Abstract: Framed in a critical Muslim studies approach, this article offers a new understanding of the Ḥanafī position on alcohol, following major public debates on the question of alcohol sparked by prominent members of Al-Azhar University (Egypt) in 2012. Close textual analysis of a range of primary sources in Arabic and Urdu are foundational to the article, as are the categorisation and contextualisation of Ḥanafī discourse. This is all but a starting point, however, for an argument that constitutes a radical break from conventional Islamic studies, seen as “normal science,” in its critique of hegemonic discourses which have essentialised Islam on the basis of specific ontic manifestations, such as the prohibition of alcohol.

Keywords: khamr, nabīdh, Ḥanafis, madhhab, ontic, ontological, intoxication, Barelvi, Deobandi

No feature of Islam could exhaust what Islam means. Only an understanding of Islam that emphasised the ontic would be reducible to a set of its key features, but because Islam is an ontological category for Muslims such a reduction is unsustainable.

Sayyid (2014: 110)

The Big Story

In early 2012, within the context of major discussions on the future of constitutional law in Egypt and Tunisia following the Arab Spring, a major storm erupted in Egypt over comments made about alcoholic beverages by Shaykh Saʿd al-Dīn Hilālī, the head of Comparative Jurisprudence (al-Fiqh al-Muqāran) at Al-Azhar University, which aired live on the popular television programme, Al Qahera al Youm (Cairo Today). Hilālī, spurred on by popular talk show host, ʿAmr Dīb, explained Abū Ḥanīfa’s position on alcoholic beverages: wine from grapes and dates is considered to be absolutely prohibited as per the view of nearly all schools of law in Islam; however, Abū Ḥanīfa’s view on alcohol made from sources other than these two fruits is that they are permissible to drink up until the point of intoxication (ilā ḥadd al-sukr). The reaction of ʿAmr Dīb is a sight to behold, and
despite the calm demeanour of Hilālī throughout the hour-long conversation, the fact is that the latter had taken a discussion which is normally the preserve of scholars and advanced students of Islamic law to the general public: he had broken the code of the old boys’ club. What may appear as a simple act of disclosure, however, seems to have had behind it something far more profound. In reproducing a forgotten interpretative contingency vis-à-vis alcoholic beverages, the Shaykh had at one fell swoop thrown open the very question of what marks Muslimness apart from other identities, insofar as the prohibition of alcohol is perceived as the preeminent marker of what constitutes the category Muslim.

Courting controversy, as Shaykh Hilālī did on this occasion, often involves reductionism, over-simplification, and even distortions of truth, wilful, or otherwise.

A principal aim of this article is therefore to unpack more fully, by way of close textual analysis, the detailed contours of the Ḥanafī school’s position on alcoholic beverages. And while an enquiry of this kind will no doubt interest scholars and general readers alike, the over-arching purpose of this article goes beyond the immediate concerns associated with what is fundamentally a juridico-theological question. Our enquiry into the Ḥanafī school’s position on alcohol suggests the futility of any attempt to define Islam on the basis of an essential and exclusive matrix of rules; more specifically, in the context of this article, we seek to demonstrate that Islam is an ontological category for Muslims and that essentialising Islam on the basis of specific ontic manifestations such as the prohibition of alcohol would be to reduce Islam – such a reduction, in the words of Sayyid, cited in the epigraph, is unsustainable. This article can be seen, therefore, as an intervention grouped under the rubric of critical Muslim studies, the agenda for which is set out by Sayyid (2014: 16) in the following terms: “Critical Muslims Studies … refers to a field of investigations into matters associated with Muslims which are framed by three related epistemological stances. It is characterised by systematic enquiries that are post-positivist, post-Orientalist and decolonial.” Our approach is post-positivist insofar as we seek through a recovery of an alternative discursive perspective on alcohol prohibition to shift the focus of research into matters Islamicate from ontic to ontological enquiries. Additionally, we take a post-Orientalist step by taking into account Ḥanafī legal discourses from the post-eighteenth-century Indian-Islamicate context, avoiding thereby an Arab-centrism which characterises much of the scholarship on Ḥanafī law to date. This shifting of the lens is both long overdue and may be justified on the basis of demographic weight and on the basis of the relocation of the powerbase of the Ḥanafī school from Baghdad to Delhi.
The article begins by setting out a range of texts in translation, categorising, and contextualising the Ḥanafī position on alcoholic beverages (Section “Alcoholic Beverages in Ḥanafī Jurisprudence”). We then examine the debate in Indian Ḥanafism, which reveals a convinced and robust legal doctrine which is nevertheless ambivalent about the suitability of alcohol for the believing community (Section “From Baghdad to Delhi: Ḥanafism Relocated”). In the final part of the article (Section “Defending Narrow Prohibition: What is at Stake?”), an explanation of the theological rationale for the persistent and enduring defence of non-\textit{khamr} alcoholic beverages by Ḥanafī jurists is offered.

**Alcoholic Beverages in Ḥanafī Jurisprudence**

The almost totemic prohibition on alcohol drinking as “the normative Muslim position” is as embedded in the imaginary of Muslims as it is circulated among non-Muslims. Ibn Rushd’s (2000: 571) opening discussion on \textit{khamr} is the extent of what most will know about the relationship of Muslims to alcohol:

> With respect to \textit{khamr}, [Muslim jurists] are agreed about its prohibition in small or large quantities, I mean, that which is derived from grape juice [. . . .] They agreed that the amount which intoxicates is prohibited. The majority of the jurists of Ḥijāz, as well as the majority of the traditionists, maintained that small and large amounts of intoxicating liquor are prohibited.

By the expression “Ḥijāzīs,” Ibn Rushd refers to the Shāfī‘īs, Mālikīs, and Hanbalīs; it is worth mentioning that Shi‘īs and Zaydīs also adopted this position. The supporting evidences used by these doctrinal schools are presented in detail by Haider (2013) and so need not be repeated here. But it is important to read beyond this, in subsequent lines, where Ibn Rushd reveals that “the Irāqīs” took a very different position with respect to intoxicating beverages that were not \textit{khamr}, disrupting thereby any attempt to claim a homogenous Muslim position on alcohol.\textsuperscript{5} Ibrāhīm al-Nakha‘ī, Sufyān al-Thawrī, Ibn Abī Laylā, Shurayk, Ibn Shubrama, Abū Ḥanīfa, and the remaining jurists of Kufa, as well as the majority of the jurists of Baṣra, we are told, “maintained that what is prohibited in all the remaining beverages (that is, besides wine derived from grape juice) is intoxication itself and not the substance (of the beverages)” (Ibn Rushd 2000: 571).\textsuperscript{6} The only surviving jurisprudential school of these is that of Abū Ḥanīfa. It is to the doctrine of his school, then, that we now turn for insight into Irāqī-Kūfian jurisprudential thinking on alcoholic beverages. The examination of Ḥanafī jurisprudence is divided based on the specific resources which are used.
to frame discussions: the first part examines the Ḥanafi arguments anchored in scriptural texts (_naṣṣ_) and characterises what we term the age of paleo-Ḥanafi thought; the second examines arguments anchored in a hermeneutic of reconciliation (tawfiq al-āthār) and characterises what we term the formative period; and the third is anchored in a legalism that typifies a new age of bureaucratic governmentality that can be located specifically from the twelfth century onwards.

**An argument from tradition (āthār)**

One of the earliest advocacies set out in Islamic jurisprudential literature in support of the permissibility of alcoholic beverages is found in *Kitāb al-āthār* of the great Kufian jurist, Muḥammad b. Ḥasan al-Shaybānī (d. 189/806). In several sections, the first of which is entitled *Bāb al-ashriba wa l-anbidha wa l-shurb qā’iman wa mā yukrahu fi l-sharāb – Chapter on Alcoholic Beverages and Wines and Drinking Standing and Rebukable [Mannerisms] Concerning Drinking*, al-Shaybānī transmits fifteen _ḥadīths_ that are, in all probability, a polemical challenge to contemporary jurists peddling the doctrine of absolute prohibition. Most of the statements are reported through chains that commence with Abū Ḥanīfa (d. 150/767) – al-Shaybānī’s esteemed teacher – and are concluded in virtually every case with, “... this is our view, and it is the doctrine (qawl) of Abū Ḥanīfa.” The first of the fifteen is also perhaps the one which would have startled prohibitionists the most: reported by Abū Ḥanīfa, the tradition is of a Sulaymān al-Shaybānī, who reports that Ibn Ziyād (governor of Kufa during the reigns of Muʿawiya I and Yazīd I, d. 67/686) once informed him about an occasion when he was at the home of Ibn cUmar, the son of the famously austere Companion of the Prophet cUmar b. al-Khaṭṭāb. The two had been fasting, and the time for breaking the fast had come upon them. Incredibly, Ibn cUmar offered Ibn Ziyād an alcoholic drink to break his fast with, which his guest duly accepted. Ibn Ziyād, we are told, became significantly inebriated (akhadha fīhi). The following morning, having almost not made it back to his home the night before because of the strength of the brew, Ibn Ziyād returned to Ibn cUmar to enquire as to the nature of the drink served to him the night before. Ibn cUmar explained that he had given his guest no more than dates and raisins (mā zidnāka ʿala ʿajwa wa zabīb; Al-Shaybānī 2008: 699–700). This ḥadīth serves two purposes for al-Shaybānī: first, to underscore the doctrine of general permissibility and second, to challenge the by now widely held view that dates and raisins were not to be mixed.

