

# ‘Umar II and the Prohibition of *ṭilāʾ* and *Nabīdh*

Elon Harvey

Department of Near Eastern Languages and Civilizations,  
The University of Chicago, Chicago, IL, United States  
[elon@uchicago.edu](mailto:elon@uchicago.edu)

## Abstract

Following a brief introduction, this article has two parts and an appendix. In the first part, I examine the passage prohibiting intoxicating *ṭilāʾ* (cooked grape juice) in the “fiscal rescript” attributed to ‘Umar II (d. 101/720) by Ibn ‘Abd al-Ḥakam (d. 214/829). I argue that this passage’s core goes back to an edict of ‘Umar II that is no longer extant. I suggest that ‘Umar II issued the prohibition following an earthquake that devastated Syria because he feared that the drinkers of intoxicants would cause a similar catastrophe to befall all Muslims. I situate ‘Umar II’s prohibition within the early legal discussions about *ṭilāʾ*. In the second part, I analyze a group of edicts prohibiting *nabīdh* (date wine) that are attributed to ‘Umar II. I conclude that the edicts are pseudepigraphical. In the appendix, I trace the transmission history of a tradition attributed to al-Shaʿbī about a missive of Umar I concerning *ṭilāʾ*.

## Keywords

‘Umar I – ‘Umar II – *ṭilāʾ* – *nabīdh* – alcohol – Ibn ‘Abd al-Ḥakam – fiscal rescript – *rizq* – earthquake – Christian chroniclers – *isnād* analysis

## 1 Introduction

In a recent article in *ILS*, Matthieu Tillier and Naïm Vanthieghem call attention to the pivotal role of the Umayyad Caliph ‘Umar II in promoting an Islamic prohibition of intoxicants other than *khamr* (grape wine). In their article, they examine a wide range of literary, documentary, and archeological data, including both Muslim and Christian primary sources, many of which have not

previously been examined by Western scholars.<sup>1</sup> They make compelling historical arguments about the consumption of intoxicants in early Islamic Egypt.<sup>2</sup> In the present article, I examine some of the same sources, offering different interpretations.

Tillier and Vanthieghem draw attention to a series of Abbasid texts that purport to preserve one or more edicts issued by ‘Umar II prohibiting certain intoxicants.<sup>3</sup> One of these texts is a passage (= IAH 1) prohibiting *ṭilā* (cooked grape juice). IAH 1 is part of ‘Umar II’s so-called “fiscal rescript,” an edict recorded by the Egyptian Mālikī scholar Ibn ‘Abd al-Ḥakam in his biography of ‘Umar II.<sup>4</sup> The other texts include edicts devoted to the prohibition of intoxicants, all closely related in wording, and recorded by various authors who lived more than a century after ‘Umar II’s death. The longest and most detailed of these edicts (= IAH 2) is also recorded by Ibn ‘Abd al-Ḥakam in the biography.<sup>5</sup>

Tillier and Vanthieghem remark: “Il serait vain de rechercher un ‘original’ dans les diverses versions du décret qui nous sont parvenues.”<sup>6</sup> Be that as it may, they describe how these edicts are related to each other genealogically. Their conclusions may be summed up as follows (see Diagram 1): All extant edicts, including IAH 1, are descended from an original lost edict or edicts of ‘Umar II, albeit with changes introduced by later transmitters and copyists. IAH 2 most closely resembles an original lost edict sent by ‘Umar II. The other extant edicts, except IAH 1, are truncated iterations of this lost edict. ‘Umar II may have sent [ur-] IAH 1 as a follow-up to [ur-] IAH 2.<sup>7</sup>

According to Tillier and Vanthieghem, IAH 1 is a minor supplement to IAH 2 and the other edicts. Against this view, I will argue that IAH 1 preserves the

1 Mathieu Tillier & Naïm Vanthieghem, “Des amphores rouges et des jarres vertes: Considérations sur la production et la consommation de boissons fermentées aux deux premiers siècles de l’hégire,” *Islamic Law and Society* 30: 1-2 (2023): 1-64.

2 I find several of their arguments compelling, e.g., their discussion of the technical aspects of *ṭilā* and wine making, their identification of *ṭilā* with ἐψημα, and their identification of *muzaffat* (jars lined with tar) in the Egyptian context with certain late Roman amphorae (LRA 7). See *ibid.*, 8-16, 46-53.

3 One of the first studies devoted to these edicts is that of Abu Safieh Jaser Khalil Salem, “Umayyad Epistolography with Special Reference to the Compositions Ascribed to ‘Abd al-Ḥamid al-Kātib,” Ph.D. Dissertation, SOAS (1982), 75-80. Abu Safieh, who discussed only three versions of the edict, concluded that they were likely heavily redacted “by the *fuqahā*.” Several of the edicts were collected by Muḥammad b. Sa’d b. Shaqīr, *Fiqh ‘Umar b. ‘Abd al-‘Azīz*, 2 vols. (Riyadh: al-Rushd, 2003), 2:168-72.

4 ‘Abdallāh b. ‘Abd al-Ḥakam, *Sīrat ‘Umar b. ‘Abd al-‘Azīz*, ed. Aḥmad ‘Ubayd (Beirut: ‘Ālam al-Kutub, 1984), 86.

5 *Ibid.*, 88-91.

6 Tillier & Vanthieghem, “Amphores rouges,” 32.

7 *Ibid.*, 22-36.

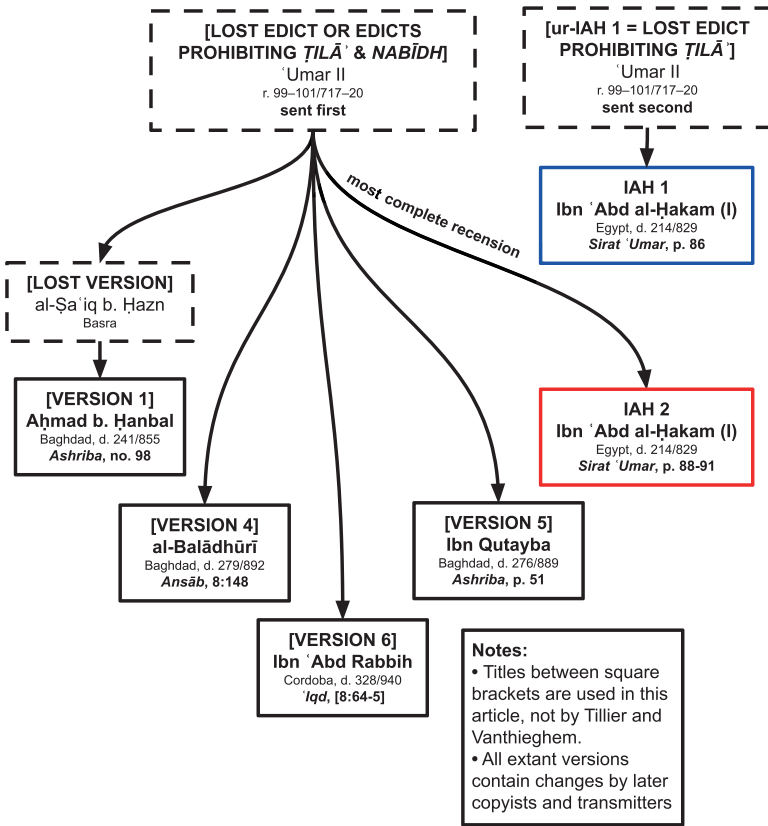


DIAGRAM 1 *Stemma edictorum* according to Tillier and Vanthieghem (constructed based on their article)

core of a no longer extant passage by ‘Umar II prohibiting *ʿīlā’* (= ur-IAH 1) and that the authenticity of IAH 2 and the other edicts is doubtful (see Diagram 2). The article is divided into two parts. In Part 1, I discuss IAH 1 and the prohibition of *ʿīlā’*. I marshal evidence for the authenticity of IAH 1. I argue *inter alia* that ‘Umar II prohibited *ʿīlā’* in part because of an eschatological anxiety that God would punish the entire Muslim community for the transgressions of the Muslim drinkers of *ʿīlā’*. I also situate ‘Umar II’s edict within the early legal discussions of *ʿīlā’*. In Part 2, I discuss IAH 2, the other edicts, and the prohibition of *nabīdh*. I examine the transmission history of IAH 2 and the edicts and argue that they originated in 2nd/8th century Iraq. By clarifying the history of ‘Umar II’s edicts, I seek to deepen our knowledge of his caliphate and to contribute to a more accurate evaluation of his legacy.

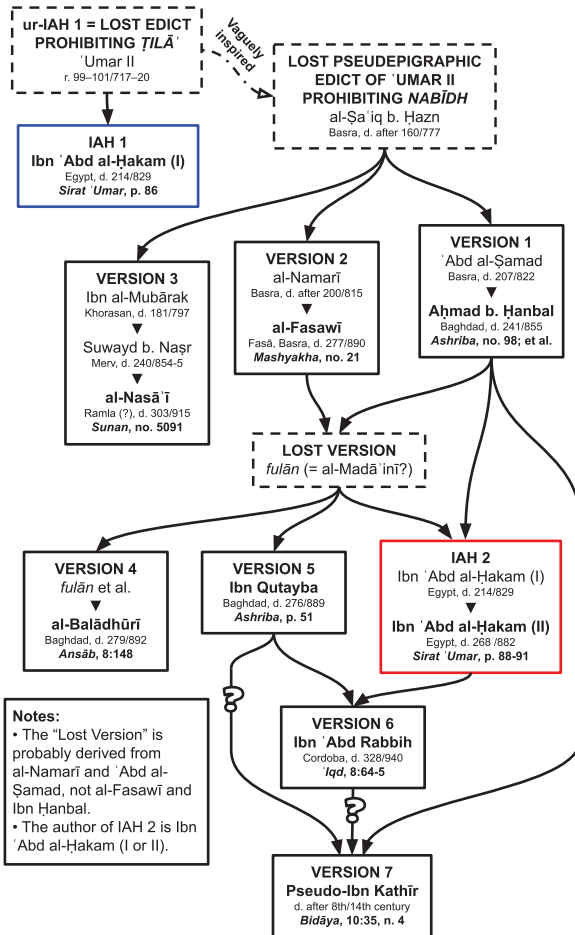


DIAGRAM 2 *Stemma edictorum* according to the author

It will be helpful to begin with some brief prefatory remarks about 'Umar II and the prohibition of intoxicants in Islam.

