhilīya* period, Arab men used to carry their own alcoholic drinks wherever they were going. For some of them, it was irreplaceable to the extent that they did not accept Islam after the final prohibition. There were, however, Arab men who did not drink even before the coming of Islam, including the so-called *Ḥanīfs*, or the primordial monotheists, and some of the noble leaders of the Quraysh. Prophet Muhammad was known to be among those without a drinking habit. Among his companions, Abū Bakr, Uthmān Ibn Maz‘ūn, and ‘Abbās ibn Mirdās al-Sulamī were also known for not drinking. Some Arabs who didn’t accept Islam were reported to prohibit *khamr* for themselves, since they considered its harms on masculinity (*murū’a*), and some of them embraced in Islam, making it the turning point for their drinking habits.⁶ Moreover, Arabs in the *Jāhilīya* period considered drinking strictly for men and did not permit women to do so. We do not find any historical evidence of women drinking or becoming intoxicated in that period.⁷

2. The Qur’anic procedures⁸

The four stages can be related to the successive revelations of Qur’anic verses dealing with the issues of *khamr*:

In the first stage in the Makkan period, there came a verse which mentioned different kinds of foods and drinks created for human beings, without a direct command on them or a direct praise of them. While the fruits of dates and grapes are mentioned, no intoxicant product derived from them was suggested at all.⁹

And [We grant you nourishment] from the fruit of date-palms and vines: from it you derive intoxicants as well as wholesome sustenance — in this, behold, there is a message indeed for people who use their reason ! [16:67] *Sūra al-Naḥl* (The Bee)

And on the general side effects of both in Baghawī, al-Ḥusayn ibn Mas‘ūd (d. 516/1122) commentary: *Tafsīr al-Baghawī al-musammā Ma‘ālim al-tanzīl*, Bayrūt 1420 (1st ed.), 1:276. And al-Zamakhsharī, Maḥmūd ibn ‘Umar (d. 538/1144) commentary: *al-Kashshāf ‘an ḥaqā’iq al-tanzīl wa-‘uyūn al-aqāwīl fī wujūh al-ta’wīl*, Bayrūt 1407 (3rd ed.), 1:260.

6 For more details look: in Ibn ‘Āshūr, *Tafsīr al-tahrīr wa-al-tanwīr*, 2:344–345.

7 More on that in Ibn Qutayba, ‘Abd Allāh ibn Muslim (d. 276/889) book: *Kitāb al-Ashriba wa-dhikr ikhtilāf al-nās fihā*, al-Qāhira 1998, 139.

8 Refer to al-Zamakhsharī, *al-Kashshāf*, 1:259–262.

9 He described any other benefits related to palms and grapes as *rizq ḥasan* “good provision” (which is not clear in translation unfortunately), and the verses before & after (honey) this verse follow the same strategy of praise also: And, behold, in the cattle [too] there is indeed a lesson for you: We give you to drink of that [fluid] which is [secreted from] within their bellies between that which is to be eliminated [from the animal’s body] and [its] life-blood: milk pure and pleasant to those who drink it. 16:66.

For more details refer to: Tha‘ālibī, ‘Abd al-Raḥmān ibn Muḥammad (d. 876/1471), *al-Jawāhir al-ḥisān fī tafsīr al-Qur’ān*, Bayrūt 1418 (1st ed.), 3:431.

In the second stage, there came a more specific verse, because it addressed questions on *khamr* and gambling, and answered them directly. In the literature of the scriptural exegesis, the persons who raised questions are identified as ‘Umar, Mu‘ādh ibn Jabal and some of al-Anṣār. Some of them left the habits of drinking and gambling at the point when the following Qur’anic message clearly stated the great sins in them, while some others continued to drink as the benefits in them were also mentioned.¹⁰

They will ask thee about intoxicants and games of chance. Say: “In both there is great evil as well as some benefit for man; but the evil which they cause is greater than the benefit which they bring.” And they will ask thee as to what they should spend [in God’s cause]. Say: “Whatever you can spare.” In this way God makes clear unto you His messages, so that you might reflect. [2:219] Sūra al-Baqara (The Cow)

By careful examination of this verse, the exegeses stated many things. I will mention some of them: First, it commences with the great sin (*ithm kabīr*) before touching on some benefits. And even about these “some benefits”, some of the scholars¹¹ limited them to the previously mentioned financial aspects which come from their trade. The contrast or comparison between sin and benefits, not between harm and benefits seems significant. This is not a comparison between physical harms and benefits, but rather between a spiritual sin and temporal benefits. In other words, this verse prioritizes the spiritual over the physical.¹²

The term “*ithm* (sin),” therefore, became one of the names indicating *khamr*, based on this verse, the usage of which we also find in the literature of hadith. Accordingly, we find that some of the exegesis specialists considered the term of “*ithm*” as a direct reference to *khamr*, explaining some other verses containing the term “*ithm*” as a sanction on *khamr*. For example,¹³

Say: “Verily, my Sustainer has forbidden only shameful deeds, be they open or secret, and [every kind of] sinning, and unjustified envy, and the ascribing of divinity to aught beside Him — since He has never bestowed any warrant therefore from on high and the attributing unto God of aught of which you have no knowledge.” [7:33] Sūra al-A‘rāf (The Heights)

10 Tha‘labī, Aḥmad ibn Muḥammad (d. 427/1035), *al-Kashf wa-al-bayān: al-ma‘rūf Tafsīr al-Tha‘labī*, Bayrūt 2002, 2:141–142. And Baghawī, *Tafsīr al-Baghawī al-musammā Ma‘ālim al-tanzīl*, 1:276.