The role of Ibn cUmar in this tradition is remarkable since many of the ḥadīths which mandate general prohibition are reported by him, especially those
collected by al-Bukhārī in the Jāmi‘ al-ṣaḥīḥ. Furthermore, Ibn ʿUmar is one of the most important sources of law for the Medinese school, which in the ninth century, constituted the main opposing faction, along with al-Shāfiʿī (d. 820), of Abū Ḥanīfa and his madrasa. Furthermore, the isnād Mālik<Nāfiʿ<Ibn ʿUmar, as highlighted by Schacht (1967: 176), was particularly revered, especially by al-Shāfiʿī. It is even more remarkable, therefore, that the second tradition in this section of Kitāb al-āthār has the isnād Abū Ḥanīfa <Nāfiʿ<Ibn ʿUmar.

In the following section of Āthār, titled Chapter on Strong Beer (al-nabīḥd al-shadīd), which seems to be a response to opponents who are arguing that the beverages drunk by the Prophet and his Companions were never alcoholic, there is a very interesting statement reported on the authority of Abū Ḥanīfa, from his master, Ḥammād. It is in fact an anecdote told by Ḥammād, who explains how he reneged from his initial position of abstention after visiting the home of the venerated jurist of Kufa, Ibrāhīm al-Nakhaʿī (d. ca. 96/717). Ḥammād had visited Ibrāhīm to partake in a meal; Ibrāhīm served him more than he had bargained for, requesting from either his wife or his servant a goblet of alcohol (nabīḥd), which he duly set before his guest. It being after the meal, this was probably presented to Ḥammād as a digestif. Whatever the occasion, Ḥammād politely refused the drink. Ibrāhīm was not well-pleased and so, in order to assuage Ḥammād, narrated a tradition on the authority of ʿAlqama, who reported that ʿAbdullāh b. Masʿūd would drink alcohol (nabīḥd) after meals. With no doubt in his mind about the stature of Ibn Masʿūd, Ḥammād relented and shared in the drink with his host (Al-Shaybānī 2008:703).

That early Muslims were using alcohol as a digestif is also attested by a subsequent ḥadīth in Kitāb al-āthār reported on the authority of Abū Ḥanīfa via Abū Ishāq al-Sabīʿī and ʿAmr b. Maymūn al-Awadī to ʿUmar b. al-Khaṭṭāb: “The Muslims have a camel for food, the neck of which belongs to the House of ʿUmar! And the meat of this camel is not digested in our stomachs except with the help of strong alcohol (al-nabīḥd al-shadīd)” (ibid.: 705). Al-Shaybānī lends his support, adding that it was a tradition which informed Abū Ḥanīfa’s jurisprudence.

A hermeneutic of reconciliation

Abū Jaʿfar al-Ṭaḥāwī (d. 321/933) is not only one of Islam’s foremost legal minds, he is also the author of the most widely accepted articulation of Sunni orthodoxy, known as al-ʿAqīdat al-Ṭaḥāwiyya. In the preamble to his Sharh Maʿānī al-Āthar, Al-Ṭaḥāwī (2001: 1.7) states that his principal motivation for writing what posthumously proved to be the most sophisticated and thorough apology for Ḥanafi jurisprudential thought was to salvage the Prophetic Sunna:
A knowledgeable companion of mine has requested that I record in writing those received traditions (āthār ma’thūra) of the Messenger of God which relate to legal judgments (akhām) that the people of deviance and weak-mind (ahl al-ilhād wa l-dasfa) have erroneously taken to be contradictory because of: 1) their lack of knowledge regarding the abrogating (nāsīkh) and the abrogated (mansūkh); and 2) their lack of knowledge concerning what must be put into practice from these [traditions], as testified by the Clear Book (al-Kitāb al-nāṭiq) and the agreed-upon Sunna.

In essence, Al-Ṭaḥāwī means to say that the failure to develop a proper hermeneutic to accommodate conflicting or contradictory āthār has led to the rejection of some – and perhaps even many – soundly transmitted traditions. Specific individuals and groups are not identified, but it is obvious that he means by this many early and contemporaneous masters – al-Bukhārī and other Ṣiḥāḥ authors included. The statement is obviously very bold, and Al-Ṭaḥāwī is not always successful at doing what he sets out to. Notwithstanding this, it is clear from the Sharḥ that he is an ardent Ḥanafī who will mobilise all of his artillery in defence of his school’s doctrines and praxis.

The chapter on alcoholic beverages in the Sharḥ must have been a devastating blow for the agenda of the traditionists and all jurists of non-Hanafi persuasion, who were invariably prohibitionist on the question of alcohol, especially the Shāfīʿīs; indeed, for them, the blow must have been redoubled, for the Sharḥ presents a sophisticated critique of the legal doctrine on alcohol by an ex-Shāfīʿī. And although not yet canonised, al-Bukhārī’s Jāmic al-ṣaḥīḥ and Muslim’s al-Musnad al-ṣaḥīḥ would both have been directly challenged by the Sharḥ since it highlights the partiality of both for their failure to report the full range of soundly transmitted traditions relating to alcoholic beverages.

The section in Al-Ṭaḥāwī’s Sharḥ on alcoholic beverages has three primary aims: (1) to set out the full range of traditions on alcoholic beverages, (2) to isolate (uncooked) grape wine as the only prohibited alcoholic beverage, and (3) to demonstrate the robustness of the Ḥanafi position, specifically the position of Abū Ḥanīfa, on alcohol. The task required of Al-Ṭaḥāwī the crafting of a hermeneutic framework seldom encountered in early jurisprudential literature.

Al-Ṭaḥāwī begins by asking the question, what is the prohibited khamr? The response of almost all non-Ḥanafi jurists to this question was by now clearly formulated: anything that has the capacity to inebriate is khamr, whatever its source may be. Indeed, to non-Ḥanafīs, the very question would have seemed absurd. Their position, however, was secure only for as long as the proverbial elephant in the room was ignored: in this case, a corpus of traditions that clearly

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granted permission to Muslims to consume a wide range of alcoholic, potentially inebriating, beverages made of non-grape sources. The first is the tradition of Īsa, who reports that his father sent him to Anas b. Mālik for a need; Īsa saw that Anas had with him a strong tilā. Al-Ṭaḥāwī glosses this: tilā is a beverage which inebriates in large amounts – yet despite this, Anas did not consider it to be khamr (Al-Ṭaḥāwī 2001: 4.6). According to Al-Ṭaḥāwī, “It is therefore clear from what we have described that khamr, according to Anas, was not from every intoxicating beverage; it was rather only from certain beverages” (ibid.: 4.6). In further support of this notion, Al-Ṭaḥāwī then quotes another tradition, this time on the authority of Ābūdullāh b. Ābbās, which sets apart khamr from other intoxicating beverages in very clear terms: “Khamr is prohibited for its substance (bi-aynī-hā) but only that amount which intoxicates [is prohibited] in every other beverage (wa l-sukr min kulli sharāb)” (ibid.: 4.7). Al-Ṭaḥāwī (2001: 4.7) again provides a gloss:

It is clear from [the tradition of Ibn Ābbās] that things besides khamr which are prohibited to drink at the point of intoxication are [in fact] permissible to drink in lesser quantities which do not cause intoxication. The judgment for these things is [the same] as the judgement for khamr before it was prohibited.