1.1 *'Umar II: the Pious Umayyad*

'Umar (II) b. 'Abd al-'Azīz (r. 99–101/717–20) was a member of the Marwānid branch of the Umayyad family. His namesake, his maternal great-grandfather, was the second caliph 'Umar b. al-Khaṭṭāb, and he was often seen as a second 'Umar. He was raised in Medina where he studied the *sunna* of the Prophet with its scholars. His cousin, Sulaymān b. 'Abd al-Malik (r. 96–9/715–17) appointed him as his successor, preferring him over his brothers. 'Umar II is remembered as a pious leader who sought to strengthen religious observance

among Muslims. He made a failed attempt to besiege Constantinople. Because of his piety, Abbasid era writers, as well as many modern historians, consider him an exception among the Umayyad caliphs, who reputedly prioritized matters of state over those of faith. It has sometimes been suggested that those writers exaggerated ‘Umar II’s probity in order to vilify the other Umayyads by contrast. However, his promotion of religious observance is well documented in the sources. He dispatched emissaries to the provinces to instruct the local populace on how to be proper Muslims.<sup>8</sup> He also sent edicts to his governors in which he enacted religious policies and reforms. However, the exact content of these edicts is unclear and the degree to which they were implemented is difficult to assess.<sup>9</sup> Umar II’s brief reign coincided with the advent of the first Islamic century (*ca.* December 3, 718), a moment that had major eschatological significance for Muslims. Both Antoine Borrut and Christian Sahner have argued that ‘Umar II’s public turn to piety may have been motivated by unarticulated anxieties about this moment.<sup>10</sup> In Part 1, I present additional support for their suggestion.

## 1.2 *The Prohibition of Intoxicants*

The prohibition of wine and intoxicants is commonly regarded as a distinctive marker of the Muslim world. Some verses in the Qurʾān (especially, Q 5:90–91) appear to prohibit the consumption of *khamr*, a term that originally referred to wine made from grapes. The great majority of Muslims thus consider grape wine to be prohibited, and many Muslims extend this prohibition to other fermented drinks. However, in the first Islamic centuries, many Muslims

8 Ignaz Goldziher, *Muslim Studies*, trans. C.R. Barber and S.M. Stern, 2 vols. (London: George Allen & Unwin, 1967–1971), 2:[29]; Sean William Anthony, *Muḥammad and the Empires of Faith* (Oakland: University of California Press, 2020), 129–31; G.H.A. Juynboll, *Muslim Tradition: Studies in Chronology, Provenance and Authorship of Early Ḥadīth* (Cambridge University Press, 1983), 34–8; Antoine Borrut, *Entre mémoire et pouvoir. L’espace Syrien sous les derniers Omeyyades et les premiers Abbassides (v. 72–193/692–809)* (Leiden: Brill, 2011), 283–320.

9 ‘Umar II’s edicts have recently been discussed by Yaacov Lev, “Islamization and Acculturation at the Time of ‘Umar II (717–720),” *Al-Qanṭara* 42.6 (2021): 1–23, esp. 13–16; Mathieu Tillier, “Califes, émirs et cadis: le droit califal et l’articulation de l’autorité judiciaire à l’époque umayyade,” *Bulletin d’études orientales* 63 (2014): 147–90.

10 Borrut, *Entre mémoire et pouvoir*, 291–7; Christian C. Sahner, “The First Iconoclasm in Islam: a New History of the Edict of Yazīd II (AH 104/AD 723),” *Der Islam* 94 (2017): 5–56, esp. 34–5. Sahner, *ibid.*, n. 89, remarks that he “owes this idea to David Cook.” He does not cite Borrut. Cf. David Cook, “Messianism and Astronomical Events during the First Four Centuries of Islam,” *Revue des Mondes Musulmans et de la Méditerranée* 91 (2000): 29–51; at 38.

contested the illegality of such drinks, especially the potentially intoxicating beverages known as *ṭilā'* and *nabīdh*.<sup>11</sup>

*Ṭilā'* (literally: something that is smeared, like an unguent or cream) is a type of cooked grape juice that has been identified by Tillier and Vanthieghem as identical to the late antique beverage known as ἐψημα.<sup>12</sup> Similar or related Arabic terms include *bukhtaj* (from Persian: *pukhta*, “cooked”), and *bādhaq* or *bādhiq* (from Persian: *bāda*, “wine”). In the Hadith, this beverage is often associated with Syria, where Muslim conquerors first encountered it, but it appears to have been consumed in Iraq as well. It was potentially intoxicating, as fermentation could occur before or after it was cooked. Cooking caused some of the original contents of *ṭilā'* to evaporate. Many scholars held that evaporation reduces *ṭilā'*'s ability to intoxicate. After *ṭilā'* has been cooked, it is referred to as: (1) *muthallath*, if two-thirds of its original contents have evaporated and only a third remains; (2) *munaṣṣaf*, if half of its original contents have evaporated. Muslim jurists commonly asked if these levels of evaporation are sufficient to render *ṭilā'* lawful, or if evaporation has any effect on this drink's permissibility. According to one report, the second Caliph 'Umar b. al-Khaṭṭāb drank *ṭilā'*.<sup>13</sup>

## 2 'Umar II and the Prohibition of *Ṭilā'*

Why did 'Umar II prohibit intoxicants other than *khamr*? A Medinan report recorded by Ibn Sa'd (d. 230/845) in his *Ṭabaqāt* suggests an answer to this question. According to this report, Muhājir b. Yazīd recalled:

[‘Umar II] would never [unnecessarily] renovate structures. I once saw that a threshold of a door of his became damaged, and someone suggested to him that it should be repaired. He said [to his *mawlā*]: “O Muzāḥim, should we not leave this [threshold] as it is, and then exit this world without having renovated any [material] thing.” He prohibited *ṭilā'* in all the land.<sup>14</sup>

11 On intoxicants in Islamic law, see A.J. Wensinck, “Khamr,” *EP*; Najam Haider, “Contesting Intoxication,” *Islamic Law and Society* 20 (2013): 48–89.

12 Tillier & Vanthieghem, “Amphores rouges,” 10–12, 17–22.

13 On *ṭilā'* and similar beverages, see Haider, “Contesting Intoxication,” 53; Tillier & Vanthieghem, “Amphores rouges,” 17–22. On *bādhaq*, see 'Abd al-Razzāq al-Ṣan'ānī, *al-Muṣannaf*, ed. Ḥabīb al-Raḥmān al-A'zamī, 12 vols. (Beirut: al-Maktab al-Islāmī, 1983), 9:223–4 (no. 17014); Abū 'Ubayd, al-Qāsim b. Salām, *Gharīb al-ḥadīth*, ed. Ḥusayn Muḥammad Sharaf, 5 vols. (Cairo: al-Amiriyya, 1984), 1:395–6.

14 *Isnād*: al-Wāqidī (Medina, 130–207/747–822) ← Ibn Abī Dhī'b (Medina, d. 159/776) ← Muhājir (Medina). Ibn Sa'd, *al-Ṭabaqāt al-kabīr*, ed. 'Alī Muḥammad 'Umar, 11 vols. (Cairo:

This report portrays ‘Umar II as an ascetic ruler with little regard for the comforts of this world. Instead of renovating a material structure, he attempts to “renovate” people’s souls by outlawing a notorious beverage. Here, his implied motivation for prohibiting ʿīlā’ was to leave this world a better place spiritually than when he entered it.

‘Umar II’s prohibition of all intoxicants left a strong impression on non-Muslims. Theophilus of Edessa (d. ca. 785 CE), an astrologer with ties to the Abbasid court, probably noted this prohibition in his now lost chronicle.<sup>15</sup> The contents of this chronicle can be partly reconstructed based on the chronicles of three authors who are known to have relied on him: Theophilus the Confessor, Agapius of Hierapolis, and Dionysius of Tellmahre. The latter’s work, also no longer extant, can be reconstructed based on the chronicle of Michael the Syrian and the anonymously authored *Chronicle of 1234*.

Under the entry for *Anno Mundi* 6210 (717–18 CE), the Byzantine chronicler Theophanes the Confessor (d. 818 CE) writes: “In the same year, a violent earthquake having hit Syria, ‘Umar banned wine (οἶνον) in the cities...” Theophanes mentions a few other actions taken by ‘Umar II, including the forced conversion of Christians.<sup>16</sup> His account insinuates that ‘Umar II’s prohibition of wine, as well as his other actions, were motivated by the earthquake.

The account of Agapius of Hierapolis (d. 942–3/329) resembles that of Theophanes regarding the year when ‘Umar II became caliph: “In that year, a terrible earthquake occurred, destroying many places. ‘Umar displayed asceticism (*al-nusuk*) and piety (*al-waraʿ*). He expelled from his realm those who were corrupt and he banned the Muslims from drinking [wine]<sup>17</sup> and fermented drinks (*al-anbidha*).”<sup>18</sup>

al-Khānjī, 2001), 7:341–2. Instead of *bi-nā*, read *bināʿ*. The text quoted here in translation is preceded by other examples of ‘Umar II’s piety.

- 15 See Robert G. Hoyland, *Theophilus of Edessa’s Chronicle and the Circulation of Historical Knowledge in Late Antiquity and Early Islam* (Liverpool: Liverpool University Press, 2011), 215–7; Tillier & Vanthieghem, “Amphores rouges,” 23.
- 16 Theophanes the Confessor, *Chronographia*, ed. Carl de Boor, 2 vols. (Leipzig: Teubner, 1883), 1:399, l. 20. For a translation, see Cyril Mango and Roger Scott, *The Chronicle of Theophanes the Confessor* (Oxford: University Press, 1997), 550. Cf. Tillier & Vanthieghem, “Amphores rouges,” 23. On the earthquake of 717 CE and its aftershocks, see Nicholas Ambraseys, *Earthquakes in the Mediterranean and Middle East: A Multidisciplinary Study of Seismicity up to 1900* (Cambridge: Cambridge University Press, 2009), 225–6.
- 17 The word between square brackets is illegible, but likely represents a prohibited beverage. Possible emendations include *al-muskirāt* (intoxicants), as suggested by P.L. Cheikho in his edition of Agapius of Hierapolis, *Historia Universalis* (Paris: Berytus, 1912), 358; or *al-khamr* (wine); or *al-khumūr* (varieties of wine). The illegible word and *al-anbidha* are likely a merism meaning “all intoxicants.”
- 18 Agapius, *Historia*, 357–8; idem, “*Kitab al-ʿunvan*,” ed. and trans. into French by A.-A. Vasiliev, in *Patrologia Orientalis* 8 (1912): 397–550, esp. 502–3.

In both accounts, an earthquake is closely followed by ‘Umar II’s prohibition of all intoxicants. There is one significant difference. Whereas Theophanes implies that the earthquake motivated ‘Umar II’s prohibition, Agapius does not. He does, however, mention the earthquake immediately before describing ‘Umar II’s “ascetic” and “pious” behavior, which may suggest a chronological connection between the earthquake and his actions.

The West Syrian patriarch Michael the Syrian (d. 1199 CE) dedicates a section of his Syriac chronicle to the reign of ‘Umar II (99–101/717–20). He divides this section, as is his custom, into three columns devoted to three topics: ecclesiastical affairs, natural phenomena, and civil history. In the column devoted to natural phenomena, he notes that there was a large earthquake in *Anno Graecorum* 1029 (717–18 CE). In the column devoted to civil history, he writes that ‘Umar II forbade the Arabs to drink wine and fermented grape juice.<sup>19</sup> Michael reportedly relied on the lost work of Dionysius of Tellmahre (d. 845 CE), editing and rearranging its contents so that they would fit the themes of his three columns.<sup>20</sup> Thus, even if Michael learned about the earthquake and the ban on intoxicants from Dionysius, he cannot serve as a witness for the manner in which Dionysius himself presented these events.

