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# **The Fiqh of Mind-Altering Medication: Ethical Use from an Islamic Perspective**

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"الأراء في هذا البحث تعبر عن رأي الباحث وليس بالضرورة عن رأي أمجا"

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## 1. ABSTRACT

This scholarly article explores the ethical considerations surrounding the use of mind-altering medications in Islam, particularly in the context of contemporary medical practices. It delves into the historical and contemporary perspectives on the utilization of substances with inebriating, psychoactive, calming, and neuro-toxic effects. Drawing from Islamic jurisprudence (Fiqh), the article examines the rulings and opinions of classical jurists regarding the permissibility of employing such medications for medical purposes. The nuanced categorization of these substances based on their effects is proposed, providing a comprehensive framework for analysis. Ultimately, the article aims to elucidate the ethical boundaries and guiding principles that govern the usage of mind-altering medications within an Islamic context, offering Muslims a resource for evaluating the permissibility of their medical use.

## 2. INTRODUCTION

In recent times, the utilization of psychoactive medications has garnered substantial attention within the medical realm, instigating deliberations concerning their ethical implications in Islamic contexts. This pertains to the utilization of substances like ethanol, found in cough medicine and mouthwashes, cannabis-based compounds for pain alleviation and epilepsy management, psychedelics for pioneering psychological therapies, and morphine-based medications for end-of-life care, inducing sedation, semi-conscious states, and anaesthesia. Within the Islamic tradition, the discourse encompassing these substances is multifaceted, encapsulating historical ethical perspectives alongside contemporary applications within the realm of Fiqh (Islamic jurisprudence). This includes recent insights into their cognitive impacts and the augmented use of intricate compounds with diverse effects. The present article seeks to comprehensively investigate the ethical dimensions of psychoactive medication from a Fiqh perspective. It intends to illuminate the decrees furnished by classical Muslim jurists and the underlying principles that endorse their medical application within today's context.

Understanding the ethical ramifications of psychoactive medication in Islam is paramount. Firstly, the escalating prevalence of psychiatric disorders and global mental health conditions has led to heightened reliance on psychoactive agents for treatment. Secondly, as the global medical fraternity perpetually pursues innovative therapies, it becomes imperative to evaluate the permissibility and ethical frontiers of these medications through an Islamic framework that Muslims can adhere to.

Throughout history, the Islamic Fiqh tradition has deliberated upon psychoactive substances in

diverse manners. Key terms like "al-khamr" (referring to beverages like wine) and "al-muskir" (denoting inebriants) have been employed to describe such substances. Moreover, classical jurists have delineated substances like "al-mukhaddir" and "al-mufattir," alluding to psychoactive agents that influence cognition. To foster a nuanced understanding of the discussions concerning psychoactive substances from a Fiqh perspective, this article posits a categorization into four classes based on their effects:

- Al-Muskir: Inebriating Substances - Encompassing substances that elicit intoxication, euphoria, culminating in altered consciousness and cognitive impairment.
- Al-Mukhaddir: Psychoactive Substances - Enacting specific cognitive effects, altering perception, mood, and cognitive functions.
- Al-Muraqqad: Depressants - Encompassing substances inducing CNS sedation and relaxation, resulting in calmness, sedation, and anesthesia.
- Al-Mufsid: Neuro-Toxic Substances - This category includes agents that may detrimentally impact the nervous system and cognitive faculties, engendering altered cognition.

By drawing from classical Islamic jurisprudence (Fiqh), this article will extensively delve into the rulings pertaining to the usage of psychoactive substances, primarily focusing on medicinal applications. Analysing the perspectives of eminent classical Muslim jurists and scholars across epochs will furnish valuable insights into the permissibility and limitations surrounding medical interventions involving these substances.

Ultimately, the article will culminate by investigating the overarching principles and criteria that underpin the ethical utilization of psychoactive substances for medical treatment within the Islamic framework, elucidated through examples and a decision flowchart to assist Muslims in determining the permissibility of specific substances.

### **3. DEFINITIONS/ TYPES/ RULINGS OF MIND-ALTERING SUBSTANCES**

#### **3.1 Definition of al-Muskir and al-Khamr (Inebriating Substances)**

*Lexical definition (lughatan):*

al-Muskir (or sukr) refers to anything that covers the mind and takes it away from its conscious

and discerning nature. It is used interchangeably with "al-khamr", which means to cover, encase, veil, like the khimār (cloak) of a woman (a head covering or veil worn in public)<sup>1</sup>. As mentioned by the author of al-Qāmus Al-Muḥīṭ: "Sukr is the opposite of sobriety." It is associated with al-khamr and anything that causes inebriation.<sup>2</sup> Ismail ibn Hammad al-Jawharī, the renowned Islamic scholar and lexicographer (d. 392 AH) stated: "Al-sukran is the opposite of al-sāḥy (sober)."<sup>3</sup> In other words, al-khamr is termed as such because it has the essential property of al-muskir, inebriation by 'covering the mind'.

### *Technical definition or nomenclature (iṣṭilāḥan):*

In the terminology of Sharī'ah, the term "al-muskir" is used to describe any substance that inebriates, without differentiating based on its form, appearance or source. It does not consider the substance from which it is derived, whether it is grapes, dates, barley, or others, whether it is in liquid or solid form, i.e. it relates to all intoxicating drinks from grapes, dates and other.<sup>4</sup> Al-khamr (wine) is more specifically the substance that has the property of sukra (inebriation) and some identify it through its source, or form, unlike al-muskir.

### *Differentiating between the use of terms Muskir and Khamr*

The Prophet (صلى الله عليه وسلم) said: "Every muskir (inebriant) is khamr, and every muskir is forbidden. Whoever drinks khamr in this world and dies addicted to it without repenting will not drink it in the Hereafter." (ṣaḥīḥ Muslim, Hadith Number 3733)<sup>5</sup>

This ḥadīth as well as others differentiate between muskir and khamr as two separate entities, yet assert that everything that has the property of muskir is khamr.

Imām Fakhr al-Dīn al-Rāzī (d. 606 AH) explains:<sup>6</sup>

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1 الحَمْزُ لَعْنَةٌ: التَّعْظِيمُ وَالسُّرْتُ، وَمِنْهُ جَمَاةُ الْمَرْأَةِ (الصحاح) للجوهري (2/649)، (مقاييس اللغة) لابن فارس (2/215).

2 في مختصراً من ترتيب القاموس المحيط سكر كفرح.. نقيض صحا.. والسكر محرقة: الخمر، وكل ما يسكر (2:585)

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

4 الحَمْزُ اصطلاحاً: هي كُلُّ مَا يُسَكِّرُ قَلْبَهُ أَوْ كَثِيرُهُ، سِوَاءَ أَنْجَذَ مِنَ الْعَنَبِ أَوْ التَّمْرِ، أَوْ الْحِنْطَةِ أَوْ السَّعِيرِ، أَوْ غَيْرِهَا مِنْ حَجَرٍ: (فتح الباري) ((12:132)) الرازي: (مفاتيح الغيب) ((6:43)) ابن تيمية: (مجموع الفتاوى) ((19:281)) الشوكاني: ((نيل الأوطار)) ((7:147)) الصنعاني: ((سبل السلام)) ((4:48)) ابن حزم: ((المحل)) ((7:497)) (الفروع) ((10/96))، ((الإيضاح)) للمرداوي ((10/172))، ((الفواكه الدواني)) للنفاوي (2/288)

5 قول الرسول كُلُّ مُسَكِّرٍ حَمْرٌ وَكُلُّ مُسَكِّرٍ حَرَامٌ وَمَنْ قُرِبَ الْحَمْرِ فِي الدُّنْيَا قَرَّبَ فِي الْآخِرَةِ وَهُوَ يُدْمِنُهَا أَمْ يَنْبُتُ أَمْ يَشْرِبُهَا فِي الْآخِرَةِ ((صحيح مسلم، الحديث الرقم 3733))

6 في تفسير الرازي = مفاتيح الغيب أو التفسير الكبير [الفخر الرازي] قال الخطابي: قوله عليه السلام «كل مسكر خمر» دل على وجهين أحدهما: أن الخمر اسم لكل ما وجد منه السكر من الأشربة كلها، والمقصود منه أن الآية لما دلت على تحريم الخمر، وكان مسمى الخمر مجهولاً للقوم حسن من الشارع أن يقال: مراد الله تعالى من هذه اللفظة هذا إما على سبيل أن هذا هو مسماه في اللغة العربية، أو على سبيل أن يضع اسماً شرعياً على سبيل الإحداث كما في الصلاة والصوم وغيرهما.

والوجه الآخر: أن يكون معناه أنه كالخمر في الحرمة، وذلك لأن قوله هذا خمر فحقيقة هذا اللفظ يفيد كونه في نفسه خمرًا فإن قام دليل على أن ذلك ممنوع وجب حمله مجازاً على المشابهة في الحكم، الذي هو خاصية ذلك الشيء (6:397)

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

1. The primary point is that the term "khamr" encompasses all types of beverages that induce intoxication or possess intoxicating properties. When the verse prohibited "al-khamr," the specific name "khamr" was not widely recognized, and it was appropriate for the divine legislator, Allāh, to employ this term either because it aligns with its linguistic meaning in Arabic or because it was introduced as a legal term within the context of Sharia, similar to how "ṣalāh" designates prayer and "ṣawm" denotes fasting, among other religious practices. In essence, "al-khamr" is a designated expression present in the Quran, encompassing all beverages that cause inebriation. This implies that "khamr" serves as the technical term for all intoxicating beverages as defined by Sharia. Thus, every intoxicating drink is considered "khamr," and conversely, all "khamr" substances induce intoxication, illustrating the interchangeability of these terms.

2. The second perspective pertains to the hadith's implication that "al-muskir" shares a similar prohibition status as "al-khamr." This is because the essence of the term "khamr" inherently signifies its quality of inducing inebriation. If there is compelling evidence indicating prohibition due to something's intoxicating nature, then it becomes justifiable to metaphorically assign the term "khamr" to that particular substance due to its likeness in legal ruling, specific to that substance.

In simpler terms, when something possesses the characteristics of prohibition akin to "khamr," it is assigned the label "al-khamr" to reflect those prohibitive rulings. Therefore, all substances causing intoxication are designated as "khamr" in terms of their legal status, thus demonstrating that these two terms aren't interchangeable but rather used interchangeably due to their shared intoxicating quality.

These linguistic derivations underscore the idea that "khamr" acts as a covering for the intellect. It's also termed "muskir" because it impairs the mind, essentially dulling or restricting it. It can be said that it's named using the verb form "khamr" (to cover) to emphasize its substantial impact. Fundamentally, "khamr" represents "sukr" (inebriating effect) since "sukr" conceals the intellect and prevents its illumination from reaching the senses and faculties.

In light of these derivations, the argument becomes robust that "khamr" signifies "muskir" (intoxication). Thus, when numerous narratives corroborate this, it's inappropriate to

consider this as establishing a linguistic connection through analogy (qiyas). Instead, it's a result of the term's designation through these lexical derivations.

Similarly, adherents of the Ḥanafī school of thought assert that the term "nikah" (marriage) is rooted in "wata" (copulation), and they support this terminology through derivations. Similarly, the term "sawm" (fasting) is linked to "imsak" (abstinence), and they also substantiate it through derivations.<sup>7</sup> In essence, the explanation indicates that "khamr" and "muskir" aren't synonymous. Rather, "khamr" originates from its linguistic derivations which it shares, in meaning, with "muskir," and is thus named accordingly. Consequently, anything equivalent to "khamr" in the sense of impairing the intellect is either "khamr" itself or is associated with "khamr" in its legal categorization.<sup>8</sup>

It will be demonstrated that the second viewpoint is more in accordance with the pragmatic and achievable interpretation of the term "khamr."

### *Inebriating Substances (al-Muskir) and their Effects*

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

#### 1. Altered Behaviour:

Slurred Speech

Impaired Coordination and Balance

Difficulty Walking or Standing

Impaired Judgment and Decision-Making

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<sup>7</sup> في تفسير الرازي ويقال خامر السقام كبد، وهذا الذي ذكره راجع إلى الأول، لأن الشيء إذا خالط الشيء صار بمنزلة الساتر له، فهذه الاشتقاقات دالة على أن الخمر ما يكون ساترا للعقل، كما سميت مسكرا لأنها تسكر العقل أي تحجزه، وكأنها سميت بالمصدر من خمره خمر إذا ستره للمبالغة، ويرجع حاصله إلى أن الخمر هو السكر، لأن السكر يغطي العقل، ويمنع من وصول نوره إلى الأعضاء، فهذه الاشتقاقات من أقوى الدلائل على أن مسمى الخمر هو المسكر، فكيف إذا انضافت الأحاديث الكثيرة إليه لا يقال هذا إثبات للغة بالقياس، وهو غير جائز، لأننا نقول: ليس هذا إثباتا للغة بالقياس، بل هو تعيين المسمى بواسطة هذه الاشتقاقات، كما أن أصحاب أبي حنيفة رحمهم الله يقولون إن مسمى النكاح هو الوطء ويثبتونه بالاشتقاقات، ومسمى الصوم هو الإمساك، ويثبتونه بالاشتقاقات. (6:398)

<sup>8</sup> في تفسير الرازي من الحجّة أن سبب تحريم الخمر هو أن عمر ومعادا قالوا: يا رسول الله إن الخمر مسلبة للعقل، مذهبة للآل، فبين لنا فيه، فيها إنما طلبا الفتوى من الله ورسوله بسبب كون الخمر مذهبة للعقل، فوجب أن يكون كل ما كان مساويا للخمر في هذا المعنى إما أن يكون خمرًا وإما أن يكون مساويا للخمر في هذا الحكم (6:398)



Impulsive or Reckless behaviour

Aggressive or Emotional Outbursts

2. Mood Changes:

Euphoria or Exaggerated Happiness

Irritability or Mood Swings

Emotional Lability (Rapidly Changing Emotions)

3. Cognitive Impairment:

Difficulty Concentrating or Focusing

Impaired Memory and Forgetfulness

Reduced Attention Span

Disorientation or Confusion

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

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

#### Ḥanafī Perspective:

Abu Hanīfah's (d. 150 AH) viewpoint asserts that the prescribed punishment for intoxication is not applicable unless an individual reaches an extreme level of drunkenness. This extreme level implies being so inebriated that one loses the ability to distinguish between fundamental elements, such as the earth and the sky, wool and cotton, or even genders and beings like humans and donkeys. This criterion is applicable to various forms of intoxicating drinks.<sup>9</sup>

In contrast, Abū Yusuf (d. 182 AH) and Muḥammad al-Shaybānī (d. 189 AH) hold that extreme intoxication is characterized by mixed-up speech and an inability to maintain coherent conversations or responses. They emphasize that customary behaviour plays a pivotal role in

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

determining intoxication. If an individual's speech becomes incoherent due to alcohol consumption, they are considered intoxicated by societal standards. This interpretation aligns with the Quranic verse: "Do not approach prayer while you are intoxicated until you know what you are saying." [Q. 4:43] This viewpoint is widely upheld among the Ḥanafī scholars.

If a person can still differentiate between various elements, it indicates that their intellect is functioning alongside the pleasure derived from drinking. In such cases, extreme intoxication is not deemed to have occurred, and the prescribed punishment does not apply. Many scholars share the view that intoxication transpires when individuals lose awareness of their actions. An example is cited where the scholars of Balkh unanimously agreed that reciting Surah Al-Kāfirūn (Chapter 109) was used to test for intoxication. If the individual could recite it accurately, they were not considered intoxicated.<sup>10</sup>

### Shāfi'ī Perspective:

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

It is noted that Sayyiduna 'Ali (رضي الله عنه), a companion of the Prophet (صلى الله عليه وسلم), highlighted the importance of evaluating an individual's words and statements rather than solely focusing on their physical movements. He pointed out that among the companions of the Prophet, judgments were based on their statements rather than just their manner of walking.<sup>11</sup>

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

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<sup>10</sup> في المسوط للسرخسي، فحد السكر الذي يتعلق به الحد عند أبي حنيفة أن لا يعرف الأرض من السماء، ولا الأثني من الذكر، ولا نفسه من حمار، وعند أبي يوسف ومحمد أن يختلط كلامه، فلا يستقر في خطاب، ولا جواب، واعتبر العرف في ذلك، فإن من اختلط كلامه بالشرب يسمى سكران في الناس، وتأيد ذلك بقوله تعالى {لا تقرّبوا الصلاة وأنتم سكارى حتى تعلموا ما تقولون} [النساء: ٤٣] وأبو حنيفة - رحمه الله - اعتبر النهاية، فقال في الأسباب الموجبة للحد تعتبر النهاية كما في السرعة، والزنا، ونهاية السكر هذا أن يغلب السرور على عقله حتى لا يميز شيئاً عن شيء.

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

<sup>11</sup> في فتح القدير للكمال ابن الهمام وتكلمته ط الحلبي [الكمال بن الهمام، يعتبر ظهور أثره في مشيته وحركاته وأطرافه... بأن هذا يتفاوت: أي لا ينضب فكم من صاح يتمايل ويزلق في مشيته وسكران ثابت وما لا ينضب لا يضبط به، ولأن الذي وقع في كلام علي - رضي الله عنه - بحضرة الصحابة اعتبار بالأقوال لا بالمشي حيث قال إذا سكر هذى الخ (5:314)

### *Rulings of al-Khamr and al-Muskir*

In the context of the legal assessments made by classical Muslim jurists regarding intoxicating substances, both al-khamr and al-muskir, a consensus is reached that consuming al-khamr derived from uncooked grapes is impermissible, regardless of the quantity, its potential to cause inebriation, or lack thereof. However, the divergence in opinions arises when addressing substances other than grapes.

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

Among the Sunni schools of thought, two distinct viewpoints are discerned concerning the legal implications surrounding al-khamr and al-muskir:<sup>12</sup>

- **First Opinion:** The Ḥanafī Perspective - As held by classical Muslim jurists from al-ʿIrāq, particularly al-Kūfah (including Ibrāhīm al-Nakhʿī (d. 96 AH), Sufyān al-Thawrī (d. 161 AH), Ibn Abī Laylā (d. 83 AH), and Abū Ḥanīfah):<sup>13</sup>

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

Furthermore, for substances other than grapes, the prohibition applies exclusively to the quantity that causes intoxication. If a small amount does not lead to intoxication, it is deemed permissible. This view was initially upheld by the Ḥanafī school but later evolved, with Imām Muḥammad asserting that al-khamr encompasses all muskir intoxicants, regardless of quantity.

- **Second Opinion:** The Ḥijāzī Perspective - As endorsed by classical Muslim jurists from al-Ḥijāz:<sup>14</sup>

According to this viewpoint, the prohibition on al-khamr extends to all intoxicating beverages, including those sourced from substances other than grapes. This prohibition is applicable irrespective of the quantity consumed, its potential to cause intoxication, or the lack thereof. This perspective is adhered to by the remaining Sunni schools and some Ḥanafī scholars.

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

13 This view is ascribed to Ibrāhīm al-Nakhaʿī (d. 96/714), Sufyān al-Thawrī (d. 161/778), Ibn Abī Laylā (d. 83/702), Sharīk b. ʿAbd Allāh b. Abī Sharīk (d. 177/793), and Abū Ḥanīfa (d. 150/767), along with most Kūfan and Baṣran jurists (Ibn Rushd al-Ḥafīd, Bidāyat, 2:912).

14 ابن حجر: ((فتح الباري)) (144 133 132/12) الرازي: ((مفتاح الغيب)) (43/6) ابن تيمية ((مجموع الفتاوى)) (281/19 وما بعدها 34/28.337)، الشوكاني: ((نيل الأوطار)) (147/7) الصنعاني: ((سبل السلام)) (48/4.29) ابن حزم: ((المحل)) (497/7).

## *Development of Views on Intoxicants in Early Muslim Jurisprudence*

During the early days of Islamic jurisprudence, there was unanimous agreement against the consumption of intoxicants derived from grapes, but debates persisted regarding intoxicants from non-grape sources. Scholars from the ḥijāz, such as those from the ḥanbalī, Mālikī, and Shāfi'ī schools, advocated for a comprehensive ban on intoxicants. On the other hand, scholars from the Iraq region, particularly the ḥanafīs, leaned towards prohibiting only khamr and intoxicating drinks. Over time, ḥanafī scholars shifted their stance due to a reevaluation of al-Shaybānī's perspectives, leading to differing viewpoints and discussions centered on the scope of 'al-khamr.'

Early Iraqi jurists like Ibrāhīm al-Nakh'ī argued that the Prophet (صلى الله عليه وسلم) intended to prohibit inebriation rather than the substances causing intoxication. While Muḥammad al-Shaybānī attributed this view to Abū ḥanīfah, he didn't clearly express his own stance on the matter. However, Abū ḥanīfah asserted that beverages other than uncooked grape wine are permissible as long as they don't lead to intoxication.<sup>15</sup>

Around the 6th/12th century, ḥanafī scholars swiftly transitioned to a prohibition stance on all intoxicants, justifying this shift by emphasizing al-Shaybānī's consistent support for a general ban. While 'Abd al-Rashīd b. Abī ḥanīfa al-Walwālījīya (d. 197 AH) allowed alcoholic third (muthallath) consumption (provided it doesn't cause intoxication), he portrayed Muḥammad al-Shaybānī as a

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<sup>15</sup> While both Abū ḥanīfah and al-Shaybānī share the view that intoxicating nabīdh is permissible, they diverge in their stance on cooked juice. Abū ḥanīfah allows any drink, whether fermented or not, that is made from juice cooked down to one-third of its original volume. Conversely, al-Shaybānī forbids fermented grape juice regardless of its preparation method. This discrepancy arises from al-Shaybānī's strict association of khamr (intoxicants) exclusively with grape juice, excluding water-based beverages like nabīdh or naqī. The crux of their disagreement lies not in the potential for intoxication, but rather in whether khamr inherently applies to all forms of grape juice (al-Shaybānī, al-Āthār, 1:182-5).

However, the situation becomes more complex when these drinks are made from grapes or dates. Abū ḥanīfah's view is that these substances are discouraged (makrūh) and should be avoided once they mature and begin fermenting. This stance is shared by Abū Yūsuf and al-Shaybānī, but al-Shaybānī goes further, asserting that the consumption of any intoxicating drink in large quantities should be avoided (al-Taḥāwī, Mukhtaṣar, 1:278).

Al-Sarakhsī provides an exhaustive list of drinks in the context of ḥanafī considerations. He discusses beverages derived from grapes and dates, linking the regulations governing both based on the 'two plants' tradition. Fermented uncooked grape juice, defined as khamr, is deemed unlawful and ritually impure in any amount. Uncooked nabīdh and naqī made from raisins or dried dates are permissible as long as they remain sweet and unfermented. When intensified, opinions within the school diverge, with al-Sarakhsī leaning towards prohibition but acknowledging that these substances are not strictly khamr.

Regarding cooked substances, al-Sarakhsī affirms the prevailing ḥanafī stance that grape and date juices, once cooked to one-third of their original volume (muthallath), remain lawful even if they later ferment into an intoxicating drink. Water-based drinks from raisins and dried dates only require low-temperature cooking for a brief, unspecified duration to gain unconditional lawfulness. Intoxicants sourced from other materials like grains or honey are also deemed lawful due to their closer resemblance to food than drink. Al-Sarakhsī notes that there is no clear textual basis for classifying these substances as khamr. Traditions that appear to link khamr to sources other than grapes or dates emphasize a similarity in effect rather than identical legal status. He draws an analogy between non-khamr intoxicants and narcotic plants (e.g., banj), which are lawful in moderation as long as they don't lead to intoxication (al-Sarakhsī, al-Mabsūt, 24:2-39).

Al-Marghīnānī defines khamr as fermented uncooked grape juice, acknowledging some disagreement on whether bubbling and intensified taste are enough to establish fermentation (e.g., Abū Yūsuf and al-Shaybānī) or if foam is also necessary (e.g., Abū ḥanīfah). He portrays khamr as the sole substance capable of compelling excessive consumption, explicitly prohibited in the Qur'ān. However, his views diverge from other ḥanafī scholars regarding date or raisin-based naqī and nabīdh. Although he concurs that these drinks are lawful when fresh and unfermented, he deems them unlawful once they start to bubble and intensify. Despite this, al-Marghīnānī refrains from labeling them khamr, thereby mitigating the severity of the consequences. He states that these drinks are unlawful, but punishment is applied only if consumed to intoxication levels. While he acknowledges that Abū ḥanīfah and Abū Yūsuf permit drinks made from non-grape/date sources (e.g., honey, grain) and exempt them from punishment even when intoxicating, he indicates that al-Shaybānī deems these drinks forbidden and punishable. Al-Marghīnānī also notes that water-based date/grape drinks, cooked at low temperatures for brief periods, are judged permissible in moderation (though discouraged) by Abū ḥanīfah and Abū Yūsuf, but strictly prohibited by al-Shaybānī. Finally, concerning intoxicants made from juices and infusions (nabīdh and naqī) cooked down to one-third of their original volume, al-Marghīnānī observes that while Abū ḥanīfah and Abū Yūsuf allow their consumption, al-Shaybānī strictly forbids it. He concludes by unequivocally stating that al-Shaybānī considers "all intoxicants" prohibited (al-Marghīnānī, al-Hidāya, 4:1528).

firm opponent of all intoxicants.<sup>16</sup> 'Alā' al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī (d. 587 AH) also permitted muthallath (if not leading to intoxication) and interpreted "muskir" as "the last cup that intoxicates."<sup>17</sup>

### Mālikī, Shāfi'ī, Ḥanbalī Perspectives<sup>18</sup>

In the Mālikī school, the determining factor for a drink's permissibility hinges solely on its intoxicating potential, regardless of its source or preparation. Mālikī jurists grounded their general prohibition argument on a limited number of traditions and analogical reasoning based on Q 5:90-1. They viewed khamr's ability to create discord among Muslims and hinder their remembrance of God as the core reason for its prohibition.

Imām Saḥnūn ibn Sa'īd ibn Ḥabīb al-Tanūkhī al-Mālikī (d. 240 AH) acknowledged that a reduced juice- or water-based drink obtained by cooking is permissible if it's not intoxicating. Regarding drinks that fizz or bubble, he echoed Mālik's stance, stating that if it causes intoxication, regardless of it being juice or nabīdh, it's considered khamr due to its intoxicating effects<sup>19</sup>. Imām Ibn Abī Zayd al-Qayrawānī (d. 386 AH) conceded that Q 5:91 highlights intoxication as the root cause of prohibition, as it disrupts prayer, remembrance of God, and fosters animosity.<sup>20</sup>

Shāfi'ī jurists argue that traditions offer sufficient proof for the validity of general prohibition. In their legal discussions, they interpret large numbers of traditions as clearly extending the scope of khamr to include all intoxicants.

In his Kitāb al-Umm, Imām Muḥammad b. Idrīs al-Shāfi'ī (d. 204 AH), expands the definition of khamr through traditions that prohibit specific drinks with intoxicating power irrespective of source (bit', ghubayrā') or preparation (bādhiq, ṭilā').<sup>21</sup>

Imām Abū al-Ḥasan 'Alī ibn Muḥammad ibn Ḥabīb al-Māwardī. (d. 450 AH) countered the interpretation of "muskir" as "the last cup" with logical arguments, asserting that sukr (intoxication) is a distinct property of a certain category of substances and isn't defined solely by quantity.<sup>22</sup>

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<sup>16</sup> 'Abd al-Rashīd b. Abī Ḥanīfa al-Walwālījīya al-Fatāwā al-walwālījīya, ed. Miqdād b. Mūsā al-Furaywī, 5 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 2003), 5:502-6

<sup>17</sup> 'Alā' al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī, *Badā'ī' al-ṣanā'ī'*, ed. Zakariyya 'Alī Yūsuf, 10 vols. (Cairo: Zakariyya 'Alī Yūsuf, 1968), 6:2944-6

18 في الفروق، للقراfi (2:35)

<sup>19</sup> Saḥnūn, al-Mudawwana al-kubrā, ed. Ḥamdī al-Damirdāsh Muḥammad, 9 vols. (Beirut: al-Maktaba al-'Aṣriyya, 1999), 6:2459.