11 According to al-Qurṭubī, this is the most sound interpretation for *khamr* and gambling which involves getting things without effort, he also mentioned other interpretations. For more refer to: al-Qurṭubī, Muḥammad ibn Aḥmad (d. 671/1273) book: *Tafsīr al-Qurṭubī: al-Jāmi‘ li-aḥkām al-Qur‘ān*, al-Qāhira 1964 (2nd ed.), 3:57–58.

12 I am referring here specifically to *khamr*’s spiritual side effects, and the focus is on the regretful conditions following the inappropriate behavior caused by intoxication. See in this meaning: Rāzī, Fakhr al-Dīn Muḥammad ibn ‘Umar (d. 606/1210), *Tafsīr al-Fakhr al-Rāzī: al-mushtahir bi-al-Tafsīr al-kabīr wa-Mafātīḥ al-ghayb*, Bayrūt 1420 (3rd ed.), 6:400–401.

13 al-Samarqandī, Naṣr ibn Muḥammad Abū al-Layth (d. 375/985), *Tafsīr al-Samarqandī, al-musammā: Baḥr al-‘ulūm*, Bayrūt 1993, 1:144.

Even if some scholars said that this verse is enough for prohibition because it describes *khamr* as “*ithm*” which is prohibited in the same verse,¹⁴ still most of the exegeses said that this verse condemns *khamr* without prohibiting it.¹⁵

Nevertheless, some companions at the second stage found this verse to be an indirect prohibition and it was sufficient for them to stop drinking, while for others it was not enough to stop such a deeply rooted habit.¹⁶ One day, it is reported, ‘Abd al-Raḥmān ibn ‘Awf, one of the major personalities in Madina, made food and invited some of the companions, including ‘Alī ibn Abī Ṭālib. He served them wine, so they drank and got intoxicated, and when the time of *Maghrib* (sunset) prayer came, the imām (prayer leader) read Qur’anic verses wrongly. He mistakenly dropped the negative “*lā*” so that the meanings of the verses became the opposite of the original. Instead of reciting “we (Muslims) don’t worship what you worship (the idols),” the imam recited, “we worship what you worship.”¹⁷ On this occasion, they entered the next stage.

The third stage coincides with a verse with a conditional prohibition in a clear manner, not as indirect as the case of the second stage.

O you who have attained to faith! Do not attempt to pray while you are in a state of drunkenness, [but wait] until you know what you are saying; nor yet [while you are] in a state requiring total ablution, until you have bathed — except if you are travelling [and are unable to do so]. But if you are ill, or are travelling, or have just satisfied a want of nature, or have cohabited with a woman, and can find no water — then take resort to pure dust, passing [therewith] lightly over your face and your hands. Behold, God is indeed an absolver of sins, much-forgiving. [4:43] Sūra al-Nisā’ (The Women)

According to this verse, they had to abstain from drinking *khamr* during the prayer times. Because the prayer times occupy most of daytime, except the morning after the sunrise, and earlier parts of night after the sunset, they were left with chances to drink only after the night prayer, but not close to the dawn prayer, or after dawn prayer in the morning before starting work.

14 This is the preference of the famous hanbali scholar: Abū Ya‘lā al-Farrā’ (d. 458/1066). See Šābūnī, Muḥammad ‘Alī: *Rawā‘i’ al-bayān: tafsīr āyāt al-aḥkām min al-Qur‘ān*, Dimashq 1980 (3rd ed.), 1:276.

15 The previous reference and see al-Qurṭubī, *al-Jāmi’ li-aḥkām al-Qur‘ān*, 3:60–61.

16 It is worth mentioning that, on the authority of al-Imām al-Sha‘bī (d. 100/718), this verse was the first revelation on the subject of *khamr*, and in accord with it Muslims abstained from *khamr*. Then the verse [67] in al-Naḥl (The Bee) was revealed and in accord with it Muslims started drinking again. Finally, the two verses of Sūra al-Mā’ida [90-91] were revealed.

Regarding this refer to al-Ṭabarī, Abū Ja‘far Muḥammad ibn Jarīr (d. 310/923), *Jāmi’ al-bayān fī tafsīr al-Qur‘ān*, Bayrūt 2000 (1st ed.), 4:334.