Al-Ṭaḥāwī sets out a signally conflicting position on alcohol to the position of the prohibitionists. He goes further than this: rather than reject outright the traditions which seemingly challenge his doctrine on alcohol, he takes as given their validity since they at the very least represent the views of the opposing camp, for which he demonstrates utmost respect; he therefore proceeds with a careful dissection of them, seeking wherever possible to harmonise between them and traditions permitting alcohol. The traditions he selects for analysis were widely cited by prohibitionists – they are traditions which would be familiar to many Muslims today as they are quoted ad nauseum by contemporary supporters of absolute prohibition.

The first of them is the report of Abū Hurayra, transmitted with multiple chains, according to which the Prophet said: “Khamr is from these two trees alone: the vine and the date-palm.”11 The tradition broadens the scope of khamr to include date wine as well as grape wine. Al-Ṭaḥāwī suggests three ways this tradition can be harmonised with the view of the Ḥanafis – that only wine from grapes is khamr. The first hermeneutic possibility is that the statement of the Prophet does not encompass both trees but only one of them: in this case, the sole referent of the prohibition is the vine. The Qur’ān (8: 130) is cited in support: “O Jinn and Men, did not come from you all messengers?” Al-Ṭaḥāwī points out
that “the messengers are from men [only] and not jinn.” A tradition of cUbāda b. al-Ṣāmit is also cited, in which the Prophet explained to the companions who had pledged the oath of allegiance at cAqaba that corporal punishment is an expiation for anyone who commits the crimes of associationism, theft, or adultery; Al-Ṭaḥāwī again suggests that this statement is qualified: “We all know that someone who commits associationism (shirk) is never forgiven, even if he is punished.” It is through an inter-textual approach that Al-Ṭaḥāwī is able to exclude non-grape alcohols from a general pronouncement.

The second hermeneutic possibility is that the Prophet did in fact mean both trees together but only that which is fermented from them both is to be counted as khamr. This, according to Al-Ṭaḥāwī, is the view of Abū Ḥanīfa, Abū Yūsuf, and Muḥammad al-Shaybānī as it relates to fermented raisins and dates. The last hermeneutic possibility suggested by our jurist is also the one he clearly favours, since it links nicely with the tradition of Ibn cAbbās above: what is meant by the “khamr of grapes” is the very juice itself, after it has been through the process of fermentation; as for the “khamr of dates,” it is the point at which date juice begins to cause inebriation (Al-Ṭaḥāwī 2001: 4.4). In this way, Al-Ṭaḥāwī (2001: 4.5) is able to neutralise the efficacy of this tradition, thus preserving the status of narrow prohibition to grapes alone; and these three hermeneutic possibilities are equally applicable to what is known as the hadith of cUmar, which is narrated by his son, cAbdullāh:

I heard cUmar on the pulpit of the Prophet saying: “O people! Indeed the prohibition of khamr descended at a time when it was [made] from five: dates, grapes, honey, barley and wheat; indeed khamr is that [beverage] which clouds the mind (al-khamr mā khāmara l-qaql).”

Concluding his discussion on the scope of the term khamr, Al-Ṭaḥāwī (2001: 4.7) makes the following defiant declaration:

Therefore we are witnesses by God that grape juice, once fermented, is prohibited; we will not be witnesses by Him, however, that other beverages besides, when fermented, are also prohibited. This is because, in the case of khamr, we are sure of its prohibition in the Qur’an. However, we cannot say the same of other beverages. Therefore khamr is prohibited in large and small quantities, whereas other kinds of drink are only prohibited when they [begin to cause] inebriation – in all other cases they are permitted. This is our view, and it is the position of Abū Ḥanīfa, Abū Yūsuf and Muḥammad (al-Shaybānī), may God have mercy on them all. The only exception to all of this is the case of fermented
raisins and dates [when they are mixed], since this [combination] was disliked by them (karihū).

The statement is poignant because it illustrates that there is more Al-Ṭaḥāwī wants to prove than simply a legal argument: he is, above and beyond mere legalism, seeking to salvage what he believes to be a marker of Sunnī Islam.12

In the subsequent section, Al-Ṭaḥāwī asks, what amount of nabīdh is prohibited? By asking this question, al-Tāḥāwī is taking a stand against jurists who peddle the view that all alcoholic beverages are to be categorised as khamr because of their potentially inebriating power. In this discussion, he demarcates all non-grape-based alcohols as a separate category from grape-based alcohols, terming the former as nabīdh. In support of this taxonomy, he cites two traditions in particular which form the foundation of the argument supporting general prohibition: the first is the hadīth of Ibn ʿUmar: “Every intoxicant is khamr, and every khamr is prohibited” and the second, the hadīth of ʿĀmir b. Saʿd: “I forbid you [even] a small amount of that which inebriates in large quantities.” There are tens of traditions listed by Al-Ṭaḥāwī of the same vein. Astonishingly, our jurist concludes that the traditions, despite their number and clarity, are not conclusive since they could imply, as understood by the advocates of general prohibition, that all alcohol is forbidden, but they could also imply that alcohol is prohibited only at the point at which it causes intoxication. There is a need, argues Al-Ṭaḥāwī, for supporting evidence which might resolve the ambiguity – evidence which he will furnish in abundance.

Ḥammām b. al-Ḥārith is quoted as saying that ʿUmar b. al-Khaṭṭāb was once on a journey when he was brought some nabīdh. After drinking some of it, he was seen to grimace because of its strength. He called for water, which he used to dilute the beverage before returning to drink (ibid.: 4.12). In another tradition, ʿUmar is said to have requested nabīdh after he was stabbed several times by his assailants; he used the alcoholic nabīdh for its anaesthetising property, which provided relief from the pain of his stab wounds. He of course died from these shortly afterwards (ibid.: 4.12). In another tradition, ʿUmar again is quoted, this time as saying: “We drink from this nabīdh a drink which breaks down the meat in our stomachs so that it does not harm us.” The narrator, ʿAmr b. Maymūn then adds that he drank from ʿUmar’s nabīdh and found it to be one of the strongest he had imbibed (ibid.: 4.12). In a particularly revealing tradition, a drunk man is brought to ʿUmar for a flogging. ʿUmar duly metes out the punishment, after which the man complains that he had only drunk from ʿUmar’s drink. ʿUmar replied rather disinterestedly, “So what?” suggesting that this was no excuse for the man’s drunkenness.
That Al-Ṭaḥāwī adduces traditions of ʿUmar throughout his discussion on alcohol warrants a comment. It is interesting that ʿUmar is generally not as frequently cited in support of Ḥanafī doctrines as are ʿAli and Ibn Masʿūd (Schacht 1967: 31). These two are described by Schacht as the most important authorities of the Iraqians. So why should ʿUmar be cited with greater frequency than usual in chapters of Ḥanafī law? It is probably by virtue of the fact that ʿUmar was held by the Mālikīs and Shāfiʿīs as the most important legal authority after the Prophet. Schacht (1967: 25) notes,

The role of ʿUmar as a main authority of the Medinese is explicitly stated in many passages in *Tr. III*, for instance in S. 87: “You reply: If something is related from ʿUmar, one does not ask why and how, and one does not counter it by interpreting the Koran differently.”

There could not therefore have been an authority more useful for Al-Ṭaḥāwī’s defence than ʿUmar, at least in his debate with fellow Sunnī jurists. Al-Ṭaḥāwī (2001: 4.11) provides his own explanation:

We find ʿUmar b. al-Khaṭṭāb among those who have reported on the authority of the Messenger of God that he said, “Every intoxicant is prohibited.” Yet there has also been reported from him the opinion that small amounts of strong *nabīdḥ* is permissible.

After adducing the many traditions of ʿUmar, numbering no less than nine, Al-Ṭaḥāwī (2001: 4.13) concludes by saying,

Since we have established on the basis of mentions on the authority of ʿUmar that a small amount of strong *nabīdḥ* is permitted – the same ʿUmar who heard the Prophet say, “Every intoxicant is prohibited” – his behavior must surely be an indication that the Prophet meant only to prohibit that part of strong *nabīdḥ* which causes intoxication.

After this, Ibn ʿUmar, the other great authority for the Mālikīs and Shāfiʿīs, is cited for traditions also permitting the drinking of *nabīdḥ* up till the point of intoxication. These reinforce the position of course but also provide variations of the traditions of ʿUmar, making it more difficult to ignore. Most are too similar to be worth re-presenting, though the last, a tradition on the authority of Abū Mūsā al-Āshʿarī, which Ibn Rushd also cites in his legal compendium, *Bidāyat al-mujtahid*, deserves mentioning as a foundational proof of the Kufians. Abū Mūsā is reported to have said,
The Messenger of God sent me and Mu‘ādh to Yemen. We said, “O Messenger of God, there are two drinks there they make from wheat and barley. One of them is called mizr (made from maize), the other is called bitac (made from honey); which one should we drink?” He replied, “Drink them both but do not get drunk.” (cited in Siddiqui 2012: 96)

This tradition is a variation of a better-known tradition collected by al-Bukhārī. In his Jāmiʿ al-ṣaḥīḥ, the same Abū Mūsā says,

The Prophet sent me and Mu‘ādh to Yemen. We said, “O Prophet of God, in that land there is a drink from wheat called mizr and a drink from honey called bitaṣr.” The Prophet said, “Every intoxicating [drink] is prohibited.”