<sup>20</sup> Ibn Abī Zayd, Kitāb al-nawādir wa'l-ziyādāt, ed. 'Abd al-Fattāh Muḥammad al-Ḥulw, 15 vols. (Beirut: Dār al-Gharb al-Islāmī, 1999), 14:282-95

<sup>21</sup> al-Shāfi'ī, al-Umm, ed. Maḥmūd Matarajī, 9 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1993), 6:247-53

<sup>22</sup> al-Māwardī, al-Ḥawī al-kabīr, ed. 'Ādil Aḥmad 'Abd al-Mawjūd and 'Alī Muḥammad Mu'awwad, 13:391

### Conclusion

In the realm of Sunni tradition, there exists a prevailing standpoint that categorizes all intoxicating substances (muskir) as either khamr or under khamr's jurisdiction, regardless of their source. In contrast, the ḥanafī school adopts a more restricted approach, reserving the label of khamr for intoxicants derived from sources other than grapes and other fruits, only if they indeed lead to inebriation. Over time, this ḥanafī perspective has gradually harmonized more closely with the viewpoints of other schools. Consequently, any substance with the potential for intoxication (muskir) is metaphorically equated with khamr, resulting in its prohibition for consumption. However, unlike other schools, the ḥanafī perspective does not entail the application of the prescribed ḥadd punishment for the consumption of such substances.

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

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

A number of other mind-altering substances have been mentioned with properties quite different to

inebriation and they fall into one of the following categories:<sup>23</sup>

### 3.2 Definition of al-Mukhaddir or al-Mufattir (Psycho-active Substances)

#### *Lexical definition:*

al-mukhaddirāt is derived from either the word al-khidr (cover that is used to conceal the slave girl in the vicinity of the home) or al-khadr (laziness and lethargy). It is said: "The man became numb," meaning he became lethargic.

It refers to various concepts related to concealment, obscurity, and numbness, using metaphors to describe the state of being covered, inactive, and lacking energy (al-futūr). It also mentions the association of 'al-khidr' with covering and the idea of a maidservant being adherent to the veil. Additionally, it mentions the concept of 'al-khidr' as a state of weakness, feebleness, and laziness experienced by a drinker.<sup>24</sup>

#### *Technical definition or nomenclature:*

The word al-mukhaddirāt is not mentioned among the early scholars, and it seems that the concept

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<sup>23</sup> في الفرق للقرافي = أنوار البروق في أنواع الفرق [القرافي] [الفرق بين قاعدة المسكرات وقاعدة المرقدات وقاعدة المفسدات]

وذلك أن المتناول لما يغيب العقل إما أن يغيب معه الحواس أو لا فإن غابت معه الحواس كالبحر والشم والذوق فهو المرقد وإن لم تغب معه الحواس فيما أن تحدث معه نشوة وسرور وقوة نفس عند غالب المتناول له فهو المسكر وإما أن لا يحدث معه ذلك فهو المفسد المرقد ما يغيب العقل والحواس كالمسكران بضم الكاف أو له مهمل أو معجم كما في الخطاب والمفسد ما يغيب العقل دون الحواس لا مع نشوة وفرح كالأفيون وعسل البلاد الذي يشرب للحفظ (1:215)

**في الفرق للقرافي** فالسكرة يزيد في الشجاعة والمسرّة وقوة النفس والميل إلى البطش والانتقام من الأعداء والمنافسة في العطاء وأخلاق الكرماء وهو معنى البيت المتقدم الذي وصف به الخمر وشاربها ولأجل اشتهاها هذا المعنى في المسكرات (1:217)

وهذا الفرق يظهر لك أن الحشيشة مفسدة وليست مسكرة لوجهين أحدهما أنا نجدها تثير الخلط الكامن في الجسد كيفما كان فصاحب الصفراء تحدث له حدة وصاحب البلغم تحدث له سباتا وصاحب السوداء تحدث له بكاء وجزعا وصاحب الدم تحدث له سرورا بقدر حاله فتجد منهم من يشتد بكأؤه ومنهم من يشتد صمته وأما الخمر والمسكرات فلا تكاد تجد أحدا ممن يشربها إلا وهو نشوان مسرور بعيد عن صدور البكاء والصمت وثانيها أنا نجد شراب الخمر تكثر عربدهم ووثوب بعضهم على بعض بالسلاح ويهجمون على الأمور العظيمة التي لا يهجمون عليها حالة الصحو وهو معنى البيت المتقدم في قوله: وأسدا ما ينهنا اللقاء ولا نجد أكلة الحشيشة إذا اجتمعوا يجري بينهم شيء من ذلك ولم يسمع عنهم من العوائد ما يسمع عن شراب الخمر بل هم همدة سكوت مسبوطين لو أخذت قماشهم أو سببتهم لم تجد فيهم قوة البطش التي تجدها في شربة الخمر بل هم أشبه شيء بالبهائم ولذلك إن القتل يوجدون كثيرا من شراب الخمر ولا يوجدون مع أكلة الحشيشة فلهذين الوجهين أنا أعتقد أنها من المفسدات لا من المسكرات ولا أوجب فيها الحد ولا أبطل بها الصلاة بل التعزير الزاجر عن ملابسها

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

24 المخدرات: لغة: الخدر بكسر الخاء ستر يمد للجارية في ناحية البيت وكل ما وارى الإنسان من بيت ونحوه، وجمع كلمة خدر خدور، الخدر بالفتح الكسل وظلمة الميل والمكان المظلم، وأشتداد الحر، وأشتداد البرد، وتخدر وتخدرت وأخدرت وأخدرت أي دخلوا في غيم مطير أو غيم فقط أو ريح وكلها تدل على معنى من معاني الستر والخدر بأمذلال يغشى الأعضاء وتور العين أو ثقل فيها وقيل مأخوذة من الفعل خدر والخدر بمعنى الستر، وجارية مخدرة إذ ألزمت الخدر، والخدر في الرجل وباب طرب، لمعنى خفة تصيب النسان لشدة حزن أو سرور والخدر: فتور وضعف وكسل، يعترى الشارب

-((القاموس المحيط))، لمجد الدين محمد بن يعقوب الفيروز آبادي الشيرازي، دار الفكر، بيروت، 1398 - 1978م، 2 / 19، ((لسان العرب))، أبو الفضل جمال الدين محمد بن مكرم الانصاري ت 771هـ مطبعة مصورة عن طبعة بولاق معها تصويبات وفهارس متنوعة، الدار المصرية للتأليف والترجمة، 2 / 1109، ((المصباح المنير في غريب الشرح الكبير))، الرافعي: أحمد بن علي المقرئ الفيومي ت 770هـ المطبعة الاميرية، القاهرة، 4 ط، 1921م، ص 2.63 ((-مختار الصحاح))، محمد بن أبي بكر بن عبد القادر الرازي ت 666هـ دار الكتاب العربي، بيروت، 1401 - 1981م، ص 170، 3.389 - ((المعجم الوسيط أنيس)): الدكتور أبراهيم، وزملاؤه، دار الامواج، بيروت ط 2، 1410 - 1990م، 1 / 220 مادة خدر

of al-mukhaddirāt was not used extensively until the 10th century. However, the jurists (fuqaha) agreed with the language scholars regarding the meaning of al-takhdīr, which generates laziness and stupefaction.<sup>25</sup> Importantly described as both causing a person to experience lethargy and/ or euphoria, affecting the perception of the mind or consciousness.<sup>26</sup>

The jurists argue that a "mukhaddir" is a substance that, upon consumption, leads to laziness and lethargy, or obscures the mind without causing intense intoxication. This is because inebriation (al-iskār), such as that caused by al-khamr, brings about activity, joy, excitement, and indulgence. Similarly, the effect of inebriation (al-sukr),<sup>27</sup>

The numbness (خَدْر) caused by drinking or medication is a state of lethargy (futūr) that affects the person who consumes it, resulting in weakness. And numbness (خُدْرَة) is the heaviness of the leg and its inability to move, making it numb (خَدِر) completely.<sup>28</sup>

### *Mukhaddir is Synonymous with Mufattir, futūr:*

Abū Dāwūd narrated in his Sunan from the ḥadīth of Shahr ibn Hawshab, who reported from Umm Salamah, saying:

وحدیث أم سلمة رضي الله عنها قالت: "نهى رسول الله عن كل مسكر ومفترّ"

"The Messenger of Allāh (صلى الله عليه وسلم) forbade every inebriant (al-muskir) and all that causes sedation (al-muffattir)."<sup>29</sup>

"Mufattir" refers to the substance that induces lethargy and numbness in the body, even if it does not reach the level of intoxication. "al-Fattūr" is the prominent effect of consumption.

Mufattir refers to any psychoactive substance that affects mood or behaviour through its numbing or paralysing properties.<sup>30</sup>

"A mukhaddir is that which causes the mind to be obscured without affecting the senses,

25 في حاشية رد المحتار على الدر المختار (5:294) الفروق (1:217) موقف الشريعة الاسلامية من المخدرات، عبد العلي عطوره المؤتمر السادس لمخدرات، الرياض، 1974م، (3:45)

26 ابن حجر الهيثمي: الزواجر عن اقتراف الكبائر (214/1) إبراهيم أني وآخرون: المعجم الوسيط (220/1) صالح بن غانم السدلان: المخدرات والعقاقير النفسية (7)

27 سبيل الدعوة الإسلامية للوقاية من المسكرات والمخدرات [جمعة علي الخولي] ص 83

28 في لسان العرب لابن منظور والخدْر من الشراب والدواء فتور يعتري الشارب وَصَغَفَ. والخُدْرَةُ ثقل الرُّجُلِ وامتناعها من المشي خَدِرَ خَدْرًا فهو خَدِرٌ

29 روى أبو داود في سننه من حديث شهر بن حوشب عن أم سلمة قالت: نهى رسول الله صلى الله عليه وسلم عن كل مسكر ومفتر (جامع العلوم والحكم 397)

30 قال الطيبي: "لا يبعد أن يستدل به على تحريم البنج والشعناء، ونحوهما مما يفتقر ويزيل العقل لأن العلة وهي إزالة العقل مطردة فيها - آبادي: ((عون المعبود)) 10:91

وقال ابن رجب الحنبلي: "المفتر هو كل مخدر للجسد وإن لم يمتد إلى حد الاسكار كالبنج ونحوه - ابن رجب الحنبلي: ((جامع العلوم والحكم)) ص 397

وقال الخطابي: "المفتر كل شراب يورث الفتور والخدر في الأطراف، وهو مقدمة السكر - الصنعاني: ((سبل السلام)) 4:35



accompanied by ecstasy and pleasure, such as opium and likewise hashish and according to the sound opinion is prohibited...."<sup>31</sup>

They refer to a group of substances that affect the central nervous system and the psychological state of the user. They can weaken and bring upon a sense of lethargy whilst stimulating the central nervous system, suppressing activity, inducing hallucinations, or altering perceptions. These substances have addictive properties and can lead to various health problems and social issues.<sup>32</sup>

Another comprehensive definition is that any substance that impairs mental functioning, harms health, and usually leads to addiction is considered al-mufattir.<sup>33</sup>

### *Psychoactive Substances (Al-Mukhaddir) and their Effects*

This second category encompasses substances that induce euphoria, stimulation, and hallucinations of the mind, commonly referred to as "psychoactive substances" or "psychoactive drugs." These substances influence the brain's neurotransmitter systems, resulting in modifications to perception, mood, consciousness (drowsy, sedating), and cognition. Some mukhaddir substances can be further categorized based on their primary effects:

- *Stimulants:*

Examples: Cocaine, Amphetamines (like Adderall), Methamphetamine, MDMA (Ecstasy).

Medical Usage: Some amphetamines and stimulant medications are prescribed to treat attention deficit hyperactivity disorder (ADHD) and narcolepsy. They can help improve focus, attention, and alertness in individuals with these conditions. Controlled medical use involves carefully regulated dosages under the supervision of healthcare professionals.

Symptoms: Increased energy and alertness, heightened focus, elevated heart rate, reduced appetite, euphoria, increased sociability. However, they can also lead to anxiety, paranoia, and physical side effects like dilated pupils and high body temperature.

- *Hallucinogens/Psychedelics:*

Examples: LSD (acid), Psilocybin (magic mushrooms), DMT, Mescaline, Peyote.

Medical Usage: Psychedelics are currently being researched for potential therapeutic use in treating

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31 شرح الزرقاني على مختصر خليل مع حاشية البناي " .. المخدر ما غيب العقل دون الحواس، مع نشوة وطرب كأفيون وكذا حشيشة على الصحيح ... وبخلاف المرقد وهو ما غيبها معا كحب البلاد والداتورة فظهران ... بخلاف المفسد والمرقد فظهران ولا حد على مستعملها ولا يحرم منها إلا ما أثر في العقل .. (1:23-24)

32 جريمة تعاطي المخدرات في القانون المقارن، اللواء الدكتور محمد عبد، دارالنشر بالمركز العربي لدراسات المنية والتدريب بالرياض، ص 1

33 مجلة الفكر الشرطي، الدكتور مجدي عز الدين يوسف، المجلد الثالث، العدد الثاني، ربيع الثاني، 1415، ي، 3 / 3

mental health conditions such as depression, PTSD, and anxiety. Clinical trials are exploring their effects on consciousness and emotional processing, but they are not yet approved for widespread medical use.

Symptoms: Altered perception of reality, visual and auditory hallucinations, spiritual or mystical experiences, intensified emotions, and distorted sense of time. These substances can also lead to mood swings, anxiety, and in rare cases, hallucinogen-persisting perception disorder (HPPD).

- *Dissociative Depressants:*

Examples: Ketamine (used in medical settings for anesthesia and depression treatment), PCP (phencyclidine), DXM (dextromethorphan).

Medical Usage: Ketamine has shown potential as a rapid-acting antidepressant and is used in controlled medical settings to treat severe depression and mood disorders.

Symptoms: Feelings of detachment from reality, numbness, dissociation, altered perception of the body, hallucinations, and confusion. These substances can also lead to impaired motor function and memory.

- *Opioids:*

Examples: Morphine, Heroin (illegal), Oxycodone, Fentanyl.

Medical Usage: Opioids are used medically to manage severe pain, such as in post-surgical recovery, injury, or chronic pain conditions. Opioid medications are prescribed by doctors and must be used under medical supervision due to their potential for dependence and misuse.

Symptoms: Pain relief, euphoria, sedation, reduced anxiety, and a sense of well-being. However, they can also lead to drowsiness, constipation, respiratory depression (in high doses), and a high risk of dependence and overdose.

It is important to note that the effects of psychoactive substances can vary significantly depending on the type, the individual, the dosage, the frequency of use, and other factors.

### *Varieties of al-Mukhaddir and al-Mufattir as Explored by Classical Muslim Jurists*

The landscape of drugs and intoxicants, as described in classical Islamic jurisprudence texts, finds its contemporary counterparts in our present time. The realm of drug production and consumption has evolved, with individuals becoming adept at deriving substances from various sources to achieve desired effects such as mental sedation and heightened stimulation. All of these substances fall under a common verdict – their prohibition due to the undeniable harm they inflict.

This stance is distinctly elaborated upon in the Islamic legal edicts that pertain to drugs.

- Opium (al-banj): This extract from a poisonous plant is utilized in medicine as a sedative. Its consumption results in drowsiness and a numbing of the cognitive faculties.
- Opium Poppy (al-afyūn): Derived from the sap of the poppy plant, this substance induces sleep and anaesthesia. It impacts appetite and sexual desire and possesses the potential for addiction, marked by severe withdrawal symptoms.
- Cannabis (al-ḥashīshah): A strain of the Indian hemp leaf, it ushers in intoxication, altering perceptions and impairing judgment.
- Catha Edulis (al-qāt): This plant cultivated in Yemen is chewed, producing a stimulating effect while also giving rise to addiction and a sense of numbness. It has a dual nature, acting as both a stimulant and a narcotic. It leads to sluggishness, lethargy, and diminished productivity.
- Henbane (al-‘anbar), Saffron (al-za‘frān), and Cotton Seeds (zahr al-qatan): These substances share intoxicating attributes akin to alcohol. Henbane is odourless and tasteless unless crushed or burned. Saffron, a red stigmatic thread sourced from the crocus flower, is used for flavouring. Cotton seeds are derived from the cotton plant.
- Laudanum (al-barsan): A blend of opium and morphine, this compound possesses potent effects.
- Walnut (al-jawzā’), Henbane (al-qanqīṭ), and Thornapple (al-darīqah): While walnut is a type of nut, thornapple and henbane are the fruits of specific plants.
- Al-Ladur: This substance combines with opium.
- Al-‘Arīṭ: A blend involving saffron and opium.

In the present day, psychoactive drugs can be categorized into two main groups:

A) Natural Drugs: These materials are extracted from narcotic plants, including:

- Opium and its derivatives, obtained from the poppy fruit.
- Cocaine, derived from the coca tree.
- Marijuana, sourced from the cannabis and Indian hemp plants.
- Khat, cultivated in Yemen, and Betel, widespread in Sudan.

- Hashish, extracted from Indian hemp leaves.

Additional varieties as identified by researchers, like nutmeg, jimsonweed, and datura.

B) Synthetic or Chemical Drugs: These substances are crafted within laboratories and are presented in forms such as pills, capsules, or injections. Of particular concern are hallucinogenic drugs like LSD (Lysergic Acid Diethylamide), impacting memory and behaviour, possibly leading to personality disorders and instability. Synthetic drugs often serve as alternatives to banned substances, aiming to fulfil cravings and avoid the legal repercussions linked with narcotics possession. The adoption of synthetic drugs can arise due to factors such as elevated costs, scarcity, or challenges in acquiring natural substances like opium and marijuana.

Consequently, the use of mukhaddir substances has expanded beyond traditional narcotics, now encompassing a wide array of psychoactive substances, both naturally derived and synthetically manufactured.

Imām Shihāb al-Dīn Aḥmad ibn Idrīs al-Qarāfī al-Mālikī (d. 684 AH) distinguishes mukhaddir from muskir by illustrating this through the example of cannabis, which he classifies as mukhaddir. He lays out two key distinctions:<sup>34</sup>

- **Variability of Effects:** The primary differentiation lies in the diverse effects mukhaddir produces among individuals, whereas muskir generally induces a uniform state of inebriation. Mukhaddir's impact varies, prompting stimulation in some, and inducing drowsiness, intense emotions, distress, or elation in others. Conversely, the consumption of wine and inebriating substances typically yields a common experience of euphoria, distancing those partaking from expressions of sorrow and quietness.
- **Social Disruption:** The consumption of wine and intoxicants often engenders chaos and conflicts among individuals. Individuals become combative and engage in disputes on

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<sup>34</sup> في الفروق للقرافي فالمسكر يزيد في الشجاعة والمصرة وقوة النفس والميل إلى البطش والانتقام من الأعداء والمنافسة في العطاء وأخلاق الكرماء وهو معنى البيت المتقدم الذي وصف به الخمر وشاربها ولأجل اشتهاه هذا المعنى في المسكرات (1:217)

وهذا الفرق يظهر لك أن الحشيشة مفسدة وليست مسكرة لوجهين أحدهما أنا نجدها تثير الخلط الكامن في الجسد كيفما كان فصاحب الصفراء تحدث له حدة وصاحب البليغم تحدث له سباتا وصمتا وصاحب السوداء تحدث له بكاء وجزعا وصاحب الدم تحدث له سرورا بقدر حاله فتجد منهم من يشتد بكأوه ومنهم من يشتد صمته وأما الخمر والمسكرات فلا تكاد تجد أحدا ممن يشربها إلا وهو نشوان مسرور بعيد عن صدور البكاء والصمت وثانيهما أنا نجد شراب الخمر تكثر عربدهم ووثوب بعضهم على بعض بالسلاح ويهجمون على الأمور العظيمة التي لا يهجمون عليها حالة الصحو وهو معنى البيت المتقدم في قوله: وأسدا ما يتنهنا اللقاء ولا نجد أكلة الحشيشة إذا اجتمعوا يجري بينهم شيء من ذلك ولم يسمع عنهم من العوائد ما يسمع عن شراب الخمر بل هم همدة سكوت مسبوطين لو أخذت قماشهم أو سببتهم لم تجد فيهم قوة البطش التي تجدها في شربة الخمر بل هم أشبه شيء بالبهائم ولذلك إن القتل يوجدون كثيرا من شراب الخمر ولا يوجدون مع أكلة الحشيشة فلهذين الوجهين أنا أعتقد أنها من المفسدات لا من المسكرات ولا أوجب فيها الحد ولا أبطل بها الصلاة بل التعزير الزاجر عن ملبسها

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

significant matters, behaviour that contrasts starkly with their sober demeanour. Conversely, gatherings of cannabis consumers lack this sort of turbulence; they tend to be characterized by silence and passivity. Provocations or attempts to confiscate their belongings generally do not elicit the same aggression observed in those consuming khamr. This behaviour is more akin to that of animals. Consequently, fatalities linked to khamr consumption are more frequent compared to cannabis consumption.

Al-Qarāfī asserts that based on these grounds, cannabis belongs to the mukhaddir category (psychoactive substances) rather than being classified as an intoxicant (al-muskir). This distinction renders it exempt from the prescribed punishment (hadd) and the annulment of prayers. Instead, it necessitates stringent corrective measures and prohibition.

In essence, the defining distinction between muskir (inebriants) and mukhaddir lies in the fact that muskir significantly alters perception and impairs judgment, a characteristic that is notably different among different individuals. (Refer to the table for a summarized comparison.)

Table 2. Differentiating the Effects of Inebriants from Other Mind-Altering Substances

Symptom/ Effect	Inebriants	Stimulants	Psychedelics	Opioids	Depressants
Altered Perception	✓		✓		
Euphoria	✓		✓	✓	✓
Impaired Judgment	✓				
Relaxation	✓			✓	✓
Enhanced Alertness		✓			
Increased Heart Rate		✓			

Dilated Pupils	✓	✓
Hallucinations		✓
Pain Relief		✓
Respiratory Depression	✓	✓
Sedation		✓

### 3.3 Definition and Effects of Al-Muraqqad (Depressants)

This third category which comprises depressants, falls under the class of psychoactive substances that act to slow down or depress the central nervous system (CNS). These substances can induce sedative effects, resulting in drowsiness, decreased alertness, and feelings of relaxation. At higher doses, depressants may produce more pronounced effects, including numbness, loss of sensation, and, in extreme cases, partial or complete paralysis (anaesthetic properties).

The mukhaddir is what clouds the mind without dulling the senses, accompanied by euphoria and pleasure, like opium and hashish. Unlike the muraqqad, which clouds both the mind and the senses, such as belladonna and datura,<sup>35</sup> they are pure and there is no prescribed punishment for their user, and they are not prohibited except for what affects the mind.<sup>36</sup>

Examples of depressants and their medical uses include:

- *Benzodiazepines* (e.g., Valium, Xanax): Benzodiazepines are prescribed for anxiety disorders, panic disorders, insomnia, and muscle relaxation. They can help alleviate symptoms of anxiety and promote sleep. They are used under medical supervision due to their potential for dependence.
- *Barbiturates*: Historically, barbiturates were used as sedatives and sleep aids. Some short-acting barbiturates have been used in anaesthesia. However, due to their high potential for overdose and the availability of safer alternatives, barbiturates are now less commonly used.
- *GHB (Gamma-Hydroxybutyrate)*: GHB is a central nervous system depressant. In the medical field, it has been used as a prescription medication for narcolepsy and cataplexy. Its use is strictly controlled due to the risks

35 Belladonna (*Atropa belladonna*) and Datura (*Datura spp.*) are two different plants that belong to the nightshade family (Solanaceae). Both of these plants contain alkaloids with potent and potentially dangerous effects on the nervous system. The alkaloids found in these plants, such as atropine and scopolamine, can have numbing properties and various other effects.

36 في شرح الزرقاني على مختصر خليل مع حاشية البناي " .. المخدر ما غيب العقل دون الحواس، مع نشوة وطرب كأفيون وكذا حشيشة على الصحيح ... وبخلاف المرقد وهو ما غيبها مع كحب البلاد والذاتورة فظاهران ... وبخلاف الفسد والمرقد فظاهران ولا حد على مستعملها ولا يجرم منها إلا ما أثر في العقل .. (1:23-24)

associated with misuse.

- *Prescription Medications for Anaesthesia and Sleep Disorders:* Certain medications, like propofol, are used for anaesthesia during medical procedures. Other medications, such as certain sedative-hypnotics, are prescribed to treat sleep disorders by promoting sleep induction and maintenance.

Symptoms: Relaxation, sedation, reduced inhibition, slowed reflexes, impaired coordination, euphoria. However, they can also cause drowsiness, memory impairment, respiratory depression (in high doses), and the potential for addiction.

Al-Qarāfī explains that the person who consumes substances that cause the mind to become unconscious may experience a loss of senses. If the senses, such as sight, hearing, touch, smell, and taste, are lost along with the mind, it is considered "al-muraqqad", a drug rendering a person unconscious. "al-Muraqqad" refers to substances that cause the mind and senses to become unconscious, similar to someone who is severely inebriated, yet not the same.<sup>37</sup>

### 3.4 Definition and Effects of Neurotoxic Substances (Al-Mufsid)

The fourth and final category encompasses neurotoxic substances, which consist of chemical agents or compounds capable of causing damage or harm to the nervous system, including the brain and nerves. Such substances can disrupt the normal functioning of nerve cells at small doses, resulting in adverse effects on cognitive functions, emotions, and overall mental health.

Al-Qarāfī explains that when someone consumes a substance, there are two scenarios: either their ability to think is impaired and their senses are lost, or their senses remain unaffected. In the first case, where the senses like sight, hearing, touch, smell, and taste are impaired, it is referred to as al-muraqqad. In the second case, if the senses remain intact, then there are two possibilities: either the person experiences a state of ecstasy, pleasure, and heightened inner strength, mainly affecting the individual consuming the substance, which is termed al-muskir. Alternatively, if these effects don't manifest, the substance falls into the category of al-mufsid, which has neuro-toxic properties.<sup>38</sup>

Toxic substances, in a broader sense, refer to any substances that can cause harm or adverse

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

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

effects to living organisms, including humans. These effects can be physical, mental, or both.

Examples of neurotoxic and toxic substances used in medicine include:

- Chemotherapy drugs: Some chemotherapeutic agents used to treat cancer can cause neurotoxicity as a side effect. For example, drugs like cisplatin, vincristine, and paclitaxel can lead to peripheral neuropathy, characterized by tingling, numbness, and pain in the hands and feet.
- Antipsychotic medications: Certain antipsychotic drugs, such as haloperidol and chlorpromazine, may cause movement disorders, including tardive dyskinesia, which involves repetitive, involuntary movements of the face and limbs.
- Antiepileptic drugs: Some antiepileptic medications, like valproate and carbamazepine, can cause cognitive impairment and mood changes as potential neurotoxic side effects.
- Lithium: Although lithium is commonly used to treat bipolar disorder, it can be neurotoxic at high levels, leading to symptoms such as tremors, muscle weakness, and confusion.
- Methotrexate: This medication, used to treat certain autoimmune conditions and cancer, can cause neurotoxicity, leading to headache, dizziness, and memory problems.
- Antiviral drugs: Certain antiviral medications, such as efavirenz used to treat HIV, can cause neurotoxic side effects, including dizziness, hallucinations, and sleep disturbances.
- Cyclosporine: This immunosuppressive drug used in transplant medicine can lead to neurotoxicity, causing symptoms such as tremors and seizures.