17 Al-Ṭabarī, *Jāmi’ al-bayān*, 4:334.

The fourth and last stage coincides with a verse with an unconditional prohibition, linking it with Satan. According to reports, the occasion of the final stage¹⁸ was also related to an invitation to food. Sa'd ibn Abī Waqqāṣ was invited by some of al-Anṣār, and after drinking, they had an argument over which were better between Muhājirūn (Immigrants from Makka) and al-Anṣār (the Helpers), which lead to a physical quarrel, ending with Sa'd being injured. Responding to the event, the following verse was revealed:

O you who have attained to faith! Intoxicants, and games of chance, and idolatrous practices, and the divining of the future are but a loathsome evil of Satan's doing: shun it, then, so that you might attain to a happy state! By means of intoxicants and games of chance Satan seeks only to sow enmity and hatred among you, and to turn you away from the remembrance of God and from prayer. Will you not, then, desist?' [5:90-91] Sūra al-Mā'ida (The Table Spread)

Here it is worthy to mention the explanation by al-Zamakhsharī, one of the best exegeses based on the Arabic language and its grammar, on the association of *khamr* and gambling with sacrificing to other than Allah and divining arrows. The last two were part of polytheism and were strictly prohibited from the very early time of Islam. Newly prohibited items were *khamr* and gambling, so their association with what were already strictly prohibited was in order to emphasize the prohibition of the new items.¹⁹

It is also interesting to observe that the above-mentioned Qur'anic verses of gradual prohibition occur in the order of the chapters in the Qur'an which coincide with their chronological order, namely, from the Chapter of Cow (the 2nd chapter) to the Chapter of Women (the 4th chapter), and to the Chapter of the Table Spread (the 5th chapter). Some other legislation also occurred in a gradual mode, such as the prohibition of *ribā* (interest), but the chronological order of the verses related to *ribā* does not follow the order of their appearance in the chapters. Because the order of the chapters in the Qur'an is not chronological basically, a lack of the coincidence is rather a norm, and it makes the case of the verses of *khamr* quite interesting.

18 According to Muslim in his *Ṣaḥīḥ*, No.1748. Similar events that occurred can also be found in al-Nīsābūrī, al-Ḥasan ibn Muḥammad (d. 850/1447) book: *Gharā'ib al-Qur'ān wa-rahḡ'ib al-furqān*, Bayrūt 1416 (1st ed.), 3:12.

19 This understanding can help in the interpretation of the ḥadīths which deny the belief of a Muslim who drinks intoxicants — among other sins like adultery and stealing — in the moment he is doing that. (see the ḥadīth narrated by al-Bukhārī, Muḥammad ibn Ismā'īl (d. 256/870) in his *Ṣaḥīḥ*, Bayrūt 1422, No.2475.5578 and other places, and Muslim ibn al-Ḥajjāj (d. 261/875), *Ṣaḥīḥ Muslim*, Bayrūt, No.100. and look the traditional interpretations of this ḥadīth in both, Ibn Ḥajar al-'Asqalānī, Aḥmad ibn 'Alī (d. 853/1448), *Fath al-bārī sharḥ Ṣaḥīḥ al-Bukhārī*, Bayrūt 1379, 10:34. And al-Nawawī, Yaḥyá ibn Sharaf (d. 676/1277), *al-Minhāj sharḥ Ṣaḥīḥ Muslim ibn al-Ḥajjāj*, Bayrūt 1392 (2nd ed.), 2:41.

On the contrary in the *Khawārijī* literal interpretation the most dominant understanding of this ḥadīth is that the 'denial' in ḥadīth is of the complete sincerity of the man's faith, and not the faith itself.

II. Causes and Benefits of the Prohibition of *Khamr*²⁰

It is natural to ask why Islam prohibited *khamr*, or intoxicants. This question, however, usually brings a tautological answer in Islamic literature.²¹ The prohibition indicates something bad or harmful in *khamr* which caused its prohibition. Since God decides to forbid what God decides to be bad for human beings, prohibition is synonymous with being bad enough to be prohibited. This type of reasoning is quite common where the Ash'arite theology, the mainstream theology in Sunni circles, dominates.

Within the logic of this reasoning, *khamr* is bad or harmful because God forbids it, and God forbids it because of its harms. There is Islamic literature discussing the social and medical harms of drinking that takes the scientific evidence seriously. Nevertheless, the ethical judgment to prove the harms of drinking alcohol is based on the assumption that, since it is forbidden, it must contain serious harms.

On the other hand, in the reasoning of the jurists, another consideration had some weight. That is a need for *qiyās* (analogy). The jurists had to exercise their legal reasoning to find a *ḥukm* (rule) on a new issue by referring to the fundamental texts of the Qur'an or the Prophetic tradition (*ḥadīth*). Some decades after the end of the Prophetic era, the Islamic land expanded greatly, to reach Central Asia in the East and the Iberian Peninsula in the West, and in the course of absorbing new territories, they found many new issues to which the examples of the earlier Arabian Peninsula had to be applied.

Qiyās is a device in legal reasoning. If a particular case in the Qur'an or in the *ḥadīth* has something in common with a new issue, then through this common element an analogy can be established between the two issues. The same ruling as the original case would be applicable to the new issue through the analogy. The common element here is called '*illa*' (reason for the ruling).