How are these conflicting traditions to be received? Both are supposed to have been conversations between the Prophet and Abū Mūsā. Today, Muslims would have no difficulty in deciding which of them represents the Sunna; in the age of al-Ṭaḥāwī, however, the Jāmiʿ al-ṣaḥīḥ had not yet attained canonical status, which meant even the version reported by al-Ṭaḥāwī could serve as the foundation of religious praxis.

Legalistic appraisals

According to Meron (1969:6), the Tuhfât al-fuqahā of ʿAlāʾ al-dīn al-Samarqandī (d. 539/1144) marks the emergence of a methodical approach in Ḥanafī law which attains a new degree of refinement, with every “Book” and every chapter starting with an enumeration of topics, followed by an orderly discussion of them. We might also consider this as marking a shift to a paradigm of codification of jurisprudential thought, in which legal proofs give way to a quest for typology.

Al-Samarqandī’s discussion of alcoholic beverages begins with a list of drinks and their descriptions (Al-Samarqandī 1995: 3.325–3.326). He then provides the legal judgement (ḥukm) for each one. Khamr is of course prohibited (ḥarām) both in small and large quantities (qalīluhā wa kathīruhā); it is impermissible to derive any utility from it, not even for its medicinal qualities; the one who denies this is to be excommunicated because its prohibition is “clearly established by a categorical text of the Qur’an (thabatat bi-naṣṣ al-Qur‘ān); owning or trading it is prohibited; a ḥadd punishment of eighty lashes is the requital for one who drinks even a small amount of it (Al-Samarqandī 1995: 3.327).

The legal ruling, says Al-Samarqandī, for sakar, naqīṣ, faḍīkh, and bādhiq is one and the same: they are ḥarām to drink in both small and large quantities,
however, their prohibited status is lower than the status of khamr – therefore, one who denies their prohibited status is not to be excommunicated while one who drinks them in amounts that do not intoxicate is not subjected to a hadd punishment. Al-Samarqandī points out that there is no unanimity concerning the legal status of these beverages: he cites Bishr al-Mursī (d. 228/842), a student of Abū Ḥanīfa, as someone who considered all to be permissible based on hadīth traditions he possessed. As for selling or owning these drinks, Abū Ḥanīfa considered it permissible, whereas Abū Yūsūf and Muḥammad al-Shaybānī considered it haram. Al-Samarqandī prefers Abū Ḥanīfa’s opinion, which he rationalises thus: the traditions regarding these drinks are conflicting with regard to their permissibility; we only say that they are harām by way of caution. This should not take away the right of people to trade in them.

The legal ruling for tilā‘, nabīdh1, and nabīdh2 is one and the same: they are permissible in small quantities; only at the point of intoxication do they become harām, and if someone gets inebriated, he is subjected to the hadd punishment. We are told that this is the view of Abū Ḥanīfa and Abū Yūsuf; from Muḥammad al-Shaybānī, two opinions are reported: one is the view that these are prohibited and the hadd is imposed when someone gets inebriated. A second opinion is presented in al-Shaybānī’s own words: “I do not prohibit [these] but neither do I drink [them].” Al-Samarqandī says unequivocally that the correct position is that of Abū Ḥanīfa and Abū Yūsuf for their conformity with the majority of Companions who also held that to drink these beverages is permissible. He further says that Abū Ḥanīfa held that to believe these drinks are permissible is a mark (alāma) of the People of the Sunna and the Jamā‘a, that is, Sunnī orthodoxy. Concluding his discussion, Al-Samarqandī says that alcohol made from wheat, barley, maize, honey, fig, and the like are all permissible. Astonishingly, he says that there is no hadd punishment for drinking these, even if someone gets drunk (Al-Samarqandī 1995: 3.326–3.328).

Given that Badā‘i‘ al-ṣanā‘i‘ of ʿAlā‘ al-Dīn Abū Bakr b. Masʿūd al-Kāsānī (Meron 1969: 82) is based heavily on Al-Samarqandī’s Tuḥfa, it is worth a brief comment here. The chapter on alcoholic beverages is revealing. The same drinks classified in the Tuḥfa as harām are classified as such here: khamr, sakar, faḍīkh, and naqī; the same qualification is stated: no hadd is imposed on the one who drinks the latter three, unless they become inebriated. Tilā‘, bādhīq, munaṣṣaf, and muthallath are all permissible up until the last intoxicating cup; jumhūrī, mizr and bita‘ may be drunk without any fear of corporal chastisement, even if one were to drink beyond the point of inebriation (Kāsānī 2003: 6.473–6.474). Abū Ḥanīfa is quoted as saying that nabīdh is never to be prohibited:
Abū Ḥanīfa deemed the permissibility of *muthallath* to be from the markers of the Doctrine of the *Sunna* and the Community (*Madhhab al-Sunna wa l-Jamā‘a*). He said by way of clarification: “It (i.e. the doctrine) is to prefer the two shaykhs (Abū Bakr and ʿUmar), to consider an obligation the circumcision, to deem valid the wiping over the leather socks and not prohibiting *nabīd* wine because to do so would be to castigate the foremost Companions (may god be pleased with them); withholding from declaring them sinners, and refraining from criticizing them, are from the markers of the *Sunna* and the Community.” (ibid.)

**Ḥanafī law in the context of bureaucratic governmentality**

A number of scholars have previously noted a so-called shift in Ḥanafī legal thinking on alcohol, which, it is claimed, took place around the twelfth century. Najam Haider (2013) is one such scholar. He points to the jurisprudential work of Burhān al-Dīn al-Marghinānī (d. 593/1196) as the turning point. According to Haider, the shift was prompted partly by increasing pressure exerted on the Ḥanafīs by the Mālikīs and Shāfiʿīs. This claim, however, is not borne out in the literature as will be demonstrated below.

**Burhān al-Dīn al-Marghinānī (d. 593/1196), *al-Hidāya***

Al-Marghinānī’s commentary on the *Bidāyat al-mubtadī* marks a shift in Ḥanafī jurisprudential thinking on alcohol: for the first time, it would seem, the position ascribed to al-Shaybānī favouring general prohibition is presented on a par with the Ḥanafī position of narrow prohibition. Many of the traditional Ḥanafī arguments in support of narrow prohibition are still presented in the *Hidāya*, and the Shāfiʿī school, in particular, is the target of a polemic which is at times stinging. It is noteworthy that al-Shaybānī’s view in support of general prohibition is but a line and is virtually unsupported by the popular Traditionist arguments in support of general prohibition. What can be inferred, therefore, is that al-Marghinānī is merely making the prohibition of alcohol an option, probably for authorities (although he does not describe it as a fatwa) and certainly for non-State authorities who may be seeking legitimacy for an outright ban of alcohol – teachers, parents, community leaders, and so on.

Al-Marghinānī’s classification of beverages is typical: *khamr* is by definition the intoxicating drink made of uncooked grapes and dates; it is unconditionally prohibited, and the one found drinking it in large or small quantities is subjected to corporal punishment. *Țilă/bādhiq, munaṣṣaf, sakar,* and *naqīf* are all prohibited but their status is short of *ḥarām* – they are classified as *ḥarām*
makrūh, which implies that the scriptural basis for deeming them as prohibited was not sufficiently robust as to warrant or justify an outright declaration of prohibition. The implications of this are that one who is found drinking these beverages cannot be punished unless he has exceeded the legal threshold that would render him sakrān (drunk). All other drinks are fine (lā ba’sa bi-hā – “there is nothing wrong with them”), and they include alcohols made from wheat, barley, maize, and honey. Al-Marghinānī (1999: 2.399) ascribes to Abū Ḥanīfa the view that the category of drinks lā ba’sa bi-hā are ḥalāl even beyond the legal threshold – in theory, one could get drunk imbibing them without there being any legal implications. Al-Marghinānī ascribes to al-Shaybānī the view that all are ḥarām and if drunk warrant a punishment of eighty lashes if the legal threshold has been exceeded.