Symptoms: There are multiple symptoms, but the common neurological symptoms are headaches or migraines, dizziness or vertigo, confusion or difficulty concentrating, memory problems or cognitive impairments, mood swings or emotional disturbances, anxiety or depression and seizures or convulsions (in severe cases)

### 3.5 Rulings related to Mukhaddir, Muraqqad and Mufsid

There is agreement amongst jurists that mind altering substances, al-mukhaddirāt, are prohibited. Some consider ijma' on this.<sup>39</sup>

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39 ابن الهمام: ((شرح فتح القدير)) 4:184 السرخسي: ((المبسوط)) 24:9 ابن عابدين: ((حاشية رد المحتار)) 5:6 القرافي: ((الفروق)) 1:216 الخطاب: ((مواهب الجليل)) 2:232 النووي: ((المجموع)) 3:8 القليوبي: ((حاشية قليوبي وعميرة)) 1:69 الشربيني: ((معني المحتاج)) 4:187 البهوتي: ((كشاف الفناع)) 6:188 ابن تيمية: ((مجموع الفتاوى)) 34:211 الهيثمي: ((الزواجر)) 1:216



Taking substances which alter the mind for recreation purposes is considered prohibited. This is deduced based on the rulings related to *khamr*.<sup>40</sup> But this is not the sole reason for its prohibition rather there is explicit ḥadīth of its prohibition. "The Messenger of Allāh (صلى الله عليه وسلم) forbade every inebriant (al-muskir) and all that causes drowsiness (al-muffattir)."<sup>41</sup>

In the late sixth century of the Islamic calendar, hashish appeared when the Mongols invaded the lands of the Muslims and brought them with them. The sinful individuals among the Muslims were afflicted by consuming it, and it spread among them, and the Muslims became aware of it.

Shaykh Ibn Taymiyyah (d. 728 AH). said, "And this hashish, it is the first thing that reached us that it appeared among the Muslims in the late sixth century and early seventh century when the state of the Mongols emerged, and its appearance coincided with the appearance of the sword of Genghis Khan..."<sup>42</sup>

When it appeared and the Muslims became aware of it, the scholars (may Allāh have mercy on them) spoke about it and clarified its prohibition in consumption and use. There was a consensus among them on the prohibition of intoxication caused by it.

Ibn Taymiyyah said, "The consumption of this solid hashish is Haram (prohibited), and it is among the filthiest of prohibited substances. Whether one consumes a little or a lot of it, the highly intoxicating portion of it is Haram according to the consensus of Muslims"<sup>43</sup>

Imām al-Qarāfī said, " The plant known as hashish, which is used by people of immorality, the people of the time unanimously agreed on its prohibition, specifically referring to its highly mind-altering properties"<sup>44</sup>

Statements regarding the prohibition of using hashish and other intoxicating drugs can be found in the books of jurists according to their different schools of thought.

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40 ((مجموع فتاوى ابن تيمية)): 34:204 ((الفتاوى الكبرى))، لابن حجر الهيتمي: 4:231 ((قليوبي وعميرة)): 1:69 ((الفروق))، للقرافي: 1:218 ((شرح الخرشبي)): 1:84 ((كشاف القناع)): 6:188 ((رد المحتار)): 5:294 ((معني المحتاج)): 1:77 ((المجموع، للنووي)): 3:8 ((جامع العلوم والحكم))، ص398

41 روى أبو داود في سننه من حديث شهر بن حوشب عن أم سلمة قالت: نبي رسول الله صلى الله عليه وسلم عن كل مسكر ومفتّر ((جامع العلوم والحكم)) (٣٩٧)

42 "مجموع الفتاوى لشيخ الإسلام... وهذه الحشيشة فإنه أول ما بلغنا أنها ظهرت بين المسلمين في أواخر المائة السادسة وأوائل السابعة حيث ظهرت دولة التتر، وكان ظهورها مع ظهور سيف جنكسخان ...". (34:205)

الكياثر قال الحافظ الذهبي -رحمه الله-: "والحشيشة تشرب وتؤكل وإنما لم يذكرها العلماء لأنها لم تكن على عهد السلف الماضين، وإنما حدثت في مجيء التتار إلى بلاد المسلمين" اهـ... (ص 95) وقال الشيخ محمد علي حسين المالكي -رحمه الله- في كتابه تهذيب الفروق: "اعلم أن النبات المعروف بالحشيشة لم يتكلم عليه الأئمة المجتهدون، ولا غيرهم من علماء السلف لأنه لم يكن في زمنهم، وإنما ظهر في أواخر المائة السادسة وانتشر في دولة التتار" اهـ. تهذيب الفروق 1/ 216.

43 مجموع الفتاوى لشيخ الإسلام 34/ 213. "أكل هذه الحشيشة الصلبة حرام، وهي من أخبث الخبائث المحرمة، وسواء أكل منها قليلاً أو كثيراً، لكن الكثير المسكر منها حرام باتفاق المسلمين"

44 الفروق للقرافي 1/ 216، 215، ومن حكي الإجماع على حرمتها الحافظ ابن حجر الهيتمي في الفتاوى الكبرى الفقهية 4/ 229. "الثاني: النبات المعروف بالحشيشة التي يتعاطها أهل الفسوق اتفق أهل العصر على المنع منها، أعني كثيرها المغيب للعقل"

### Ḥanafī Perspective:

Imām Muhammad 'Alā al-dīn al-Ḥaṣkafī al-Ḥanafī (d. 1088 AH) said, "It is prohibited to consume bhang, hashish, and opium because they are corrupting of the mind prevent from the remembrance of Allāh in prayer..."<sup>45</sup>

Ibn 'Ābidīn states: ...Furthermore, if a small amount of opium or saffron were considered forbidden by Muhammad, it would necessitate them being impure, because he stated that what intoxicates in abundance, its small amount is forbidden and impure. However, no one has mentioned the impurity of opium and the like. In Al-Kafī by Al-Hakim regarding various beverages, do you not see that there is no problem with using opium for medicinal purposes? But if one wants to lose his sanity, he should avoid it. ..By this, it's understood that the intended substances are liquid beverages. The likes of opium and such solids are prohibited only when their purpose is to cause intoxication, which is an abundant amount.<sup>46</sup>

### Mālikī Perspective:

Shaykh Abdul Baqī al-Zurqānī al-Mālikī (d. 1099 AH) said, "A mukhaddir is that which causes the mind to be obscured without affecting the senses, accompanied by ecstasy and pleasure, such as opium and likewise hashish according to the sound opinion (are prohibited)... unlike Muraqqad, which is that which obscures both the mind and the senses, like belladonna and datura, they (mukhaddir and muraqqad) are considered pure (tahir) substances... (and) the corrupting substances (mufsid) and muraqqad (sedatives), they are considered pure, there is no specific punishment for their users, and they are only prohibited if they have an effect on the mind..."<sup>47</sup>

Shaykh Muḥammad 'Ulaysh al-Maliki (d. 1299 AH) said, "...As for the corrupting substance (mufsid), also (sometimes) known as a mukhaddir, it is that which alters the mind without ecstasy and elation such as hashish and opium... Muraqqad is that which obscures the mind and the senses, such as bhang and datura. They are considered pure substances when it comes to exceptions. The moderate use of them that does not obscure the mind is permissible, but excessive

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45 الدر المختار للحصكفي "ويحرم أكل البنج والحشيشة والأفيون لأنه مفسد للعقل ويصد عن ذكر الله وعن الصلاة" (1:412)

46 رد المحتار [ابن عابدين] أقول: المراد بها أسكر كثيره إلخ من الأثرية، وبه عبر بعضهم وإلا لزم تحريم القليل من كل جامد إذا كان كثيره مسكرا كالزعفران والعنبر، ولم أر من قال بحرمتها، حتى إن الشافعية القائلين بلزوم الحد بالقليل مما أسكر كثيره خصوه بالمائع، وأيضا لو كان قليل البنج أو الزعفران حراما عند محمد لزم كونه نجسا؛ لأنه قال ما أسكر كثيره فإن قلبه حرام نجس، ولم يقل أحد بنجاسة البنج ونحوه. وفي كافي الحاكم من الأثرية: ألا ترى أن البنج لا بأس بتداويه، وإذا أراد أن يذهب عقله لا ينبغي أن يفعل ذلك. اهـ. وبه علم أن المراد الأثرية المائعة، وأن البنج ونحوه من الجامدات إنما يحرم إذا أراد به السكر وهو الكثير منه، دون القليل المراد به التداوي ونحوه كالتطيب بالعنبر وجوزة الطيب، ونظير ذلك ما كان سميا قتالا كالمحمودة وهي السقمونيا ونحوها من الأدوية السمية لأنه حشيش، أما السكر منه فحرام (4:43)

47 شرح الزرقاني على مختصر خليل مع حاشية الباني " .. المخدر ما غيب العقل دون الحواس، مع نشوة وطرب كأفيون وكذا حشيشة على الصحيح ... وبخلاف المرقد وهو ما غيبتها معا كحب البلادر والداتورة فطهران ... بخلاف المفسد والمرقد فطهران ولا حد على مستعملها ولا يحرم منها إلا ما أثر في العقل .. (1:23-24)

use that obscures the mind is prohibited..."<sup>48</sup>

In the commentary of Ibn Hamdun Ibn al-Ḥāj (d. 1273)<sup>49</sup>, muskir are distinguished from muraqqad and mufsid substances by three rulings: (1) punishment, (2) impurity, and (3) prohibition of even a small amount. This is also mentioned by al-Ḥaṭṭāb al-Ru'aynī al-Mālikī (d. 954 AH)<sup>50</sup>, who cites Ibn Farhūn's (d. 799 AH)<sup>51</sup> statement that there is a type of milk that clouds the mind when it becomes sour and produces a kind of intoxication. Therefore, consuming it is prohibited, and the quantity that clouds the mind is prohibited. This is observed in Ibn Hamdūn's commentary. There is no specific punishment or impurity for muraqqad and mufsid substances. If a person prays while under the influence of substances like benzodiazepines, opium, or secobarbital, their prayer is not invalidated by consensus. Consuming a small amount of these substances is permissible if it does not affect the mind or senses. However, consuming a large amount that affects the mind or senses is prohibited. These are the three judgments that differentiate between inebriants and others.<sup>52</sup>

Shāfi'ī Perspective:

Imām al-Nawawī (d. 676 AH) said, "That which obscures the mind (even) without being a beverage, such as bhang, is Haram (prohibited)"<sup>53</sup>

Al-Ḥafīz Ibn Hajar al-Asqalānī (d. 852 AH) said, "He derived evidence from the general statement of the Prophet - صلى الله عليه وسلم - 'Every intoxicant is prohibited' to prohibit anything that causes intoxication, even if it is not a beverage. This includes hashish and others...Some scholars, including Imam al-Nawawī and others, have definitively stated that it is intoxicating, while others have definitively stated that it is narcotic. It is a matter of debate, as it produces similar effects to alcohol in terms of pleasure, intoxication, habitual use, and absorption."<sup>54</sup>

The scholar Muḥammad bin Aḥmad al-Ramlī al-Shāfi'ī (d. 902 AH) said, "Prohibition is established

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48 **منع الجليل لعليش** "... وأما المفسد ويسمى المخدر أيضا وهو ما يغيب العقل وحده بلا نشوة ولا طرب ومنه الحشيشة على المعتمد والأفيون، والبرش، وجوزة الطيب... المرقد وهو ما يغيب العقل والحواس ومنه البنج والذاتورة فطهران داخان في المستثنى منه واستعمال قليلها الذي لا يغيب العقل جائز وكثيرهما الذي يغيبه محرم ... " (1:26)

49 ((حاشية ابن حمدون بن الحاج على شرح المكودي لألفية ابن مالك))

50 ((مواهب الجليل في شرح مختصر خليل))

51 ((تبصرة الحكام في أصول الأقضية ومناهج الأحكام)) المؤلف: إبراهيم بن علي بن محمد، ابن فرحون

52 **في الفروق للقرافي = أنوار البروق في أنواع الفروق [القرافي]** كما في حاشية ابن حمدون وتفرد المسكرات عن المرقدات والمفسدات بثلاثة أحكام الحد والنجاسة وتحريم السير وما نقله الخطاب عن ابن فرحون من أن من اللبن نوعا يغطي العقل إذا صار قارصا ويحدث نوعا من السكر فإن شرب لذلك حرم ويجرم منه القدر الذي يغطي العقل اه فيه نظر بل يجرم تناول القليل والكثير منه حيث كان يحدث نوعا من السكر كما في حاشية ابن حمدون ولا حد في المرقدات والمفسدات ولا نجاسة فمن صلى حامل البنج أو الأفيون أو السكيران لم تبطل صلاته إجماعا ويجوز تناول السير منها وهو ما لا يصل إلى التأثير في العقل أو الحواس ويجرم تناول الكثير الذي يصل إلى التأثير في العقل أو الحواس فهذه الثلاثة الأحكام وقع بها الفرق بين المسكرات والآخرين (1:215)

53 **روضة الطالبين للنووي** "ما يزيل العقل من غير الأشربة كالبنج حرام" (1:171)

54 **فتح الباري لابن حجر** "واستدل بمطلق قوله - صلى الله عليه وسلم - : "كل مسكر حرام" على تحريم ما يسكر ولو لم يكن شرابا فيدخل في ذلك الحشيشة وغيرها وقد جزم النووي وغيره بأنها مسكرة، وجزم آخرون بأنها مخدرة، وهو مكابرة لأنها تحدث بالمشاهدة ما يحدث الخمر من الطرب والنشوة والمداومة عليها والانهالك فيها ... " (10:45) .

for beverages that are made from solid substances, such as bhang, opium, excessive saffron, walnut, and hashish"<sup>55</sup>

Al-Hāfiẓ Ibn ḥajar al-Haythamī (d. 974 AH) said, "This hadith provides evidence for the prohibition of hashish specifically, as it causes intoxication and confusion"<sup>56</sup>

Ḥanbalī Perspective:

Imām Ibn Qudāmah al-Maqdisī (d. 620 AH) said, "...If one drinks bhang or similar substances that remove his mind knowingly and playfully, its ruling is like that of a drunken person in terms of divorce... If it is known that his mind was obscured due to disobedience, he is considered similar to a drunken person..."<sup>57</sup>

Shaykh al-Islam Ibn Taymiyyah (may Allāh have mercy on him) said, "The hashish made from cannabis leaves is also Haram, and its consumer is subjected to punishment similar to that of a wine (al-khamr) drinker"<sup>58</sup>

Type	Examples	Effect on Consciousness	Euphoria, Stimulation, hallucination	Inebriation (Impair Reasoning)	Physically Harmful	Other Effects
المُسْكِر Al-Muskir	Alcoholic beverages and inebriants	Yes, can lead to unconsciousness if excessive consumption	Yes, produces feelings of euphoria	Yes, impairs judgment and coordination significantly	Yes, can cause liver and brain damage	<ul style="list-style-type: none"> <li>- Impaired motor skills and slurred speech</li> <li>- Impaired decision-making and risk-taking behaviours</li> <li>- Potential for aggression and mood swings</li> </ul>

55 هاية المحتاج للرمل " وخرج بالشراب ما حرم من الجمادات كالبنج والأفيون وكثير الزعفران والجوزة والحشيش " (8:10)

56 الفتاوى الكبرى الفقهية للهيتمي " وهذا الحديث فيه دليل على تحريم الحشيشة بخصوصه فإنها تسكر وتخدّر وتفتر " (4:233)

57 المغني لابن قدامة " ... فأما إن شرب البنج ونحوه مما يزيل عقله علما به متلعبا فحكمه حكم السكران في طلاقه .. ولنا أنه زال عقله بمعصية فأشبهه السكران ... " (7:114)

58 مجموع الفتاوى لشيخ الإسلام " والحشيشة المصنوعة من ورق القنب حرام أيضا يجلد صاحبها كما يجلد شارب الخمر " (23:339)

<p>المُخَدِّر</p> <p>Al-Mukhaddir</p>	<p>Narcotics, opiates, psycho-active agents, stimulants and hallucinogens</p>	<p>Yes, can induce unconsciousness and sedation</p>	<p>Yes, produces feelings of euphoria, stimulants, or hallucinations</p>	<p>Yes, can impair cognitive functions but not to the degree as inebriants</p>	<p>Yes, can cause respiratory depression</p>	<ul style="list-style-type: none"> <li>- Pain relief and relaxation</li> <li>- Potential for constipation and respiratory depression</li> <li>- Potential for mood swings and emotional instability</li> </ul>
<p>المُرَقِّد</p> <p>Al-Muraqqad</p>	<p>Sedatives, narcotics, anaesthetics</p>	<p>Induces reduced conscious states or sedation more markedly</p>	<p>No, not a recognised symptom but can do at times</p>	<p>Induces sedation and amnesia which can slow judgement</p>	<p>Can be harmful in high doses</p>	<ul style="list-style-type: none"> <li>- Pain relief during medical procedures</li> <li>- Temporary memory loss and disorientation</li> <li>- Reduced anxiety and stress during medical procedures</li> </ul>
<p>المُفْسِد</p> <p>Al-Mufsid</p>	<p>Poisons, toxic substances</p>	<p>Harmful and toxic to the mind</p>	<p>No</p>	<p>Yes, can lead to delirium and confusion</p>	<p>Yes, can be highly toxic</p>	<ul style="list-style-type: none"> <li>- Nausea, vomiting, and abdominal pain</li> <li>- Organ damage, depending on the poison</li> <li>- Hallucinations and altered mental states</li> </ul>

In conclusion, any substance that is confirmed to induce feelings of euphoria, sedation, or numbing

effects on the body or mind is subject to the prohibition ruling, irrespective of its specific origin or designation, as long as it produces such effects. If the quantity consumed does not result in alterations to one's mental state, then it is permissible. Any associated prohibition would be attributed to external factors rather than the substance itself, and this aspect will be further expounded upon later. This judgment is rooted in the well-established prohibition outlined in the teachings of the Prophet (صلى الله عليه وسلم) concerning all intoxicants (al-muskir) and substances causing drowsiness (al-mufattir).

Table 3. Categories of Mind-Altering Substances and their Indications for Prohibition Related to their Effects on the Mind

Owing to the extensive diversity and numerous effects of modern mind-altering substances, it is challenging to categorize any individual substance under a single category. Instead, a more suitable approach involves associating each category with an essential property and assessing each substance's Islamic rulings based on the extent of that property found in it.

In essence, Muslim jurists recognize the following four categories of mind-altering substances, each possessing distinct essential properties as follows:

Table 4. Four Categories of Mind-Altering Substances Based on their Effects and Their Rulings

Type	Essential property	Examples	Rulings of prohibition
المُسْكِر Al-Muskir	Alcoholic beverages, substances which can cause inebriation	Wines, spirits  Fermented drinks (anaerobic, distillation)	Prohibited even if they do not affect reasoning capability of mind or cause drowsiness, regarded as impure and severe punishment
المُخَدِّر Al-Mukhaddir	psycho-active properties, stimulants and hallucinogens	Opioids (e.g., heroin, morphine, oxycodone)  Stimulants (e.g., amphetamines, cocaine, MDMA)  Hallucinogens (e.g., LSD, psilocybin mushrooms, peyote)  Dissociative drugs (e.g.,	Prohibited only if dose or amount is likely to affect reasoning capability of mind or cause drowsiness. It is pure and prohibited affect will be with a lighter punishment compared to muskir

		ketamine, PCP)  Cannabinoids (e.g., marijuana, THC products)  Inhalants (e.g., solvents, aerosols, nitrous oxide)	
المُرَقَّد  Al-Muraqqad	Sedating properties	Depressants (e.g., alcohol, benzodiazepines, barbiturates)  Sedatives, narcotics , anaesthetics	Prohibited only if dose or amount is likely to affect consciousness and reasoning capability or cause drowsiness. It is pure and prohibited affect will be with a lighter punishment compared to muskir
المُفْسِد  Al-Mufsid	Poisons, toxic substances	Any substance which is harmful especially if in small amounts	Prohibited only if dose or amount is likely to cause harm to brain or physical body either immediately or significantly in the future, even if they do not affect reasoning capability. It is pure and prohibited affect will be with a severe punishment for attempted suicide /murder or harm depending on intention.

#### 4. FIVE ADDITIONAL FACTORS DETERMINING PROHIBITION

The classifications of al-muskir, al-mukhaddir, and the mentioned categories share common legal implications due to their shared effects on the mind. However, they diverge in various aspects, encompassing additional mental effects and significant external considerations like addiction potential and societal harms. These external factors play a pivotal role in shaping the rationale behind their prohibition. In the upcoming discourse, we will delve into these crucial external

considerations that contribute to their prohibition. In summary, classical Islamic legal scholars identified four primary classes of substances that alter the mind, each accompanied by specific legal rulings. Many of today's mind-altering substances might possess qualities resembling one or more of these categories, with their corresponding judgments aligning with the closely associated effects.

Furthermore, there are significant additional contributing factors that amplify the reasons for their prohibition, as enumerated below. Therefore, even if a mind-altering substance is permissible in small quantities that don't induce mind-altering effects, it might still be prohibited due to these other supplementary factors:

### 1. Impurity

If a substance is impure, its consumption or application is forbidden. Al-khamr is inherently impure, and all muskir substances derived from grapes, dates, and other fruits that cause inebriation fall within this category. The Ḥanafī school holds less stringent rulings regarding impurity, applying them only to substances sourced from grapes and dates.

However, substances directly sourced from plants or herbs, such as hashish, morphine, heroin, and cocaine, are not considered impure (najs). This perspective enjoys a consensus among Muslim jurists because plants are deemed inherently pure, as there is no contradictory evidence. It's worth noting that the prohibition of a substance doesn't necessarily imply its impurity, as is the case here. A few scholars, like Ibn Taymiyyah and one view of Imām Aḥmad, argue that it is impure based on an analogy with khamr and urine or hashish and faeces.<sup>59</sup>

There are three aspects to consider: punishment, impurity, and the prohibition of a small quantity. However, the latter two don't apply to mufattirat, mukhaddirāt, mufsid, and muraqqad.<sup>60</sup> The

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59 وهو قول في مذهب أحمد - وقال: «أصح قول العلماء أنها نجسة كالخمر، والخمر كالبول، والحشيشة كالعذرة» ((مختصر الفتاوى المصرية))، لابن تيمية، ص499 ((مجموع فتاوى ابن تيمية)) 212:34  
60 في تهذيب الفروق والقواعد السنية في الأسرار الفقهية فإنه طاهر كما هو مصرح به وصرف المال في المباحات على هذا الوجه ليس بسرف لأن الإسراف في النفقات كما قال القرطبي هو التبذير وفسر ابن مسعود التبذير بإنفاق المال في غير حقه فإذا كان الإنفاق في حقه ولو مباحا فليس بسرف قال مجاهد لو أنفق الرجل جيل أبي قبيس ذهباً في طاعة الله لم يكن سرفاً ولو أنفق درهما واحداً في معصية الله كان سرفاً وحرمة لضرره إن تحقق فهي لأمر عارض لا لذاته ويجرم على من يضره خاصة دون غيره ودعوى أنه مضر مطلقاً لا دليل عليها إهداهما قاله عجم باختصار كثير وهو مبني على أن المفتر ليس بحرام والتحقيق أنه حرام كما دل عليه حديث أم سلمة المتقدم إهداهما كإهداء ابن جهمون باختصار.  
وخاصته أنه اختلف في كون هذه العشيبة من المسكرات مطلقاً فيكون نجساً موجبا للحد وحرمة قليلة ككثيره أو من المفترات مطلقاً وأنها تحدث استرخاء الأطراف وتخلدها وصرورتها إلى وهن وانكسار كالحشيشة بحيث تشارك أولية الخمر في نشوته فيحرم استعمال القدر المؤثر في العقل اتفاقاً وفي حرمة استعمال ما لا يؤثر في العقل خشية الوقوع في التأثير إذ الغالب وقوعه بأدنى شيء منها وحفظ العقول من الكليات الخمس المجمع عليها عند أهل الملل أو إباحته نظراً لكون العلة تدور مع المعلول وجوداً وعدمه قولان أو أنها ليست من المسكرات ولا من المفترات مطلقاً وعليه فهل يحرم استعمال قليلها ككثيرها لأنها سرف وضرر ونجاسة لكونها تيل بالخمر أو تباح مطلقاً لأنها مما سكنت الله عنه في كتابه فهي مما عفا الله عنه للحديث المار فالأقوال فيها خمسة اختار ابن جهمون منها القول بأنها من المفترات مطلقاً وأنه يحرم استعمال قليلها ككثيرها لحديث أم سلمة المتقدم وفيه نظر من ثلاثة أوجه  
الوجه الأول أنه حكى الخلاف في إباحة قليلها واختار تحريمه ككثيرها مع أن مفاد قوله عن ضيق بعدما ذكر الفرق بين المسكرات والمفترات يمثل ما قدمته عن الأصل ما نصه وبينني على الإسكار ثلاثة أحكام دون الأخيرين الحد والنجاسة وتحريم القليل إهداه لا يحرم استعمال القليل الذي لا يؤثر في العقل من المرققات كالبنج والمفترات كالأفيون وقد قدمنا أيضاً مثله عن الأصل فلم يحك الخلاف في إباحة ما هو الأصل في



hadith of Umm Salamah only indicates the prohibition of a significant quantity of the herb. This is because the prohibition of intoxicants, along with their intoxicating effects, is established through the Quran, Sunnah, consensus, and the principle followed by hadith and jurisprudence scholars, which dictates that an unknown case should be ruled according to a known one. However, applying the ruling of intoxication to mufattir substances is only apparent when actual intoxication is confirmed. Prohibiting a small quantity of an intoxicant (muskir) is attributed to its impurity and its potential to lead to consuming an intoxicating amount. Others argue it is solely due to its impurity and that a small quantity is not prohibited. Hence, it's permissible to use a small quantity of mufattir substances like opium, as mentioned earlier.<sup>61</sup>

*In conclusion*, aside from khamr, all mind-altering substances are considered pure unless impure ingredients are incorporated. Khamr is deemed impure and can only be used under medical necessity.

## 2. Bad Company

Imām al-Qarāfī emphasized that the plant known as hashish, commonly used by individuals engaged in immoral behaviour, has garnered unanimous agreement among contemporary society for its prohibition, mainly due to its potent mind-altering properties.<sup>62</sup>

Specifically, Mālikī jurists have discerned that khamr's potential to foster animosity among Muslims and obstruct the remembrance of God stands as the 'illa (operative cause) of the Quranic prohibition. They fortify this assertion with diverse forms of evidence, including etymology and traditions. The Prophet (صلى الله عليه وسلم) himself rendered judgment on ghubayrā' (a type of intoxicating drink), stating that "there is no good in it."<sup>63</sup>

The concept of avoiding negative company and influences is recurrent in Islamic teachings. Abu Mūsa al-Ash'arī relayed the words of the Messenger of Allāh (صلى الله عليه وسلم), likening the impact of good companionship to that of a musk seller and a blacksmith's bellows. Just as the musk seller

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الترقيد كالبنج ولا ما هو الأصل في التفتير كالأفيون فكيف يحكى في إباحة ما هو فرع في التفتير كهذه العشيبة ويرجع القول بتحريم قليلها ككثيرها

61 الوجه الثاني أن حديث أم سلمة المتقدم إنما يدل على تحريم القدر المقتدر منها فقط وذلك لأن المقتدر وإن اقترن في الذكر والنهي في هذا الحديث بالسكر المقر عندنا تحريمه بالكتاب والسنة والإجماع والقاعدة عند المحققين والأصوليين أن يعطى المقارن المجهول الحكم حكم مقارنه المعلوم إلا أن إعطاء حكم السكر للمفتير إنما يظهر فيما تحقق فيه التفتير بالفعل لأن تحريم القليل من السكر قيل لنجاسته وكونه ذريعة لاستعمال القدر المسكر منه وقيل لنجاسته فقط فلا يجرم منه قليل ما ليس بنجس كغير الخمر والمفتير ليس بنجس اتفاقاً فكيف يقال بتحريم قليله والحكم يدور مع العلة وكون استعمال القليل المقتدر ذريعة لاستعمال القدر المقتدر منه لا يظهر أن يكون مثل كون استعمال قليل المسكر ذريعة واستعمال كثيره في اقتضائه التحريم على أنه في المسكر عند القائل به جزء علة لا علة تامة وأيضاً سيأتي عن اللكنوي أن التفتير هنا ليس هو التفتير الموجب للتحريم حتى يكون استعمال ما يؤدي إليه ذريعة فيما يوجب التحريم فافهم

62 الفروق للقرافي 1/ 210، 216، ومن حكي الإجماع على حرمتها الحافظ ابن حجر الهيتمي في الفتاوى الكبرى الفقهية 4/ 229. "الثاني: النبات المعروف بالحشيشة التي يتعاطها أهل الفسوق اتفق أهل العصر على المنع منها، أعني كثيرها المغيب للعقل"

63 موطأ الإمام مالك - عن عطاء بن يسار، أن رسول الله صلى الله عليه وسلم سئل عن الغبراء؟ فقال: «لا خير فيها ونهى عنها» قال مالك فسألت زيد بن أسلم ما الغبراء؟ فقال: هي الأسكرة - حديث 1546

imparts fragrance, the bad companion either damages your possessions or leaves a noxious smell.