In the case of *khamr*, the usual meaning of the word in the 7th century Arabic was an intoxicant drink made of grapes, i.e., wine. Outside the Arabian Peninsula, there were other

20 As going into details here demands a deeply penetrating study, in order to fulfill the requirements of this paper, I am offering here a brief glimpse into the historical development of the reasoning side. In addition, I am using the terminology in a similar way to the earlier usage of Islamic tradition — which does not differentiate between them clearly in a technical way. For example the word "reason" or "cause" used herein differs from the term "*illa*" or "*ḥikma*" in more general indications according to some of the scholars when we speak in a technical way.

On *khamr* '*illa*', *ḥikma* and *al-maqāṣid* etc in more detail refer to:

Rāzī, Fakhr al-Dīn Muḥammad ibn 'Umar (d. 606/1210), *al-Maḥṣūl fī 'ilm uṣūl al-fiqh*, Bayrūt 1997, 5:117–.

Shāṭibī, Ibrāhīm ibn Mūsā (d. 790/1388), *al-Muwāfaqāt*, al-Qāhira 1997 (1st ed.), 3:237

Zarkashī, Muḥammad ibn Bahādūr (d. 794/1392), *al-Baḥr al-muḥīt fī uṣūl al-fiqh*, al-Qāhira 1994 (1st ed.), 7:266.

Ghazālī, *al-Mustasfā fī 'ilm al-uṣūl*, 1:174.

Ibn 'Āshūr, Muḥammad al-Ṭāhir (d. 1393/1973), *Maqāṣid al-sharī'a al-Islāmīya*, Qaṭar 2004, 2:34. 2:239. 3:167. 3:238.

21 Scholars discussed four opinions regarding the *aḥkām* (reasoning) in Islam. For more details on this refer to: Taftāzānī, Mas'ūd ibn 'Umar (d. 793/1390), *Sharḥ al-Talbīḥ 'alā al-tawḍīḥ li-matn al-tanqīḥ fī uṣūl al-fiqh*, Cairo n.d, f 2:128–129.

varieties of intoxicant drinks made of other materials. The jurists argued that the *'illa* (reason) for the prohibition was the intoxication. If so, any drink which causes intoxication should be treated in the same way as the case of *khamr*, that is prohibition.

An analogy can be made (*qiyās*) between the original case of wine, and a new case in a given country of a drink made of barley, for example, if both have the common feature of causing intoxication, and thus a common legal sanction of prohibition can be applied. By using *qiyās* as a method of legal reasoning, the jurists were able to deal with any similar drink in newly Islamized lands.

When the general prohibition of all intoxicant drinks was established, the focus of discussion shifted to the general reasons, or the reasons in a broader context for the prohibition of the intoxicant. The type of reasons fall in the category of *ḥikma* (wisdom). Unlike the *'illa*, the effective reason connected to the legal sanction on a particular issue, which can be set as a criterion to handle similar issues, the *ḥikma*, the general wisdom behind a given legislation, is more ethical or moralistic in its nature than technically legal. For this reason, this wisdom seems more relevant to our discussion on Muslim societies today.

As for the wisdom behind the prohibition, some scholars argue that *khamr* is something impure and sinful, quoting the following verse from the Qur'an:

“Those who shall follow the [last] Apostle, the unlettered Prophet whom they shall find described in the Torah that is with them, and [later on] in the Gospel: [the Prophet] who will enjoin upon them the doing of what is right and forbid them the doing of what is wrong, and make lawful to them the good things of life and forbid them the bad things, and lift from them their burdens and the shackles that were upon them [aforetime]. Those, therefore, who shall believe in him, and honour him, and succour him, and follow the light that has been bestowed from on high through him—it is they that shall attain to a happy state.” [7:157] Sūra al-A‘rāf (The Heights)

The term of *ḥabā'ith* indicates something bad, evil, and impure. Islam teaches Muslims, in general, to avoid what is bad, evil, and impure. In this venue, we find a tradition ascribed to ‘Uthmān ibn ‘Affān, the third Orthodox Caliph, narrated by al-Nasā’ī,²² where he said that *khamr* is the mother of *ḥabā'ith*, so *khamr* should be avoided. We find a similar tradition with ‘Abd Allāh ibn ‘Amr ibn al-‘Āṣ.²³ Prophet Muhammad himself had said in the similar vein, “Avoid *khamr*, because it is the key for every evil (*sharr*).”²⁴ These are the earliest

22 Nasā’ī, Aḥmad ibn Shu‘ayb (d. 303/915), *al-Sunan al-kubrā*, Bayrūt 2001 (1st ed.), no.5156.

23 Refer to ‘Ajlūnī, Ismā‘īl ibn Muḥammad (d. 1162/1749), *Kashf al-khafā’ wa-muzīl al-ilbās ‘ammā ishtahara min al-aḥādīth ‘alā alsina al-nās*, Ṣaydā 2000 (1st ed.), 1:439. Where he mentioned a lot of narrations revolve around this meaning.

24 al-Albānī, Muḥammad Nāṣir al-Dīn (d. 1420/1999), *Silsila al-aḥādīth al-ṣaḥīha*, al-Riyāḍ 1995–2002 (1st ed.), no.2798.

articulations of the wisdom behind the prohibition of *khamr*.