Fakhr al-Dīn al-Ḥasan b. Mansūr Qāḍīkhān (d. 593/1196), Fatāwā Qāḍīkhān

Qāḍīkhān, contemporary of al-Marghinānī from Transoxania, maintains quite expectedly that khamr is harām (Qāḍīkhān 2009: 3.81–90). All other drinks, however, are treated with varying degrees of tolerance: even when they are prohibited, exceptional production methods can make them ḥalāl. Bādhiq is one such drink, which, according to Qāḍīkhān, becomes ḥarām when fully fermented, with a punishment associated with it whenever it is drunk beyond the legal threshold. However, if it maintains its sweet flavour, it is ḥalāl (ibid.). Munassaf is fine as well, unless it reaches full fermentation; Muthallath is unconditionally ḥalāl, although there is a punishment for drinking it to excess, as are jumhūrī and ḥumaydī/bukhtuj (ibid.). From the sources which are non-grape and date, permissibility is once again the default – alcohols from pear and apple are listed, as are the beverages from the ḥubūb (wheat, barley, and maize). There are no repercussions, according to Qāḍīkhān, for drinking any of these, even if they are imbibed to excess (i.e. beyond the point of intoxication; ibid.).

Al-Shaykh Niẓām, al-Fatāwā l-Hindiyya/al-Fatāwā al-ʿĀlamgīriyya

A compendium of Ḥanafī legal opinions commissioned by Mughal Sultan Awrangzīb ʿĀlamgīr (r. 1068–1118/158–1707), this work was compiled under the supervision of Shaykh Niẓām of Burḥānpūr (d. 1089/1678) who oversaw a group of over 40 Ḥanafī experts, each of whom contributed to what was a relatively unique project in its time. Despite its title, the text does not fit the usual form of the fatwa genre: the opinions collected in it are not those of muftis but rather legal opinions culled from earlier collections of Ḥanafī law, especially the Hidāya. It is no surprise, therefore, that the verdict on alcoholic beverages is a virtual replica of
al-Marghinānī’s discussion. The distinguishing feature, however, is a statement at the end of the survey of alcoholic beverages, a fatwa no less, issued in support of general prohibition:

As for those [alcoholic beverages] which are considered ḥalāl according to the majority of scholars, they are ṭilā (which is muthallath) and the nabīd of dates and raisins. These are permissible to drink up until the point of intoxication for the purposes of digesting food, medication and to energise oneself for the worship of God; they are not [permissible] for wanton diversion. They become ĥarām at the point at which they cause inebriation. This is the statement of most [jurists]. If someone gets drunk, then the ḥadd is applied to him; it is permissible to sell these [drinks] and to insure them against loss according to Abū Ḥanīfa and Abū Yūsuf; this is also the soundest opinion that has been reported from Muḥammad [al-Shaybānī]. And in a report from him, small and large amounts of these are ĥarām, though no ḥadd is applied as long as there is no intoxication. This is what is found in the Muḥiṭ of al-Sarakhsī. The fatwa in our times is in accordance with [this view] of Muḥammad, such that a person who becomes inebriated from alcoholic drinks made of grains, honey, milk and figs is to be punished; this is because the sinning folk (fussāq) congregate for these drinks in our time, with the intention of getting drunk and for wanton diversion. (Niẓām 2000: 5.497)

Unlike Al-Samarqandī, who highlights the problem of the veracity of this statement from al-Shaybānī, Niẓām, beyond presenting it as the basis for this fatwa, has nothing to say about its historicity.

Muḥammad Amīn Ibn ʿAbidīn (d. 1252/1836), Radd al-muḥtār

Ibn ʿAbidīn was the Ottoman dynasty’s last great Shaykh al-Islam. His discussion on alcoholic beverages, as set out in his commentary on the Durr al-mukhtār, reinforces the position of many Ottoman grand muftis before him:

It is according to the position of Muḥammad (al-Shaybānī) that the fatwa is given. This is also the doctrine of the three imāms (Mālik, Shafiʿī and Aḥmad), based on his statement, upon him be peace, “Every intoxicant is khamr, and every intoxicant is ĥarām.” This is reported by Muslim. Also, he said, upon him be peace, “Whatever intoxicates in large amounts is forbidden in small amounts.” This is reported by Aḥmad, Ibn Mājah and al-Dāraquṭnī. This opinion has been deemed the soundest by the authors of al-Multaqaʿ al-Mawāḥib, al-Kāfiya wa l-Nāḥiya, al-Miʿrāj, Sharḥ al-Majmaʿ, Sharḥ Durar al-Bihār, al-Qohistānī and ʿAynī, where each said [in one
form or another]: the fatwa in our time is according to the position of Muḥammad because of the preponderance of hedonism (fasād); some of them rationalized this further by speaking about the way that sinning folk (fussūq) gather around these alcoholic beverages intending wanton distraction (lahw) and intoxication (sukr).

(Ibn ʿAbidīn 2003: 10.36)

Interestingly, we are also provided with a definition of drunkenness, or the point at which someone might be deemed drunk (sakrān). Echoing the opinion of centuries of Ḥanafī tradition, Ibn ʿAbidīn (2003: 6.74) tells us, “He is drunk (al-sakrān) who cannot distinguish a man from a woman (lā yufarriq bayna al-rajul wa l-marʿa), or the sky from earth (wa l-samāʾ wa l-ard); it is said also that his speech becomes senseless jabber (yakhtalīt kalāmuhu).” The conditions under which one can legitimately drink alcohol, up until intoxication, are also set out by Ibn ʿAbidīn (2003: 10.35): alcoholic beverages may only be considered ḥalāl when used (1) to aid digestion (istimrāʿ al-tācām), (2) for medicinal purposes (tadāwin), and (3) to give one the strength for the worship of God (al-taqawwī al-tāc at Allāh). Glossing this last point, he says, “Such beverages might energise a person to stand longer in prayer or aid fasting; they also aid in fighting the enemies of God (li qitāl a cdā Allāh).” It is unanimously agreed, Ibn ʿAbidīn adds, that drinking which results in distraction from one’s duties (al-lahw) is ḥarām.

Thus completes our exploration of Arabophone Ḥanafism. We now shift the focal point of this article to India, the second powerbase of the school.

From Baghdad to Delhi: Ḥanafism Relocated

The significance of Indian (including Afghanistan and Bengal) Ḥanafism in the debates surrounding the ongoing contestations of orthodoxy within Sunni Islam cannot be downplayed due to three factors: first, because the living isnāds of the canonical Ḥadīth go through Barelwi and Deobandi Sufi networks which originate in Baghdad (and Kufa); second, Delhi becomes the centre of Islamicate knowledge production in Farsi and Urdu from the eighteenth century onwards, in addition to Arabic, largely through scholarly output and demographic weight; and third, the pronounced Ḥanafī identity which is idiosyncratic to non-Arab lands is palpable in jurisprudential polemics in India. The Ḥanafīs were pitted against the Ahl-i-Ḥadīth movement and its prominent ideologue Siddiq Hasan Khan (d. 1307/1890), who deemed themselves the defenders of the canonical texts. Amid the usual minutia of devotional acts and dogmata, the argument over the legal status of nabīḍh was once again reignited. Additionally, Indian Ḥanafism has an interesting internal schism of its own. Since the great reformer Shāh Waliullāh (d. 1176/1762),
peripheral polemics, largely doctrinal, led to the split between what would later emerge as the Barelwi and Deobandi fatwa wars. What is of interest is that these warring Ḥanafīs defend the school’s age-old position on nabīdh against their Ahl-i-Ḥadīth detractors.

Shāh Waliullūh and the ‘ulamā’ of Faranghī Maḥall played a pivotal role in shaping the popular Dars-i-Nizāmī syllabus’ ḥadīth, jurisprudential and theological curricula. Although the Barelwīs and Deobandiš differ on doctrinal issues, both factions rely on the Dars-i-Nizāmī primers on dogmata such as Sharḥ al-‘Aqā‘id al-Nasafiyya of al-Tāftāzānī (d. 792/1390) and the Maʿānī al-Athār of al-Taḥāwī. Often both Barelwī and Deobandi scholars delve into lengthy discussions in the super-commentaries on such textbooks, especially when they take issue with problematic articulations of law. It is therefore striking that the section on “not prohibiting nabīdh” (mabḥath lā nuḥarrim nabīdh al-tamar) in Sharḥ al-‘Aqā‘id (Al-Taftāzānī n.d.: 165) is as it is, without any commentary, indicating that the doctrine is established in Sunni orthodoxy and enshrined in the celebrated Dars-i-Nizāmī. Yusuf Kandhelwi (d. 1384/1965) puts the authenticity of Maʿānī al-Athār and its relevance over the Sunan of Abū Dāwūd, the Jāmic of al-Tirmidhī, and the Sunan of Ibn Mājah (Kandhelvi: 1.63). As discussed earlier in this article, Al-Ṭaḥāwī’s defence of nabīdh is elaborated in the Maʿānī al-Athār. The Maʿānī is enshrined in the Dars-i-Nizāmī alongside the six Canonical works.