64

There is a warning against keeping bad companions. In a narration, it's said: "Do not associate except with a believer, and do not let anyone eat your food except the pious."<sup>65</sup>

If a psychoactive substance is connected to negative affiliations and social groups, this serves as a valid reason for its prohibition. This situation often arises when the substance is used recreationally. It can happen both within legal contexts, such as in countries where cafes offer these substances and attract undesirable crowds, and through illegal means like obtaining substances from street-level drug networks. Consequently, even if medical experts recommend the potential benefits of certain substances if they are obtained through unofficial or non-regulated channels, they may be subject to prohibition. For instance, cannabinoids, which are utilized for managing pain and epilepsy, fall under this category. If these substances are acquired from sources lacking regulation, they might be prohibited due to their connection with negative groups and concerns about safety.<sup>66</sup>

If the customary consumption among scholars and the wider public doesn't encompass doses that induce alterations in consciousness, as seen in the case of paan<sup>67</sup>, then it remains permissible as

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64 عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " مَثَلُ الْجَلِيسِ الصَّالِحِ وَالسُّوءِ كَمَثَلِ صَاحِبِ الْمِسْكِ وَكَبِيرِ الْحَدَّادِ لَا يَغْدُمُكَ مِنْ صَاحِبِ الْمِسْكِ إِذَا تَشْتَرِيهِ أَوْ تَجِدُ رِيحَهُ وَكَبِيرِ الْحَدَّادِ يُجْرِقُ بَدَنَكَ أَوْ تُوْبِكَ أَوْ تَجِدُ مِنْهُ رِيحًا خَبِيثَةً - وأخرجه البخاري (2101)، ومسلم (2628)

65 ففي الحديث: لا تُصاحب إلا مؤمناً، ولا يأكل طعامك إلا تقيًّا - رواه أبو داود والترمذي

#### 66 Cannabinoids for Pain Management:

Street Drugs: Street drugs that contain THC are often obtained from illegal sources and might have varying levels of purity and potency. These products can pose risks due to inconsistent quality, potential contaminants, and legal implications. Users may experience the psychoactive effects of THC, which can impair cognitive and motor functions and lead to addiction or dependency in some cases.

Regulated Outlets: Medical cannabis, when obtained through regulated outlets with proper oversight, can provide a safer option for pain management. Products are tested for quality, potency, and purity. Some regulated medical cannabis products offer a balanced ratio of THC and CBD, minimizing the psychoactive effects while still providing pain relief.

#### Cannabinoids for Epilepsy:

Street Drugs: Street drugs, such as cannabis bought from illegal sources, might not provide consistent levels of cannabinoids and could potentially have unknown additives. The use of street drugs for epilepsy treatment is not recommended due to the lack of quality control and potential legal consequences.

Regulated Outlets: Pharmaceutical-grade CBD products like Epidiolex are available through regulated outlets and have undergone rigorous testing to ensure safety and efficacy. Reliable outlets provide products with accurate dosing information, reducing the risk of adverse effects and ensuring proper treatment for epilepsy.

In both cases, obtaining cannabinoids through regulated outlets, such as medical dispensaries or pharmacies, offers several advantages over using street drugs:

- Quality Control: Products from regulated outlets are subject to testing and quality control measures, ensuring consistency, potency, and safety.
- Professional Guidance: Medical professionals can guide patients on appropriate dosing, potential interactions, and monitoring for adverse effects.
- Legal Compliance: Medical cannabis products obtained through legal channels adhere to local regulations, reducing legal risks.
- Research and Development: Pharmaceutical-grade products, like Epidiolex, are backed by clinical research, providing more confidence in their effectiveness and safety.

It's important to note that the legality and availability of medical cannabis products can vary widely depending on the jurisdiction.

67 Paan is a traditional preparation commonly consumed in many parts of South Asia, including India, Pakistan, Bangladesh, and some other neighboring countries. It typically consists of areca nut (betel nut) and slaked lime paste wrapped in a betel leaf. Various additional ingredients like spices, sweeteners, and sometimes tobacco might be added to enhance the flavor. The betel leaf is folded or wrapped around the areca nut and slaked lime paste, forming a small package that can be chewed. Chewing paan results in the release of a mixture of flavors and stimulants that can create a sense of alertness and mild euphoria. The practice of consuming paan has cultural, social, and religious significance in many communities, and it's often offered as a gesture of hospitality or used during celebrations. However, it's important to note that while paan is culturally significant, the combination of areca nut and slaked lime can have adverse health effects. Regular

long as it avoids forbidden components and aspects leading to severe and lasting physical damage, like cancer. This is because the endorsement of this substance by Muslim scholars signifies its acknowledgement as an admissible entity, thereby dissociating it from stereotypes or associations with undesirable groups.

*In conclusion*, Substances such as hashish, recognized for their ability to alter the mind and connection to immoral conduct, are generally considered prohibited due to a consensus within current society. Islamic principles emphasize the importance of steering clear of unfavourable companies, and negative ties and affiliations with psychoactive compounds can serve as valid grounds for their prohibition, whether their usage is recreational or obtained illicitly. The potential positive effects of certain substances, like cannabinoids, in medicine might not be sufficient to outweigh concerns arising from obtaining them unofficially, leading to their prohibition. In certain cases, specific substances could be permissible if their customary usage doesn't lead to consciousness-altering effects and avoids significant harm. Scholarly endorsement can indicate acceptance and disassociation from unfavourable stereotypes or groups.

### **3. Individual Spiritual and Physical Harm:**

Badr al-Dīn al-Zarkashī al-Shāfi'ī (d. 794 AH) explains, "Beyond the prohibition rooted in Islamic sources, Islamic legal principles advocate for the ban on al-mukhaddir substances based on the principle of "removing harm."<sup>68</sup> Certain mukhaddir substances, in their diverse types, carry substantial harm and numerous adverse consequences extending beyond the individual to society at large. Ḥashīsh, for instance, is noted by some scholars to encompass 120 religious and worldly harms, and its detrimental impact on human health is universally acknowledged.<sup>69</sup>

Physical harm can manifest as long-term effects, even if not immediate. If strong evidence establishes long-term harm, reaching a high dominant probability (ghalabat al-ẓann) where over half the users are affected, prohibition follows. If evidence falls short of this level of certainty, if the side effect isn't life-threatening, and it impacts only a minority of users, it might be disliked (makrūh) but not prohibited. Other factors, such as negative company, should also be factored in.

Psychological harm is another important category of harm that pertains to the mind and overall health, with drugs contributing to the weakening of an individual's psychological and emotional well-being. Drug use is associated with depression, isolation, nervous tension, hallucinations, and

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consumption of areca nut, especially when combined with tobacco, has been linked to various health issues, including oral cancer, gum disease, and other oral health problems. As a result, health experts advise caution and moderation when it comes to consuming paan, and some governments have taken measures to regulate its sale and consumption.

68 الأشباه والنظائر لابن نجيم ص ٨٥. والأشباه والنظائر للسيوطي ص ٨٣ "الضرر يزال"

69 زهر العريش في تحريم الحشيش للزرکشي ص ٩٣ - ٩٩، والفتاوى الكبرى الفقهية للهيتمي ٤ / ٢٣٢.

emotional disturbances. Aggressive tendencies, mood swings, and instability are also common among drug users. Moreover, drugs have functional repercussions on the brain, resulting in memory loss, mental confusion, and eventual mental deterioration or insanity in extreme cases, particularly seen with marijuana.

Significantly, and most importantly drug use leads to spiritual harm leading to a decreased inclination towards the remembrance of Allāh, prayers, and worship. This departure from essential elements of spiritual well-being is a serious concern and a compelling reason for its prohibition.<sup>70</sup> Imām al-Rāzī (d. 606 AH) states, "Among the harms present in wine and gambling: The harms related to religion, as indicated by His Almighty's saying: "And it prevents you from the remembrance of Allah and from prayer." (Q. 5:91) So we say: As for the fact that drinking alcohol prevents from the remembrance of Allāh, it is evident because the consumption of alcohol leads to physical pleasure and delight. When the self becomes absorbed in physical pleasures, it becomes heedless of the remembrance of Allah."<sup>71</sup>

*In conclusion*, mind-altering substances are deemed forbidden not only due to their inherent religious proscriptions but also due to the broader concept of eliminating harm. These substances, exemplified by hashish and other forms of intoxicants, encompass a range of physical, psychological, and spiritual detriments that extend from the individual to the societal sphere.

Physical harm, even if latent or gradual, warrants prohibition when strong evidence establishes a high likelihood of long-term negative effects affecting a significant portion of users. Lesser certainty may result in disapproval but not outright prohibition, especially if the adverse effects are limited to a minority and not life-threatening. Negative associations, too, are to be considered in this evaluation.

The correlation between consumption of such substances and spiritual negligence underscores the gravity of this departure from essential spiritual practices.

The multifaceted harm of mind-altering substances, encompasses physical, psychological, and

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70 ﴿وَيُضِدُّكُمْ عَنْ ذِكْرِ اللَّهِ﴾ [المائدة: 91]

والرسول صلى الله عليه وسلم يقول: ((ما جلس قوم مجلساً لم يذكروا الله تعالى فيه، ولم يصلوا فيه على نبيهم، إلا كان عليهم ترةٌ - أي خسارة وحسرة وندامة - فإن شاء عذبهم، وإن شاء غفر لهم - رواه الترمذي وابن ماجه

وقال صلى الله عليه وسلم: ((ما من قوم يقومون من مجلسٍ لا يذكر الله فيه، إلا قاموا عن مثل جيفة حمار، وكان عليهم حسرة يوم القيامة)) ثم يقول سبحانه: ﴿وَيُضِدُّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ﴾ [المائدة: 91]؛ أي إن الخمر تصد عن الصلاة - رواه أبو داود والحاكم

وفي كتاب السياسة الشرعية لشيخ الإسلام ابن تيمية: والحشيشة المصنوعة من ورق العنب حرام أيضاً يجلد صاحبها كما يجلد شارب الخمر، وهي أخبث من الخمر من جهة أنها تفسد العقل والمزاج حتى يصير في الرجل نخنث وديانة وغير ذلك من الفساد، والخمر أخبث من جهة أنها تفضي إلى المخاصمة والمقاتلة، وكلاهما يصد عن ذكر الله تعالى وعن الصلاة.

71 مفاتيح الغيب أو التفسير الكبير [الفخر الرازي] من المفاسد الموجودة في الخمر والميسر: المفاسد المتعلقة بالدين، وهو قوله تعالى: ويصدكم عن ذكر الله وعن الصلاة فنقول: أما أن شرب الخمر يمنع عن ذكر الله فظاهر، لأن شرب الخمر يورث الطرب واللذة الجسدية، والنفس إذا استغرقت في اللذات الجسدية غفلت عن ذكر الله تعالى (12:425)

spiritual realms. This holistic understanding serves as a robust basis for their prohibition within the Islamic legal context, aligning with the core principle of "removing harm" and safeguarding individual and communal well-being.

#### 4. Societal Consequences:

Regarding the verse

إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء في الخمر والميسر ويصدكم عن ذكر الله وعن الصلاة فهل أنتم

منتهون

Satan wishes only to plant enmity and malice between you through wine and gambling, and to prevent you from the remembrance of Allah and from Salāh. Would you, then, abstain? (Q. 5:91)

According to Imām al-Rāzī, those who consume wine often do so in social settings, intending to enjoy companionship and conversations. However, this usually leads to the opposite outcome. Alcohol impairs reasoning, allowing desires and anger to take control, leading to disputes and conflicts among friends. The devil deceives people into thinking that drinking together strengthens bonds, but in reality, it fosters enmity.<sup>72</sup>

In the modern context, the prevalence of drugs has brought about established dangers and harms that affect both individuals and society. This realization has prompted global consensus on the dangers of drugs, sometimes surpassing those of alcohol. International organizations are working to address drug-related issues, including prevention and punishment aligned with Sharia laws.

The adverse effects of drugs extend beyond individuals, impacting communities and societies at large. Drugs contribute to criminal activities and disrupt family and social structures. Therefore, combatting drug abuse and raising awareness about its perils are crucial for societal well-being.

Ibn Taymiyyah (may Allāh have mercy on him) emphatically asserted, "This cursed hashish is among the gravest evils, surpassing intoxicating beverages in certain aspects. Its impact stretches to effeminacy, impotence, temperamental deterioration, liver degradation, insatiable appetite, madness, and instances of insanity arising from consumption. Overcoming hashish addiction

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72 مفاتيح الغيب أو التفسير الكبير [الفخر الرازي] إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء في الخمر والميسر ويصدكم عن ذكر الله وعن الصلاة فهل أنتم منتهون (٩١) واعلم أنا نشرح وجه العداوة والبغضاء أولاً في الخمر ثم في الميسر: أما الخمر فاعلم أن الظاهر فيمن يشرب الخمر أنه يشربها مع جماعة ويكون غرضه من ذلك الشرب أن يستأنس برفقائه ويفرح بمحادثتهم ومكالمتهم، فكان غرضه من ذلك الاجتماع تأكيد الألفة والمحبة إلا أن ذلك في الأغلب يتقلب إلى الضد لأن الخمر يزيل العقل، وإذا زال العقل استولت الشهوة والغضب من غير مدافعة العقل، وعند استيلائها تحصل المنازعة بين أولئك الأصحاب، وتلك المنازعة ربما أدت إلى الضرب والقتل والمشاهدة بالفحش، وذلك يورث أشد العداوة والبغضاء، فالشيطان يسول أن الاجتماع على الشرب يوجب تأكيد الألفة والمحبة، وبالأخرة انقلب الأمر وحصلت نهاية العداوة والبغضاء (12:424)

surpasses the challenge of alcohol addiction, and its detriment often surpasses that of alcohol."<sup>73</sup>

The cumulative spiritual, physical, and psychological harms underscore the necessity of prohibiting drug use. Islamic law prohibits certain matters with lesser harm, making it imperative to forbid substances with more severe and evident risks.

*In conclusion*, the Quranic warning against alcohol and gambling's divisive impact remains relevant today, with substances like drugs exacerbating harm on individual and societal levels. Religious, medical, and ethical considerations converge in highlighting the urgency of preventing substance abuse for the greater well-being of communities and society at large.

### 5. Addiction Perspective:

Another encompassing definition posits that any substance impairing cognitive function, compromising health, and typically fostering addiction is categorized as al-mufattir.<sup>74</sup> The Prophet (صلى الله عليه وسلم) proclaimed, "Every muskir (inebriant) is khamr, and every muskir is forbidden. Whoever drinks khamr in this world and dies addicted to it without repenting will not drink it in the Hereafter." (ṣaḥīḥ Muslim, Hadith Number 3733).<sup>75</sup>

Ibn Taymiyyah reiterates the formidable challenge of breaking hashish addiction, asserting its surpassing difficulty compared to breaking alcohol addiction. The harm incurred by hashish even outpaces that attributed to alcohol in certain aspects.<sup>76</sup>

Addictive behaviour leads to the wasting of money and spending it on things that harm rather than benefit. It is reported in a narration: Muawiyah wrote to Al-Mughirah ibn Shu'bah, "Write to me something that you heard from the Prophet, peace be upon him." So, he wrote: I heard the Prophet, peace be upon him, saying, "Indeed, Allah dislikes for you three things: gossip, wasting money, and excessive asking."<sup>77</sup> "The Prophet (peace be upon him) used to forbid gossip and

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73 "مجموع الفتاوى لشيخ الإسلام" هذه الحشيشة الملعونة من أعظم المنكرات وهي شر من الشراب المسكر من بعض الوجوه، والمسكر شر منها من وجه آخر . فإنها مع أنها تسكر أكلها حتى يبقى مصطولا تورث التخنيث والديوثه، وتفسد المزاج فتجعل الكبد كالسفنجة وتوجب كثرة الأكل وتورث الجنون وكثير من الناس صار مجنوناً بسبب أكلها، والمعتاد لها يصعب عليه فطامه عنها أكثر من الخمر فضررها من بعض الوجوه أعظم من الخمر" (34:205)

74 مجلة الفكر الشرطي، الدكتور مجدي عز الدين يوسف، المجلد الثالث، العدد الثاني، ربيع الثاني، 1415، 3 / 3

75 قول الرسول صلى الله عليه وسلم - كُلُّ مُسْكِرٍ حَرَامٌ وَكُلُّ مُسْكِرٍ حَرَامٌ وَمَنْ شَرِبَ الْحَقِيرَ فِي الدُّنْيَا قَاتَ وَهُوَ يُدْمِنُهَا لَمْ يَتُبْ لَمْ يَشْرَبْهَا فِي الْآخِرَةِ (صحيح مسلم، الحديث الرقم 3733)

76 "مجموع الفتاوى لشيخ الإسلام" هذه الحشيشة الملعونة من أعظم المنكرات وهي شر من الشراب المسكر من بعض الوجوه، والمسكر شر منها من وجه آخر . فإنها مع أنها تسكر أكلها حتى يبقى مصطولا تورث التخنيث والديوثه، وتفسد المزاج فتجعل الكبد كالسفنجة وتوجب كثرة الأكل وتورث الجنون وكثير من الناس صار مجنوناً بسبب أكلها، والمعتاد لها يصعب عليه فطامه عنها أكثر من الخمر فضررها من بعض الوجوه أعظم من الخمر" (34:205)

77 ضياع المال وإنفاقه فيما يضر ولا ينفع، وقد جاء في الحديث: كتب معاوية إلى المغيرة بن شعبة: أن أكتب إليّ بشيء سمعته من النبي صلى الله عليه وسلم، فكتب إليه: سمعت النبي صلى الله عليه وسلم يقول: ((إن الله

كره لكم ثلاثاً: قيل وقال، وإضاعة المال، وكثرة السؤال) صحيح مسلم | الصفحة أو الرقم: 593

spreading rumours, excessive questioning and wasting wealth...<sup>78</sup>

*In conclusion*, if addictive traits culminate in health impacts, long-term withdrawal symptoms and wastage of money, even limited consumption of the substance becomes prohibited due to these concerns.

Table 5. Categories of Mind-Altering Substances and their Reasons for Prohibition Related to Other Factors

Type	Examples	Impurity	Bad Company	Individual Spiritual/ Physical Harm	Societal Harm	Addictive
المُسْكِر Al-Muskir	Alcoholic beverages, inebriants	Impure	Yes, when for non-medical reasons	Yes, impairs judgment and coordination – very spiritually damaging	Yes, known to be harmful to society at large	Yes, highly addictive
المُخَدَّر Al-Mukhaddir	Narcotics, opiates, psycho-active agents, stimulants and hallucinogens	Pure	Yes, If purchased as street drugs	Yes, can impair cognitive functions- prevents remembrance/ worship of Allāh (سيحانه وتعالى)	Yes, known to be harmful to society at large	Yes, highly addictive
المُرَقَّد Al-Muraqqad	Sedatives, narcotics, anaesthetics	Pure	Yes, if purchased as street drugs	Yes, induces sedation and amnesia -prevents remembrance/ worship of Allāh	Not known to be harmful to society	Yes, can be addictive

78 صحيح البخاري | كتاب الرقاق باب ما يكره من قيل وقال (حديث رقم: 6473) - عن وراد كاتب المغيرة بن شعبة: «أن معاوية كتب إلى المغيرة أن اكتب إلي بحديث سمعته من رسول الله صلى الله عليه وسلم قال: فكتب إليه المغيرة إني سمعته يقول عند انصرافه من الصلاة: لا إله إلا الله وحده لا شريك له، له الملك وله الحمد، وهو على كل شيء قدير ثلاث مرات، قال: وكان ينهى عن قيل وقال، وكثرة السؤال، وإضاعة المال، ومنع وهات، وعقوق الأمهات، ووآد البنات. وعن هشيم: أخبرنا عبد الملك بن عمير قال: سمعت ورادا يحدث هذا الحديث عن المغيرة، عن النبي صلى الله عليه وسلم

				(سبحانه وتعالى)	at large	
المفسد Al-Mufsid	Poisons, toxic substances	Pure	Yes, If purchased as street drugs or for non-medical usage	Yes, can lead to delirium and confusion – can prevent from remembrance/ worship of Allāh (سبحانه وتعالى) in some	Yes, can be highly toxic	No, but can be harmful

## Additional Prohibiting Factors

<b>Impurity –</b>	<ul style="list-style-type: none"> <li>usually the case if it is considered khamr (intoxicant)</li> </ul>
<b>Bad Company –</b>	<ul style="list-style-type: none"> <li>bought as street drug, or people associated with it are considered criminals or sinners</li> </ul>
<b>Individual Spiritual/ Physical Harm –</b>	<ul style="list-style-type: none"> <li>Physically harmful to the body i.e. risk of cancer or prevents a person from Allah’s remembrance</li> </ul>
<b>Societal Harm</b>	<ul style="list-style-type: none"> <li>Leads to other crimes like violence, criminal activity, sinful behaviour and zina</li> </ul>
<b>Addictive</b>	<ul style="list-style-type: none"> <li>Has serious addictive properties which make users vulnerable</li> </ul>

### 3. Dispensation in Rulings Related to Non-Medical and Medical Use

Classical legal opinions concerning the utilization of khamr (intoxicants) in medical practice delve into intricate discussions that centre around the essence of alcohol or ethanol, its intoxicating attributes, and its ritual purity. Khamr, typically synonymous with alcoholic drinks, has ignited debates among jurists regarding its potential application in healing contexts. A fundamental question arises: Does alcohol or ethanol indeed fall under the classification of khamr, and does it possess intoxicating qualities (al-muskir)? This query prompts broader reflections on the nature of intoxication and whether any substance leading to such a state can be classified as "al-khamr." Additionally, scholars have undertaken investigations to establish whether ethanol holds a state of ritual purity (ṭāhirah) or impurity (nājisah), a determination intricately linked to the categorization



of khamr as pure or impure.

Within this framework, three decisive factors emerge to ascertain the positioning of a substance within the domain of khamr or its jurisdiction, particularly concerning ethanol. The ethanol concentration within the substance, its intended role within the medical framework, and the method of its production stand as pivotal determinants. Concentration comes under scrutiny to gauge the extent of ethanol content, as trace quantities might not induce intoxication and consequently might not classify as khamr. The intended purpose holds significance, as therapeutic applications could potentially validate ethanol usage for medicinal ends, diverging from its consumption for recreational inebriation. The production process plays a role in evaluating whether the substance is harnessed to achieve intoxication or to serve legitimate medical intentions, thus influencing its categorization as permissible or forbidden.

Ultimately, the permissibility of mukhaddir, muraqqad, and mufsid (harmful) substances in medicine enters the discourse. These classifications, commonly applied to intoxicants, are revisited in the context of medical utility. Navigating the ethical and practical dimensions becomes essential in determining whether these substances can find application in medical settings while upholding the tenets of Islamic jurisprudence.

#### Al-Khamr for Medical Reasons

As for using al-khamr and other al-muskir for medicinal purposes or thirst, there are four well-known opinions:<sup>79</sup>

- The first, which is the most correct according to the majority of scholars, is that it is not permissible in both cases.

Abū al-Qāsim al-Rafī'ī al-Qazwīnī al-Shāfi'ī (d. 623 AH) reported that the most correct opinion according to the majority of scholars is that it is not permissible in any of these cases. He supported his argument with the hadith of Wā'il bin Hajr, who asked the Prophet

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79 **المجموع شرح المذهب** يحمل حديث (ان الله لم يجعل شفاءكم فيما حرم عليكم) فهو حرام عند وجود غيره وليس حراما إذا لم يجد غيره \* قال أصحابنا وإنما يجوز ذلك إذا كان التداوي عارفا بالطب يعرف أنه لا يقوم غير هذا مقامه أو أخبره بذلك طبيب مسلم عدل ويكفي طبيب واحد صرح به البغوي وغيره فلو قال الطبيب يتعجل لك به الشفاء وان تركته تأخر فني اباحتها وجهان حكاهما البغوي ولم يرجح واحدا منها وقياس نظيره في التيمم أن يكون الأصح جوازها (أما) الخمر والنبذ وغيرهما من المسكر فهل يجوز شربها للتداوي أو العطش فيه أربعة أوجه مشهورة (الصحيح) عند جمهور الأصحاب لا يجوز فيها (والثاني) يجوز (والثالث) يجوز للتداوي دون العطش (والرابع) عكسه قال الرافعي الصحيح عند الجمهور لا يجوز لواحد منها ودليله حديث وائل بن حجر رضي الله عنه (أن طارق بن سويد الجعفي سأل النبي صلى الله عليه وسلم عن الخمر فنهاه أو كرهه أن يصنعها فقال إنها أصنعها للدواء فقال إنه ليس بدواء ولكنه داء) رواه مسلم في صحيحه واختار امام الحرمين والغزالي جوازها للعطش دون التداوي والمذهب الأول وهو تحريمها لها وبمن صححه المحاملي وسأورد دليله قريبا إن شاء الله تعالى فان جوازنا شربها للعطش وكان معه خمر وبول لزمه شرب البول وحرم الخمر لان تحريم الخمر أخف قال أصحابنا فهذا كمن وجد بولا وماء نجسا فإنه يشرب الماء النجس لان نجاسته طارئة وفي جواز التبخر بالنذ المعجون بالخمر وجهان بسبب دخانه (أصحها) جوازها لأنه ليس دخان نفس النجاسة والله أعلم \* (فرع) قد ذكرنا أن المذهب الصحيح تحريم الخمر للتداوي والعطش وان امام الحرمين والغزالي اختارا جوازها للعطش قال امام الحرمين الخمر يسكن العطش فلا يكون استعمالها في حكم العلاج قال ومن قال إن الخمر لا يسكن العطش فليس على بصيرة ولا يعد قوله مذهبا بل هو غلط ووهم بل معاقرة الخمر يجتري بها عن الماء هذا كلامه وليس كما ادعى بل الصواب المشهور عن الشافعي وعن الأصحاب والأطباء انها لا تسكن العطش بل تزيد المشهور من عادة شربة الخمر أنهم يكثرون شرب الماء

(صلى الله عليه وسلم) about wine and he forbade it, saying, 'I make it as a medicine.' The Prophet (صلى الله عليه وسلم) replied, 'It is not a medicine; rather, it is a disease.' This hadith is narrated by Muslim in his Sahih. The well-known opinion from al-Shafi'i, his companions, and the physicians is that wine does not quench thirst but increases it. The custom of wine drinkers is that they consume more water. Imām al-Shafi'i (may Allāh have mercy on him) clearly stated his opinion, which is the prohibition of using khamr for both medicinal purposes and thirst." In the case where a person is choking on a morsel and the only available liquid to swallow it is alcohol, there is no disagreement that it is permissible for them to do so. Al-Shafi'i and the majority of scholars agreed that in such a critical situation where necessity arises, consuming such substances is allowed, just as it is permissible to consume carrion (dead animal), blood, and pork due to necessity.