In a later period, we notice the emergence of a new urge to understand the philosophy of Islamic legislation in a more general form. Accordingly, with intellectual initiatives by Abū Ḥāmid al-Ghazālī and al-Shāṭibī, a new motion in looking to the reasoning behind the Islamic rules in a broader context started to take place. The new genre is called *Maqāṣid al-Sharī'a*, or the objectives or intentions of Islamic law.

Meanwhile, the concept of *maṣlaḥa*,²⁵ or public welfare, that is, the well-being of the individual and mankind, started to receive the attention of the scholars. It has been employed to explain the reasons for Islamic legislation in terms of the public welfare which the legislation was meant to achieve.

In these arguments, the prohibition of *khamr* and intoxicants is seen as aiming at the preservation of public welfare against the possible harms of the intoxicant, or in the case of *Maqāṣid*, the preservation of 'aql (intelligence and reason), one of five or six fundamental objectives of the Islamic law.²⁶

In modern times, from the 19th century onward, we started to observe scientific researches and statistics. Beside traditional religious teachings against drinking, many countries realized the outcomes and frightening consequences of drinking on the individual, and consequently upon the society.²⁷

The Islamic scholars in this period also refer to the harmful effects of drinking through the observation of non-Muslim societies, or alcohol drinking societies from an Islamic perspective, though the conclusion they reach is similar to the conclusion of the earlier generations of scholars.

The gradualism of Islamic legislation is worth mentioning here, as noticed by many scholars of the classical eras and of the modern times. Based on the gradual development of the prohibition of *khamr*, they argued that the nature of the Sharī'a is evidently to make things easy so that Muslims can readily receive its rules and practice them. The realistic way of the gradual prohibition of *khamr* indicates a practical application of the rule, which the Muslims in Madina in those days might otherwise have found difficult to accept.

25 The *Maṣlaḥa* concept became famous after Najm al-Dīn al-Ṭūfī's controversial opinion on it. However I will not refer to the argument and dispute about it as it is not relevant to our point here.

26 It is worth mentioning that there are other interpretations of *maṣlaḥa* regarding *khamr*; for example considering *khamr* as an obstacle preventing Muslims from praying and remembering Allah — as is stated in al-Mā'idā [5:91] verse — the ultimate *maṣlaḥa* in this regard. (Refer also to the previous references to Ḥakīm, Muḥammad Ṭāhir, "Ri'āya al-maṣlaḥa wa al-Ḥikma fī tashrī' Nabī al-Raḥma," *Majalla al-Jāmi'a al-Islāmiya*, Madīna al-Munawwara, 2002, al-sana 34 al-'adad 116, p.116.)

27 Describing the whole process of reasoning in this way does not indicate that it is clear and conclusive in the tradition at every stage, for example we find one of the earlier scholars addresses the 'illa in one place in his book in *uṣūl al-fiqh: al-luma'* in a similar way to that which I stated about *maṣlaḥa* and so on.

al-Shīrāzī, Fayrūzābādī Abū Ishāq Ibrāhīm ibn 'Alī ibn Yūsuf (d. 476/1083), *Kitāb al-luma' fī uṣūl al-fiqh*, Bayrūt 2003 (2nd ed.), p.99.

To illustrate this point, in a tradition ascribed to ‘Ā’isha, she said that the first thing revealed thereof was a verse which mentioned Paradise and the Fire, and that, when the people embraced Islam, the verses on the permitted and the forbidden were revealed. According to many scholars of scriptural exegesis, if the first thing was “Do not drink,” the people would have said, “We will never leave alcoholic drinks,” or if it was, “Do not commit *zinā* (illegal sexual intercourse),” they would have said, “We will never give it up.”²⁸

This is one of the basic explanations in traditional Islamic thought for why *khamr* was not prohibited at once but the prohibition progressed in a gradual manner.

III. A New Approach to Understanding the Prohibition of *Khamr*:

Certainly, the gradualism of legislation as *taysīr* (facilitation) for the recipients of the revelation, namely, the Muslim community in those days, is convincing, and I have no objection to this kind of explanation. However, like the ‘*illa* argument, its focus is restricted to the prohibition of *khamr*, and not linked to the developments of other aspects of the Madinan society where we find that the Madinan community took 10 years to build an Islamic society. In other words, presuming the gradual development of the entire project leads us to link the gradual prohibition of *khamr* with the gradual development of other socio-religious institutions

In addition to that, and by reviewing the mentioned scholars approach either in ‘*illa*, *ḥikma* or later on in *maqāṣid* and similarly in *maṣlaḥa*, we notice that it all revolves around the “mind/awareness” factor. However, if we go back to the events described in the circumstances of the direct forbidding, we notice that it was about the way of treating the food and drink, in other words assembling for that purpose.

Scholars agreed in principle on the superiority of the Qur’an over the place or the time, in other words the text’s potential to keep up with changes in human circumstances no matter how dramatic they are. Nevertheless, the literature of *Asbāb al-Nuzūl* (the circumstances of revelation) still plays a pivotal role in understanding the text itself and any further related implications.²⁹

As stated at the beginning, we live in a time when we need to envision a whole picture of the Islamic society, on the path of Islamic revival. In the domain of Islamic economics, it is not sufficient to talk about the prohibition of *ribā*, or to introduce practical devices to avoid *ribā*, alone. In order to understand the *ribā* issues, we have to envision an Islamic economy in which the prohibition of *ribā* is pivotal but not the whole picture.