The Ḥanafī ‘ulamā’ are confronted with the Māturīdite doctrine of “not prohibiting nabīdh,” claimed to be an emblem of Ahl al-Sunna and the ḥadīth-centric nature of the Dars-i-Nizāmī which prides itself on utilising the six Canonical works, which in turn undermine the very fabric of Ḥanafism.

Some Indian Ḥanafīs have internalised criticisms from the other schools and to use Montgomery Watt’s words “influenced by reaction” as is the case with polemical wranglings. Ṣabd al-Ghaṭfār Lucknowī in his Urdu translation of Zād al-Wiqāya of the Dars-i-Nizāmī favourite Sharḥ al-Wiqāya deemed it necessary to provide a caution (fāʿida) after his faithful rendition of the section on nabīdh al-tamar. He is seemingly troubled by the position of the text (matn) which cannot be easily interpreted away. All too aware that any student of Urdu can understand his translation, lest the students get any ideas, he intervenes by bolstering the position of Mālik, al-Shāfiʿī, and Aḥmad with ḥadīth and the dubious position of al-Shaybānī:

Many elders (mashāʾikh) have given the fatwa of [Imam] Muḥammad in our times lest the sinning folk (fussāq) would abuse this by becoming intoxicated (i.e. drinking irresponsibly). Perhaps these hadīth didn’t reach Imam-i-A’zam (shāyad imām-i-a’zam ko ye hadithein nahin pohnchein). (Lucknowī 2005: 2.502)
All too often “maybe the ḥadīth didn’t reach him” (la‘all al-ḥadīth lam yabluğhu) is a patronising cliché found in jurisprudential polemics against Abū Ḥanīfa and Mālik and is cynically reproduced here. Notwithstanding odd Ḥanafi capitulations, this being the best example of such, the dominant players in the polemics such as Aḥmad Riza Khan (d. 1340/1921) and Ashraf ʿAlī Thanwi (d. 1362/1943) unequivocally defend the position of their shared school.

The most exhaustive rebuttal of Ahl-i-Ḥadīth criticism of the Ḥanafī school’s positions on devotional issues and dietary rules comes in the form of the monumental ʿIclāʾ al-Sunan by Ẓafar Ahmad ʿUthmānī Thanwī (d. 1394/1974), which he carefully authored under the guidance of the great Deobandi ideologue Mawlānā Ashraf ʿAlī Thanwī. This apologetic work bears testimony to the position of the school and the very hypothesis of this article. ʿUthmānī dedicates roughly 27 pages on the topic of beverages and engages with the arguments put forward by the early masters such as Al-Ṭaḥāwī and detractors such as Ibn Ḥajar al-ʿAsqalānī (d. 852/1449). By way of illustration, the choice of subsection titles very much indicates his overall thesis. In this ḥadīth collection he begins the book on beverages with the “chapter on the impermissibility of wine” (bāb ḥurmat al-khamr). After adducing evidence from ḥadīth (Aḥmad, Muslim and al-Nasāʾī), ʿUthmānī declares that this hadith is an explicit statute (nāṣṣ) on the impermissibility of the consumption of wine (khamr) and the sale of it. Its impermissibility and it being impure is expressly stated in the Qur’an. To this extent the Muslim community are in agreement, however, there are types of beverages the vinous nature of which is debatable (illā annā fī khumriyyatihā shubha) (Al-ʿUthmānī 1997: 25–6).

Al-Dārquṭnī’s (d. 385/995) narration from the Prophet which reads “that which intoxicates a lot, a little of it too is prohibited (mā askara kathīruhu fa qalīluhu ḥarām)” is all too often used by the other schools and the Ahl-i-Ḥadīth in the contemporary era. In response to this, ʿUthmānī (1997: 28) argues,

... we say, we do not reject this ḥadīth, rather it is not explicit statute as you allege, because it is probable that what is implied is that it is prohibited in and of itself (harām li‘aynihi) rather than intoxication (dūn sakrihi), like wine (khamr). Therefore it would mean wine is prohibited in large and small quantities. This interpretation is our express position (wa ḥadhā al-ta‘wil huwa al-muta‘ayyun ʿindanā).

After making a lengthy defence of Abū Ḥanīfa’s position, ʿUthmānī (1997) concludes,
... with this account the sum of the ambiguities regarding Abu Ḥanīfa’s position are dispelled, however our elders have ruled on the statement of [Imam] Muhammad on the issue of intoxicating beverages due to it being closer to the manifest wording of the statutes and piety and far from distraction (talahhī).

What is telling here is a general motif in Deobandi exoteric Sufism, best exemplified in the missionary activities of the Tablighi Jamaat. Whenever spiritual advice or even fatwas are issued on Sharīa-silent mubāḥ issues, there is a propensity to put forward non-committal platitudes such as “it is best to avoid it.” cUthmānī (1997: 32–3) continues to comment on two ḥadīths regarding honey mead, beer from wheat and barley:

... the two ḥadīths indicate that honey mead, maize, and barley were not known to the Companions as “wines,” otherwise they need not have asked the Prophet after already knowing the prohibition of khamr, like they didn’t need to ask concerning khamr of grapes and dates. This is evidence that these beverages are not khamr in the literal sense, rather they have been applied as simile (wajh al-tashbih) since they share some qualities with it, especially clouding of the intellect and prohibition of intoxication. Therefore there is no proof from these ḥadīth for he who claims that honey mead and other beers are literally wine.

cUthmānī (1997: 33) goes on to argue that the Prophet’s calling these beverages khamr was for analogous purposes not for legislation. He brazenly boasts, “You have nothing to stand on (falā hujiya lakum fīhi).”

cUthmānī (1997: 36) explains the hadith “kull muskirin ḥarām wa kull muskirin khamr”:

... every intoxicant is prohibited whether it is actual (ḥaqīqatan) or virtual (hukman). Actual khamr is prohibited in large or small quantities. Virtual khamr on the other hand is prohibited up to the point of intoxication. Therefore what is meant by the Prophet’s words “all intoxicants,” is that all intoxicants, khamr and otherwise, are harām; as for khamr, it is so in large or small quantities; as for other beverages, it is the intoxicating amount thereof.

cUthmānī deals with the drinking of “strong intoxicating nabīdh” (al-nabīdh al-shadīd al-muskir) by the second caliph cUmar ibn al-Khaṭṭāb. This has massive implications for Sunni–Shia relations. The Deobandi stance on Twelver Shiism is
premised on the assumption that the Shīʿa accuse senior Companions of consuming alcohol. ʿUthmānī (1997: 41) defends ʿUmar’s actions:

Since the permissibility of drinking a small amount of strong nabīḍh has been established from what we have mentioned regarding ʿUmar, and him hearing the Messenger of God saying “every intoxicant is prohibited,” him drinking this type of nabīḍh is evidence that what the Messenger of God forbade was the intoxication from it only. It is probable that he heard this as a statement from the Prophet or a position of his own. His position is proof for us, especially if his aforementioned action in the reports indicate it was done in the presence of the Companions of the Messenger of God and none repudiated it. This too indicates they followed him in this.

ʿUthmānī (1997: 41) goes on to say “many dear scholars (aḥbāb) do not refer to the books of the folk in this regard and disparage them without knowledge.”

In sum, ʿUthmānī’s whole discussion is very much like the style of Fakhr al-Dīn al-Rāzī (d. 606/1210), who was notorious for “adducing dubious arguments in cash and accruing doubt by interest” (yūridu al-shubaha naqdan, wa yurbīhi nasīʿatan), that is to say he deliberately lost arguments and planted the seeds of doubt on a particular issue by faithfully reproducing “heterodox” views and rebutting them with simply a sentence to say the aforementioned is wrong and that “God knows best” (see, for example, Al-Rāzī 2000: 140). ʿUthmānī deconstructs all arguments except the projection back to Imam Muḥammad and his supposed position. It seems like “God knows best” is a way of hedging all bets. Even Imam Ahmed Riza Khan (1991), the arch-nemesis of the Deoband Seminary, theoretically bolsters the position of his counterparts in his defending the position of Abū Ḥanīfa as being the normative fatwa of the school.