- The second opinion is that it is permissible for both medicinal purposes and for quenching thirst.
- The third opinion is that it is permissible for medicinal purposes but not for quenching thirst.
- The fourth opinion is that it is not permissible for medicinal purposes but is permissible for quenching thirst.

Imām al-Ghazālī and Imām al-Juwaynī chose to permit it for quenching thirst but not for medicinal purposes.

#### Ḥanafī Perspective:

Abū Ḥanīfah – What is prohibited is grape juice when boiled with intensity and the foam is discarded, after intense heat according to Abū Ḥanīfah.<sup>80</sup> Drinks which are taken from other than grape juice and dates can be used for medicinal purposes as long as they do not intoxicate according to Abū Ḥanīfah and Abū Yūsuf.<sup>81</sup> If not made from dates / grapes can be consumed as medicine even when not mixed with liquid as long as do not intoxicate according to ṣāhibayn.<sup>82</sup>

Ḥanafīs permissibility is according to Abū Yusuf when there is necessity (ḍarūrah) for medication which is prohibited (tadāwī bil-muḥarram) including for khamr. Imām Abū Ḥanīfah permits its use

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80 عصير العنب إذا غلى واشتد ولم يقذف بالزبد وهو قول الحنفية، وقده أبو حنيفة وحده بأن يقذف بالزبد بعد اشتداده ابن عابدين: ((حاشية رد المحتار)) 6:448 4:37 الزيلعي: ((تبيين الحقائق)) 6:44  
الرملي: ((نهاية المحتاج)) 8:12  
81 الكاساني: ((بدائع الصنائع)) 5:116  
82 ((تبيين الحقائق)) 6:47 ((رد المحتار)) 5:292 ((الهداية مع النهاية والكفاية)) 9:32

for medicinal purposes but not for relieving thirst.<sup>83</sup>

In summary: Based on this, the alcohol used in medicines which is made from sources other than grape juice or dates. It is permissible to use these medications as long as they do not cause intoxication. However, if medications containing alcohol do cause intoxication, it is permissible to use them for medical necessity, following the specified guidelines (see later).<sup>84</sup>

However, drinking khamr solely for the purpose of medication is generally prohibited according to the majority of jurists, except some Ḥanafī scholars consider it permissible even as an intoxicant (al-muskir).<sup>85</sup> When it becomes necessary for specific situations then it can be used.<sup>86</sup>

Shāfi'ī Perspective:

According to Shāfi'ī tadāwī bil-muḥarram is permissible in ḍarūrah except with khamr. However, if khamr is negligible after being mixed with pure liquid *mustahlik* then it is permissible if no alternative.<sup>87</sup> According to al-Qāḍī Abū al-Ṭayyib al-Ṭabarī al-Shāfi'ī (d. 450 AH) amongst the Shāfi'ī, he permits its use for medicinal purposes but not for relieving thirst, whereas some Shāfi'ī scholars from Baghdad permit it for severe thirst but not for medicinal purposes as relieving thirst is a greater need.<sup>88</sup>

Mālikī and Ḥanbalī Perspective:

Mālikī and Ḥanbalī both are agreed of the impermissibility of use of khamr for tadāwī bil-muḥarram. However some Mālikī are like Shāfi'īs in that if it is mixed and is negligible then it is permissible in ḍarūrah.<sup>89</sup> They also permit its use if it has been set on fire as this changes it. According to Abū Marwān 'Abd al-Malik ibn Ḥabīb al-Sulami al-Mālikī (d. 238 AH) it will be permissible for medicinal

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

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

85 ابن عابدين: ((حاشية رد المحتار)) (450/6) الكشناوي: ((أسهل المدارك)) (64/2) النووي: ((المجموع)) (51/9) وما بعدها ابن قدامة: ((المغني)) (323/10 83/11) ابن حزم: ((المحل)) (176/1)

86 : الباري: ((العناية)) (500/8) ابن نجيم: ((البحر الرائق)) (233/8) نظام: ((الفتاوى الهندية (355/5)) ابن العربي: ((أحكام القرآن)) (152/1) النووي: ((روضه الطالبين)) (285/3) الشرييني: ((مغني المحتاج)) (188/4) ابن حزم: ((المحل)) (175/1)

87 في المجموع شرح المهذب للإمام النووي 9:50

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

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

89 ابن قدامة: المغني 11:83

في كتاب مواهب الجليل في شرح مختصر خليل [الرعي، الخطاب] أما أكله والتداوي به في باطن الجسد فالإتفاق على تحريمه كما نقله المصنف في التوضيح في كتاب الشرب عن الجاهلي وغيره وصرح بذلك ابن ناجي والجزولي وغيرهما لكن حكى الزناتي فيها إذا استهلك الخمر في دواء بالطبخ أو بالتركيب حتى يذهب عينها ويموت ريمها وقضت التجربة بإنجاح ذلك الدواء قولين بالجواز والمنع قال: وإن لم تقض التجربة بإنجاحه لم يجز باتفاق انتهى 1:119

purposes and even when praying and according to ‘Abd al-Malik Ibn ‘Abd al-‘Azīz al-Mājishūn al-Mālikī (d. 213 AH), it is purified by burning.<sup>90</sup>

Some consider it permissible to take if small amount and mixed in liquid which is dominant that smell, colour, taste no longer remain (istiḥlāk) according to Ibn Taymiyyah, Ibn Ḥazm al-ẓāhirī (d. 456 AH).<sup>91</sup>

When it the alcohol is manufactured from petroleum and other industrial processes then it is not made for consumption. Rather would fall under poison (toxic) mufsid, especially if denatured.

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

1. It is permissible to use al-khamr as medication – This is according to some Ḥanafī, Shāfi‘ī scholars, but with conditions.<sup>92</sup>
2. It is not permissible to use al-khamr as medication – This is according to majority of Ḥanafī, Mālikī, Shāfi‘ī, and all Ḥanbalī scholars.<sup>93</sup>

*In summary:* Based on this, the alcohol used in medicines which is made from sources other than grape juice or dates is permissible to use if they do not cause intoxication. However, if medications containing alcohol do cause intoxication, it is permissible to use them for medical necessity, following the specified guidelines (these will be discussed later).<sup>94</sup>

However, drinking khamr solely for the purpose of medication is generally prohibited according to the majority of jurists, except some Ḥanafī scholars consider it permissible even as an intoxicant (al-muskir),<sup>95</sup> when it becomes necessary for specific situations then it can be used.<sup>96</sup>

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

91 ((مجموع الفتاوى لشيخ الإسلام (21:502) ابن حزم: ((المحل)) (7:422)

92 : ابن عابدين: ((حاشية رد المحتار)) (389/6) الباري: ((العناية)) (500/8) ابن نجيم: ((البحر الرائق (233/8) نظام: ((الفتاوى الهندية)) (355/5) النووي: ((المجموع)) (51/9) ((روضة الطالبين (285/3) الشريبي: ((مغني المحتاج)) (188/4) ابن حزم: ((المحل)) (175/1)

93 ابن عابدين: ((حاشية رد المحتار)) (450/6) الكاساني: ((بدائع الصنائع)) (113/5) السرخسي ((المبسوط)) (21/24) نظام: ((الفتاوى الهندية)) (355/5) الكشناوي: ((أسهل المدارك)) (64/2) عليش: ((منع الجليل)) (522/4) الخطاب: ((مواهب الجليل)) (120/1) الدسوقي: ((حاشية الدسوقي)) (60/1) المواق: ((التاج والإكليل)) (318/6) النووي: ((المجموع)) (51/9) وما بعدها الشريبي: ((مغني المحتاج)) (188/4) النووي: ((روضة الطالبين)) (285/3) ابن قدامة: ((المغني)) (323/10 83/11) البيهقي: ((كشاف القناع)) (116\*200/677/2) الرحيباني: ((مطالب أولي النهي)) (211/6)

94 : الكاساني: ((بدائع الصنائع)) (116/5) الرملي: ((نهاية المحتاج)) (12/8)

95 ابن عابدين: ((حاشية رد المحتار)) (450/6) الكشناوي: ((أسهل المدارك)) (64/2) النووي: ((المجموع)) (51/9) وما بعدها ابن قدامة: ((المغني)) (323/10 83/11) ابن حزم: ((المحل)) (176/1)

96 : الباري: ((العناية)) (500/8) ابن نجيم: ((البحر الرائق)) (233/8) نظام: ((الفتاوى الهندية)) (355/5) (( ابن العربي: ((أحكام القرآن)) (152/1) النووي: ((روضة الطالبين)) (285/3) الشريبي: ((مغني المحتاج)) (188/4) ابن حزم: ((المحل)) (175/1)

Two important points need to be clarified before talking about using ethanol for medicinal purposes:

1. whether alcohol or ethanol is intoxicating (al-muskir) or not. If it is intoxicating, is everything that causes intoxication considered as "al-khamr"? And if a type of ethanol is considered as "al-khamr," the second point needs to be clarified.
2. whether the ethanol is considered ritually pure (tahirah) or impure (najisah), based on whether al-khamr is judged to be pure or not.

Is Khamr Synonymous with Alcohol?

Alcohol is the active substance in wine; without it, it would not be intoxicating. When alcohol is added to a non-alcoholic drink in a specific proportion, it becomes intoxicating. However, it should be noted that alcohol is not called "wine" linguistically, religiously, or customarily. This is because alcohol can be extracted not only from grapes and dates but also from other sources such as wood, sugarcane, various plants, different fruits, and other alcoholic beverages and certain chemicals.

Alcohol is used in various industries and has many different applications. It is used as a preservative for certain materials and as a drying agent for moisture. It also serves as a solvent, allowing it to dissolve other substances. Additionally, alcohol is used as a disinfectant and antiseptic due to its ability to kill microorganisms. In the manufacturing sector, alcohol is utilized in the production of various products such as alcoholic beverages, perfumes, cosmetics, and pharmaceuticals. Furthermore, it is employed in chemical processes and as a fuel in certain applications, such as alcohol-based fuels used in some vehicles. Its versatility makes it a valuable component in numerous industries and applications. Alcohol is used as a solvent for certain alkaline and fatty substances. It also serves as an antifreeze to prevent freezing in certain applications. In the medical field, alcohol is employed as an antiseptic for skin and wound disinfection due to its strong antimicrobial properties. It is one of the most potent disinfectants available. Additionally, alcohol is used as a solvent for certain medications that are soluble only in alcohol, helping to dissolve and deliver these drugs effectively. Its ability to act as both a solvent and a disinfectant makes it a valuable tool in various medical and pharmaceutical applications.

There are different types of alcohols. The alcohol relevant here is ethyl alcohol (ethanol), other alcohols are toxic (mufsid) and not khamr.<sup>97</sup>

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<sup>97</sup> when we refer to "alcohol" in the context of beverages, they are typically referring to ethyl alcohol, which is also known as ethanol. Ethanol is the type of alcohol that is safe for human consumption and is found in alcoholic beverages. It's important to note that while there are various types of alcohols, not all of them are suitable for consumption. Here's a brief explanation:

## Ethanol (Ethyl Alcohol)

Ethanol (ethyl alcohol) is a transparent, colourless volatile liquid with a pungent taste and a fragrant odour. It is flammable, highly inflammable, and evaporates and flies quickly. Ethanol is extracted through distillation, which involves distilling sugary and fermented liquids. The main sources of these sugars and starches are generally grapes, sugarcane roots and fibres, dates, wood, beets, and all known fruits worldwide. It exists in all types of plants, especially in fruits and seeds.

It is the ethanol which is the active substance in wine that makes wine an intoxicant (muskir) and hence wine is khamr. For wine to be considered khamr requires ethanol because of this intoxicating property. But not everything that has ethanol is khamr, as there are ethanols that are not considered muskir. Ethanol can be produced synthetically and also from industrial petroleum, and plants. Most ethanol produced today in medicines is made from sulphates and honey molasses and grains and are not necessarily considered khamr or fall under the rules of khamr.

Khamr is prohibited according to naṣṣ and is qaṭ'ī (certain in its proof), ethanol and intoxicating drinks are deduced from qiyās as having rulings of khamr and this process of qiyās is a ḥannī poof (uncertain) and a matter of ijtihad. Therefore, if ethanol is mixed with another pure fluid to negligible amount, then it is said to be permissible to consume in medication as long as it is not intoxicating (this will be elaborated later).<sup>98</sup>

What is taken from grapes, by consensus (ijmā') is prohibited in large or small quantities and to deny this is disbelief.<sup>99</sup> That which contains ethanol and is considered khamr other than grapes (i.e.

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**Ethyl Alcohol (Ethanol):** Ethyl alcohol, or ethanol, is the type of alcohol that is found in alcoholic beverages like beer, wine, and spirits. It is the only type of alcohol that is safe for human consumption in moderate amounts. Ethanol is produced through the fermentation of sugars by yeast and can be concentrated through distillation.

**Isopropyl Alcohol (Isopropanol):** Isopropyl alcohol, commonly referred to as rubbing alcohol, is a different type of alcohol that is not safe for consumption. It is often used as a disinfectant, antiseptic, and solvent. Ingesting isopropyl alcohol can be toxic and harmful to the body.

**Methanol (Methyl Alcohol):** Methanol is another type of alcohol that is not safe for consumption. It is highly toxic and can cause blindness or even death if ingested. Methanol is sometimes used as an industrial solvent and in certain chemical processes.

**Butanol, Propanol, and Others:** There are several other types of alcohols with different molecular structures, such as butanol and propanol. These alcohols can have various industrial applications, including as solvents, fuels, and in the production of chemicals.

In the context of alcoholic beverages, when people refer to "alcohol," they are indeed talking about ethyl alcohol (ethanol). Ethanol is the psychoactive ingredient responsible for the effects of intoxication when consumed in larger quantities. It's important for individuals to understand the distinction between different types of alcohols to ensure their safety and well-being.

98 انظر: **قرارات وتوصيات مجمع الفقه الاسلامي** ص 341

99 نقل الإجماع على حرمة الخمر المتخذة من العنب:

ابن عبد البر قال ابن عبد البر: (وكذلك أجمعوا أن عصير العنب إذا غلى واشتد وقذف بالزبد، وأسكر الكثير منه أو القليل - أنه الخمر المحرمة بالكتاب والسنة المجتمع عليها، وأن مستحلها كافر يستتاب، فإن تاب وإلا قُتل). ((الاستذكار)) (8/10).

وابن القطان (وأجمعوا أن عصير العنب إذا غلى واشتد وقذف بالزبد، وأسكر الكثير منه أو القليل - أنه الخمر [المحرمة] بالكتاب والسنة المجتمع عليها، وأن مستحلها كافر). ((الإفتاح في مسائل الإجماع)) (1/327).  
والقرطبي (فإنما المستخرج من العنب المسكر النبي، فهو الذي اتفق الإجماع على تحريم قليله وكثيره ولو نقطة منه، وأما ما عدا ذلك فالجمهور على تحريمه، وخالف الكوفيون في القليل مما عدا ما ذكر). ((تفسير القرطبي)) (6/295).

وابن قدامة (فالمجتمع على تحريمه عصير العنب إذا اشتد وقذف زبده، وما عداه من الأثرية المسكرة، فهو حُرْمٌ). ((المنعي)) (9/159).

وابن تيمية (فإن حمر العنب قد أجمع المسلمون على تحريم قليلها وكثيرها، ولا فرق في الحس ولا العقل بين حمر العنب والنمر، والزبيب والعسل؛ فإن هذا يصد عن ذكر الله وعن الصلاة، وهذا يصد عن ذكر الله وعن

dates, wheat and barley etc.) is also prohibited in a similar way according to all sunnī schools but to deny is not disbelief as this is an issue of ijtihād.<sup>100</sup>

Scholars differ on the definition of khamr. Abū Ḥanīfah restricts it to when grape juice is boiled and gets excited and bubbles foam as has been mentioned earlier.<sup>101</sup> Due to the restriction of definition according to Abū Ḥanīfah and Abū Yūsuf anything other than grape juice containing muskir can be taken for medicinal purposes as long as it does not intoxicate.<sup>102</sup>

What is agreed by the majority of scholars of all schools is that khamr is to be used in its general (āmm) sense as all drinks which intoxicate the mind (al-muskir), and is not just limited to just grapes but include other sources.<sup>103</sup>

In other words, ethanol is not synonymous with al-khamr, rather ethanol-containing products are

الصَّلَاةُ، وَهَذَا يُوقِعُ الْعَدَاوَةَ وَالْبَغْضَاءَ، وَهَذَا يُوقِعُ الْعَدَاوَةَ وَالْبَغْضَاءَ). (الفتاوى الكبرى) ((3/417))  
وَابْنُ حَبْرٍ (وَقَدْ انْعَقَدَ الْإِجْمَاعُ عَلَى أَنَّ الْقَلِيلَ مِنَ الْخَمْرِ الْمَتَّخَذَةِ مِنَ الْعِنَبِ يَحْرُمُ قَلِيلُهُ وَكَثِيرُهُ، وَعَلَى أَنَّ الْعِلَّةَ فِي تَحْرِيمِ قَلِيلِهِ كَوْنُهُ يَدْعُو إِلَى تَنَاوُلِ كَثِيرِهِ، فَيَلْزِمُ ذَلِكَ مَن فَرَّقَ فِي الْحُكْمِ بَيْنَ الْمَتَّخَذَةِ مِنَ الْعِنَبِ وَبَيْنَ الْمَتَّخَذَةِ مِنْ غَيْرِهَا). (فتح الباري) ((10/40)).  
100 يَحْرُمُ شُرْبُ الْخَمْرِ الْمَتَّخَذَةِ مِنْ غَيْرِ الْعِنَبِ (1) ؛ قَلِيلُهَا وَكَثِيرُهَا، بِاتِّفَاقِ الْمَذَاهِبِ الْفِقْهِيَّةِ الْأَرْبَعَةِ:  
الْحَنْفِيَّةِ (حَاشِيَةُ ابْنِ عَابِدِينَ) ((6/455)) ،  
وَالْمَالِكِيَّةِ (الْكَافِي) لابن عبد البر (1/442)، (المقدمات المهديات) لابن رشد (1/442)، (الفواكه الدواني) للنفراوي (2/288)،  
وَالشَّافِعِيَّةِ (رَوْضَةُ الطَّالِبِينَ) للنووي (10/168)، وَيُنْظَرُ: (المهذب) للشيرازي (3/370)، (أَسْنَى الْمَطَالِبِ) لَزَكَرِيَا الْأَنْصَارِي (4/158) ،  
وَالْحَنَابِلِيَّةِ (الْفُرُوعُ) لابن مفلح (10/96)، (كشاف القناع) للبهوتي (6/116) ،  
وَالظَّاهِرِيَّةِ قَالَ ابْنُ عَبْدِ الرَّبِّ: (وَهُوَ مَذْهَبُ أَهْلِ الْحِجَازِ مِنَ الصَّحَابَةِ وَالتَّابِعِينَ، وَذَهَبَ إِلَيْهِ مِنَ الْفُقَهَاءِ أُمَّةٌ الْغَنَوِيُّ بِالْأَمْصَارِ... أَبُو ثَوْرٍ وَإِسْحَاقُ وَدَاوُدُ). (الاستدكار) ((8/21)). وَقَالَ ابْنُ حَزْمٍ: (كُلُّ شَيْءٍ أَسْكِرَ كَثِيرُهُ أَحَدًا مِنَ النَّاسِ، فَالْفِطْرَةُ مِنْهُ فَمَا فَوْقَهَا إِلَى أَكْثَرِ الْمَقَادِيرِ: خَمْرٌ حَرَامٌ وَمِلْكُهُ، وَيَبِغُهُ، وَشُرْبُهُ، وَاسْتِعْمَالُهُ عَلَى أَحَدٍ؛ وَعَصِيرُ الْعِنَبِ وَتَبِيدُ التَّيْنِ، وَشَرَابُ الْقَمْحِ وَالسِّبْكَرَانِ، وَعَصِيرُ كُلِّ مَا سَوَاهَا وَنَبِيغُهُ، وَشَرَابُهُ - طَبَخَ كُلُّ ذَلِكَ أَوْ لَمْ يَطْبَخْ، ذَهَبَ أَكْثَرُهُ أَوْ أَقَلُّهُ - سِوَاةٍ فِي كُلِّ مَا ذَكَرْنَا، وَلَا فَرْقَ). (المحلل) ((6/176))،  
وَهُوَ قَوْلُ طَائِفَةٍ مِنَ السَّلَفِ قَالَ ابْنُ عَبْدِ الرَّبِّ: (وَهُوَ قَوْلُ جَمَاعَةٍ مِنْ أَهْلِ الْحِجَازِ وَالشَّامِ). (الْكَافِي) ((1/442)). وَقَالَ ابْنُ حَجْرٍ: (وَقَالَ أَهْلُ الْمَدِينَةِ وَسَائِرُ الْحِجَازِيِّينَ وَأَهْلُ الْحَدِيثِ كُلُّهُمْ: كُلُّ مُسْكِرٍ حَرَامٌ، وَحُكْمُهُ حُكْمُ مَا أُتِّخِذَ مِنَ الْعِنَبِ). (فتح الباري) ((10/48)). وَقَالَ أَيضًا: (وَقَدْ نَقَلَ ابْنُ الْمُنْذِرِ عَنِ الشَّافِعِيِّ مَا يُوَافِقُ مَا نَقَلُوهُ مِنَ الْمَزْنِيِّ، فَقَالَ: قَالَ: إِنَّ الْخَمْرَ مِنَ الْعِنَبِ وَمِنْ غَيْرِ الْعِنَبِ: عَمْرٌ، وَعَلِيٌّ، وَسَعِيدٌ، وَابْنُ عَمْرٍ، وَأَبُو مُوسَى، وَأَبُو هُرَيْرَةَ، وَابْنُ عَبَّاسٍ، وَعَائِشَةُ؛ وَمِنَ التَّابِعِينَ: سَعِيدُ بْنُ الْمُسَيْبِ، وَعُرْوَةُ، وَالْحَسَنُ، وَسَعِيدُ بْنُ جُبَيْرٍ، وَآخَرُونَ، وَهُوَ قَوْلُ مَالِكٍ، وَالْأَوْزَاعِيِّ، وَالثَّوْرِيِّ، وَابْنِ الْمُبَارَكِ). (فتح الباري) ((10/49)).  
101 ابن عابدين: (حاشية رد المحتار 6:448 4:37 الزيلعي: (تبيين الحقائق) 6:44 الشيرازي: (المهذب) 2:187 البهوتي: (كشاف القناع) 6:116  
102 الكاساني: (بدائع الصنائع) 5:116 الرمي: (نهاية المحتاج) 8:12  
103الأدلة:  
أولاً: مِنَ الْكِتَابِ - قَوْلُهُ تَعَالَى: يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ [المائدة: 90].  
ثانياً: مِنَ السُّنَّةِ - عَنْ ابْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهَا قَالَ: قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: ((كُلُّ مُسْكِرٍ حَرَامٌ، وَكُلُّ حَرَامٍ حَرَامٌ)) ((أخرجه مسلم (2003)).  
وَجِهُ الدَّلَالَةِ مِنَ الْآيَةِ وَالتَّحْدِيثِ: أَنَّ لَفْظَ الْخَمْرِ عَامٌّ فِي كُلِّ مُسْكِرٍ؛ فَإِخْرَاجُ بَعْضِ الْأَشْرِيَةِ الْمُسْكِرَةِ عَنْ شُمُولِ اسْمِ الْخَمْرِ لَهَا: تَقْصِيرٌ بِهِ وَهَضْمٌ لِعُمُومِهِ ((إعلام الموقعين)) لابن القيم (1/168).  
ثالثاً: مِنَ الْأَثَارِ  
عَنْ ابْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهَا قَالَ: سَمِعْتُ عُمَرَ رَضِيَ اللَّهُ عَنْهُ عَلَى مَنِيرِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، يَقُولُ: (أَمَّا بَعْدُ، أَيُّهَا النَّاسُ، إِنَّهُ نَزَلَ تَحْرِيمُ الْخَمْرِ، وَهِيَ مِنْ حَمْسَةٍ: مِنَ الْعِنَبِ وَالتَّمْرِ، وَالعَسَلِ وَالْحِنْطَةِ وَالتَّشْعِيرِ، وَالحَمْرِ مَا خَامَرَ الْعَقْلَ) (أخرجه البخاري (4619)، ومسلم (3032)).  
وَجِهُ الدَّلَالَةِ: قَوْلُهُ: (وَالحَمْرُ مَا خَامَرَ الْعَقْلَ) يَرِيدُ أَنَّهُ لَيْسَ بِمَقْصُورٍ عَلَى هَذِهِ الْحَمْسَةِ الَّتِي كَانَتْ، وَأَنَّ الْعِلَّةَ النُّشُوءَ وَمَا خَامَرَ الْعَقْلَ. (شرح الزرقاني على مختصر خليل) ((8/196))  
رابعاً: أَنَّ الصَّحَابَةَ لَمَّا نَزَلَ تَحْرِيمُ الْخَمْرِ فَهَمُّوا مِنَ الْأَمْرِ بِاجْتِنَابِ الْخَمْرِ تَحْرِيمَ كُلِّ مُسْكِرٍ، وَلَمْ يَفْرُقُوا بَيْنَ مَا يُتَّخَذُ مِنَ الْعِنَبِ وَبَيْنَ مَا يُتَّخَذُ مِنْ غَيْرِهِ، بَلْ سَوَّوْا بَيْنَهُمَا، وَحَرَّمُوا كُلَّ مَا يُسْكِرُ نَوْعُهُ، وَلَمْ يَتَوَقَّفُوا وَلَا اسْتَفْصَلُوا، وَلَمْ يُشْكَلْ عَلَيْهِمْ شَيْءٌ مِنْ ذَلِكَ، بَلْ بَادَرُوا إِلَى إِتْلَافِ مَا كَانَ مِنْ غَيْرِ عَصِيرِ الْعِنَبِ، وَهُمْ أَهْلُ السَّنَانِ، وَبَلَّغْتَهُمْ نَزْلَ الْقُرْآنِ، فَلَوْ كَانَ عِنْدَهُمْ فِيهِ تَرَدُّدٌ لَتَوَقَّفُوا عَنِ الْإِرَاقَةِ حَتَّى يَسْتَكْشِفُوا وَيَسْتَفْصِلُوا وَيَتَحَقَّقُوا التَّحْرِيمَ؛ لِأَنَّ كَانَتْ تَقَرَّرَ عِنْدَهُمْ مِنَ النَّبِيِّ عَنِ إِضَاعَةِ الْمَالِ، فَلَمَّا لَمْ يَفْعَلُوا ذَلِكَ وَبَادَرُوا إِلَى الْإِتْلَافِ، عَلِمْنَا أَنَّهُمْ فَهَمُّوا بِتَحْرِيمِ نَعْمًا (فتح الباري) لابن حجر (10/49).  
خامساً: أَنَّهَا شَمَّيَتْ خَمْرًا لِخَامَرَتِهَا الْعَقْلَ، فَكُلُّ شَرَابٍ يُسْكِرُ فَهُوَ خَمْرٌ (تبيين الحقائق) للزيلعي (6/44).  
سادساً: أَنَّ الْعَرَبَ إِذَا سَمَّتِ الْخَمْرَ بِهَذَا الاسْمِ؛ لَوْجُودِ الْإِسْكَارِ وَالتَّشَدُّدِ الْمَطْرِبَةِ، فَوَجِبَ إِجْرَاءُ الْعِلَّةِ حَيْثُ وَجَدَتْ، وَعَلِمْنَا أَنَّهَا عِلَّةٌ بِالطَّرِيقِ الَّذِي بِهِ نَعْلَمُ الْعِلَّةَ، وَهُوَ وَجُودُ الْحُكْمِ بِوُجُودِهَا، وَارْتِفَاعُهُ بِارْتِفَاعِهَا ((الإشراف على نكت مسائل الخلاف)) للقاضي عبد الوهاب المالكي (2/926).

prohibited because they have an effect like al-khamr, in that they have the property or symptoms of that which is al-muskir, inebriating.