Considering the above, what I propose here is to consider the general principles of the Islamic society’s behavior as well as the Islamic systems (*al-nuẓum al-Islāmīya*) more

²⁸ Narrated by al-Bukhārī, in his *Ṣaḥīḥ*, No.4993.

²⁹ For more details see (Suyūṭī, Jalāl al-Dīn (d. 911/1505), *al-Itqān fī ‘ulūm al-Qur’ān*, al-Qāhira 1974, 1:107–126.)

comprehensively. In this context, looking for the *ḥikma*, or *maṣlaḥa*, or *maqāṣid*, behind the legal sanctions, rather than the technical definition of reasons (*'illa*), would be much more relevant to addressing the issue at hand in a more comprehensive way.

In other words, Islam aims to build excellent social behavior on religious-based principles, not just to forbid this or that. Each rule, forbidding something, or making it obligatory, or leaving it as *mubāḥ* (neutral) for human selection, must be just one piece in a larger picture of an Islamic society. In a sense, *khamr* was not only prohibited for its harms, but also in order to bring an alternative society to the pre-Islamic drinking society. Islam prepared, therefore, in its gradual approach to banning *khamr*, a proper social environment leading to a human society constantly self-aware in their daily lives, a society able to engage and practice in a stable, sober manner.

How did Islam switch its society from an alcohol drinking-based socialization to an alcohol-free sober one? And how do the Muslims socialize and interact with one another? Reflections on these questions should be made by integrating the various parts of the whole, and not by just considering the religious principles and ethical motives of the prohibition of *khamr* in isolation.

When we look at the *sīra* and *maghāzī* literatures (the Prophetic biographies), we notice that the first thing the Prophet did in Madina after emigration was to build a *masjid* (mosque). Muslim societies, as a principle, have mosques as their social centers. Establishing places to gather is an important act in Islam. It is needless to say that mosques in their original form were places for religious practice, centers for knowledge and education, and for social and political assembly, and they used to function with much broader and stronger roles than today.

Apparently, assembling together is an important aspect of *'ibāda*, or acts of worship, in Islam. Islam emphasizes, as a communal religion, praying together, fasting and breaking fast together, helping each other in charitable actions, and making pilgrimage (*hajj*) together.

For daily prayers, praying in congregation (*ṣalāt al-jamā'a*), especially prayers for *'ishā'* (night) and *fajr* (dawn), is strongly recommended, to the degree that some scholars maintain that it is obligatory (*wājib*), while others say it is *sunna* (highly recommended).

On Fridays, a special prayer in congregation in a mosque is ordered in the Qur'an. Contrary to daily prayers in congregation, which can be done in any gathering, not necessarily in mosques, Friday prayers must be in a mosque with a *khuṭba* (preaching) by the prayer leader. Unlike the Jewish Saturday or the Christian Sunday, Fridays in Islam are not holidays but rather busy market days in the morning. Muslims are ordered to stop trading when a call to gather is made for the Friday prayer, but after the prayer, social gathering can resume. In Syria, for example, relatives usually gather in the houses of the elder members of their family, such as the grandfathers or grandmothers, after Friday prayers, and they often go for a picnic together. The Friday prayer offers not only religious assembly but also occasions for communal and family gatherings.

The fourth pillar of the basic religious obligations for Muslims, namely, fasting during the month of Ramadan, is also colored with the socialization of eating together at sunset when the time to break the fast comes. A *ḥadīth* puts it in this way: "He who provides food for a fasting person to break his fast, he will receive a reward the same as that of the fasting person, without anything being reduced from the fasting person's reward."³⁰ In Syria, for example, Muslims invite each other and gather to break the fast together. They also gather at the time of eating *suḥūr* (a light meal before the dawn) to prepare for fasting for the following day.

Usually, it is reported that, the expenditures during the month of Ramadan, especially for food, are higher than in ordinary months. The "economics of fasting" might be an interesting issue for Islamic economics, if we could obtain detailed statistics.

The fifth of the fundamental pillars, the *ḥajj*, or pilgrimage to Makka, is an international gathering of worship and a world event of trade and transportation, during which *ʿĪd al-Aḍḥā*, or the Feast of Sacrifice, occurs. It is mandatory upon a man with a family to sacrifice a sheep, or one cow for seven men. The meat of sacrificed animals is divided in three portions, and one third is for the man's family, another one third is for his neighbors and the last third is for the poor of the community. Even the poorest, therefore, can have a feast on this occasion.

These institutions for religious duties and social enjoyment developed in the Madinan society in the same period when the prohibition of *khamr* was furthered. These occasions of socialization, parallel to daily, weekly or annual activities of worship, apparently presume family involvement with men and women, young and old, as well as children, and therefore, presume a complete sober state. Drinking habits, as observed in the pre-Islamic Arab society or in other non-Islamic societies in our time, are more exclusively for men than not.

It seems to me that the prohibition of *khamr*, or drinking habits, coincided with the fostering of an alternative society, one in which socialization was firmly built on religious and social contexts, and where regular Islamic events provided opportunities to get together, paving the way for Muslims to interact with each other happily, but without any need for intoxicants.