The anonymous Edessan author of the Syriac *Chronicle of 1234* (the year in which this chronicle stops) also relied on Dionysius. However, he mentions neither the earthquake nor the prohibition of all intoxicants.<sup>21</sup> Dionysius may not have mentioned these events and Michael the Syrian may have learned about them from another source. Alternatively, these events may have been part of Dionysius’ original account and were omitted by the anonymous author. The absence of both events in his chronicle, but not other events that likely were part of Dionysius’ lost account, suggests that they originally may have appeared in proximity to each other. As Hoyland notes, the anonymous author tended to include long accounts from Dionysius, while omitting short ones.<sup>22</sup> Did he perhaps omit a short account about a prohibition introduced following an earthquake? Be that as it may, if Dionysius did mention these events, it is impossible to know if he claimed that one caused the other.

19 Michael the Syrian, *Chronique*, trans. and ed. J.-B. Chabot, 4 vols (Paris: Ernest Leroux, 1899–1910), 2:489 & 490; 4:455 & 456. Robert G. Hoyland, *Seeing Islam as Others Saw It: A Survey and Evaluation of Christian, Jewish, and Zoroastrian Writings on Early Islam* (Princeton: Darwin, 1997), p. 490 & n. 127, mistakenly claims that Michael mentions neither the earthquake nor the ban on wine.

20 Hoyland, *Theophilus*, 12.

21 Cf. Anonymous, *Chronicon ad annum Christi 1234 pertinens*, ed. J.-B. Chabot, 2 vols. (Paris: Gabalda, 1920); idem, *Chronicon ad annum Christi 1234 pertinens*, trans. into French J.-B. Chabot, 2 vols. (Paris: Gabalda, 1952).

22 Hoyland, *Theophilus*, 13.



Based on his analysis of the abovementioned reports of the four chroniclers, Robert Hoyland concluded that the earthquake and the prohibition of intoxicants were part of Theophilus' original report, but that there was no causal link in it between them. According to Hoyland, Theophanes was the first chronicler to mention such a link when he abbreviated Theophilus' report. Hoyland claims that Theophilus, as he appears in Theophanes, "has been substantially abbreviated and his notices have sometimes been amalgamated, thus creating a causal link between events that seem originally to have been unconnected." He gives only one other example of such a putatively spurious link.<sup>23</sup> However, this example is not conclusive. Given Michael's likely reworking of the text of Dionysius and the silence of the author of the *Chronicle of 1234*, Hoyland's reconstruction of the text of Theophilus is based on his preference for the prolix Agapius over the concise Theophanes. *Pace* Hoyland, I will argue below that Muslim sources strongly suggest that Theophanes reliably preserves a causal link that was present in Theophilus' original text; and that 'Umar II banned the consumption of intoxicants as a consequence of his understanding of certain seismic disturbances as a sign of God's displeasure.

### 2.1 *The Passage about ʿĪlā' in 'Umar II's "Fiscal Rescript" (= IAH 1)*

We have seen two possible motivations attributed to 'Umar II's prohibition of intoxicants other than *khamr*. The Medinan report in Ibn Sa'd hints that 'Umar II imposed the prohibition to improve the world before his death. Theophanes, possibly relying on Theophilus, asserts that an earthquake spurred 'Umar II to prohibit intoxicants. Does either of these narratives preserve 'Umar II's primary motivation?

An answer to this question is found in a long edict that 'Umar II sent to his governors and that H.A.R. Gibb dubbed "the fiscal rescript." This name is misleading since the edict contains some twenty passages devoted to diverse topics, not all of which are fiscal. Additionally, it is not a "rescript" in the strict Roman sense of the term.<sup>24</sup> However, since Gibb's appellation has been widely accepted, I will use it here. One passage in the rescript (= IAH 1) concerns a ban on *ʿĪlā'*. The sole attestation of this edict is found in Ibn 'Abd al-Ḥakam's (d. 214/829) biography of 'Umar II, where it is cited without an *isnād*.<sup>25</sup> Gibb

23 Ibid., 10, no. 31, & 215–7; = Hoyland, *Seeing*, 432, & n. 141, & 654, & n.141. Cf. Tillier & Vanthieghem, "Amphores rouges," 23.

24 Patricia Crone and Martin Hinds, *God's Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge University Press, 1986), 46, n. 23.

25 Ibn 'Abd al-Ḥakam, *Sīrat 'Umar*, 82–88. Discussed in H.A.R. Gibb, "The Fiscal Rescript of 'Umar II," *Arabica* 2 (1955): 1–16; Azeddine Guessous, "The Fiscal Rescript of 'Umar b. 'Abd

described the rescript as bearing “every indication of genuineness in its content and linguistic style.”<sup>26</sup> Most scholars have accepted Gibb’s view. However, G.R. Hawting suggests that it may have been edited in a later period or may not go back to ‘Umar II;<sup>27</sup> and Yaacov Lev has raised similar concerns, questioning if the rescript existed “as one long letter written by the caliph,” or if it is “a collage of fragments from the caliph’s correspondence put together by Ibn ‘Abd al-Ḥakam.” Lev adds that when Ibn ‘Abd al-Ḥakam edited this correspondence, he may have altered it so that ‘Umar II’s views were no longer ascertainable.<sup>28</sup> Both Hawting and Lev are right to counsel caution, warning that the rescript may contain some changes and interpolations. In what follows, I will argue that Gibb, Hawting, and Lev are all partly correct. The core of a passage from the rescript (= IAH 1) goes back to a lost edict issued by ‘Umar II (= UR-IAH 1). At the same time, IAH 1 contains a later interpolation.

IAH 1 may be translated as follows:

Furthermore, *ṭilāʾ* is not good for Muslims. It is wine (*khamr*), which is [inappropriately] called *ṭilāʾ*. God has supplied ample means of avoiding it (*mandūḥa*) [in the form of] diverse wholesome beverages (*ashriba kathīra ṭayyiba*).

And I know that some people say: “‘Umar [b. al-Khaṭṭāb] (may God be pleased with him) held it lawful, and that some of our best people (*min khiyāri-nā*) of the former generations drank it.”

Verily, a beverage of this sort was given to ‘Umar. It had been cooked until it became thick. When it was given to him, he asked: “Is this *ṭilāʾ*?” referring to the tar that is smeared on camels (*ṭilāʾ al-ibil*). After tasting it, he said: “There is no harm in this.” On account of this, people were led into confusion about it (*udkhila l-nāsu fī-hi*) after ‘Umar’s death. As for those of your righteous men (*min ṣāliḥī-kum*) who drank it, they did so only before it became intoxicating (*qabla an yuttakhadha muskir<sup>an</sup>*).<sup>29</sup> Indeed, the Messenger of God (Ṣ) said: “Prohibited is every intoxicant to every believer (*ḥarām kull muskir ‘alā kull mu’min*).”

al-‘Azīz: A New Evaluation,” in *The Articulation of Early Islamic State Structures*, ed. Fred M. Donner (London: Routledge, 2012), 241–64.

26 Gibb, “Fiscal Rescript,” 1–2.

27 G.R. Hawting, *The First Dynasty of Islam: The Umayyad Caliphate AD 661–750* (London: Routledge, 2000), 77–8.

28 Lev, “Islamization,” 13–6.

29 “Before it became intoxicating,” i.e., “before fermentation made it intoxicating,” or “before its prohibition.”

I do not think it proper that a sinner should deceive a pious person. We consider that Muslims universally should keep themselves free of [this intoxicant] and should regard it as unlawful, since it is one of the most comprehensive of gates by which sins enter in, and since it is what I fear most, lest by reason of it there should afflict the Muslims a calamity (*jā’iḥa*) that would destroy all of them.<sup>30</sup>

The end of the passage is relevant for the matter at hand. The author of this passage, reportedly ‘Umar II, gives two reasons for the prohibition of *ʾīlā’* and other intoxicants: (1) Consuming them causes drinkers to commit other sins. (2) If Muslims continue to drink intoxicants, all Muslims will suffer a collective punishment in the form of a divinely ordained calamity. It is not stated explicitly but this calamity may signal the approach of the apocalypse. This second reason echoes Theophanes’ abovementioned claim that an earthquake prompted ‘Umar II to prohibit “wine.” If IAH 1 is authentic, ‘Umar II’s main reason for prohibiting *ʾīlā’* was a fear of divine retribution. But was ‘Umar II the author of this passage?

## 2.2 *Umayyad Fears about ʾĪlā’ Leading to Catastrophe*

The author of IAH 1 is concerned that the consumption of *ʾīlā’* by some Muslims portends a catastrophe for *all* Muslims. Why does the author think this will happen? And, following Hawting and Lev, how can we be certain that the author is ‘Umar II? The answer to these questions is found in two Syrian Hadith traditions that establish a causal relationship between *ʾīlā’* and an impending earthquake that will destroy all Muslims. One tradition is attributed to Mālik b. Abī Maryam,<sup>31</sup> who reported:

We were discussing *ʾīlā’* when ‘Abd al-Raḥmān b. Ghanm<sup>32</sup> entered, and we proceeded to discuss it with him. He said: Abū Mālik al-Ashja’ī<sup>33</sup> narrated to me that the Messenger of God (ﷺ) proclaimed: “People from my nation will drink wine but will call it by another name, while their heads

30 Ibn ‘Abd al-Ḥakam, *Sīrat ‘Umar*, 86. Note: Ibn ‘Abd al-Ḥakam’s editor added to IAH 1 the subheading *al-khamr wa-l-nabīdh*, which is not part of Ibn ‘Abd al-Ḥakam’s original text. My translation is partly inspired by Gibb, “Fiscal Rescript,” 5–6. Gibb used an earlier edition of the *Sīra*. For a French translation of IAH 1, see Tillier & Vanthieghem, “Amphores Rouges,” 26.

31 This Syrian transmitter is otherwise unknown. Cf. al-Bukhārī, *al-Tārīkh al-kabīr*, 8 vols. (Hyderabad: al-Ma’ārif al-Uthmāniyya, 1958), 7:307 (no. 1309).

32 ‘Umar I sent ‘Abd al-Raḥmān b. Ghanm (d. 78/697) to Syria as a legal instructor. See Ibn Sa’d, *Ṭabaqāt*, 9:444 (no. 4640); al-Bukhārī, *Tārīkh*, 5:247.

33 As may be seen here, Abū Mālik al-Ashja’ī was a Companion of the Prophet.

are being pounded by [the sounds of] musical instruments and singing girls. God will make the earth swallow them and will turn them into monkeys and pigs<sup>34!35</sup>

This tradition on the authority of the Prophet confirms the contents of IAH 1 in two ways: (1) It affirms that some Muslims inappropriately call *khamr* “*tilā*”; (2) it threatens these people with a calamity that includes being swallowed by the earth. It would have been very advantageous for ‘Umar II to cite this tradition, yet he does not do so, perhaps because it did not yet exist in his lifetime. Indeed, his “rescript” may have inspired the creation of this tradition, as its transmission history suggests. The various versions of the tradition all appear to originate with one Mu‘āwiya b. Ṣāliḥ, a man from Ḥimṣ, with close ties to the Marwānids, who left that city in 125/743.<sup>36</sup> He was a student of ‘Umar II narrating several traditions on his authority, sometimes directly and sometimes through an intermediary.<sup>37</sup> Thus, it is plausible that he circulated this tradition, which is consistent with ur-IAH 1 issued by his mentor, ‘Umar II.