There are three important factors that determine whether a substance is khamr, or under the ruling of khamr, with respect to ethanol.

1. The process of production
2. The concentration of ethanol
3. The intention or purpose of use

The Process and Concentration of Production:

There are four main processes relevant here:

- Aerobic fermentation
- Anaerobic fermentation
- Distillation
- Synthetic production

Aerobic and Anaerobic fermentation:

In a natural aerobic fermentation process, such as the fermentation of sugars by yeast in the presence of oxygen, the maximum concentration or percentage of alcohol that can be produced is generally lower compared to anaerobic fermentation (fermentation in the absence of oxygen). In aerobic fermentation, yeast primarily undergoes a process called respiration, where they use oxygen to convert sugars into energy, carbon dioxide, and water. This process produces less alcohol compared to anaerobic fermentation, where yeast converts sugars into alcohol and carbon dioxide in the absence of oxygen. The maximum alcohol concentration produced during aerobic fermentation is typically around 1-3% alcohol by volume (ABV). This is due to the fact that the yeast's energy is mainly used for respiration rather than alcohol production.

Most alcoholic beverages that we consume are produced through anaerobic fermentation, where yeast ferments sugars into alcohol without the presence of oxygen. During the process of fermentation, in the absence of oxygen (anaerobic fermentation), for the most common types of yeast used in brewing and winemaking, the alcohol tolerance is typically in the range of 12-18% alcohol by volume (ABV). Above this concentration, yeast is toxified and zymase enzyme is



inhibited and the fermentation process is stopped.<sup>104</sup> In anaerobic fermentation, where yeast ferments sugar in the absence of oxygen, the maximum alcohol concentration that can be achieved depends on several factors, including the type of yeast used, the initial sugar concentration, the temperature, and the fermentation conditions. However, yeast generally cannot survive in high alcohol concentrations, and once the alcohol concentration reaches a certain level, it becomes toxic to the yeast cells and fermentation slows down or stops.

This means that once the alcohol concentration in the fermentation reaches this level (approx. 15%), the yeast activity will be significantly inhibited, and fermentation will either slow down considerably or come to a halt.<sup>105</sup> Producing alcoholic beverages with alcohol content significantly above 18-20% ABV usually involves additional processes beyond traditional fermentation, such as distillation.

In summary:

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

Ethanol < 1% - Permissible

Regarding ethanol less than 1% (w/v), obtained by natural aerobic fermentation process under oxygen (air) atmosphere. The process goes through two steps: first, the oxidation of sugar via fermentation into ethanol, followed by the oxidation of ethanol via acetaldehyde into acetic acid. If a 55 kg weight female, consumed 1% ethanol within 1 h, the intoxication limit will be reached (BAC  $\frac{1}{4}$  0.09%) after ingesting 4000 ml volume. Drinking 4 L of 1% of ethanol to reach intoxication is practically impossible, therefore one may conclude that alcohol less than 1% should be treated as a preserving agent rather than forbidden for the reasons described above.

The ḥadīth of the prophet Muhammad (PBUH) that whatever intoxicates in large quantities, a little of it is also forbidden (Tirmidhi, 1865), relates to khamr specifically and not to beverages which are not possible for them to intoxicate even if the volume is increased as the ethanol concentration will still remain below 1%.

Aerobic:

Therefore, ethanol prepared by aerobic fermentation which remains less than 1% will be permitted

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<sup>104</sup>Thamilvanan, G., & Selvi, R. S. (2013). Distillation of ethanol from sugar molasses. *International Journal of Medicine and Biosciences*, 2, 33-35.

<sup>105</sup> There are specialized yeast strains, often referred to as "high-alcohol" yeast strains, that have been bred or engineered to tolerate higher alcohol concentrations. Some of these strains can potentially ferment up to around 20% ABV or even slightly higher under optimal conditions.

as it is not possible for it to intoxicate. In other words, it is not muskir. If it does not have the property of being muskir it cannot be khamr. Natural ethanol produced by natural fermentation under aerobic conditions is ḥalāl by nature even in beverage form, but high ethanol content in non-fresh grape juice is prohibited specifically as this has the potential for higher ethanol concentration a lot sooner.<sup>106</sup>

#### Anaerobic:

Al-khamr generally refers to the solution, which is produced from fruits or any natural sugar source by anaerobic fermentation and potentially could be used or lead to intoxication. The main ingredient of al-khamr is ethanol, which is the chemical substance responsible for inebriation. The ethanol produced from anaerobic fermentation is an inebriant and will be considered as khamr or be under the same rulings as khamr and so prohibited. If the concentration remains below 1%, regardless of amount or volume, in the production, then if this is not intended to be a beverage for consumption then this will not be muskir as it is not possible for it to intoxicate. If it is produced with the intention of it being an intoxicating beverage, even if it is less than 1% it will be prohibited due to the intention and purpose of production. In Islam, human deeds are judged on the basis of intentions (Niyah), Prophet Mohammad PBUH said “[Verily, deeds are only with intentions](#)” (Sahih Bukhari 54). Therefore, any alcoholic beverage or vinegar made with the intention to achieve partial or complete intoxication, is prohibited, no matter if ethanol content is <1% or >15%.

Ethanol = 1-15% - Prohibited (Muskir)

When ethanol content is produced through anaerobic fermentation between 1-15% (around 15% being the maximum concentration that can be obtained by anaerobic fermentation), it is treated as khamr as it intoxicates, its status is forbidden (non-Halal); preparing, carrying, and drinking it is forbidden as mentioned in the Holy Quran. This is regardless of whether it is produced as an inebriating beverage or not.

#### Distilled and Synthetic Ethanol

Distillation allows for the separation of ethanol from the fermented liquid, allowing for the creation

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<sup>106</sup> Ethanol contents in fresh fruits increases by time due to the anaerobic fermentation of their sugars (Logan & Distefano, 1998). Ethanol content for unripe and ripe hanging palm fruits, and for over-ripe fallen fruits was determined. No ethanol was detected in the pulp of unripe palm fruits, whereas about 0.6% of ethanol in the ripe palm hanging fruits and ripe fallen fruits was determined to be 0.9%, the value was increased for over ripe-fallen fruits to 4.5% (Dudley, 2004). Similarly ethanol content was increased in fresh pineapple from 0.48% to 1%, when pineapple was stored at 4 C for ten days (Gunduz, Yalmaz, & Goren, 2013). Ethanol content was significantly increased in fresh grape juice from 0.29 to 2.11% after being kept at room temperature for 1 day, dramatic increase in ethanol content is observed (5.60%) if kept for 10 days at room temperature.

Logan, B. K., & Distefano, S. (1998). Ethanol content of various foods and soft drinks and their potential for interference with a breath-alcohol test. *Journal of Analytical Toxicology*, 22.

Dudley, R. (2004). Ethanol, fruit ripening, and the historical origins of human alcoholism in primate frugivory. *Integrative and Comparative Biology*, 44, 315-323.

Gunduz, S., Yalmaz, H., & Goren, A. C. (2013). Halal food and Metrology: Ethyl alcohol contents of beverages. *Journal Chemical Metrology*, 7, 7-9.

of spirits with much higher alcohol content, like whiskey, vodka, and rum. Distillation is a process used to separate and concentrate substances based on their differing boiling points. In the context of producing alcoholic beverages, distillation is used to separate ethanol from the fermented liquid (mash or wine) to create spirits with higher alcohol content. The maximum alcohol percentage that can be achieved through distillation is not limited by the fermentation yeast's alcohol tolerance. Instead, it's limited by the azeotropic point of the alcohol-water mixture. An azeotrope is a mixture of two or more substances in a certain ratio that has a constant boiling point and composition. For ethanol (alcohol) and water, the azeotropic point is around 95.6% alcohol by volume (ABV) at normal atmospheric pressure.

This means that no matter how many times you distil a mixture of ethanol and water, you can't achieve a concentration of pure ethanol (100% ABV) through simple distillation. To obtain higher concentrations, additional techniques like molecular sieves or further specialized distillation processes are required. Both distilled ethanol and synthetic ethanol refer to two different methods of producing the same chemical compound, ethanol. The primary difference between them lies in the source of the raw materials used in their production.

#### Distilled Ethanol:

Distilled ethanol is ethanol that is produced through the process of fermentation followed by distillation. In this process, naturally occurring sugars, often derived from agricultural crops like grains (such as corn or barley), fruits (such as grapes), or sugarcane, are fermented by yeast to produce alcohol. The alcohol is then separated and concentrated through distillation, a process that involves heating the fermented liquid to vaporize the alcohol and then condensing the vapor back into liquid form. Distilled ethanol can be used for a variety of purposes, including alcoholic beverages, industrial applications, and as a fuel source (bioethanol).

#### Synthetic Ethanol:

Synthetic ethanol, also known as synthetic alcohol, is ethanol that is chemically synthesized from non-biological sources. This involves using chemical reactions to convert raw materials such as ethylene, natural gas, or acetic acid into ethanol. The process may involve catalysis and other chemical transformations to create ethanol molecules. Synthetic ethanol is generally produced in industrial settings and is commonly used for industrial purposes, such as solvents, cleaning agents, and chemical feedstocks.

The main difference between these two types of ethanol lies in their origin and production methods. Distilled ethanol is derived from natural fermentation processes involving sugars, while synthetic ethanol is chemically synthesized from non-biological sources. From a chemical

perspective, both distilled and synthetic ethanol are the same compound with the same molecular structure (C<sub>2</sub>H<sub>5</sub>OH), and they exhibit the same chemical properties.

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

Ethanol > 15% - Prohibited (Khamr or Mufsid)

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

As a beverage:

Alcoholic beverages are made industrially through a combination of processes that involve fermentation, distillation, and sometimes additional steps for flavouring, ageing, and quality control. If it is used for consumption as an alcoholic beverage, then the ethanol concentration tends to vary from 2-60% or more.<sup>107</sup> These are all khamr or under the ruling of khamr as they are intended to inebriate and are at a concentration that they can.

Not as a beverage:

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

- A 95% (95.6%) ethanol: This is the highest concentration of ethanol one can obtain by distillation, 95.6% ethanol is an azeotrope, which means the vapour state has the same ethanol:water ratio as the liquid state. This alcohol could be obtained either synthetically in the lab from a variety of starting materials or by the fermentation process of different biomasses. The quality of this alcohol is compatible with food industries and could be used in flavours, candy, personal care products and as a carrier for a wide spectrum of medicines

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<sup>107</sup> percentage of alcohol found in alcoholic beverages can vary depending on the type of beverage and regional regulations. Here are some general guidelines:

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

such as cough, decongestants and iodine solutions.

- **Absolute (99-100%) ethanol:** Certain experiments are sensitive to water; therefore absolute ethanol is required. A common method to produce ethanol with a concentration higher than 95% is to use additives, such as toluene, heptane, cyclohexane, and 2-butanone that disrupt the azeotrope composition and allow further distillation. For this reason, absolute ethanol contains trace amounts of these additives.
- **Denatured ethanol:** It is made to be unhealthy for human consumption by adding one or more chemicals. Denatured ethanol (either 95% or absolute) contains chemicals, such as methanol and isopropanol, therefore it is not safe to drink. Usually, it is cheaper than pure ethanol, as it is exempted from beverage taxes and frequently used as a cleaning and disinfectant agent. Ethanol is an effective disinfectant at concentrations between 70 and 90%, aqueous ethanol is a more effective protein denaturant than absolute ethanol. Denatured ethanol is commonly used in perfume industries.

These ethanols will not be khamr or under rulings of khamr but will be mufsid. Even though they have above 1% ethanol and are assumed to be inebriating, consuming them to the point of causing inebriation is dangerous and toxic. These products are not formulated for consumption as a means of achieving intoxication and doing so can have serious health consequences. These applications often utilize alcohol for their antiseptic, solvent, and preservative properties.<sup>108</sup>

- **Mouthwash:** Mouthwash is a liquid solution used for oral hygiene. It usually contains water, alcohol (often ethanol), flavouring agents, and other active ingredients like antimicrobial agents or fluoride. The alcohol content in mouthwash is typically around 20-30%. It serves as a vehicle for delivering oral hygiene benefits, including killing bacteria, freshening breath, and preventing gum disease. Mouthwash is not intended to be ingested. In fact, swallowing mouthwash can be harmful, as it contains ingredients that are meant for

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<sup>108</sup> Here are some examples of alcoholic liquids used for medical and non-beverage purposes, along with their alcohol concentrations:

- **Rubbing Alcohol (Isopropyl Alcohol):** Rubbing alcohol, commonly used as a disinfectant and antiseptic, typically contains isopropyl alcohol at concentrations of 70% or higher. The remaining portion of the solution is usually water. It is used for cleaning wounds, skin preparation before injections, and as an antiseptic.
- **Hand Sanitizers:** Hand sanitizers often contain ethyl alcohol (ethanol) as the active ingredient. The concentration of alcohol in these products usually ranges from 60% to 80%. Hand sanitizers are used to reduce the risk of infection by killing germs on the hands.
- **Cough Linctus and Syrups:** Some cough linctus and syrups may contain small amounts of alcohol as a solvent for the active ingredients. The alcohol content in these formulations is usually low, often around 5% or less.
- **Tinctures:** Tinctures are liquid extracts made by soaking herbs or other plant materials in alcohol. The alcohol acts as a solvent to extract the active compounds from the plant material. The alcohol content in tinctures can vary depending on the specific preparation, but it's typically in the range of 25% to 60%.
- **Mouthwashes and Oral Rinses:** Some mouthwashes and oral rinses contain alcohol as an antimicrobial agent. The alcohol concentration in these products can vary, but it's generally around 20% to 30%. Alcohol-based mouthwashes are used to help control bacteria and reduce bad breath.
- **Topical Antifungal Solutions:** Certain antifungal solutions for treating fungal infections of the skin, like athlete's foot, may contain alcohol as a carrier for the active antifungal agent. The alcohol concentration in these solutions is usually around 10% to 25%.
- **Astringents and Antiseptics:** Alcoholic solutions are used as astringents to tighten and cleanse the skin, as well as antiseptics to prevent infection. These solutions can contain varying alcohol concentrations depending on the intended use.

topical use in the mouth, not for consumption.

- Cough Linctus: Cough linctus, also known as cough syrup, is a liquid medicine used to relieve cough symptoms. It usually contains a combination of active ingredients, including antitussives, expectorants, and sometimes a mild amount of alcohol as a solvent. The alcohol content in cough linctus is typically around 5% or less. The purpose of alcohol in cough linctus is primarily to aid in the solubilization of the active ingredients. Cough linctus is a medical product intended to be taken as directed by a healthcare professional for the relief of cough symptoms. It is not meant for recreational consumption or inebriation.

It's important to note that alcoholic liquids used for medical purposes are formulated with specific concentrations and under regulatory guidelines to ensure safety and effectiveness.

They will be prohibited to consume in large amounts as inebriants because of their toxicity as attempts to drink toxic substance is considered suicide attempt in Islam. However, toxic ethanol solution is allowed to prepare, hold, transfer and use for disinfection and other industrial use.

Table 6. Permissibility of Ethanol with respect to Concentration, Purpose and Process of Production

Concentration/ Purpose		Aerobic	Anaerobic	Distillation/ Synthetic
<1%	Beverage	Permitted except grapes	Prohibited (Khamr)	Prohibited (Khamr)
	Not beverage	Permitted	Permitted	Permitted
1-15%	beverage	Prohibited (Khamr)	Prohibited (Khamr)	Prohibited (Khamr)
	Not beverage	X	Prohibited (Khamr)	Prohibited (Khamr) or Mufsid
>15%	beverage	X	X	Prohibited (Khamr)
	Not beverage	X	X	Toxic (Mufsid)

The question now lies in whether substances considered as khamr or under rulings of khamr are permitted in certain medical situations.

Drinking al-Khamr in States of Duress:

Classical Muslim jurists of all schools consider it permissible to consume al-khamr to remove harm from choking from fear of death.<sup>109</sup> This suggests that the level of stringency of the principle of *darūrah* is necessary to permit the consumption of al-khamr. This is because the preservation of life is weightier in Islam than the abstention from intoxicants and preservation of life is required, as is seen in the exception of consuming dead meat when compelled.<sup>110</sup>

However, regarding permissibility to consume al-khamr when thirsty and in a state of dehydration, most prohibit it (Mālikī, the preferred opinion amongst the Shāfi'ī and also the Ḥanbalī), because consuming al-khamr is not known to relieve thirst, rather exacerbates thirst unless it is mixed with that which is pure and relieves thirst.<sup>111</sup> This identifies that al-khamr is only permissible to consume when there is high certainty of benefit.

Therefore, it is permissible for the one compelled, to consume khamr according to all sunnī schools.<sup>112</sup> There is however a difference at what level of compulsion and threat deems this exemption.<sup>113</sup> All agree that a high level of certainty of effect is required but differ in their view on

109 يُجْلُ شُرْبُ الْحَمْرِ لِدَفْعِ الْعُصَّةِ - إِذَا خَافَ عَلَى نَفْسِهِ الْهَلَاكَ، وَلَمْ يَجِدْ غَيْرَهَا - بَقْدَرٍ مَا يُزِيلُ الْعُصَّةَ، وَهُوَ بِأَثْنَانِ الْمَذَاهِبِ الْفِقْهِيَّةِ الْأَرْبَعَةِ:

الْحَنْفِيَّةِ ((الفتاوى الهندية)) (5/412)، وَيُنْظَرُ: ((الأسباه والنظائر)) لابن نجيم (ص73)،

والمالِكِيَّةِ ((التاج والإكليل)) للمواق (6/318)، ((منح الجليل)) لعليش (9/353)،

وَالشَّافِعِيَّةِ الشَّافِعِيَّةِ يَقُولُونَ بِالْوَجُوبِ، ((المجموع)) للنووي (4/336)، وَيُنْظَرُ: ((حاشية الجمل)) (2/193)،

وَالْحَنَابِلِيَّةِ ((الإصناف)) للمرداوي (10/173)، ((كشاف القناع)) للبهوتي (6/117)،

وَهُوَ مَذْهَبُ الطَّاهِرِيَّةِ قَالَ ابْنُ حَزْمٍ: أَصْحَابُنَا وَالْمَالِكِيُّونَ يُبِيحُونَ لِلْمُحْتَنِقِ شُرْبَ الْخَمْرِ إِذَا لَمْ يَجِدْ مَا يُسَبِّغُ أَكْلَهُ بِهِ غَيْرَهَا. ((المحل)) (1/176).

110 الأدلة:

أَوَّلًا: مِنَ الْكِتَابِ - 1 - قَوْلُهُ تَعَالَى: وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرُّرْتُمْ إِلَيْهِ [الأنعام: 119].

وَجِهُ الدَّلَالَةِ: - أَنَّ اللَّهَ تَعَالَى اسْتثنَى مِنَ الْمَحْرَمَاتِ مَا اضْطُرُّرْتُمْ إِلَيْهِ؛ فَهُوَ غَيْرُ مُحْرَمٍ عَلَيْهِ، مِنَ الْمَأْكَلِ وَالْمَشْرَبِ ((المحل)) لابن حزم (1/175).

2- قَوْلُهُ تَعَالَى: وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ [الحج: 78]، وَقَالَ: لَا تَكُلْفُ نَفْسٌ إِلَّا وَسْعَهَا [البقرة: 233].

أوجه الدلالة:

أ- أَنَّ فِي عَدَمِ اعْتِبَارِ حَالَةِ الضَّرورةِ حَرَجًا وَتَكْلِيفًا مَا لَيْسَ فِي الوُسْعِ ((الاختيار)) للموصلي (4/37)..

ب- أَنَّ حِفْظَ الْحَيَاةِ أَعْظَمُ فِي نَظَرِ الشَّرْعِ مِنْ رِعَايَةِ الْمُحْرَمَاتِ ((قواعد الأحكام في مصالح الأنام)) للعز بن عبد السلام (1/93)..

ج- أَنَّ حِفْظَ النَّفْسِ مَطْلُوبٌ، بِدَلِيلِ إِبَاحَةِ الْمَيْتَةِ عِنْدَ الْاضْطِرَارِ إِلَيْهَا، وَهُوَ مَوْجُودٌ هُنَا ((كشاف القناع)) للبهوتي (6/117)

111 يُحْرَمُ شُرْبُ الْخَمْرِ لِعَطَشٍ، وَهُوَ مَذْهَبُ الْجُمْهُورِ: الْمَالِكِيَّةِ ((التاج والإكليل)) للمواق (3/233)، وَيُنْظَرُ: ((شرح مختصر خليل)) للخرشي (3/29)،

وَالشَّافِعِيَّةِ - عَلَى الصَّحِيحِ عِنْدَهُمْ - ((روضة الطالبين)) للنووي (10/169)،

وَالْحَنَابِلِيَّةِ ((الإصناف)) للمرداوي (10/173)، ((كشاف القناع)) للبهوتي (6/117)؛

وَذَلِكَ لِعَدَمِ حُصُولِ الْمَقْصُودِ بِهَا؛ لِأَنَّهَا لَا تَرْوِي، بَلْ تَزِيدُهُ عَطَشًا

إِلَّا إِنْ كَانَتْ مَزْجُوجَةً بِمَا يَرْوِي مِنَ الْعَطَشِ، وَأَوْشَكَ عَلَى الْهَلَاكِ مِنَ الظَّمَا، فَتَبَاحٌ لِلضَّرورةِ. يُنْظَرُ: ((كشاف القناع)) للبهوتي (6/117)

112 يُبَاحُ لِلْمُكْرَهِ شُرْبُ الْخَمْرِ عَلَى اخْتِلَافِ بَيْنِ الْعُلَمَاءِ فِي حَدِّ الْإِكْرَاهِ الَّذِي يَجُوزُ مَعَهُ فِعْلُ ذَلِكَ، وَذَلِكَ بِأَثْنَانِ الْمَذَاهِبِ الْفِقْهِيَّةِ الْأَرْبَعَةِ:

الْحَنْفِيَّةِ ((شرح مختصر الطحاوي)) للجصاص (8/442)، ((الهداية)) للمرغيناني (3/277)، ((تبيين الحقائق)) للزليعي (5/181)، وَيُنْظَرُ: ((بدائع الصنائع)) للكاساني (7/176)،

وَالْمَالِكِيَّةِ ((منح الجليل)) لعليش (9/353)، وَيُنْظَرُ: ((شرح مختصر خليل)) للخرشي (8/109)،

وَالشَّافِعِيَّةِ ((تحفة المحتاج)) للهيتمي (9/168)، ((معني المحتاج)) للشربيني (4/187)،

وَالْحَنَابِلِيَّةِ ((المدعي)) لابن مفلح (9/91)، ((كشاف القناع)) للبهوتي (6/117).

113 الأدلة:

أَوَّلًا: مِنَ الْكِتَابِ - 1 - قَوْلُهُ تَعَالَى: وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرُّرْتُمْ إِلَيْهِ [الأنعام: 119].

whether al-khamr achieves this level of certainty.

If khamr is certain to benefit medically then it will be permitted. Some have considered this never to be the case.

Applying al-Khamr Topically:

All schools accept that khamr is najis and there is consensus on this.<sup>114</sup>

وجه الدلالة: أن الاستثناء من التحريم إباحة، وقد تحققت الاضطرار بالإكراه، فيباح له التناول، بل لا يباح له الامتناع عنه، ولو امتنع عنه حتى قيل، يؤاخذ به، كما في حالة المخمصة؛ لأنه بالامتناع عنه صار ملقياً بنفسه في التهلكة ((بدائع الصنائع)) للكاساني (7/176).

2- قوله تعالى: فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ [البقرة: 173]. 3- قوله تعالى: فَمَنْ اضْطُرَّ فِي مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِإِثْمِهِ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ [المائدة: 3]. وجه الدلالة: أن المكروه مضطر، وهذه الآيات نص في أن المضطر لا يحرم عليه شيء مما اضطر إليه من طعام أو شراب. ((المحل)) لابن حزم (12/376). ثانياً: أن المكروه غير مكلف، كالمجنون؛ فلا يتعلق بفعله جواز ولا غيره من الأحكام التكليفية ((منح الجليل)) لعليش (9/353).

114 اختلف العلماء في نجاسة الخمر على قولين:

القول الأول: أن الخمر نجسة نجاسة عينية، وذلك بأثاق المذاهب الفقهية الأربعة:

الحنفية ((البحر الرائق)) لابن نجيم (8/247)، ويُنظر: ((بدائع الصنائع)) للكاساني (1/66)،

والمالكية ((مواهب الجليل)) للحطاب (1/126)، ويُنظر: ((شرح مختصر خليل)) للخرشي (1/84)،

والمالكية ((المجموع)) للنووي (2/563)، ((تحفة المحتاج)) لابن حجر الهيتمي (1/303)،

والمالكية ((الفروع)) لابن مفلح (1/327)، ((الإنصاف)) للمرداوي (1/229)، ويُنظر: ((المغني)) لابن قدامة (9/171).

وحكي الإجماع على ذلك قال ابن رشد: ((والنجاسات على ضربين: ضرب أتفق المسلمون على تحريم بيعها، وهي الخمر، وأنها نجسة، إلا خلافاً شاذاً في الخمر «أعني: في كونها نجسة»)). (بداية المجتهد) (3/145).

وقال النووي: ((ونقل الشيخ أبو حامد الإجماع على نجاستها)). ((المجموع)) (2/563). وقال العيني: ((قد انعقد الإجماع على نجاستها، وداود لا يعتبر خلافه في الإجماع)). ((البنية)) (1/447). وقال إبراهيم بن مفلح: ((الخمر تحمُر العقل، أي: يغطيه ويسرّه، وهي نجسة إجماعاً)). ((المبدع)) (1/195).

الأدلة:

أولاً: من الكتاب - قوله تعالى: يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّا جَعَلْنَا الْخَمْرَ وَالْمَيْسِرَ وَالْأَنْصَابَ وَالْأَزْلَامَ رِجْسًا مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ [المائدة: 90].

وجه الدلالة: أن قوله تعالى: رِجْسٌ يَدُلُّ عَلَى نَجَاسَتِهَا؛ فَإِنَّ الرَّجْسَ فِي اللِّسَانِ: النِّجَاسَةُ ((تفسير القرطبي)) (6/289). ولا يضر قرن الميسر والأنصاب والأزلام بها، مع أن هذه الأشياء طاهرة؛ لأن هذه الثلاثة

خرجت بالإجماع، فبيّنت الخمر على مقتضى الكلام ((المجموع)) للنووي (2/564).

ثانياً: من السنة - عن أبي ثعلبة الخشني رضي الله عنه قال: ((قلت: يا رسول الله، إنا بأرض قوم أهل كتاب، أفأكل في آنتهم؟ قال: لا تأكلوا فيها إلا أن لا تجدوا غيرها، فاغسلوها واكلوها فيها)) أخرجه البخاري (5478)، ومسلم (1930).

وجه الدلالة: أن الأصل في حال المشركين أنهم يطبخون في قلوبهم لحم الخنزير ويشربون في آنتهم الخمر، فلم يجز استعمالها إلا بعد الغسل والتنظيف ((معالم السنن)) للخطابي (4/257).