**Defending Narrow Prohibition: What is at Stake?**

It is clear that the Ḥanafīs expended a great deal of effort to defend their position on narrow prohibition, even in those texts which gave precedence to the position of al-Shaybanī. In fact, they were, and remain, the only school to dedicate a chapter (kitāb) in their jurisprudential works to the subject of alcoholic beverages – *Kitāb al-ashriba*, which is thus a hallmark of Hanafi jurisprudence. Other schools – Shāʿfī, Mālikī, and Ḥanbalī – would at most only discuss alcohol within the subject matter of corporal punishment, ḥudūd; this makes sense given that their position was one of general prohibition. This section examines the reasons underlying the Ḥanafī investment in the subject of alcoholic beverages; it explores
why the school never relinquished the position, or madhhab, of its founder, Abū Ḥanīfa, even in the face of vitriolic criticism of their opponents and often scathing ad hominem arguments directed their way.

The theological justifications given by the Ḥanafīs in support of their view on alcohol are available in legal texts and doctrinal tracts. That the discussion of alcohol should be included in the latter genre is hugely significant for it precludes the possibility of change. For Ḥanafīs, the permissibility of alcohol was never merely a legal position – it was no less than a marker of Sunnī identity. Al-ʿaqāʿid al-Nasafiyya, the most famous and widely taught Ḥanafī-Māturīdī credo, written by Najm al-Dīn al-Nasafī (d. 537/1142), contains the following declaration: “We approve the wiping on the two inner shoes (al-khuffayn) on a journey and at one’s abode; we do not prohibit as unlawful the nabīdh of dates (al-tamr)” (Elder 1950: 155–6).15 In the Badāʾiʿ of al-Kāsānī, the doctrine on alcohol is articulated in starker terms, perhaps because of his location in Transoxiana, which tended towards a more purist form of Ḥanafīsm than one might meet in Baghdad, Delhi, or Istanbul: here, we are told that Abū Ḥanīfa’s doctrine was that nabīdh al-khamr, literally, date wine, should not be prohibited, again because to do so would imply that the senior Companions of the Prophet who were known to have consumed it were sinners for doing so. Such high stakes; such powerful doctrinal statements. The doctrine constitutes a response to all prohibitionist jurists from among the Mālikīs, Shāfiʿīs, Ḥanbalīs, and the Shiʿa. But, it must surely have been directed more specifically at Shiʿa opponents, who would require convincing not so much that the traditions in support of alcoholic beverages were authentic – about this the Shiʿa were in little doubt – but rather that the Companions who were recorded in the annals of history as having consumed alcohol had religious justification for doing so. In this context, the Ḥanafī defence of alcoholic beverages constitutes a Sunnī defence of the Companions, as made plain by the famous quote of Abū Ḥanīfa reported in virtually every Ḥanafi legal text.

The basis for the doctrine of narrow prohibition in almost all places in Ḥanafī law where one meets the discussion of alcoholic beverages rests in stories of prominent Companions and indeed the Prophet himself. Non-scriptural rationalisations are seldom met with; an exception, however, is found in al-Mabsūṭ, penned by the last great mujtahid of Ḥanafī law, Al-Sarakhsī (d. 483/1090):

It was reported by Abū Masʿūd al-Anṣārī, may God be pleased with him, that the Prophet, after requesting a drink on the day of sacrifice (yawm al-nahr) in the year of the Farewell Pilgrimage (hajjat al-widāʾ), was brought nabīdh from the watering-place (siqāya). When he brought it close to his mouth it led him to scowl and
he immediately sent it back. Al-‘Abbās enquired as to whether it was harām. The Prophet [letting actions speak] took it back, called for water, poured it over [the nabīd] and then drank. He then said, “If your beverage becomes too overpowering then break its strength (fa-ksirū mutūnahā) with water.” This was why he [initially] scowled and returned the drink; but then he feared that people would think that it is harām and so he took it back and drank it. This indicates that there is nothing wrong (lā ba’sa) with drinking intensified muthallath. Let it not be claimed that [the Prophet] scowled because of its acidity; it would hardly be appropriate to give a thirsty pilgrim vinegar to drink. Thus we know that he scowled because of its intensity. There is a deeper symbolism here: khamr is promised to the believers in the Afterlife, as God says, “and rivers from khamr, delicious to its drinkers” (wa-anḥārūn min khamrin ladhatin lil-shārībīna) (Q.47:15). It is necessary therefore that there exists in this world a permissible form (mūbān) of its kind which serves its function (yā‘mal ‘amalahu) so that it might be known by direct effect (bi-l-īṣāba) just how delicious it will be. This will bring about excitement for it, since what is permissible in this world serves as a model for what has been promised in the abode of the Afterlife. Do you not see that when God promises the believers that they will drink from gold and silver goblets in the Afterlife that he allows them to experience something of its kind – drinking from goblets made of glass and crystal? To reinforce this point by way of another example: the sacred law (sharī‘) has prohibited khamr without doubt as a test (ibtilā‘); this purpose can only be realised after [one has] knowledge of how pleasurable [khamr is], so that withholding from it has its [desired] affect [. . .] the reality of that pleasure cannot become known by way of description (waṣf); it can only be known by way of tasting and direct effect. Therefore there must be a permissible drink of the same genus which allows the pleasure to be known by way of experience (tajriba). This is how the purpose behind prohibiting khamr can be realised. This is also the case for all prohibitions, like adultery and other things. It should be noted that khamr is prohibited in both small and large amounts because small amounts of it are never enough. As for these [other] beverages, they have a harshness (ghilz) and intensity (kathāfa) which means [drinking] small amounts do not lead to drinking large amounts. This is why small amounts of these are permissible, though they are described as intense, and it is [only] that amount which inebriates which is harām.

(Al-Sarakhsī 2000: 12: 4043)

The passage is from one of the most authoritative works in Ḥanafī jurisprudence. In the so-called Post-Classical age of Ḥanafī law, al-Mabsūt remained hugely significant, as attested by the fifteenth-century Ḥanafī jurist, ‘Alā’ al-Dīn
al-Ṭarābulūsī (d. 1440), who apparently said, “Whoever memorises al-Mabsūṭ and the doctrine of the ancient scholars becomes thereby a mujtahid” (Jackson 1993: note 33).

Conclusion

That the normative Muslim position on alcohol is strict prohibition, in terms of consumption, production, handling, and sale, is today a truism. It came, therefore, as a considerable shock to vast numbers of viewers tuning in across the Middle East to the very popular Egyptian religious programme, La'allahum Yafqahoon, to hear Shaykh Khalid el-Gindi, al-Azhar-trained scholar and highly respected televangelist, proclaiming that only wine made of grapes and dates is prohibited in Islam and that drinking alcoholic beverages from other sources is permissible until the point of intoxication.16 El-Gindi is not the first Al-Azhar scholar to take a discussion on alcohol in Islam to the media; in this article’s introduction, Shaykh Sa'd al-Dīn al-Hilālī’s intervention on the issue is referenced. In fact, El-Gindi, an ally of al-Hilālī, was wading into a debate initiated by his colleague as an act of solidarity. Why scholars like them are taking debates on highly stigmatised subjects usually the preserve of the Islamic seminaries (madrasas) to the public is not entirely clear and when probed about their own views, El-Gindi and al-Hilālī both maintained that their personal convictions remain in strict conformity with Muslim orthodoxy, that is, alcohol in all of its forms and variations is absolutely prohibited. Most likely, then, these acts of disclosure are meant to disrupt hegemonic discourses that posit Islam as having but one, unified position on alcohol.

In similar vein, this article serves as an intervention aiming to disrupt hegemonic discourses around what it means to be a Muslim. The claim “Muslims prohibit alcohol” has wide currency and is often taken to be the preeminent marker of Muslimness. The evidence adduced in this article, while taking the lead of illustrious al-Azhar scholars, enables a fuller deconstruction of such generalisations about what Muslims are supposed to think and be by demonstrating that the fiqh tradition – the ultimate manifestation of Islamicate science – simply does not provide unequivocal support for these assumptions.