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- 34 The transformation of sinners, usually Jews or Christians, into monkeys and pigs is a common punishment in the Qur‘ān. See Ch. Pellat, “Maskh,” *EP*.
- 35 Abū Bakr al-‘Absī al-Kūfī, Ibn Abī Shayba, *al-Muṣannaf*, ed. Abū Muḥammad Usāma b. Ibrāhīm b. Muḥammad, 15 vols. (Cairo: Dār al-Fārūq al-Ḥadītha, 2008), 8:81 (no. 24212). Cf. al-Bukhārī, *Tārīkh*, 1:305; Ibn ‘Asākir, *Tārīkh madīnat Dimashq*, ed. Muḥibb al-Dīn al-‘Amrāwī, 80 vols. (Beirut: al-Fikr, 1995–2000), 56:495–96. Mu‘āwiya b. Ṣāliḥ of Homs appears to be the earliest confirmable transmitter of this tradition and its likely originator. Here, let me make a brief note about my methods for dating and analyzing Hadith. I often rely on the common link phenomenon. On this phenomenon, see G.H.A. Juynboll, *Encyclopedia of Canonical Ḥadīth* [= *ECH*] (Leiden: Brill, 2007), xxvii–xxx. I view the common link of a tradition as the earliest figure whose transmission of the tradition is historically verifiable. Often, the common link of a tradition is its originator. However, I do not necessarily rule out the possibility that a common link received his tradition from an earlier authority. Ultimately, the contents of the tradition must be examined carefully to see if they contain any clues about the tradition’s provenance. In this study, I have not found any convincing common links in the generation of the Companions.
- 36 Shams al-Dīn al-Dhahabī, *Siyar a‘lām al-nubalā*, ed. Shu‘ayb al-‘Arna‘ūt, 25 vols. (Beirut: al-Risāla, 1985), 7:158–63; Juynboll, *ECH*, s.v. “Mu‘āwiya b. Ṣāliḥ al-Ḥaḍramī”; Isabel Fierro, “The Introduction of *ḥadīth* in al-Andalus (2nd/8th–3rd/9th centuries),” *Der Islam* 66 (1989): 68–93, esp. 69, 71–3. Mu‘āwiya b. Ṣāliḥ fled with the Marwānids to al-Andalus following the Abbasid revolution. He may have made the pilgrimage to Mecca before his death in 158/775. Mu‘āwiya reported that the Companion Abū Umāma drank *tilā*. See Ibn Abī Shayba, *Muṣannaf*, 8:126 (no. 24457); al-Karābīsī, *al-Asāmī wa-l-kunā*, ed. al-Azharī, 5 vols. (Cairo: al-Fārūq al-Ḥadītha, 2010), 4:259 (no. 3350). If Mu‘āwiya adhered to ‘Umar II’s rulings, he probably intended that Abū Umāma’s *tilā*’ was thick and non-intoxicating.
- 37 See, e.g., Ibn Sa‘d, *Ṭabaqāt*, 7:346, 390, & 396.

According to another tradition, the Prophet’s beloved wife ‘Ā’isha narrated that her husband said: “The first thing that will overturn Islam, like a receptacle that is overturned on its head, is a drink called *ʾīlā*.”<sup>38</sup> God’s overturning (root: *k-f-w* or *k-f-w/y*) the earth on the Day of Judgment is a recurring trope in the Hadith.<sup>39</sup> In this tradition, ‘Ā’isha characterizes *ʾīlā*’ as the source of a calamity, possibly an earthquake, that will strike the entire Muslim community. The provenance of the tradition is also Syrian; it apparently originated with Ja’far b. Burqān al-Kilābī (Raqqā, d. 154/772–3),<sup>40</sup> a contemporary of Mu’āwiya b. Ṣāliḥ. Like the latter, Ibn Burqān transmitted traditions on the authority of ‘Umar II directly or through an intermediary.<sup>41</sup> Ibn Burqān’s tradition surpasses Mu’āwiya b. Ṣāliḥ’s tradition in two ways: first, whereas Mu’āwiya b. Ṣāliḥ relies on the obscure Companion Abū Mālik al-Ashja’ī, Ibn Burqān relies on a venerated wife of the Prophet; second, in Mu’āwiya b. Ṣāliḥ’s tradition, *ʾīlā*’ is mentioned only in the frame story about ‘Abd al-Raḥmān b. Ghanm, not in the saying of the Prophet, whereas in Ibn Burqān’s tradition the Prophet explicitly mentions *ʾīlā*’. For this reason, Ibn Burqān’s tradition is likely later, if only slightly so, than Mu’āwiya b. Ṣāliḥ’s tradition. In a debate over *ʾīlā*’, Ibn Burqān’s tradition would have been more persuasive, due to its attribution to ‘Ā’isha and to the unequivocal condemnation of *ʾīlā*’ by the Prophet himself.

Ibn Burqān transmits another relevant tradition, in which ‘Umar II piously reacts to an earthquake. Following an earthquake in the Levant, ‘Umar II wrote to the Muslims, saying, “This earthquake is something by which God... punishes the worshipers.” He ordered them to go out on a designated day [to pray] and to recite certain Qur’ānic verses. He added that those who are financially capable should give alms.<sup>42</sup> ‘Umar II thus held that earthquakes are divinely ordained collective punishments and that they may be prevented by the good deeds performed by the entire Muslim community.

38 Ibn Rāhawayh, *al-Musnad*, ed. al-Balūshī, 5 vols. (Medina: al-Īmān, 1991), 2:377 (no. 923). Cf., e.g., Ibn Abī Shayba, *Muṣannaf*, 8:84 (no. 24230); al-Qushayrī, *Tārīkh al-Raqqā*, ed. Ibrāhīm Ṣāliḥ (Damascus: al-Bashā’ir, 1998), 101 (no. 175).

39 See, e.g., al-Bukhārī, *al-Ṣaḥīḥ*, ed. Muḥammad Zuhayr, 9 vols. (Beirut: Dār Ṭawq al-Najāt, 2001), 8:108–9 (no. 6520). Alternatively, the overturning of Islam in ‘Ā’isha’s tradition may refer to a moral corruption of the religion.

40 Ibn Sa’d, *Ṭabaqāt*, 9:487–8 (no. 4792).

41 Ibid., 7:354, 359, 364, 368.

42 See, e.g., Abū Nu’aym al-Iṣbahānī, *Ḥilyat al-awliyā*, 11 vols. (Cairo: al-Khānjī, 1996), 5:304–5; Ibn Abī Shayba, *Muṣannaf*, 3:466 (no. 8413); Ibn ‘Abd al-Ḥakam, *Sīra*, 64. Cf. ‘Abd al-Razzāq, *Muṣannaf*, 3:87–8 (no. 4903), where the desire to avert an earthquake is replaced by a request for rain.

In sum, it seems that both Prophetic traditions linking *ṭilāʿ* to a seismic catastrophe originated among Syrian transmitters affiliated with the Marwānid ʿUmar II. One of these transmitters claimed in another tradition that earthquakes spurred ʿUmar II to promote pious behavior among his community. These traditions are consistent with IAH 1 and are corroborated by Christian authors. They suggest that IAH 1's provenance is also Marwānid. If so, there is little reason to doubt that ʿUmar II is the author of ur-IAH 1.

ʿUmar II was concerned that *ṭilāʿ* drinking would incur a collective divine punishment. The source of his concern is unclear. He may have been influenced by certain eschatological prophecies, like the ones mentioned above. These prophecies would have been current among Syrian transmitters of his time and after his death they transmitted them with *isnāds*.

### 2.3 *Non-Prophetic Traditions in IAH 1*

In IAH 1, ʿUmar II refers to two popular claims made about prominent Companions and Successors. The two claims, he asserts, are repeated by unnamed people: (1) ʿUmar I drank *ṭilāʿ* and (2) many prominent Muslims drank this beverage. He responds with two counterclaims: (1) ʿUmar I indeed drank "*ṭilāʿ*," but this "*ṭilāʿ*" was not the intoxicating beverage that people think. Rather this "*ṭilāʿ*" was a beverage that was cooked until it was very thick, i.e., non-intoxicating. People mistook the prohibited *ṭilāʿ* for the permitted "*ṭilāʿ*." (2) The prominent Muslims who drank *ṭilāʿ* drank a non-intoxicating version of this beverage. ʿUmar II does not cite any *isnād* for these traditions. Presumably, as the great-grandson of ʿUmar I, he had access to reliable family traditions about his ancestor. In any case, prior to the publication of ur-IAH 1, Muslims were already discussing the legality of *ṭilāʿ* and the proponents of drinking this beverage were spreading traditions, possibly with *isnāds*, in support of their cause. ʿUmar II's claims that ʿUmar I and other pious Muslims did not drink the *ṭilāʿ* that was intoxicating may be one of the first attempts by opponents of *ṭilāʿ* to counter the traditions of its proponents. When ur-IAH 1 was first put into circulation, there were no well-known Prophetic traditions about *ṭilāʿ*; otherwise, it is difficult to explain why such traditions are not mentioned in IAH 1.

### 2.4 *The "Every Intoxicant" Maxim, Another Umayyad Connection to IAH 1*

IAH 1 includes one statement attributed to the Prophet, the second of two such statements that appear in the "rescript." It is the maxim: "prohibited is every intoxicant to every believer (*ḥarām kull muskir ʿalā kull muʿmin*)." This appears to be an expanded version of a better known and more concise maxim: "Every intoxicant is prohibited (*kull muskir ḥarām*)." The long maxim and the short

maxim appear to have the same meaning.<sup>43</sup> Discussing the short maxim, G.H.A. Juynboll noted that it is “well-known” and that it “developed out of the ancient debate triggered by the Qurʾānic prohibition [of *khamr*].”<sup>44</sup> Miklos Muranyi has noted that some transmitters attributed this maxim in its concise formulation to Companions like ‘Abdallāh b. ‘Umar (Medina, d. 73/693), or Successors like ‘Aṭāʾ b. Abī Rabāḥ (Medina, d. 114/732), not to the Prophet.<sup>45</sup> This maxim was very important to the early prohibitionists since it indicated that intoxicants other than *khamr* were prohibited.<sup>46</sup> Prohibitionists would often tack this maxim onto traditions about beverages.<sup>47</sup> The purpose of this insertion was to clarify that beverages must not be intoxicating.

Initially, the maxim had a major flaw: it was not attributed to the Prophet.<sup>48</sup> Only later, it was attributed to him. For this reason, the inclusion of a version of this maxim in IAH 1 and its attribution to the Prophet are significant. Ur-IAH 1 may have been one of the earliest sources claiming that the Prophet prohibited all intoxicants. But the inclusion of the maxim in IAH 1 raises several questions: Was the maxim part of ur-IAH 1? If so, to whom was it attributed? To ‘Umar II or to the Prophet?