القول الثاني: أن الخمر طاهرة، وهو قول ربيعة بن أبي عبد الرحمن، والليث بن سعد، والمزني صاحب الشافعي، وبعض المتأخرين من البغداديين والقروين، فأروا أنها طاهرة، وأن المحرم إنما هو شربها. ((تفسير القرطبي)) (6/288). وقال النووي: ((الخمر نجسة عندنا وعند مالك وأبي حنيفة وأحمد وسائر العلماء، إلا ما حكاه القاضي أبو الطيب وغيره عن ربيعة شبيخ مالك، وداود: أنها قالا: هي طاهرة)). ((المجموع)) (2/563)،

واختاره الصنعاني قال الصنعاني: ((فاذا عرفت هذا فتحرّم الخمر والخمر الذي دلّت عليه النصوص، لا يلزم منه نجاستها، بل لا بد من دليل آخر عليه، وإلا بقيت على الأصل المتفق عليه من الطهارة، فمن ادعى خلافه، فالدليل عليه)). ((سبل السلام)) (1/36).

والشوكاني قال الشوكاني: ((ليس في نجاسة المسكر دليل يصلح للتمسك به)). ((السبل الجرار)) (ص 25). والألباني قال الألباني: ((وغیر هؤلاء كثيرون من المتأخرين من البغداديين والقروين رأوا جميعاً أن الخمر طاهرة، وأن المحرم إنما هو شربها، كما في «تفسير القرطبي» (6/88) وهو الراجح، وللأصل المشار إليه أن الأصل الطهارة، فلا ينقل عنها إلا ناقلاً صحيحاً لم يعارضه ما يساويه أو يقدّم عليه، وعدم الدليل المعارض)). ((تمام المنة)) (ص: 54)، وابن عثيمين قال ابن عثيمين: ((الخمر ليست بنجسة، ولو كانت على صفتها حرماً)). ((الشرح الممتع)) (1/27). الأدلة:

أولاً: من السنة 1- عن أنس رضي الله عنه: ((كنت ساقياً القوم في منزل أبي طلحة، وكان حرهم يومئذ الضبيخ، فأمر رسول الله صلى الله عليه وسلم مُنادياً بنادي: ألا إن الخمر قد حرمت، قال: فقال لي أبو طلحة: اخرج فأهرقها، فخرجت فهرقتها، فجزت في سبك المدينة)) أخرجه البخاري (2464) واللفظ له، ومسلم (1980).

وجه الدلالة: أن طرقات المسلمين لا يجوز أن تكون مكاناً لإقامة النجاسة؛ ولهذا يحرم على الإنسان أن يبول في الطريق، أو يتصب فيه النجاسة، ولا فرق في ذلك بين أن تكون واسعة أو ضيقة، كما جاء في الحديث: ((اتقوا اللعائين، قالوا: وما اللعائين يا رسول الله؟ قال: الذي يتخلى في طريق الناس، أو في ظلهم)) أخرجه مسلم (269). ويُنظر: ((تفسير القرطبي)) (6/288)، ((الشرح الممتع)) لابن عثيمين (1/430).

2- عن ابن عباس رضي الله عنهما: ((أن رجلاً أهدى لرسول الله صلى الله عليه وسلم رواية حمر، فقال له رسول الله صلى الله عليه وسلم: هل علمت أن الله قد حرّمها؟ قال: لا، فسأرت إنساناً، فقال له رسول الله صلى الله عليه وسلم: يم سارت؟ فقال: أمرته ببيعها، فقال: إن الذي حرّم شرّبها حرّم بيعها، قال: ففتّحت الزادة حتى ذهب ما فيها)) أخرجه مسلم (1579).



Ḥanafīs – permissible as long as it is not of the four sources ( al-ashrabat al-arba‘ah) from grapes and dates, then it is not najis according to Abu Ḥanīfah and Abū Yūsuf

Few scholars consider that khamr is not najis (i.e. not al-najāsāt al-hissiyah)- such as Rabī‘at Ibn Abī ‘Abd al-Raḥmān Mālikī (d. 136 AH), al-Muznī Shāfi‘ī (d. 264 AH), Layth Ibn Sa‘d (d. 175 AH) and some of the later scholars from Baghdād and Mālikī, as well as al-Zāhirī.<sup>115</sup> Also later and contemporary scholars like al-Nawāb ṣadīq Ḥasan Khan, Shaykh Ṭāhir ibn ‘Ashūr, Shaykh Rashīd Riḍā, Shaykh ṣāliḥ al-‘Uthaymīn.<sup>116</sup>

Ibn Taymiyyah considers it pure if khamr is combined with any pure liquid which is of the measure of more than 2 Qulla if the liquids properties do not change.<sup>117</sup>

Mālikīs, Shāfi‘ī, Ḥanbalī all consider khamr as najis even if it is mixed with abundant liquid other than water and the properties of the liquid do not change.<sup>118</sup> Ibn Taymiyyah rejects this and claims that these opinions from the 3 schools are not the preferred opinions as all pure liquids are like water.<sup>119</sup> Therefore those who claim that the imāms claim for khamr to be pure if mixed with pure liquids are incorrect as the Imāms are suggesting that they are permitted to be used as tadāwi bil-muḥarram if they are mixed with pure liquids and not that they become pure, rather they remain impure, but can be used due to ḍarūrah.

The common substances used in a medical setting containing ethanol are mufsid so they are all pure and permissible.

- Rubbing Alcohol (Isopropyl Alcohol): Rubbing alcohol, commonly used as a disinfectant and antiseptic, typically contains isopropyl alcohol at concentrations of 70% or higher. The remaining portion of the solution is usually water. It is used for cleaning wounds, skin preparation before injections, and as an antiseptic. It is not an ethanol and so permissible.
- Hand Sanitizers: Hand sanitizers often contain ethyl alcohol (ethanol) as the active ingredient. The concentration of alcohol in these products usually ranges from 60% to 80%. Hand sanitizers are used to reduce the risk of infection by killing germs on the hands. They

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115 في تفسير القرطبي هم الجمهور من تحريم الخمر، واستنخبات الشرع لها، وإطلاق الرجس عليها، والأمر باجتنابها، الحكم بنجاستها. وخالفهم في ذلك ربيعة والليث بن سعد والمزني صاحب الشافعي، وبعض المتأخرين من البغداديين والقرويين فأروا أنها طاهرة، وأن المحرم إنما هو شربها. وقد استدل سعيد بن الحداد القروي على طهارتها بسفكها في طرق المدينة، 6:288

116 ((الروضة الندية)) لصديق حسن خان 1:20 ((التحرير والتنوير)) لابن عاشور 7:25 ((تفسير المنار)) لرشيد رضا 7:48 ((الشرح الممتع على زاد المستنقع)) للعثيمين 15:195

117 ابن تيمية: مجموع الفتاوى 34:212 21:514

118 في المجموع شرح المهذب للنووي رحمه الله تعالى: "أما غير الماء من المائعات وغيرها من الرطبات، فينجس بملافة النجاسة وإن بلغت قليلا. وهذا لا خلاف فيه بين أصحابنا. 1:125

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

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

119 ابن تيمية: مجموع الفتاوى 21:489

are toxic and not for consumption therefore permissible to use as sanitizer but not for consumption.

- **Topical Antifungal Solutions:** Certain antifungal solutions for treating fungal infections of the skin, like athlete's foot, may contain alcohol as a carrier for the active antifungal agent. The alcohol concentration in these solutions is usually around 10% to 25%. They are toxic and are not inebriants and so not for consumption therefore permissible to use topically but not for consumption.
- **Astringents and Antiseptics:** Alcoholic solutions are used as astringents to tighten and cleanse the skin, as well as antiseptics to prevent infection. These solutions can contain varying alcohol concentrations depending on the intended use. The alcohol concentration in these solutions is usually around 10% to 25%. They are toxic and are not inebriants so not for consumption therefore permissible to use topically but not for consumption.

Using al-Khamr in Food/ Beverage:

Ḥanafī – Abu Ḥanīfah allows for muskir in food and drink as long as it is not to the amount that intoxicates. Later scholars go according to Imām Muḥammad which relates that both large amounts and small amounts of muskir are impermissible.

All other schools consider it impermissible in small or large quantities.

3 types of food containing alcohol<sup>120</sup>:

Those that contain less than 1% alcohol (ethanol) – fruit juices, yoghurt, dough- resemble nabīz in that small amount of alcohol is inevitable in the production. – They are not khamr and are permissible as long as it does not intoxicate – like nabīz which can be drunk for 3 days.<sup>121</sup> Less than 1% alcohol will never intoxicate if used with intention for non-beverage purpose.

When alcohol is added to dissolve substances and can be approx. 0.1-0.2% used as preservative, coloring, anti-oxidants, emulsifiers in fizzy drinks. This is istiḥlāk with dominant pure liquid where no properties remain and is permissible not to be classed as khamr.

Ethanol used as flavour ingredients in food, sweets and chocolates, like rum. Wine, cherry, brandy. They are all prohibited as they are intended as alcoholic beverages added to food.

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120 التوصيات للندوة الفقهية الطبية الثامنة المنعقدة في الكويت في الفترة من 22 - 24 مايو 1995م أولاً: التوصيات المنظمة الإسلامية للعلوم الطبية العوضي، عبدالرحمن عبدالله، الكويت .

121 المجموع شرح المهذب 2:565

## Al-Mukhaddir in Medicine

The Ḥanafī, Mālikī and Shāfi'ī schools permit mukhaddirāt in medicine as long as there is no permanence of effect.<sup>122</sup>

### Ḥanafī Perspective:

In Al-Mabsut by al-Sarakhsi (d. 483 AH), it is stated, "There is no harm in seeking treatment with bang (hemp) for a person."<sup>123</sup>

In the commentary by Ibn Abidin (d. 1252 AH), it is mentioned, "Consuming a small amount of camphor and benzoin is permissible for treatment."<sup>124</sup>

### Malikī Perspective:

In Al-Sharh al-Saghir, it is mentioned, "It is permissible to seek treatment with hashish, opium, and sekan (benzoin) for external use."<sup>125</sup>

In the commentary by al-Dusūqī (d. 694 AH), Ibn Farhun said, "It appears that consuming medicinal substances is permissible for the purpose of removing an organ or similar cases because the harm of the substance is guaranteed, while the harm to the organ is uncertain."<sup>126</sup>

### Shāfi'ī Perspective:

In Al-Majmu' by al-Nawawi, it is stated, "Using a plant that causes intoxication without severe drowsiness is prohibited for consumption but permissible for medical treatment as long as it does not lead to intoxication beyond what is necessary."<sup>127</sup>

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122 حاشية رد المحتار قال ابن عابدين: "قدمنا في الحظر والإباحة أنه لا بأس بشرب ما يذهب بالعقل لقطع نحو أكله، أقول: ينبغي تقييده بغير الخمر، وظاهره أنه لا يتقيد، بنحو بنج من غير مانع -: 5:408

الشرح الصغير بهامش بلغة السالك الدردير وقال صاحب الشرح الصغير: "يجوز التداوي بالحشيش والأفيون والسيكران في ظاهر الجسد -: 1:9

تبصرة الحكام ابن فرحون وقال ابن فرحون المالكي: "والظاهر جواز ما يسقى من المرقد (4)، لقطع عضو ونحوه؛ لأن ضرر المرقد مأمون وضرر العضو غير مأمون -: 2:169

المجموع النووي: وقال النووي: "استعمال النبات الذي يسكر وليس فيه شدة مطربة يحرم أكله ويجوز استعماله في الدواء وإن أفضى إلى السكر ما لم يكن منه بد -: 9:30

روضة الطالبين - النووي وقال أيضًا: "ولو احتيج في قطع اليد المتأكلة إلى زوال عقله هل يجوز ذلك؟ يخرج على الخلاف التداوي بالخمر، قلت الأصح الجواز: 1:171

المجموع النووي ومثله في المجموع: "ولو احتيج في قطع يده المتأكلة إلى تعاطي ما يزيل عقله فوجهان أصحها جوازه -: 3:7

جامع العلوم والحكم - ابن رجب الحنبلي وقال ابن رجب الحنبلي: "ما يزيل العقل ويسكره ولا لذة فيه ولا طرب، كالبنج ونحوه، فقال أصحابنا: إن تناوله لحاجة التداوي به، أو كان الغالب منه السلامة جاز، وإن تناوله لغير حاجة التداوي فقال أكثر أصحابنا كالقاضي وابن عقيل وصاحب المغني: إنه محرم؛ لأنه سبب على إزالة العقل لغير حاجة: ص 397

الفتاوى الكبرى ابن تيمية وذهب بعض الحنابلة وابن تيمية إلى عدم جواز التداوي بالمخدرات، وذلك لعموم الأدلة الناهية عن التداوي بالمحرم، وأن التداوي ليس ضرورة فلا يجوز التداوي بالمحرم -: 24:271

123 المبسوط "البنج لا بأس بأن يتداوى به الإنسان" (9:24)

124 وفي حاشية ابن عابدين "أكل قليل السقمونيا والبنج مباح للتداوي" (5:402)

125 الشرح الصغير بهامش بلغة السالك "يجوز التداوي بالحشيش والأفيون والسيكران في ظاهر الجسد" (1:9)

126 حاشية الدسوقي "قال ابن فرحون: والظاهر جواز أكل المرقد لأجل قطع عضو أو نحوه، لأن ضرر المرقد مأمون، وضرر العضو غير مأمون (1:50)

127 وفي المجموع "استعمال النبات الذي يسكر وليس فيه شدة مطربة يحرم أكله ويجوز استعماله في الدواء وإن أفضى إلى السكر ما لم يكن منه بد (9:35)

Hanbalī Perspective:

As for the Hanbalis, Ibn Taymiyyah was asked about using wine, pork, and other prohibited substances for medical treatment and whether the verse "He has only forbidden to you" (Quran 2:173) implies their permissibility. He responded that it is not permissible to seek treatment with such substances. He referred to authentic narrations where the Prophet Muhammad was asked about using wine for treatment, to which he replied that it is a disease, not a cure. In another narration, the Prophet prohibited using medicine with impure substances. Ibn Taymiyyah emphasized that Allāh did not place the cure for His nation in what He has prohibited for them. Furthermore, the cure cannot be achieved with certainty through these substances, unlike satiation with prohibited food.<sup>128</sup> Additionally, the healing process does not rely solely on medications. Ibn Taymiyyah also described the prohibited substance as being more harmful than intoxicating substances.<sup>129</sup>

Tobacco is not a mukhaddir as it does not cloud the mind. The initial stage of smoking does not result in mind-altering effects. Even if it is acknowledged that it can cloud the mind, it is not considered an intoxicant because intoxication is accompanied by euphoria and joy, as established. However, this is not the case with tobacco. Therefore, it is not prohibited as it does not cloud the mind, similar to the use of opium by those whose minds are not affected. This varies depending on individual temperaments, and it is not uniform for everyone. Some individuals may experience clouded minds, while others may not. It may affect some individuals even in larger quantities compared to smaller ones.<sup>130</sup> It will be prohibited on the basis of it being considered a mufsid

128 الفتاوى الكبرى ابن تيمية (24:271)

129 الفتاوى الكبرى ابن تيمية (34:206)

[130] تهذيب الفروق والقواعد السنية في الأسرار الفقهية - أجوبة عدة من الأئمة سبأه محمد السنان في نحور إخوان الدخان وفي العمليات الفاسية وحرمو أطبا للاستعمال... وللتجارة على المنوال واختلفوا هل علة التحريم أنها تحدث تفتيرا وخدرا فتشارك أولية الخمر في نشوته قال الشيخ سيدي التاودي في أجوبته وكفى حديث أم سلمة المتقدم حجة ودليلا يعني على تحريم دخان طابة انظره أو أنها تسكر في ابتداء تعاطيها إسكارا سريعا بغيبة تامة ثم لا يزال في كل مرة ينقص شيئا فشيئا حتى يطول الأمر جدا فيصير لا يحس به لكنه يجرد نشوة وطربا أحسن عنده من السكر وعلى هذا فهي نجسة ويجرم منها القليل والكثير ويجد شارها وعلى الأول فلا حد ولا نجاسة نعم يحرم القليل كالكثير خشية الوقوع في التأثير إذ الغالب وقوعه بأدنى شيء منها وحفظ العقول من الكليات الخمس المجمع عليها عند أهل الملل أو أنها لا تفتير بها ولا إسكار إلا أنها سرف وضرر ونجاسة لكونها تلب بالخمر وحينئذ يحرم القليل منها والكثير وأفتى جمع من أئمة كل مذهب بالإباحة منهم الشيخ عبد الغني النابلسي وحاصل كلامه أنها ما سكنت عنه المولى في كتابه فهي مما عفا الله عنه حديث الترمذي وابن ماجه «الحلال ما أحل الله في كتابه العزيز والحرام ما حرم الله في كتابه الكريم وما سكنت عنه من غير نسيان رحمة بكم فهو مما عفا الله عنه» قال المناوي في شرح قوله وما سكنت عنه أي لم ينص على حله ولا حرمة نصا جليا ولا خفيا فهو مما عفي عنه فيحل تناوله ما لم يرد النهي عنه. اهـ.

وألف الشيخ علي الأجهوري تأليفا سبأه غاية البيان حل ما لا يغيب العقل من الدخان حاصله أن الفتور الذي يحصل لمبتدئ شره ليس من تعيب العقل في شيء وإن سلم أنه مما يغيب العقل فليس من المسكر قطعا لأن المسكر مع نشوة وفرح كما تقرر وطابة ليس كذلك وحينئذ فيجوز استعمالها لمن لا يغيب عقله كاستعمال الأفيون لمن لا يغيب عقله وهذا يختلف باختلاف الأمزجة والقلة والكثرة فقد يغيب عقل شخص ولا يغيب عقل آخر وقد يغيب من استعمال الكثير دون القليل ونظمه من الشكل الأول أن تقول شرب الدخان على الوجه المذكور لا يغيب العقل مع نشوة وفرح وكل ما كان كذلك لا يحرم استعمال القدر الذي لا يغيب العقل منه لذاته والصغرى من الوجدانيات أو المشاهدات ودليل الكبرى ما تقدم من الفرق بين المسكر والمسند ونجاستها ليلها بالخمر إن تحققت فحرمتها لعارض لا لذاتها وإن لم تتحقق فالأصل الطهارة وهذا على فرض صحته إننا هو فيما يأتي من بلاد النصارى ونحوها وأما ما يأتي من بلاد التكرور ونحوها فهو من محقق السلامة من هذا على أن ابن رشد جازم بطهارة دخان النجس وظاهر كلامه أنه متفق عليه وقوله ابن عرفة والشيخ في ضبح وأقل أحواله أن يكون ترجيحاً ولذا تعقب بعض شراح المختصر قوله فيه أن دخان النجس نجس بكلام ابن رشد ثم إن الحكم بالنجاسة على ما بل من العشب ونحوه بالخمر وإن طال مكثه في الخمر إذا جف بعد ذلك إننا هو إذا كان بحيث لو بل تحلل منها ما يسكر.

وأما إذا كان إذا بل لم يتحلل منه شيء أو يتحلل منه ما لا يسكر فإنه طاهر كما في الخمر إذا تحجر وكان بحيث لو بل لم يسكر (1:217)

because of its physical harm to the body, in particular, the lungs and its being addictive.

#### Conclusion:

The conclusion that can be reached is that it is not permissible to seek treatment with prohibited substances and all that is impure. However, sedatives, anaesthetics and stimulants have become essential in medical practice, surgical procedures and mental health treatments. Therefore, there is no objection to the permissibility of using these for pain relief, mental disorders and anxiety states. It is not valid to argue for their prohibition because their use serves a genuine medical benefit. Moreover, many jurists, as seen from their opinions, do not prohibit treatment with al-mukhḍarāt in general.

#### Al-Muraqqad in Medicine

General anaesthetics use for surgery is permitted, such as amputation of limbs and other surgical procedures where patients require anaesthesia. This is evident in the following statements:

#### Ḥanafī Perspective:

Imam Ibn 'Ābidīn Al-Ḥanafī - may Allāh have mercy on him - stated : "We have previously mentioned in the prohibition and permission regarding intoxicants that there is no harm in consuming something that affects the mind in order to numb pain, and I say it is preferable to restrict it to substances other than alcohol. The apparent ruling is that it is not restricted, such as using anesthesia other than liquids..."<sup>131</sup>

He indicated the permissibility of consuming substances that affect the mind when there is a need for surgery that can be likened to numbing pain.

He further clarified that the apparent general meaning of the statement includes khamr and other substances such as mukhaddir, but he leaned towards restricting it to substances other than khamr. This restriction does not significantly affect the ruling, except in the case of drugs due to considering them as harmful substances, as stated by the author of Al-Durr<sup>132</sup>

#### Mālikī Perspective:

The author of Tabṣīrat al-Ḥukkām Ibn Farḥūn- may Allāh have mercy on him - stated: "If a Muslim, who is legally responsible, willingly consumes alcohol or wine without necessity or excuse, then he is to be lashed eighty times... Then he further stated: The apparent ruling is the permissibility of

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131-حاشية ابن عابدين "قدمنا في الحظر والإباحة عن التاترخانية أنه لا بأس بشرب ما يذهب بالعقل لقطع نحو أكلة، أقول ينبغي تقييده بغير الخمر، وظاهره أنه لا يتقيد، بنحو بنج من غير المانع .." (5:408)

132 الدر المختار للحصكفي ١/ ٤١٢

consuming what is used for numbing purposes, such as for amputation of a limb and similar cases, because the harm of numbing substances is secure, while the harm to the limb is not secure."<sup>133</sup>

He explained that in cases of necessity and need, where there is a valid excuse for consuming alcohol, it is exempted from the ruling of its prohibition. Furthermore, he made an exception for surgical cases involving amputation of body parts, allowing the consumption of the numbing substance (anaesthetic). He explained the rationale behind this permission, stating that the harm caused by the numbing substance is secure, while the harm to the body part is not secure. The justification for this is that the minimal consumption of the numbing substance does not reach the level of harm caused by the body part itself if it remains without anesthesia. The numbing substance is secure in its dosage, while the body part is not secure without it.

Shāfi'ī Perspective:

Imam Abu Zakariya Yaḥya al-Nawawī al-Shafī'ī - may Allāh have mercy on him - said: "If it is necessary to remove a decayed hand, is it permissible to remove it while the person's intellect is absent? There is a difference of opinion regarding the use of alcohol as medication. I say that the correct opinion is permissibility..."<sup>134</sup>

He indicated that it is permissible for a person to use a substance that affects the mind for the purpose of amputating a decayed hand. He affirmed that this is the stronger opinion in the Shafi'i school of thought.

Ḥanbalī Perspective:

Imām 'Ala al-Dīn 'Ali ibn Sulayman al-Mardāwī al-Ḥanbalī (d. 885 AH) "Indeed, in Al-Jami' al-Kabīr, he said: 'If his intellect is absent due to anaesthesia, then I look at it. If he is treated with it, he is excused, and the ruling regarding him is like that of a person with mental illness. And if he consumes what affects his intellect without necessity, then the ruling regarding him is like that of a drunkard, and medical treatment is considered a necessity.'"<sup>135</sup>

He explicitly mentioned the exception of necessity and considered it as a reason to invalidate divorce if the person consumed the mind-altering substance. He also stated that medical treatment

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133 تبصرة الحكام لابن فرحون "إذا كان شارب الخمر أو التبيذ حراً مسلماً مكلفاً وشربه مختاراً من غير ضرورة ولا عذر فإنه يجلد ثمانين... ثم قال بعد ذلك: والظاهر جواز ما سقي من المرقد لأجل قطع عضو ونحوه، لأن ضرر المرقد مأمون، وضرر العضو غير مأمون" (2:169-170)

134 روضة الطالبين للفتاوى "ولو احتيج في قطع اليد المتأكلة إلى زوال عقله هل يجوز ذلك؟ يخرج على الخلاف في التداوي بالخمر. قلت: الأصح الجواز.. "١٠ / ١٧١، ومثله في ((إعانة الطالبين)) للبكري ٤ / ١٥٦، و((الإنقاذ)) للشربيني ٢ / ٨٨.

135 "الإنصاف للمرداوي" قال في الجامع الكبير: إن زال عقله بالبنج نظرت، فإن تداوى به فهو معذور، ويكون الحكم فيه كالمجنون . وإن تناول ما يزيل عقله لغير حاجة كان حكمه كالسكران والتداوي حاجة" (8:438)

is considered a necessity.

Undoubtedly, surgery falls under this category since it is a form of medical treatment.

From these clear statements made by these eminent scholars, it becomes apparent that surgical anaesthesia is an exception to the general rule of prohibition regarding mind-altering substances. This exception is based on the presence of a genuine need that necessitates anaesthesia. And Allāh knows best.

Alcohol – has already been discussed above.

benzodiazepines (e.g., Valium, Xanax), barbiturates, GHB (gamma-hydroxybutyrate), and some prescription medications used for anaesthesia and sleep disorders. All can be used if medical condition is justifiable by medical professional within conditions.

#### Al-Mufsid in Medicine

Toxic substances/ poisons (al-summ) fall under al-mufsid and refer to any chemical, plant, living thing, or mineral substance that, when ingested by a human, causes a specific disturbance or functional disorder, and may lead to death, depending on its type, quantity, and method of entry.

The use of substances that have potentially toxic properties in the medical field is numerous. Many medications contain toxic substances i.e., chemotherapy, and the use or non-use of them depends on the appropriate dosage. It may seem surprising that toxic substances can be used as medicine and for healing, but the fact is that their medicinal use has been known since ancient times and today for destroying cancerous lesions. Interestingly, if we observe the symbol of the pharmaceutical profession, it often depicts a snake exhaling its venom into a cup, signifying the historical association of medicine with poison or toxins.

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

- The first view:

Some scholars hold that using poison or any substance containing poison is not permissible if the quantity taken could lead to death or likely result in death. They argue that if it is harmful and offers no benefit, it should be completely prohibited. Some Ḥanafīs, Shāfi'is, Hanbalīs, and zāhirīs follow this opinion.<sup>136</sup>

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136 ابن عابدين: (حاشية رد المحتار) (208/4) النووي: (المجموع) (8/3) (34/9) ليهوتي: (كشف القناع) (76/2) المرداوي: (الإيضاح) (272/4) ابن حزم: (المحل) (418/7).

- The second view:

Other scholars believe that using poison or any substance mixed with poison can be permissible if there is a necessity for it. They argue that if it is at a safe dose and beneficial, it can be used for treatment when necessary. This opinion is followed by the majority of Ḥanafīs, Mālikīs, and Shāfi'is.<sup>137</sup>

Conclusion:

After considering the various opinions and evidence, the treatment with toxic substances and anything containing toxins is permissible. This is due to the clarity and strength of their evidence and the necessity of its use and proven benefits by experts in the field. However, the permissibility of using toxic substances for treatment is subject to specific conditions and regulations, and Allāh knows best.

Chemotherapy drugs, Antipsychotic medications, Antiepileptic drugs, Lithium, Methotrexate, Antiviral drugs, Cyclosporine etc., can all be used if advised by medical professionals with conditions.

## 5. FIVE CONDITIONS FOR MEDICAL USE OF PROHIBITED SUBSTANCES

All Islamic legal scholars unanimously concur on the five essential conditions that must be meticulously fulfilled in cases where exceptions are made for medical purposes involving substances that would typically be considered prohibited. These conditions collectively ensure that the ethical principles of Islamic jurisprudence are upheld while addressing pressing medical needs.

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137 ابن عابدين: ((حاشية رد المحتار)) (208/4) الخطاب: ((مواهب الجليل)) (230/3) الواق: ((التاج والإكليل)) (230 228/3) النووي: ((المجموع)) (9 8/3) (34/9) الماوردي: ((الحاوي الكبير)) (93/12) (94 الهيثمي: ((تحفة المحتاج)) (388/9) ابن قدامة: ((المغني)) (241/1) البهوتي: ((شرح منتهى الإرادات (407/3) المرادوي: ((الإنصاف)) (463/2) ابن مفلح: ((الفروع)) (132/2) البهوتي: ((كشف القناع)) (76/2) الشوكاني: ((نيل الأوطار)) (76/9).