In centring the Ḥanafi school of law, the dominant legal tradition in Islam in terms of its institutional longevity, demographic weight, and geographic extent, the argument resists attempts to dismiss it on the grounds that we are invoking a marginal interpretation which has no bearing on orthodox notions of what it means to be Muslim. Our critique of claims that Ḥanafi jurists performed a Shaybānic u-turn from the twelfth century onwards is a crucial part of the argument. While a de facto realignment of the school with the position of the other madhhab}s does
manifest itself via the formulation of a fatwa that appears in a number of authoritative jurisprudential works from al-Marghinānī onwards, we are the first to argue that this does not constitute an ideological shift; in fact the Ḥanafīs remain constant over time in advocating their unique position, continuing up until today to present comprehensive arguments against the prohibition of non-kaṁra alcoholic beverages. This is best exemplified in the writings of post-eighteenth-century Indian Ḥanafī scholars.17

For too long, what might be termed “normal science” in Islamic Studies has been content with exploring questions relating to Muslim belief and praxis as part of the fulfilment of one or another form of intellectual curiosity. This article marks a shift from this status quo by framing a question at the very heart of what it means to be Muslim in a completely new way. The rigour expected in Islamic Studies in terms of close textual excavation and carefully crafted translations are in every sense present here, but these are only the platform to a radically new form of investigation which disrupts the very direction of the conversation currently taking place on what constitutes Muslimness. This said, the purpose of this article is to define the history of a position, and it is not concerned with defining what is ultimately ḥalāl or ḥarām. This will always be the preserve of the Ummah at any one given point in time and place, and Allah knows best.

Appendix: Ḥanafī Typology of Alcoholic Beverages

<table>
<thead>
<tr>
<th>Drink</th>
<th>Source</th>
<th>Description/method of production</th>
</tr>
</thead>
<tbody>
<tr>
<td>Khamr</td>
<td>Grapes</td>
<td>The juice of grapes when fermentation without any intervention (i.e. cooking) and foaming occurs</td>
</tr>
<tr>
<td>Bādhiq</td>
<td>Grapes</td>
<td>Cooked grape juice which is reduced to less than two-thirds of its original volume after fermentation; it settles before it reaches boiling point</td>
</tr>
<tr>
<td>Ṭilā’ (Muthallath)</td>
<td>Grapes</td>
<td>Grape juice cooked until it is reduced to two-thirds of its original volume; only one-third of it remains and is an intoxicant</td>
</tr>
<tr>
<td>Munassaf</td>
<td>Grapes</td>
<td>Grape juice which is reduced to a half of its original volume</td>
</tr>
<tr>
<td>Bukhtuj (Abū Yūsufī)</td>
<td>Grapes</td>
<td>Muthallath which has been diluted with water and then allowed to ferment a second time</td>
</tr>
<tr>
<td>Jumhūrī</td>
<td>Grapes</td>
<td>A grape-based beverage which has been diluted with water after having been cooked very slightly (the cooking results in its reduction to two-thirds of its original volume)</td>
</tr>
<tr>
<td>Naqīf</td>
<td>Raisins/ dates</td>
<td>Raisins or dates are infused in water until their sweetness is transferred; it is then left to ferment and foam</td>
</tr>
<tr>
<td>Nabīdh1</td>
<td>Raisins</td>
<td>A raisin infusion which is cooked slightly and left to ferment until it becomes an intoxicant</td>
</tr>
</tbody>
</table>
### Notes

1. We would like to thank Salman Sayyid, Claire Brierley, and Sofia Rehman for sharing valuable insights that have significantly improved this article. We would also like to thank the two peer-reviewers for their valuable comments.


3. Throughout this article, “narrow prohibition,” which has been adopted from Najam Haider (2013), is used to describe the prohibition of *khamr* only to the exclusion of other alcoholic beverages. This usage is contrasted with “general prohibition,” the position of all schools bar the Ḥanafīs, which considers all varieties of alcoholic beverage as prohibited (*ḥarām*).

4. A number of studies have in recent years taken up the issue of alcohol in Islam, especially, as discussed in Ḥanafī jurisprudence, but have done so to buttress over-arching theories of what constitutes Islam, Islamic law, Muslimness, and so, own rather than for any intrinsic value that a close reading of the alcohol question might generate. The late Shahab Ahmed (2016: 57–8), whose knowledge of Islam, Islamicate languages, and range of scholarly interests is perhaps unrivalled in contemporary Islamic Studies, managed to miss the mark in his description of the juristic debate, incorrectly asserting that all schools of Islamic law prohibit alcohol in all its forms and appears to accept the view that alcohol prohibition is one of the distinctive marks of the Muslim world. Behnam Sadeghi (2013: 135–6) briefly discusses an assumed Ḥanafī reversal on alcoholic beverages to support his thesis on the provenance, nature, and historical development of Islamic law, suggesting that this was motivated by the need of the school to gain the acceptance of other Muslims. Najam Haider (2013: 85) argues, like Sadeghi, that the Ḥanafī School ultimately moved to prohibit all intoxicants in the sixth/twelfth century. He also puts forward an explanation for this supposed shift, which he roots in increasing pressure exerted on the Ḥanafīs by the Mālikīs and Shāfiʿīs. He does not base his findings on a comprehensive survey of the Ḥanafī legal tradition, which explains sweeping generalisations and ultimately misrepresentation of Ḥanafī jurisprudence.

5. Why is *khamr*, especially as red wine, to be shunned by Muslims? We propose that the prohibition against wine (Q. 5.90) hinges on the role of wine in heathen/pagan worship, hence the juxtaposition of *khamr* with *maysir* (a game of chance), altars (*ansāb*), and divining arrows (*azlām*).

6. Ibn Qutayba (d. 276/889), Kufian jurist and ḥadīth scholar should also be listed among the Irāqians who took the view of narrow prohibition. While he was never the founder of a school, he is one of the preeminent authorities of early Islam. In his book on alcoholic beverages (*Kitāb al-ashriba*), he states clearly his preference for narrow prohibition. In the concluding section of his book, we read,

> That which inebriates in large quantities is disliked (*makrūḥ*) in small quantities; the Prophet (peace and blessings be upon him) warned against it as a disciplinary measure. Therefore, it is laudable and rewardable if one avoids it; if however one drinks it, there is no blame on him, God willing! (Ibn Qutayba 1999: 128)

7. The reader will find the typology of alcoholic beverages in Ḥanafī jurisprudence in the Appendix a useful aid for understanding the many varieties of beverage which are mentioned in the texts that follow.
8. See hadith #5575, #5579, #5581, and #5588 in al-Bukhārī (Ash-Sheikh 2008).
9. Nabīdh is a comprehensive designation for non-khamr intoxicating drinks, several kinds of which were produced in early Arabia, such as mizr (from barley) and bitaṣr (from honey), see Heine (2012).
10. This may be surmised from the fact that Al-Ṭaḥāwī includes in each chapter of the Sharḥ relevant and indicative hadiths collected by the Ṣiḥāḥ authors.
11. This is reported by Muslim (Ash-Sheikh 2008), hadith #5142 and #5143.
12. The force of this declaration can be understood more fully when one considers the position of Al-Ṭaḥāwī within Sunnī Islam. In the introduction to his translation of Al-Ṭaḥāwī’s creed, Hamza Yusuf (2007: 22) clarifies Al-Ṭaḥāwī’s standing: “It is however the distinction of Imām Al-Ṭaḥāwī’s creed to have gained the widest acceptance, as it is embraced even by the less speculative Ḥanbalī school that generally censured the more capacious schools of Imām al-Ashʿarī and Imām al-Māturīdī.” In elucidating upon Al-Ṭaḥāwī’s methodology, Yusuf (2007: 23) states, “Al-Ṭaḥāwī relies on the authority of such illustrious men as Abū Ḥanīfa, whose creed is the basis of his own treatise. The text was accepted by the Muslims, and especially used by those who adhere to the Ḥanafī school.”
13. Al-Bukhārī (Ash-Sheikh 2008), hadith #4344 and #4345; see also the report of Muslim (Ash-Sheikh 2008) hadith #5216.
15. As though on cue, the creed’s Ashʿarī commentator, Saʿd al-Dīn al-Taftazānī (d. 792/1390), attempts to take the sting out of this powerful declaration. He has the following to say: [Nabīdh] means that the dates or the raisins are brewed in water and then put in an earthen vessel, until a stinging taste develops in the brew as in fuqqā’ [a kind of beer]. It seems as though this [nabīdh] had been prohibited at the beginning of Islam when jars (al-jirār) were the vessels for wines (al-khumūr); then it was abrogated. So then the non-prohibition of nabīdh is of the rules of the People of the Approved Way and the Community, which is contrary to the position of the Rawāfīd. This [judgment] is different from that which has [to do with nabīdh that has] become strong and intoxicating. Many of the People of the Approved Way and the Community took the position that little or much of it is prohibited.

References


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