43 The short and long maxims have a similar meaning, if *muʾmin* is a synonym of Muslim. However, if *muʾmin* also refers to other “believers,” including Jews and Christians, then the long maxim originally prohibited intoxicants for both Muslims and non-Muslims. According to Fred M. Donner, *Muhammad and the Believers* (Cambridge: Harvard University Press, 2010), 203–04, beginning in the reign of ‘Abd al-Malik b. Marwān (r. 65–86/685–705), *muʾmin* gradually ceased to refer to Christians and Muslims.

44 Juynboll, *ECH*, 171.

45 Miklos Muranyi, “Untersuchungen zu ‘Šarīʿa-Rechtlichen’ Entwicklungen der Gegenwart,” *Arabica* 27 (1980): 223–56, esp. 249–50, n. 81. Muranyi mentions other authorities for this maxim. A relatively late authority to which the maxim is attributed is Makḥūl (Damascus, d. 112–16/730–4). See Aḥmad b. Muḥammad b. Ḥanbal, *al-Ashriba*, ed. Šubḥī Jāsīm (Baghdad: al-ʿĀnī, 1976), 48 (no. 58).

46 Proponents of drinking intoxicants (if intoxication is avoided) interpret *muskir* here as referring to the last drop of an alcoholic drink that causes intoxication. In response, its opponents defined *muskir* as anything that causes intoxication, even if it does so only in large amounts. Cf. Haider, “Contesting Intoxication,” 59–60.

47 See, e.g., Aḥmad b. Shuʿayb al-Nasāʾī (d. 303/915), *al-Sunan al-kubrā*, ed. Shuʿayb al-Arnaʿūt et al., 12 vols. (Beirut: al-Risāla, 2001), 5:76 (no. 5079).

48 The Kufan jurist Ibrāhīm al-Nakhaʿī (d. 96/714) reportedly stated: “The [popular] saying of the people ‘every intoxicant (*muskir*) is prohibited’ is wrong. What they meant to say is that intoxication (*sukr*) is prohibited. See Abū Yūsuf Yaʿqūb b. Ibrāhīm al-Anṣārī, *al-Āthār*, ed. Abū l-Wafā (Hyderabad: Lajnat Iḥyāʾ al-Maʿārif al-Nuʿmāniyya, 1936), 227 (no. 1003). The spellings of *muskir* and *sukr* differ in a single letter, *mīm*. Cf. Ibn Qutayba ʿAbdallāh b. Muslim al-Dīnawarī, *al-Ashriba*, ed. Yāsīn Muḥammad al-Sawwās (Beirut: al-Fikr, 1999), 111–12.

In addition to IAH 1, there is another tradition that suggests that ‘Umar II’s edict both prohibited *ṭilā’* and mentioned the maxim. This tradition is transmitted on the authority of ‘Abd al-Malik b. al-Ṭufayl al-Jazarī, about whom not much is known. Based on his *nisba*, “the man from al-Jazīra” appears to have belonged to an upper-Mesopotamian community that received this edict. He reportedly remembered it as follows: “‘Umar b. ‘Abd al-‘Azīz wrote to us saying: ‘Do not drink *ṭilā’* until two-thirds of it have evaporated and only one-third remains; and ‘every intoxicant is prohibited.’”<sup>49</sup> In al-Jazarī’s tradition, ‘Umar II’s edict has two elements, both of which have clear parallels in IAH 1. The first element allows the drinking of *ṭilā’* if it is cooked until only one-third remains. This element recalls the report in IAH 1 that ‘Umar I allowed drinking *ṭilā’* if it is cooked until it becomes thick. The second element is the short maxim “every intoxicant is prohibited,” attributed to ‘Umar II. This element parallels IAH 1’s long maxim attributed to the Prophet. In his doctoral dissertation, Jaser Khalil Salem Abu Safieh speculates that the brief edict in al-Jazarī’s tradition “could be the genuine one that was sent by ‘Umar II,” and that IAH 1 may include interpolations “by the *fuqahā’*.”<sup>50</sup> Indeed, the redactor of IAH 1 may have composed it by expanding a short missive like the one reported by al-Jazarī. However, as will be explained below, al-Jazarī’s tradition is likely a polemical reimagining of ‘Umar II’s prohibition intended to counter certain Kufan claims.<sup>51</sup> Al-Jazarī’s version of the edict appears to support the inclusion of the maxim in ur-IAH 1. It is noteworthy that al-Jazarī mentions the short version of the “every intoxicant” maxim and does not attribute it to the Prophet.<sup>52</sup> The absence of Prophetic attribution in al-Jazarī’s version may indicate that ur-IAH 1 presented the maxim without such attribution.

Apart from IAH 1, the long version of the maxim (“prohibited is every intoxicant to every believer”) is found, with slight variations in word order, in only one other tradition. It is a Prophetic tradition on the authority of the Umayyad caliph Mu‘āwīya b. Abī Sufyān (d. 60/680), preserved in several versions. The Hadith scholar Ibn Māja (d. 273/887) described it as a local tradition of the

49 *Isnād*: Suwayd b. Naṣr (Merv, d. 240/854–5) ← ‘Abdallāh b. al-Mubārak (Khorasan, d. 181/797) ← al-Jazarī. Al-Nasā’ī (d. 303/915), *al-Sunan al-kubrā*, 5:79 (no. 5090). The *isnād* from Suwayd ← Ibn al-Mubārak recurs hundreds of times in al-Nasā’ī’s *Sunan*, preserving Ibn al-Mubārak’s words with some degree of accuracy. On Ibn al-Mubārak, see Juynboll, *ECH*, s.v. “‘Abdallāh b. al-Mubārak.”

50 Abu Safieh, “Umayyad Epistolography,” 77–8.

51 On the disagreement between “evaporators” and “thickeners,” see below.

52 The maxim’s non-Prophetic attribution is likely intentional in al-Jazarī’s version. Cf. al-Nasā’ī, *Sunan*, 5:74 (no. 5072), where a similar *isnād* (Suwayd ← Ibn al-Mubārak) is prefixed to a tradition presenting the maxim as the words of the Prophet.



people of Raqqa.<sup>53</sup> One version of this tradition states: “Mu‘āwiya b. Abī Sufyān [said:] Had we wanted to say [something] similar to what they said,<sup>54</sup> we would say: ‘I heard the Messenger of God (ﷺ) saying: “Every intoxicant to every believer is prohibited.””<sup>55</sup> Here, Mu‘āwiya appears to be responding to accusations that he and other Syrians reported the “every intoxicant” maxim without a proper *isnād*. His response to this accusation is asserting that he in fact heard this maxim in its long version directly from the Prophet. The association of the long maxim with two different Umayyad caliphs, Mu‘āwiya and ‘Umar II, is likely not coincidental. It appears that later Syrian transmitters, and possibly ‘Umar II, were accused of transmitting the “every intoxicant” maxim without attribution to the Prophet. To counter these accusations, the Syrians claimed that Mu‘āwiya heard it from the Prophet in its long form. Even though there is no apparent difference in meaning between the short maxim and the long one, the latter is clearly associated with the Umayyads.

UR-IAH 1 likely included the “every intoxicant” maxim since both IAH 1 and al-Jazarī’s tradition mention it. IAH 1 presents the long version of the maxim as a saying of the Prophet. The long version is associated with Mu‘āwiya. Hence, ur-IAH 1 came from an Umayyad context, arguably, from ‘Umar II. However, if al-Jazarī’s tradition is accurate, ur-IAH 1 may have included the short maxim, not the long one, as a non-Prophetic saying. The tradition about Mu‘āwiya also suggests that the maxim was originally non-Prophetic. Therefore, one may make the following conjecture: if the maxim was part of ur-IAH 1 (which it may not have been), then it likely appeared as the short maxim and unattributed to the Prophet. After ur-IAH 1’s promulgation, it reached a Syrian redactor, who was familiar with the tradition about Mu‘āwiya. This redactor altered the text of ur-IAH 1. He transformed the short maxim into the long one and he attributed it to the Prophet. There are no indications that he altered other parts of ur-IAH 1. Finally, Ibn ‘Abd al-Ḥakam recorded this redacted formulation as

53 Muḥammad Ibn Māja, *al-Sunan*, ed. Muḥammad Fu‘ād ‘Abd al-Bāqī (Iḥyā’ al-Kutub al-‘Arabiyya, n.d.), 1124 (no. 3389).

54 Cf. Q 8:31.

55 Abū l-Ḥusayn Ibn Sam‘ūn (d. 387/997), *al-Amālī*, ed. ‘Amīr Ḥasan Ṣabrī (Beirut: al-Bashā’ir al-Islamiyya, 2002), 220–21 (no. 217); Abū l-Ḥasan, al-Khila‘ī, *al-Fawā’id al-muntaqāt al-ḥisān [...] al-ma’rūfa bi-l-Khila’iyyāt*, ed. Ṣāliḥ al-Laḥḥām (Beirut: al-‘Uthmāniyya, 2010), 245–46 (no. 608). Cf. Ibn ‘Asākir, *Tārīkh*, 43:258–59. Some versions of this tradition omit Mu‘āwiya’s introduction (“had we wanted to say... we would have said”). See, e.g., al-Bukhārī, *Tārīkh*, 3:145 (no. 491); al-Ṭabarānī, *al-Muʿjam al-kabīr*, ed. Ḥamdī b. ‘Abd al-Majīd al-Salafī, 25 vols. (Cairo: Ibn Taymiyya, 1994), 19:388 (no. 909). The common link of this tradition is Khālid b. Ḥayyān (Raqqa, d. 191/806), who may have heard it from his teacher Sulaymān b. ‘Abdallāh b. al-Zibriqān, who cites Ya‘lā b. Shaddād ← Mu‘āwiya.

IAH 1. In short, the Prophetic tradition in IAH 1 is likely an interpolation. The ur-fiscal rescript had very little, if any, Prophetic material.