Therefore, it is obvious that Islam succeeded in creating such a society with a very impressive result, because these socializing tendencies are so deep-rooted among Muslims that we find today even the non-practicing Muslims still very much enjoy the fun of socializing and eating together.

Conclusion:

Significant strides have been made especially in the last two decades, in the field of *ijtihād* (legal reasoning) concerning the Halal related issues concerning of the *khamr*. Still, the common factor of these studies is constructing constructed on the legacies of *fiqh* and the well

30 Tirmidhī, Muḥammad ibn ʿĪsā (d. 279/892), *Sunan al-Tirmidhī wa-huwa al-Jāmiʿ al-ṣaḥīḥ*, Egypt 1975 (2nd ed.), no.807.

known concluded 'illa of *khamr* prohibition, namely being intoxicated. Intoxication has been the determining factor since the early times for ruling on exclusion from permitted drinks.

However, the development of the whole early Islamic project has played a secondary role in understanding the *khamr* prohibition issue for a various reasons.

Far from tensional reactions and justifications related to the reasons for the prohibition of *khamr* (out of the *fiqh* context), this paper has tried to examine the historical and legal developments related to this issue, and aimed to figure out the social implications behind this prohibition.

Suggesting a new methodology that puts Islamic legislations into the whole scheme of Islamic society and its institutions, I have proposed to utilize historical sources and evidences to reconstruct the developments of the first Islamic society in Madina, and based on it, to envision a new blue print for reconstructing a revived Islamic society. I am aiming to get a wider perspective and more accurate aspiration to conceive Islamic systems in a contemporary and dynamic way, including those for Islamic economics. In this process, I also propose to utilize the concepts of the *ḥikma*, *maṣlaḥa*, and *maqāṣid* in the Qur'an and Sharia, responding to the needs and challenges of our time. This is on the path towards seeking an alternative system to the dominant global system, which has been torn with ethical, political, economic and social crises in recent decades.

Bibliography:

- ‘Ajlūnī, I. ibn M. (2000). *Kashf al-khafā’ wa-muzīl al-ilbās ‘ammā ishtahara min al-aḥādīth ‘alā alsina al-nās*. Ṣaydā: al-Maktaba al-‘Aṣrīya.
- al-Albānī, M. N. al-D. (d. 1420/1999). (n.d.). *Silsila al-aḥādīth al-ṣaḥīḥa wa-shay’ min fiqhīhā wa-fawā’idihā* (1st ed.). al-Riyāḍ: Maktaba al-Ma‘ārif lil-Nashr wa-al-Tawzī‘.
- al-Bukhārī, M. ibn I. (d. 256/870). (1422). *Ṣaḥīḥ al-Bukhārī=al-Jāmi‘ al-ṣaḥīḥ: al-jāmi‘ al-musnad al-ṣaḥīḥ al-mukhtaṣar min umūr Rasūl Allāh ṣallā Allāh ‘alayhi wa-sallama wa-sunanihi wa-ayyāmihi*. (M. F. ‘Abd al-Bāqī, Ed.) (1st ed.). Bayrūt: Dār Ṭawq al-Najāh.
- al-Nawawī, Y. ibn S. (d. 676/1277). (1392). *Sharḥ al-Nawawī ‘alā Ṣaḥīḥ Muslim al-musammā: al-Minhāj sharḥ Ṣaḥīḥ Muslim ibn al-Ḥajjāj* (2nd ed.). Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī.
- al-Nīsābūrī, al-H. ibn M. (d. 850/1447). (1416). *Gharā’ib al-Qur’ān wa-raghā’ib al-furqān*. (Z. ‘Umayrāt, Ed.). Bayrūt: Dār al-Kutub al-‘Ilmīya.
- al-Samarqandī, N. ibn M. A. al-L. (d. 375/985). (1993). *Tafsīr al-Samarqandī, al-musammā: Baḥr al-‘ulūm*. Bayrūt: Dār al-Kutub al-‘Ilmīya.
- al-Shīrāzī, F. A. I. I. ibn ‘Alī ibn Y. (d. 476/1083). (2003). *Kitāb al-luma’ fī uṣūl al-fiqh* (2nd ed.). Bayrūt: Dār al-Kutub al-‘Ilmīya.