138 جواز التداوي بالمحرم أو النجس في حال الضرورة، على تفصيل لبعضهم في ذلك، إلى هذا ذهب بعض الحنفية، إذ يرون جواز الاستشفاء بالحرام أو النجس إذا أخبر طبيب مسلم ثقة أن فيه شفاء للمريض، ولم يوجد دواء مباح يقوم مقامه في التداوي به من المرض، وكذلك لو كان التداوي به لتعجيل الشفاء، وما عليه مذهب الشافعية والذي قطع به جمهورهم، هو جواز التداوي بالنجاسات مطلقاً غير المسكر ولو كان التداوي به لتعجيل الشفاء إذا لم يوجد طاهر يقوم مقامه في التداوي، وكان المتداوي عارفاً بالطب ويعرف أنه يقوم غير النجس مقامه في المداواة، أو كان يعرف ذلك من تجربة سابقة له مع المرض، أو أخبره بذلك طبيب مسلم عدل، ومذهب الظاهرية هو جواز التداوي بالمحرم والنجس، سواء في الخنزير أم الميتة أم الدم أم الخمر و أفاد جواز التداوي بالخمر، و المحرم وذلك بشروط ذكرها في كتبهم، أو جزها فيها يأتي:  
1- يتقن حصول الشفاء فيه.  
2- أن يجيز بذلك طبيب مسلم حاذق ثقة ذو دي وأمانة.



### 1. **Severity of the Illness (الضرورة):**

The first and foremost consideration is the severity of the ailment. Minor or trivial illnesses do not warrant the use of substances that are generally prohibited. A moderate level of necessity (hājah) is the minimum requirement for permitting the use of medicinal substances that fall into the realm of the prohibited. This judgment is informed by empirical knowledge, practical experience (tajriba), and observable signs ('alāma) to assess the risk and effectiveness of the treatment. Furthermore, this extends to preventive measures if their efficacy is certain.<sup>139</sup>

For instance, a mild illness refers to a condition with symptoms that are unlikely to worsen if left untreated, such as a slight fever or a mild headache. In such cases, the use of medication containing prohibited components would not be deemed permissible.<sup>140</sup>

Level of Need	Effectiveness of Means (no ḥalāl alternative)	Permissibility	Sinful	Example
ḍarūrah	The means taken <u>does</u> achieve	Obligation to take tadāwī bil-	Sinful if not	Heparin as anticoagulant for

3- لم يجد من المباح ما يقوم مقامه (عدم وجود بديل).

4- أن يتجاوز مقدار ما يجمده الطبيب (الضرورة تقدر بقدرها).

5- أن يقصد المتداوي عند تناوله إياها اللذة والنشوة.

6- أن يكون القدر المستعمل قليلاً يسكر

**المجموع شرح المهذب** يحمل حديث (ان الله لم يجعل شفاءكم فيها حرم عليكم) فهو حرام عند وجود غيره وليس حراما إذا لم يجد غيره \* قال أصحابنا وإنما يجوز ذلك إذا كان المتداوي عارفا بالطب يعرف أنه لا يقوم غير هذا مقامه أو أخبره بذلك طبيب مسلم عدل ويكفي طبيب واحد صرح به البغوي وغيره فلو قال الطبيب يتعجل لك به الشفاء وان تركته تأخر فني اباحته وجهان حكاهما البغوي ولم يرجح واحدا منها وقياس نظيره في التيمم أن يكون الأصح جوازه

ابن عابدين : ((حاشية رد المحتار)) (389/6) البابرقي: ((العناية)) (500/8) ابن نجيم: ((البحر الرائق (233/8) نظام: ((الفتاوى الهندية)) (355/5) النووي: المجموع (51/9) روضة الطالبيين (285/3) الشريبي: مغني المحتاج (188/4) ابن حزم: المحلى (175/1)

139 **رد المحتار -** تَطَلَّبُ فِي التَّدَاوِي بِالْحَرَمِ (قَوْلُهُ وَرَدَّهُ فِي التَّدَاوِي إلخ) فَدَمْنَا فِي التَّبِيحِ الْقَائِدَ عِنْدَ قَوْلِهِ وَلَكِنْ امْرَأَةٌ أَنَّ صَاحِبَ الْحَقَائِبِ وَالتَّهَائِيَةَ اخْتَارَا جَوَازَهُ إِنْ عَلِمَ أَنَّ فِيهِ شِفَاءً وَلَمْ يَجِدْ دَوَاءً غَيْرَهُ قَالَ فِي التَّهَائِيَةِ : وَفِي التَّهَذِيبِ يَجُوزُ لِلْعَلِيلِ شُرْبُ الْبَوْلِ وَالدَّمِ وَالمَيْتَةِ لِلتَّدَاوِي إِذَا أَخْبَرَهُ طَبِيبٌ مُسْلِمٌ أَنَّ فِيهِ شِفَاءً وَلَا يَجِدُ مِنَ الْمُبَاحِ مَا يَقُومُ مَقَامَهُ ، وَإِنْ قَالَ الطَّبِيبُ يَتَعَجَّلُ شِفَاؤُكَ بِهِ فِيهِ وَجِهَانِ ، وَهَلْ يَجُوزُ شُرْبُ الْعَلِيلِ مِنَ الْخَمْرِ لِلتَّدَاوِي فِيهِ وَجِهَانِ ، وَكَذَا ذَكَرَهُ الْإِمَامُ التُّمْرَتَائِيُّ وَكَذَا فِي الدَّخِيرَةِ وَمَا قِيلَ إِنَّ الْإِسْتِشْفَاءَ بِالْحَرَمِ حَرَامٌ غَيْرُ مُجْرَى عَلَى إِطْلَاقِهِ وَأَنَّ الْإِسْتِشْفَاءَ بِالْحَرَمِ إِنَّمَا لَا يَجُوزُ إِذَا لَمْ يَعْلَمْ أَنَّ فِيهِ شِفَاءً أَمَّا إِنْ عَلِمَ لَهُ دَوَاءٌ غَيْرُهُ يَجُوزُ وَمَعْنَى قَوْلِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ لَمْ يُجْعَلْ شِفَاؤُكُمْ فِيهَا حَرَمٌ عَلَيْكُمْ يَحْتَمِلُ أَنْ يَكُونَ قَالَ ذَلِكَ فِي ذِي عَرَفَ لَهُ دَوَاءٌ غَيْرَ الْحَرَمِ لِأَنَّهُ جَيِّدٌ يَسْتَعْنِي بِالْحَلَالِ عَنِ الْحَرَمِ وَيَجُوزُ أَنْ يُقَالَ تَكْتِيفُ الْحَرَمِ عِنْدَ الْحَاجَةِ فَلَا يَكُونُ الشَّفَاءُ بِالْحَرَمِ وَإِنَّمَا يَكُونُ بِالْحَلَالِ أَهْدَانُ الْعَيْنِ مِنْ آخِرِ الْفَصْلِ التَّاسِعِ وَالْأَرْبَعِينَ

140 **في إحياء علوم الدين** [أبو حامد الغزالي] والأدوية أسباب مسخرة بحكم الله تعالى كسائر الأسباب فكما أن الخبز دواء الجوع والماء دواء العطش فالسكنجيين دواء الصفراء والسقمونيا دواء الإسهال لا يفارقه إلا في أحد أمرين [أحدهما] أن معالجة الجوع والعطش بالماء والخبز جلي واضح يدركه كافة الناس ومعالجة الصفراء بالسكنجيين يدركه بعض الخواص فمن أدرك ذلك بالتجربة التحق في حقه بالأول والثاني أن الدواء يسهل والسكنجيين يسكن الصفراء بشروط آخر في الباطن وأسباب في المراج ربما يتعذر الوقوف على جميع شروطها وربما يفوت بعض الشروط فيتقاعد الدواء عن الإسهال وأما زوال العطش فلا يستدعي سوى الماء وشروط كثيرة وقد يتفق من العوارض ما يوجب داء العطش مع كثرة شرب الماء ولكنه نادر واختلال الأسباب أبداً ينحصر في هذين الشئتين وإلا فالمسبب يتلو السبب لا محالة مهما تمت شروط السبب وكل ذلك بتقدير مسبب الأسباب وتسخيره وترتيبه بحكم حكيمته وإكمال قدرته فلا يضر المتوكل استعماله مع النظر إلى مسبب الأسباب دون الطبيب والدواء (4:285)

**في مجمع الأنهر في شرح ملتقى الأبحر** [عبد الرحمن شيبخي زاده] (أو لمرض خاف زيادته) باستعمال الماء أو بسبب الحركة ولا يشترط خوف التلف خلافاً للشافعي. وفي المحيط ولو وجد المريض من يوضئه جاز له التيمم عند الإمام وعندهما لا يجوز، ولو كان له خادم أو أجير لا يجوز له التيمم بالاتفاق (أو ببطء برئه) بالنصب عطف على زيادته ويجوز بالجر عطف على المرض؛ لأن شرعية التيمم للمريض إنها هي لدفع الخرج عنه، والخرج يتحقق بالامتداد أيضاً والمراد بالخوف غلبة الظن، ومعرفة باجتهاد المريض تجرية أو أمانة أو بإخبار طبيب مسلم غير ظاهر الفسق (1:38) ((درر الحكام)) (1:29)

<p><b>If means are not taken there will be loss of life, limb or disability and this is certain <u>with ghalabat al-zann</u></b></p>	<p>ghalabat al-zann in saving life, limb or disability</p>	<p>muḥarram</p>	<p>taken</p>	<p>serious Myocardial infarction (Heart Attack)</p>
	<p>The means taken <u>does not</u> achieve ghalabat al-zann in saving life, limb or disability</p>	<p>Permissible to take tadāwī bil-muḥarram</p>	<p>Not sinful if not taken</p>	<p>Taking antibiotics for chest infection</p>
<p><b>Ḥājah</b></p> <p><b>If means are not taken there is a possibility of loss of life, limb or disability, <u>but not</u> at level of certainty with <u>ghalabat al-zann</u>. Rather there is just hardship</b></p>	<p>The means taken does achieve ghalabat al-zann in saving life, limb or disability</p>	<p>Permissible to take tadāwī bil-muḥarram</p>	<p>Not sinful if taken</p>	<p>Taking analgesia capsules containing impure gelatine for pain relief</p>
	<p>The means taken <u>does not</u> achieve ghalabat al-zann in saving life, limb, disability or hardship</p>	<p><u>Not</u> permissible to take tadāwī bil-muḥarram</p>	<p>Sinful if taken</p>	<p>Consuming wine for pain relief</p>

## 2. Professional Acknowledgment (الدليل الطبي):

The consultation of a qualified healthcare professional, preferably one who respects the patient's Islamic values, is paramount. This professional should have both the expertise and ethical stance to confirm that the proposed medication holds the potential to cure the illness or alleviate symptoms.<sup>141</sup> While achieving absolute certainty in medical treatments is challenging due to the inherent uncertainty in medicine, a high degree of dominant probability (ghalabat al-zann) is considered adequate in accordance with Islamic principles.<sup>142</sup>

141 في حاشية الجمل على شرح المنهج لركبنا الأنصاري وقال: ويجوز الاعتماد على طب الكافر ووصفه ما لم يترتب على ذلك ترك عبادة أو نحوها مما لا يعتمد فيه 1:34 2: وانظر روضة الطالبين وعمدة المفتين للإمام النووي 2:96

142 رد المحتار - مطلب في التداوي بالمحرّم (قوله أشتلّف في التداوي بالمحرّم) ففي النهاية عن الدخيرة يجوز إن علم فيه شفاء ولم يعلم دواء آخر. (و فيه بعد ذلك) وأقاد سيدي عبد الغني أنه لا يظهر الاختلاف في كلامهم لأنّهم على الجواز للضرورة، واشترط صاحب النهاية العلم لا بتأنيده اشتراط من بعده الشفاء ولذا قال واليدي في شرح الدرر: إن قوله لا للتداوي محمول على المظنون وإلا فجأزه باليقيني أنّما صرح به في المصنّف 1-هـ. أقول: وهو ظاهر موافق لما مرّ في الاستدلال، لقول الإمام: لكن قد علمت أنّ قول الأطباء لا يحصل به العلم. والظاهر أنّ التجربة يحصل بها غلبة الظنّ دون اليقين إلا أن يريدوا بالعلم غلبة الظنّ وهو شائع في كلامهم تأثّل

### 3. **Benefit Outweighing Harm** (المصلحة والمفسدة):

The benefits derived from the medication must unequivocally outweigh its potential harms. The negative consequences of the medication should not eclipse its benefits. The principle of harm elimination (الضرر يزال) guides this condition, and the lesser of two detrimental outcomes should be chosen.<sup>143</sup>

The proportionate harm must not be greater or equal to the benefit

الضَّرَرُ يُزَالُ

harm must be eliminated

لَا ضَرَرَ وَلَا ضِرَارَ

there must be no harm or reciprocating harm

الضَّرَرُ الْأَشَدُّ يُزَالُ بِالضَّرَرِ الْأَخْفِ

a greater harm is eliminated by [tolerating] a lesser harm

الضَّرَرُ لَا يُزَالُ بِمِثْلِهِ

harm must not be eliminated by an equal harm

يُجْتَنَبُ أَهْوَنُ الشَّرِّينِ

the lesser of the two evils is to be chosen

### 4. **Absence of Reasonable Halal Alternatives** (عدم وجود بديل حلال):

A prerequisite for permitting the use of prohibited substances is the absence of any reasonably available halal alternative therapy or remedy of equal or greater effectiveness. The determination

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<sup>143</sup>الأشياء والنظائر لمن نجيم ولسيوطي وشرح مجلة الأحكام

of what constitutes reasonable availability is influenced by the concept of hardship. If a halal remedy is significantly more expensive or less accessible, it may be considered a form of hardship that justifies the use of prohibited substances.

There must be no alternative ḥalāl therapy/remedy<sup>144</sup> reasonably available<sup>145,146</sup> of equal or greater effectiveness<sup>147</sup>.

Degrees of hardship which are harmful:

The severity of hardship, *al-mushaqqah*, determines whether there is dispensation from certain obligatory rulings or in accepting certain actions which would be normally prohibited but are excused because of the benefit attained from them. Majority of Muslim jurists divide hardship into three degrees when justifying dispensation:<sup>148</sup>

Severe hardship – This is when the hardship is so severe that there is a risk to life and limb. It

144 Such remedy can be a lifestyle measure or abstention (i.e. improved diet or avoiding that which exacerbates)

145 Limits of reasonable availability is determined by the notion of hardship

المُسْقَةُ تُجَلِّبُ التَّيسِيرَ - hardship begets facility

- If not reasonably practical in terms of cost-effectiveness (if the ḥalāl alternative is significantly more expensive, then this would be considered hardship)
- If not reasonably practical in terms of ease of availability (if the ḥalāl alternative is not available in time or place, then this would be considered hardship)

#### 146 قول الحنفية

وقال في رد المحتار اشترط الحنفية لجواز التداءي بالنجس والمحرّم أن يعلم أن فيه شفاء، ولا يجد دواء غيره، قالوا: وما قيل إن الاستشفاء بالحرام غير مجرى على إطلاقه، وإن الاستشفاء بالحرام إنما لا يجوز إذا لم يعلم أن فيه شفاء، أما إذا علم وليس له دواء غيره، فيجوز ومعنى قول ابن مسعود رضي الله عنه: "لم يجعل شفاءكم فيما حرم عليكم" يحتمل أن يكون قاله في داء عرف له دواء غير المحرم، لأنه حينئذ يستغنى بالحلال عن الحرام، ويجوز أن يقال ترتفع الحرمة عند الحاجة، فلا يكون الشفاء بالحرام، وإنما يكون بالحلال

... وحرّم الانتفاع بها - أي الخمر - ولو بسقي دواب أو بل طين، أو نظر للتلهي، أو استعمال في دواء أو دهن أو طعام، أو غير ذلك كإمشاط المأرة بها ليزيد بريق شعرها، أو الاكتحال بها، أو جعلها في سغوط أو

الاحتقان بها، أو أقطارها في إحليل، لأن ذلك انتفاع بالخمر وأنه حرام 4:2154:113

في الفقه الحنفي في ثوبه الجديد لظهوره إلا أنه في المذهب لا يجوز التداءي بالمحرّم إلا في حال الضرورة بشرط أن لا يجد غيرها - ،

وجاء في الفقه الإسلامي وأدلته الزحيلي: لكن الحنفية قالوا: يجوز التداءي بالمحرّم إن علم يقيناً أنه فيه شفاء، ولا يقوم غيره مقامه، أما بالظن فلا يجوز، وقول الطبيب لا يحصل باليقين، ولا يرخص التداءي بلحم

الخنزير، وإن تعين - 3:523

#### قول المالكية

في حاشية الدسوقي هذا الحكم في كل نجس ومحرّم، سواء أكان خمراً، أم ميتة، أم أي شيء حرمه الله تعالى، وسواء كان التداءي به عن طريق الشرب أو طلاء الجسد به، وسواء كان صرفاً أو مخلوطاً مع دواء جازت، واستثنوا من ذلك حالة واحدة أجازوا التداءي بها، وهي أن يكون التداءي بالطلاء، ويخاف بتركه الموت، سواء كان الطلاء نجساً أو محرماً، صرفاً أو مختلطاً بدواء جازت 4:353

#### قول الشافعية

في قواعد الأحكام في مصالح الأنام للعز، أبو محمد عز الدين قال العز بن عبد السلام من الشافعية: جاز التداءي بالنجاسات إذا لم يجد طاهراً يقوم مقامها، لأن مصلحة العافية والسلامة أكمل من مصلحة اجتناب النجاسة، ولا يجوز التداءي بالخمر على الأصح إلا إذا علم أن الشفاء يحصل بها، ولم يجد دواء غيرها 1:81

في معنى المحتاج للشربين إخبار طبيب مسلم عدل بذلك، أو معرفته للتداوى به، وبشرط أن يكون القدر المستعمل قليلاً لا يسكر 4:188

#### قول الحنابلة

في كشف القناع للبهوتي أضاف الحنابلة إلى المحرم والنجس كل مستخبث، كبول مأكول اللحم أو غيره، إلا أبوال إبل فيجوز التداءي بها، وذكر غير واحد من الحنابلة أن الدواء المسموم إن غلبت منه السلامة، ورجى نفعه، أبيض شره ليدفع ما هو أعظم منه كغيره من الأدوية، كما أنه يجوز عندهم التداءي بالمحرّم والنجس بغير أكل وشرب 6:2006:1162:76

في المغني لابن قدامة وفي وجه آخر عند الحنابلة حرمة التداءي بالمحرّم، حيث قال ابن قدامة: ولا يجوز التداءي بمحرّم ولا شيء فيه محرّم ألبان الأتن ولحم شيء من المحرمات، ولا شرب الحمر للتداوى به لما ذكرنا من الخبر، ولأن النبي صلى الله عليه وسلم ذكر له النبيذ يصنع للدواء فقال: إنه ليس بدواء، ولكنه داء 8:605

147 Effectiveness is determined by conditions (2) and (3) above. (If alternate ḥalāl therapy has adverse effects that are significant or intolerable, or it is less effective, then resorting to the tadawi bil muharram would be permissible)

148 فائدة المشقة تجلب التيسير : دراسة نظرية تأصيلية تطبيقية ليعقوب بن عبد الوهاب الباحثين (ص62) قواعد الأحكام في مصالح الأنام

[عز الدين بن عبد السلام] (2:7)

would be obligated to remove the harm by either removing it or reducing it through dispensations in the shari'ah. This will appeal to the rule of *darūrah*, necessity.

Moderate hardship – This is the level of hardship that exists between severe and mild hardship. It may become obligatory to remove if close to severe hardship or just optional if at level of mild hardship and sometimes relates to actions that are arduous like abstaining from swallowing saliva when fasting. In such a situation there is dispensation but to the degree of *hājah*, need, where harm can be tolerated if attaining the benefit from it is obligatory.

Mild hardship – This is when the hardship does not qualify for dispensation because it is either not a severe threat to life and limb, nor does it cause significantly decreased functionality, such as when one has a headache. Rather it is the kind of hardship one is expected to bear in carrying out conventional daily routines like work, that the majority of people can bear.

#### 5. **Continued Effort to Find Halal Alternatives** (البحث عن البدائل الحلال):

While the use of prohibited substances may be deemed permissible for medical purposes as long as the ailment persists, an ongoing commitment to finding halal alternatives must be upheld. Within reasonable limits, efforts should be consistently directed toward eliminating harm.

الضَّرَرُ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ

harm is to be eliminated within reasonable limits

مَا جَازَ لِعُذْرٍ بَطَلَ بِزَوَالِهِ

a thing which is permissible out of excuse ceases to be permissible with the disappearance of that excuse.

لَا ضَرَرَ وَلَا ضِرَارَ

there must be no harm or reciprocating harm

*In conclusion*, the fulfilment of these conditions provides a comprehensive framework that ensures the ethical use of substances typically prohibited by Islamic principles in cases of medical necessity. By addressing the severity of the illness, seeking professional confirmation, assessing benefit-to-harm ratios, considering available halal alternatives, and maintaining a persistent search for permissible alternatives, the ethical considerations of Islamic jurisprudence are upheld while

catering to the urgent medical needs of individuals.

## Five Conditions for Use of Prohibited Substances in Medicine



The illness to be treated must not be considered a minor illness



The medication must be acknowledged as being effective by a Practicing Muslim doctor or health professional of equal expertise who is impartial



The benefits of the medication must outweigh its harms



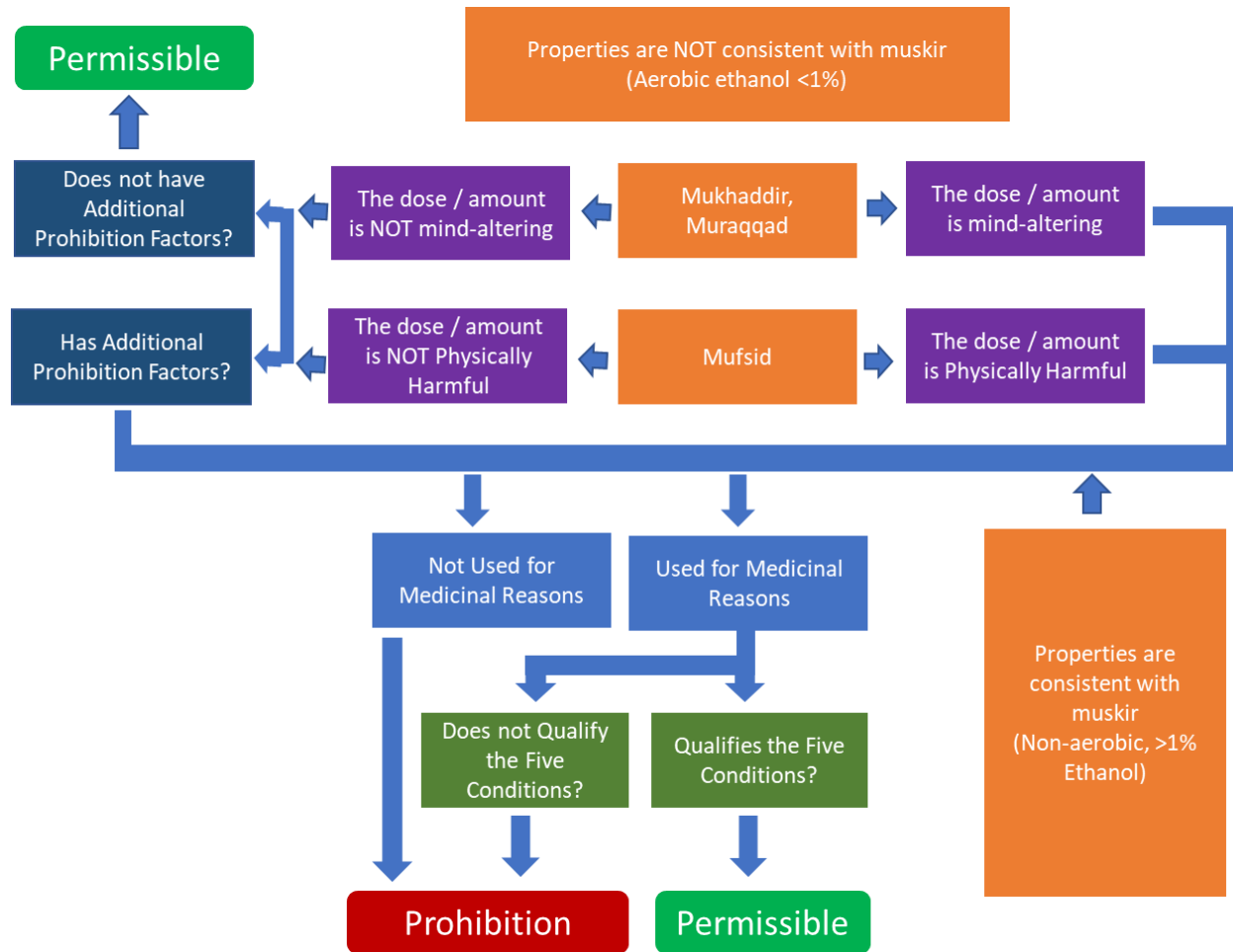
There must be no alternative halal therapy/remedy reasonably available of equal or greater effectiveness



The permissibility of remains as long as the injury remains, but effort should be maintained to find halal alternative

## 6. FLOW CHART – NAVIGATING PERMISSIBILITY OF MIND-ALTERING SUBSTANCES IN ISLĀM

The diagram provided below offers a streamlined representation of the process to assess the permissibility of medicinal mind-altering substances. Start from the orange boxes, which come into play once you've established the specific category of sharī mind-altering substance based on its effects (muskir, mukhaddir, muraqqad, mufsid) . Then, proceed along the indicated pathways by following the arrows, applying pertinent properties, associations, and conditions related to medical usage to ascertain whether the substance is deemed permissible.



## 7. CONCLUSION

The contemporary landscape of medical practice has brought to the forefront the intricate issue of utilizing psychoactive medications within the framework of Islamic ethics. The imperative to address this matter arises from the increasing global reliance on these agents to address psychiatric conditions and the constant evolution of medical treatments. This article has embarked on a comprehensive exploration of the ethical dimensions of psychoactive medications through the lens of Fiqh, aiming to shed light on both historical Islamic perspectives and their relevance in the present context.

By categorizing psychoactive substances into distinct classes based on their effects—Inebriating Substances (Al-Muskir), Psychoactive Substances (Al-Mukhaddir), Depressants (Al-Muraqqad), and Neuro-Toxic Substances (Al-Mufsid)—this article has navigated through the complex nuances of their impact on cognition and consciousness. Drawing from classical Islamic jurisprudence, the discourse has ventured into the realm of medicinal applications, elucidating the views of renowned

scholars from various epochs. This deep dive into historical perspectives has not only enriched our understanding of the subject but also provided a solid foundation upon which contemporary discussions can be built.

In consideration of the growing ethical and medical implications of psychoactive medications, it becomes evident that a comprehensive framework is necessary. This framework should be rooted in the principles and criteria delineated by classical Islamic jurists, while also accommodating modern advancements and insights. The synthesis of historical wisdom and contemporary knowledge is paramount to addressing the nuanced questions surrounding the permissibility of specific substances for medical treatment.

In the broader context, the multifaceted exploration conducted in this article serves as an indispensable guide for both medical practitioners and the Muslim community. The provided decision flowchart and illustrative examples offer practical tools for navigating the ethical intricacies of psychoactive medications within the bounds of Islamic teachings. Ultimately, the endeavour to harmonize medical progress with Islamic ethics reflects the dynamic nature of Islamic jurisprudence in addressing evolving challenges, ensuring the well-being of individuals while upholding the values of faith and morality.