### 2.5 *Was Ur-IAH 1 a Response to a Tradition of al-Sha'bī?*

As explained above, 'Umar II responds in IAH 1 to claims that 'Umar I drank intoxicating *ṭilā'* by claiming that he drank a different beverage known as "*ṭilā'*" that was cooked until it was thick, i.e., non-intoxicating. Tillier and Vanthieghem suggest that 'Umar II may have had in mind an account in which the Kufan transmitter al-Sha'bī (d. between 103/721 and 110/728)<sup>56</sup> relates a tradition about 'Umar I permitting the consumption of *ṭilā'*. They discuss this account, in which al-Sha'bī teaches this tradition to Abū l-Hayyāj Ḥayyān b. Ḥuṣayn al-Asadī.<sup>57</sup> There is, however, a scribal error in the text they cite. According to the correct reading, al-Sha'bī teaches it to Ibn Abī l-Hayyāj, the son of Abū l-Hayyāj.<sup>58</sup> According to this tradition, the son said:

[The Umayyad governor of Iraq] al-Ḥajjāj summoned him and told him: "Show me the missive that 'Umar [I] wrote to [the governor of Kufa] 'Ammār [b. Yāsir]<sup>59</sup> about *ṭilā'*!" He left [this encounter] dejected. Al-Sha'bī met him by chance and asked him [why he was dejected]. He told him what al-Ḥajjāj had said to him. Here, al-Sha'bī intervened: "Fetch a piece of parchment and an inkwell! By God, I heard this tradition from your father [viz., Abū l-Hayyāj] only once!" Afterwards, he began dictating: "In the name of God, the Merciful and the Compassionate, from the Commander of the Believers to 'Ammār b. Yāsir. Verily, a drink from the Levant was given to me and I inquired about its preparation. They told me that they cook it until two-thirds of it disappear and one third remains. Once this is done, its dizzying effect disappears, as well as its tantalizing smell. Its bad part goes away, while its good part remains, [...] as does its wholesome part. When this letter of mine reaches you, issue an order to those under your watch and let them consume it liberally along with their beverages [of choice]. Farewell!"<sup>60</sup>

56 Juynboll, *ECH*, s.v. "Sha'bī, 'Amir b. Sharāḥīl (ash-)"; Steven C. Judd, *Religious Scholars and the Umayyads* (London: Routledge, 2014), 41–51.

57 On Abū l-Hayyāj, see Ibn Sa'd, *Ṭabaqāt*, 8:342 (no. 3048); al-Bukhārī, *Tārīkh*, 3:53–4 (no. 203). 'Alī b. Abī Ṭālib is the main teacher of Abū l-Hayyāj.

58 Muhammad b. 'Abdallāh al-Qannāṣ already suggested this emendation in Qāsim b. Thābit al-Saraqustī, *al-Dalā'il fi gharīb al-ḥadīth*, ed. al-Qannāṣ (Riyadh: Obeikan, 2001), 460, n.4. This Kufan son of Abū l-Hayyāj, who learned the tradition from al-Sha'bī, may be 'Abdallāh b. Abī l-Hayyāj or a brother of his.

59 H. Reckendorf, "'Ammār b. Yāsir," *EP*<sup>2</sup>.

60 Ibn Abī Shayba, *Muṣannaf*, 8:128–9 (no. 24469). See "the third group" in Appendix.

According to Tillier and Vanthieghem, this tradition was “favorable to the prohibitionists” because it proves that al-Shaʿbī fabricated a tradition permitting the consumption of ʾĪlĀʾ. They add that al-Shaʿbī may have sincerely believed that ʿUmar I authorized the consumption of ʾĪlĀʾ. And they conclude that ʿUmar II, in IAH 1, may have had in mind this story of al-Shaʿbī’s “forgery” when he accuses his opponents of writing “apocryphal stories” about his homonymous predecessor.<sup>61</sup>

The analysis of Tillier and Vanthieghem has several problems:

First, Tillier and Vanthieghem claim that ʿUmar II accuses his opponents of fabricating traditions about ʿUmar I and other Companions. However, ʿUmar II makes no such accusation. Rather, he accuses them of transmitting authentic traditions that lack the full context, thereby causing the public to think, mistakenly, that ʾĪlĀʾ is permitted. Tillier and Vanthieghem’s claim largely rests on a difficult phrase used by ʿUmar II, *fa-lā arā an yattakhidha l-fājiru l-bārra dulsat<sup>an</sup>*. Tillier and Vanthieghem translate this phrase, as “C’est pourquoi je ne permettrai pas que le débauché trompe l’homme pieux par des récits apocryphes.”<sup>62</sup> They understand *dulsa* as referring to “apocryphal stories.” Indeed, this term is related to *tadlīs*, which refers to the deceptive transmission of a Hadith by concealing defects in its *isnād*. However, this meaning is inappropriate in the context of IAH 1, where ʿUmar II criticizes the contents of the tradition about ʿUmar I, not its chain of transmission. Both *dulsa* and *tadlīs* come from Greek δόλος (trick, deceit) and *dulsa* has a similar meaning.<sup>63</sup> The expression *ittakhadha [fulān<sup>an</sup>] dulsat<sup>an</sup>* appears only in IAH 1. It probably denotes “to deceive [someone].”<sup>64</sup> Accordingly, I translate ʿUmar II’s phrase as “Wherefore I do not hold it right that a sinner should deceive a pious person.” This deception cannot refer to the spread of “apocryphal” or “forged” tales, but to the spread of “true but misleading” tales.

Second, Tillier and Vanthieghem assert that Ibn Abī l-Hayyāj’s tradition is favorable to the opponents of ʾĪlĀʾ because it supposedly proves that al-Shaʿbī forged ʿUmar I’s missive in support of this beverage. In fact, the opposite is the case. A proponent of ʾĪlĀʾ introduced this tradition in order to defend al-Shaʿbī and the permissive view. A major clue is found in the relationship between

61 Tillier & Vanthieghem, “Amphores rouges,” 21–2.

62 Ibid., 26.

63 M.Y. Izzi Dien, “*Tadlīs* (1),” *EP*²; G.H.A. Juynboll, “*Tadlīs* (2),” *EP*².

64 Cf. the Qurʾānic phrase *ittakhadha-hu sukhriyy<sup>an</sup>* (Q 23:110, 38:63, & 43:42), which means “to mock someone.” Ibn al-Musayyab reportedly used a phrase related to *ittakhadha [fulān<sup>an</sup>] dulsat<sup>an</sup>*, saying: *law lam yanha [ʿUmar] ʿani l-mutʿa la-ttakhadha-hā l-nās dawlasīyy<sup>an</sup>*. See Abū Sulaymān al-Khaṭṭābī, *Gharīb al-hadīth*, ed. al-ʿIzbāwī, 3 vols. (Damascus: al-Fikr, 1982), 3:42–3. Cf. Izzi Dien, “*Tadlīs* (1),” *EP*².

al-Shaʿbī and the notorious Umayyad governor al-Ḥajjāj b. Yūsuf (d. 95/714), who demands that Ibn Abī l-Hayyāj reproduce the lost missive.<sup>65</sup> Al-Shaʿbī does not forge the tradition at the behest of this stern governor. Rather, he helps a fellow Muslim fulfil al-Ḥajjāj's unfair demand. While al-Shaʿbī's actions may arouse the suspicion of some modern readers, they were not meant to do the same for their original audience. The tradition never accuses al-Shaʿbī of forgery. Rather, it portrays him as doing what a good Hadith transmitter does, namely, remembering accurately a tradition his teacher taught him. Al-Shaʿbī's memory was legendary, as evidenced by this tradition and others.<sup>66</sup>

The most reasonable explanation of Ibn Abī l-Hayyāj's tradition is that it is an etiological tale. It is meant to explain how al-Shaʿbī learned about the correspondence between ʿUmar I and his governor ʿAmmār b. Yāsir (d. 37/657), two Companions who died when al-Shaʿbī was less than twenty years old or, more plausibly, before he was even born.<sup>67</sup> Many traditions claim that al-Shaʿbī narrated that ʿUmar I sent a missive to ʿAmmār in which he permitted *ṭilāʿ*.<sup>68</sup> However, some of these traditions show that al-Shaʿbī did not always disclose how he learned about this old missive.<sup>69</sup> The missing link between al-Shaʿbī and ʿAmmār raised questions: who was al-Shaʿbī's source? And why did no-one else remember this missive in Kufa? These questions were answered by the introduction of the abovementioned tradition about Ibn Abī l-Hayyāj and al-Ḥajjāj. The tradition's Kufan common link, ʿAbd al-Malik b. ʿUmayr (d. 136/754),<sup>70</sup> probably introduced it. The subtext of this tradition may be summed up as follows: "Al-Shaʿbī is a reliable transmitter. Abū l-Hayyāj taught him about ʿUmar I's missive only once, and he remembered it perfectly, while

65 Al-Shaʿbī's relation with al-Ḥajjāj and the Umayyads was turbulent, but he ultimately collaborated with them. See Judd, *Religious Scholars*, 41–51. On the portrayal of al-Ḥajjāj in Hadith and attempts to rehabilitate his reputation, see Pamela Klasova, "A Tyrant's Legacy in Medieval Syria: Al-Ḥajjāj b. Yūsuf on Trial in Ibn ʿAsākir's History of Damascus," *Journal of Late Antique, Islamic and Byzantine Studies* 1 (2022): 133–66.

66 Al-Shaʿbī reportedly said: "I never wrote down anything (*mā katabtu sawdāʿ fi baydāʿ qattī*) and whenever someone narrated a *ḥadīth* to me, I never had to ask him to repeat it." See Ibn Saʿd, *Ṭabaqāt*, 8:368. Cf. M.J. Kister, "...Lā taqrʾū l-qurʾāna ʿalā l-muṣḥafiyīn wa-lā taḥmilū l-ʿilma ʿani l-ṣaḥāfiyyīn...: Some Notes on the Transmission of Ḥadīth," *Jerusalem Studies in Arabic and Islam* 22 (1998): 127–162; at 132.

67 On al-Shaʿbī's year of birth, see Juynboll, *Muslim Tradition*, 19–20.

68 See Appendix.

69 See, e.g., Abū Nuʿaym al-Iṣbahānī, *Mawsūʿat al-Ṭibb al-nabawī*, ed. al-Turkī. (Beirut: Ibn Ḥazm, 2006), *Ṭibb*, 703–4 (no. 787); Ibn Ḥazm, *al-Muḥallā bi-l-āthār*, ed. Khālid al-Rabbāt et al., 19 vols. & indices (Beirut: Ibn Ḥazm, 2016), 8:274, l. 4; al-Nasāʿī, *Sunan*, 5:119 (no. 5207). See Appendix.

70 He was said to be a centenarian. See Ibn Saʿd, *Ṭabaqāt*, 8:433–4 (no. 3240); al-Bukhārī, *Tārīkh*, 5:426–7 (no. 1386); Judd, *Religious Scholars*, 170.

Abū l-Hayyāj’s own son forgot about it or never heard it. Al-Sha‘bī’s impeccable memory helped placate the wrathful al-Ḥajjāj.”

Al-Sha‘bī’s tradition never explains why al-Ḥajjāj wanted to see ‘Umar II’s missive. Perhaps he was opposed to *ʾīlā*’ and refused to accept claims that ‘Umar I permitted it without evidence. Such a portrayal of al-Ḥajjāj may be anachronistic, as he is not known to have been opposed to intoxicants. Ibn ‘Umayr, who redacted this tradition, may have projected ‘Umar II’s prohibition of non-*khamr* intoxicants back to the time of al-Ḥajjāj.