- al-Ṭabarī, A. J. M. ibn J. (d. 310/923). (2000). *Jāmi' al-bayān fī tafsīr al-Qur'ān*. (A. M. Shākir, Ed.). Bayrūt: Mu'assasa al-Risāla.
- Arnā'ūt, M. M. (2012). *Min al-tārīkh al-thaqāfī lil-qahwa wa-al-maqāhī*. Bayrūt: Jadāwil lil-Nashr wa-al-Tawzī'.
- Baghawī, al-H. ibn M. (d. 516/1122). (1420). *Tafsīr al-Baghawī al-musammā Ma'ālim al-tanzīl*. Bayrūt: Dār Ihya' al-Turāth al-'Arabī.
- Ibn 'Āshūr, M. al-Ṭ (d. 1393/1973). (1984). *Tafsīr al-tahrīr wa-al-tanwīr*. Tūnis: Dār al-Tūnisīya lil-Nashr.
- . (2004). *Maqāshid al-sharī'a al-Islāmīya*. (M. al-H. Ibn al-Khawja, Ed.). Qaṭar: Wizāra al-Awqāf wa-al-Shu'ūn al-Islāmīya.
- Ibn Ḥajar al-'Asqalānī, A. ibn 'Alī (d. 853/1448). (1379). *Fath al-bārī sharḥ Ṣaḥīḥ al-Bukhārī*. (M. al-D. Khaṭīb, Ed.). Bayrūt: Dār al-Ma'rifa.
- Ibn Hishām, 'Abd al-Malik (d. 218/833). (1955). *al-Sīra al-Nabawīya*. (M. Saqqā, etc. Ed.) (2nd ed.). Cairo: Muṣṭafā al-Bābī al-Ḥalabī.
- Ibn Kathīr, I. ibn 'Umar (d. 774/1373). (1988). *al-Bidāya wa-al-nihāya*. Dimashq: Dār Ihya' al-Turāth al-'Arabī.
- Ibn Manẓūr, M. ibn M. I. M. (d. 711/1311). (1993). *Lisān al-'Arab*. (3rd ed.). Bayrūt: Dār Ṣādir.
- Ibn Qudāma, M. al-D. 'Abd A. ibn A. (d. 620/1223). (1968). *al-Mughnī*. Miṣr: Maktaba al-Qāhira.
- Ibn Qutayba, 'Abd Allāh ibn Muslim (d. 276/889). (1998). *Kitāb al-Ashriba wa-dhikr ikhtilāf al-nās fīhā*. al-Qāhira: Maktaba Zahrā' al-Sharq.
- Kāsānī, A. B. ibn M. (d. 587/1191). (1986). *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'* (2nd ed.). Bayrūt: Dār al-Kutub al-'Ilmīya.
- Muslim ibn al-Ḥajjāj (d. 261/875). (n.d.). *Ṣaḥīḥ Muslim*. (M. F. 'Abd Al-Bāqī, Ed.). Bayrūt: Dār Ihya' al-Turāth al-'Arabī.
- Nasā'ī, A. ibn S. (d. 303/915). (2001). *al-Sunan al-kubrā*. (S. etc Arnā'ūt, Ed.). Bayrūt: Mu'assasa al-Risāla.
- Qāsimī, J. al-D. (1904). *Risāla fī al-shāy wa-al-qahwa wa-al-dukhān*. Dimashq: al-Qāsimī.
- Qurṭubī, M. ibn A. (d. 671/1273). (1964). *Tafsīr al-Qurṭubī: al-Jāmi' li-aḥkām al-Qur'ān*. (A. al-Bardūnī, etc. Ed.). al-Qāhira: Dār al-Kutub al-Miṣrīya.
- Rāzī, F. al-D. M. ibn 'Umar (d. 606/1210). (1420). *Tafsīr al-Fakhr al-Rāzī: al-mushtahir bi-al-Tafsīr al-kabīr wa-Mafātīḥ al-ghayb*. Bayrūt: Dār Ihya' al-Turāth al-'Arabī.
- . (1997). *al-Maḥṣūl fī 'ilm uṣūl al-fiqh* (3rd ed.). Bayrūt: Mu'assasa al-Risāla.
- Ṣābūnī, M. 'Alī. (1980). *Rawā'i' al-bayān: tafsīr āyāt al-aḥkām min al-Qur'ān*. Dimashq: Maktaba al-Ghazālī.
- Shāṭibī, I. ibn M. (d. 790/1388). (1997). *al-Muwāfaqāt*. (H. M. Salmān, Ed.) (1st ed.). al-Qāhira: Dār Ibn 'Affān.

- Suyūfī, J. al-D. (d. 911/1505). (1974). *al-Itqān fī ‘ulūm al-Qur’ān*. (M. A. al-F. Ibrāhīm, Ed.). al-Qāhira: al-Hay’a al-Miṣrīya al-‘Āmma lil-Kitāb.
- Taftāzānī, M. ibn ‘Umar (d. 793/1390). (n.d.). *Sharḥ al-Talwīḥ ‘alā al-tawḍīḥ li-matn al-tanqīḥ fī uṣūl al-fiqh*. Cairo: Maktaba Ṣubayḥ bi-Miṣr.
- Tha‘ālibī, ‘Abd al-Raḥmān ibn Muḥammad (d. 876/1471). (1418). *al-Jawāhir al-ḥisān fī tafsīr al-Qur’ān*. (M. ‘Alī Muḥammad etc., Ed.). Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī.
- Tha‘labī, A. ibn M. (d. 427/1035). (2002). *al-Kashf wa-al-bayān: al-ma‘rūf Tafsīr al-Tha‘labī*. (A. M. I. ‘Āshūr, Ed.) (1st ed.). Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī.
- Zarkashī, M. ibn B. (d. 794/1392). (1994). *al-Baḥr al-muḥīṭ fī uṣūl al-fiqh* (1st ed.). al-Qāhira: Dār al-Kutubī.