In IAH 1, ‘Umar II accuses his opponents of misrepresenting ‘Umar I’s approval of a beverage called “*ʾīlā*’.” As Tillier and Vanthieghem have proposed, ‘Umar II may be responding to al-Sha‘bī’s tradition about ‘Umar I’s missive. In support of their proposal, it may be added that al-Sha‘bī’s tradition appears to be one of the earliest and most popular extant traditions about ‘Umar I’s permitting *ʾīlā*’. If it existed before ur-IAH 1, and if ‘Umar II knew about it, he likely would have responded to it. More likely, al-Sha‘bī’s tradition, which is more polished than ur-IAH 1, may be a response to it. Whereas ur-IAH 1 does not cite any source for its account about ‘Umar I, al-Sha‘bī’s tradition claims that this information was found in an official missive. Perhaps al-Sha‘bī hoped that an “official document” from ‘Umar I would impress people more than the official document from ‘Umar II. Furthermore, since Ibn Abī l-Hayyāj’s tradition is probably fictitious, there is no guarantee that al-Sha‘bī’s tradition circulated during the governorship of al-Ḥajjāj (d. 95/714), several years before ‘Umar II’s reign, or even during al-Sha‘bī’s lifetime.<sup>71</sup> Hence, al-Sha‘bī (or a student of his) may have introduced his tradition after the publication of ur-IAH 1.

## 2.6 “Evaporators” vs. “Thickeners”

Both IAH 1 and al-Sha‘bī’s tradition depict ‘Umar I approving of a cooked beverage called *ʾīlā*’. However, each provides a different recipe for the beverage. According to IAH 1, one should cook the *ʾīlā*’ until it is “thick”; according to al-Sha‘bī’s tradition, one should cook it until two-thirds of its original contents have evaporated. At first glance, the two recipes appear to reflect two sides of the same coin: if you boil away two-thirds of a beverage, it becomes thicker. However, upon closer inspection, the two recipes reflect opposing legal views regarding *ʾīlā*’. These views were held by two camps, which I call

71 Regarding Ibn Abī l-Hayyāj’s tradition, one of the reviewers of this article suggested to me that al-Sha‘bī’s asking for “a piece of parchment and an inkwell” may be anachronistic. According to the reviewer, parchment was expensive in 1st/7th century Kufa. The reader adds: “No one would use parchment to jot down a single tradition, be it a letter by ‘Umar b. al-Khaṭṭāb. The inkwell-and-parchment story reflects the life setting of a *ḥadīth* scholar used to cheap and easily accessible writing materials.”

“thickeners” and “evaporators.” Thickeners want to make sure that the *ṭilāʾ* is “thick,” whereas evaporators want to make sure that a certain amount, usually two-thirds or one-half of the *ṭilāʾ*’s original contents, has evaporated. The distinction between these two camps is clearly seen in the following tradition. After a certain Dāwūd b. Ibrāhīm asked the Successor Ṭāwūs b. Kaysān (Yemen, d. 106/724) about *munaṣṣaf*, *muthallath*, and other similarly cooked juices, Ṭāwūs replied:

You see this [liquid] that is [thick] as honey, if you wish, you may eat it on your bread, or if you wish, you may mix it with water and drink it. However, anything that is less [thick] than that, don’t drink it, don’t sell it, and don’t derive any benefit from its value!<sup>72</sup>

In other words, Ṭāwūs was a thickener who required that *ṭilāʾ* be thick as honey. He considered the *ṭilāʾ* that is cooked until one-half or two-thirds of it evaporate insufficiently thick.

The thickener and evaporator camps both agreed that cooking a prohibited beverage can render its contents permissible. In this, they disagreed with a third camp that held that cooking does not render a prohibited beverage permissible.<sup>73</sup> The thickener and evaporator camps disagreed about the extent to which a beverage must be cooked to guarantee its permissibility. The heart of their disagreement is as follows: While evaporating away half or two-thirds of a beverage makes it thicker, it does not necessarily render it non-intoxicating. As Tillier and Vanthieghem have demonstrated by studying antique recipes, *ṭilāʾ* may still become intoxicating, even after the evaporation of two-thirds.<sup>74</sup> Essentially, evaporators permitted intoxicating *ṭilāʾ* (if intoxication is avoided), whereas thickeners prohibited it.

Initially, evaporators were divided into two factions: (1) those who required the evaporation of one-half of the original contents and (2) those who required the evaporation of two-thirds. Discussing the *Muṣannaḥ* of Abū Bakr Ibn Abī Shayba (d. 235/849), Tillier and Vanthieghem briefly alluded to the distinction between these two factions. They noted that the one-half faction were popular in Iraq, particularly in Kufa; and that the Medinan Saʿīd b.

72 Ibn Abī Shayba, *Muṣannaḥ*, 8:129 (no. 24471). Cf. ‘Abd al-Razzāq, *Muṣannaḥ*, 9:254 (no. 17118); Tillier & Vanthieghem, “Amphores rouges,” 21. This tradition may be traced to Dāwūd and perhaps to Ṭāwūs.

73 The views of this third camp are represented in a few Hadith, e.g., in Ibn Abī Shayba, *Muṣannaḥ*, 8:127 (no. 24462); al-Nasāʾī, *Sunan*, 5:122–3 (nos. 5219 & 5220).

74 See Tillier & Vanthieghem, “Amphores rouges,” 10–11. It should be noted that Muslim jurists may have incorrectly estimated the effect of cooking on a beverage’s capacity to intoxicate.

al-Musayyab (d. 94/713) reportedly belonged to the two-thirds faction.<sup>75</sup> Tillier and Vanthieghem's observation is sound but can be further elaborated.

Ibn Abī Shayba devotes a chapter to each of these factions in his *Muṣannaf*. In each chapter, he collects non-Prophetic traditions in support of each faction. An examination of these traditions and their *isnāds* gives us some idea of where each evaporator faction was dominant. The one-half faction relied primarily on Kufan Companions and Successors.<sup>76</sup> One notable exception was the Basran Anas b. Mālik (d. ca. 91–95/709–713), who reportedly drank *munaṣṣaf*.<sup>77</sup> The two-thirds faction relied on Kufan authorities, but also on Basrans and Levantines.<sup>78</sup> In both factions, Kufans appear to have been involved with the transmission of most of these traditions.<sup>79</sup> They probably falsely attributed their opinions to some authorities from outside their city. However, it is also possible that the Kufans originally tended to advocate for the evaporation of one-half, and that under the influence of Basra and other religious centers, they increasingly advocated for the evaporation of two-thirds. Be that as it may, the evaporators were clearly centered in Kufa and Basra, those in Kufa being more permissive.

The debate between the two evaporator factions probably predates ‘Umar II's edict and continued after his reign. Over time, the more conservative faction, which required the evaporation of two-thirds, prevailed. They may have triumphed by appealing to more impressive authorities, like the caliphs ‘Umar

75 Tillier & Vanthieghem, “Amphores rouges,” 20–21.

76 Ibn Abī Shayba, *Muṣannaf*, 8:134–5 (*man rakhkhaṣa fī shurb al-ʾīlāʾ ʾalā l-niṣf*). In this chapter, Ibn Abī Shayba collects, thirteen non-Prophetic traditions. Based on their *isnāds*, eleven of the thirteen are of Kufan provenance, and two (nos. 24496 & 24500) appear to be of Basran provenance. Two Kufans, al-Aʾmash (d. ca. 147/764) and Muḥammad b. Fuḍayl (d. ca. 195/811) appear to have been particularly interested in transmitting traditions promoting *munaṣṣaf*.

77 See, e.g., *ibid.*, 8:134 (no. 24496); Abū Yūsuf, *Āthār*, 227 (no. 1005). Ibn Ḥanbal reportedly erased reports about Anas drinking *munaṣṣaf* whenever he encountered them in manuscripts. See al-ʾUqaylī, *al-Duʾafāʾ al-kabīr*, 4 vols. (Beirut: al-Kutub al-ʾIlmiyya, 1984), 2:200.

78 Ibn Abī Shayba, *Muṣannaf*, 8:124–9 (*fī l-ʾīlāʾ man qāla idhā dhahaba thuluthā-hu fa-shrab*). In this chapter, Ibn Abī Shayba collects twenty-eight non-Prophetic traditions. Seventeen of these are not explicitly about the evaporation of two-thirds. Of the remaining eleven, five are Kufan (nos. 24449, 24450, 24452, 24453, 24469); four are Basran (nos. 24445, 24446, 24451, 24472); and two are Syrian (nos. 24447, 24448). This is a tentative classification and some of the “Basran” and “Syrian” traditions may be reclassified as Kufan. According to al-Nasāʾī, *al-Sunan al-kubrā*, 5:121 (no. 5213), the Medinan Ibn al-Musayyab approved of *muthallath*.

79 The high rate of Kufan transmitters is of course partly because Ibn Abī Shayba was a Kufan and had greater access to his fellow townsfolk. Nevertheless, he had many non-Kufan teachers.

I and ‘Alī, and the prophet Noah. The one-half faction may have been too permissive and could not contend with the teetotaling thickeners. The two-thirds faction could present themselves as a sober compromise between the strict thickeners and the lenient one-half faction. Abū Ḥanīfa (Kufa, Baghdad, d. 150/767) and his early followers were evaporators from the two-thirds faction.<sup>80</sup> The Mālikīs and the Shāfi‘īs were thickeners.<sup>81</sup>

### 2.6.1 How to Distinguish Thickener and Evaporator Traditions?

Members of both camps circulated traditions on the authority of early Muslims in support of their preferred *ṭilā’* recipe. One may distinguish between a thickener tradition and an evaporator tradition in the following ways.

Evaporator traditions promote the evaporation of two-thirds or one-half of the *ṭilā’*’s original contents. They usually do not refer to the beverage’s consistency and avoid the subject of intoxication.

Thickener traditions promote the consumption of *ṭilā’* if it is “thick.” They do not always explicitly state that the beverage must be thick. Some traditions describe the dark color of the beverage. Others compare its consistency to a highly viscous substance, like honey, molasses, or tar. In some traditions, someone sticks his fingers in the *ṭilā’* to establish its thickness. Other traditions report that *ṭilā’* is used as a condiment, implying that it is neither a beverage nor alcoholic. Some traditions emphasize that the *ṭilā’* must not be intoxicating. Thickener traditions have a few recurring tropes that expose a conservative attitude toward *ṭilā’*. According to one trope, if someone approves of *ṭilā’*, he only does so as a compromise due to lack of options, e.g., because water is scarce or because honey (mixed with water) is said to be insufficiently nourishing. Sometimes traditions require that water be added to the *ṭilā’* in order to dilute it. The addition of water signifies that the *ṭilā’* is so thick it must be diluted in order to drink it. Alternatively, the added water reduces the *ṭilā’*’s alcohol content. Thickener traditions may call for the evaporation of two-thirds (but not one-half) of a beverage’s original contents. The thickener traditions will however qualify the evaporation of two-thirds in other ways to guarantee that the beverage is sufficiently thick and non-intoxicating.

It is not always easy to distinguish between evaporator and thickener traditions, because evaporator traditions and thickener traditions often borrow

80 Muḥammad b. al-Ḥasan al-Shaybānī, *al-Āthār*, ed. Khālid al-‘Awwād (Damascus: al-Nawādir, 2008), 707–10 (*bāb al-bukhtaj wa-l-‘aṣīr*). Cf. Haider, “Contesting Intoxication,” 71–7.

81 Haider, “Contesting Intoxication,” 55–71.



elements from one another. A careful examination of a tradition and its comparison to others may help clarify if it represents evaporators or thickeners.

Many of the evaporator and thickener traditions are transmitted on the authority of ‘Umar I. The traditions revolve around similar themes mentioned in IAH 1 and al-Sha‘bī’s tradition, including: ‘Umar I’s tasting *ʾīlā* for the first time (usually in the Levant), his approval of it, and his instruction to pay the troops or Muslims with this beverage. In what follows, I will survey ‘Umar I traditions from both camps. By examining these traditions, I hope to demonstrate the distinction between evaporator and thickener traditions and how they evolved over time.

### 2.6.2 Evaporator Traditions

Muḥammad b. Sīrīn (d. 110/728) or his brother Anas appears to have disseminated in Basra an early tradition that supported the “two-thirds” faction. According to this tradition, the Devil and the prophet Noah engaged in negotiations over the division of a grapevine. Noah received one-third and the Devil two-thirds. This meant that the Devil’s share, two-thirds, must be evaporated when cooking grape juice. An angel congratulated Noah for successfully negotiating with the Devil.<sup>82</sup> In one version, Ibn Sīrīn notes that Noah’s agreement with the Devil is consistent with ‘Umar I’s missive.<sup>83</sup>

Many Kufans disseminated traditions about ‘Umar I’s permitting the consumption of *ʾīlā* after two-thirds of it have evaporated. Maṣṣūr b. al-Mu‘tamir (Kufa, d. 132/750)<sup>84</sup> promulgated a tradition in which ‘Umar I instructs his governors, or one of them, or ‘Ammār b. Yāsir, to pay the troops with *ʾīlā* cooked in this way.<sup>85</sup> This may be the earliest tradition about ‘Umar I giving people

82 See, e.g., Ibn ‘Asākir, *Tārīkh*, 62:259–61. Cf. Kathryn Kueny, *The Rhetoric of Sobriety* (New York: SUNY, 2001), 59–62. Originally, Noah’s one-third of the grapevine and the Devil’s two-thirds may have signified that mankind may consume the grapevine’s fruit in *three* modes: (1) as grapes, (2) as raisins, and (3) as grape juice, the latter of which must be consumed within *three* days of its preparation. See Ibn Abī Hātim al-Rāzī, *Tafsīr al-Qur’ān al-‘Aẓīm*, ed. As‘ad Muḥammad al-Ṭayyib (Riyadh: Nizār Muṣṭafā I-Bāz, 1997), 2030 (no. 10868). Here, emend *akhafta*, *bi-ḥisāb*, and *dhabīb<sup>an</sup>* to *aḥsanta*, *mīḥsān*, and *zabīb<sup>an</sup>*.

83 ‘Abd al-Razzāq, *Muṣannaf*, 9:254–5 (no. 17119). The story of Noah and the Devil (or a demon) sharing a vineyard is Rabbinic. See Bereshit Rabba, *Noah*, par. 36.3, *ad* Genesis 9:20, = *Bereshit Rabba*, ed. Ch. Albeck (Jerusalem: Wahrman, 1965), 338; Midrash Tanḥuma, *Noah*, par. 13, *ad* Genesis 9:20. The Midrashim are available with translation on the Sefaria website: <https://www.sefaria.org/texts>.

84 Juynboll, *ECH*, s.v. “Maṣṣūr b. al-Mu‘tamir.”

85 ‘Abd al-Razzāq, *Muṣannaf*, 9:255 (no. 17121); al-Nasā‘ī, *Sunan*, 5:118–9 (no. 5205); Aḥmad b. Yaḥyā al-Balādhurī, *Jumal min ansāb al-ashrāf*, ed. Suhayl Zakkār et al., 13 vols. (Beirut: al-Fikr, 1996), 10:317. Cf. *ibid.*, 10:398. Although this last tradition transmitted by al-Madā‘inī

*ṭilā'* as a payment (*rizq*). Maṣṣūr appears to have based his tradition on similar traditions about 'Alī b. Abī Ṭālib.<sup>86</sup> The elevation of a tradition from the fourth caliph to the second arguably served to increase its authority and to appeal to Muslims who venerated 'Umar I more than 'Alī.

Abū Ḥanīfa (Kufa, d. 150/767) transmitted a version of 'Umar I's missive to 'Ammār.<sup>87</sup> 'Abd al-Raḥīm b. Sulaymān (Kufa, d. 184/800) transmitted two traditions about 'Umar I permitting the consumption of this *ṭilā'*, and in one he added that 'Umar I was the first person to permit this beverage.<sup>88</sup>

### 2.6.3 Thickeners Traditions

Ur-IAH 1 may be the earliest thickener tradition about 'Umar I. After ur-IAH 1, one of the first thickeners was the Hijazi-born Syrian transmitter and jurist Ibn Shihāb al-Zuhrī (d. 124/742), who had close ties to the Umayyads.<sup>89</sup> He circulated two traditions about 'Umar I and *ṭilā'*. According to one, when 'Umar I was in al-Jābiya, he was served *ṭilā'* that was as thick as molasses (*'aqīd al-rubb*) and had to be stirred with a special instrument called a *mikhwaḍ*. He declared: "This is the limit of this beverage,"<sup>90</sup> i.e., "*ṭilā'* may not be thinner than this." According to the other tradition, 'Umar I discovered that his son 'Ubaydallāh reeked of a certain drink. Upon questioning, the son claimed that it was *ṭilā'*. The father said that he would examine this drink, and if it were intoxicating, he would punish his son with the *ḥadd* punishment for drinking *khamr*. 'Umar

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(Baghdad, d. ca. 228/843) appears to corroborate Maṣṣūr b. al-Mu'tamir's tradition, its extremely short *isnād* is a clear sign that it is a later forgery.

86 See, e.g., Ḥumayd b. Makhlad, Ibn Zanjawayh, *al-Amwāl*, ed. Shākir Dhīb Fayyāḍ, 4 vols. (Riyadh: King Faisal Center, 1984), 2:560 (nos. 923 & 924). The numerous traditions about 'Alī distributing *ṭilā'* merit a separate study. In "Amphores Rouges" (19–20, 22–4), Tillier and Vanthieghem suggest that the distribution of *ṭilā'* to troops may have been a continuation of the Byzantine distribution of wine to soldiers as part of the *annona militaris*. It should be added that while Umayyad armies surely paid their troops with *ṭilā'*, the likely pseudepigraphical traditions mentioned here do not allow us to confirm that 'Umar I and 'Alī paid their troops in this way. Presently, the most we may say is that around the beginning of the 2nd/8th century some Kufans had no reservations about claiming that 'Umar I and 'Alī paid their troops with intoxicants.

87 Abū Yūsuf, *Āthār*, 227 (no. 1004). See Appendix.

88 Ibn Abī Shayba, *Muṣannaḥ*, 8:124 (no. 24446) & 12:318 (no. 36901). On 'Abd al-Raḥīm, see Ibn Sa'd, *Ṭabaqāt*, 8:515 (no. 3548).

89 Michael Lecker, "Biographical Notes on Ibn Shihāb al-Zuhrī," *Journal of Semitic Studies* 41 (1996): 21–63.

90 'Abd al-Razzāq, *Muṣannaḥ*, 9:254 (no. 17116); al-Nasā'ī, *Sunan*, 6:296 (no. 6830); Abū Ja'far al-Ṭahāwī, *Sharḥ mushkil al-āthār*, ed. Shu'ayb al-Arna'ūṭ. 16 vols. (Beirut: Mu'assasat al-Risāla, 1994), 8:393.

I was later seen punishing his son with lashes.<sup>91</sup> Unsurprisingly, al-Zuhrī held that people should be punished with lashes if their breath merely smelled of intoxicants.<sup>92</sup>

The Kufan Isrāʿīl b. Yūnus (Kufa, d. ca. 162/779) circulated at least two thickener traditions. According to one, the Successor Shaqīq b. Salama (Kufa, d. 82/701)<sup>93</sup> offered the following testimony to a student: “‘Umar [I] gave us *ʿīlā*’ as payment. We used to stir it into our oatmeal (*sawīq*) to eat with our condiments and our bread. It is not your wretched *bādhaq* (cooked grape juice).”<sup>94</sup> Shaqīq clarifies that ‘Umar I’s *ʿīlā*’ was not consumed as an intoxicating beverage, but rather as a condiment or side dish. According to Isrāʿīl’s other tradition, ‘Abdallāh b. ‘Umar distinguished between two beverages called *ʿīlā*’: One *ʿīlā*’ resembles molasses (*rubb*) and is therefore permitted. It is what his father, ‘Umar I, drank and gave his troops. The other *ʿīlā*’, which is prepared by cooking, resembles *khamr* and is therefore prohibited.<sup>95</sup> The distinction between these two beverages, both called *ʿīlā*’, echoes the distinction in IAH 1. Notably, Isrāʿīl, like al-Zuhrī before him, compares *ʿīlā*’ to molasses.<sup>96</sup> It stands to reason that Isrāʿīl endorsed the contents of the two traditions he transmitted, though this is uncertain.<sup>97</sup> He may have belonged to a thickener minority in Kufa.

91 ‘Abd al-Razzāq, *Muṣannaf*, 9:228 (no. 17028); al-Balādhurī, *Ansāb*, 10:379–80; Abū Jaʿfar al-Ṭaḥāwī, *Sharḥ maʿānī l-āthār*, ed. Muḥammad Zuhrī al-Najjār et al. 5 vols. (Beirut: ʿĀlam al-Kutub, 1994), 4:222 (nos. 6480 & 6481). Some transmitters do not identify the drinker as ‘Umar I’s son, probably due to embarrassment. See, e.g., Mālik’s tradition, *ibid.*, 4:222 (no. 6481) [al-Ṭaḥāwī’s editor misnumbered the traditions]. Al-Ṭaḥāwī understands that ‘Umar I punished the drinker for drinking too much intoxicating *ʿīlā*’, not for merely drinking it. *Ibid.*, 4:222 (no. 6482). His interpretation is inconsistent with al-Zuhrī’s original intent. Sulaymān b. Bilāl (Medina, d. 172/788) transmitted a tradition that resembled that of al-Zuhrī but equipped it with a different *isnād*. See Ibn Ḥanbal, *Ashriba*, 83–4 (no. 85); al-Ṭaḥāwī, *Sharḥ maʿānī l-āthār*, 3:158 (no. 4917).

92 *Kāna Bnū Shihāb*<sup>in</sup> *yaḍribu fī-l-rīḥi wa-kāna ashadda-hum qawl<sup>an</sup> fī-hi*. See al-Marrūdhī, *al-Waraʿ an [...] Aḥmad b. Muḥammad b. Ḥanbal* (Cairo: Muḥyi l-Dīn Ṣabrī al-Kurdī, 1921), 95–6.

93 Juynboll, *ECH*, s.v. “Abū Wāʿil Shaqīq b. Salama.”

94 Ibn Zanjawayh, *Amwāl*, 2:560–1 (no. 925); ‘Abd al-Razzāq, *Muṣannaf*, 9:254 (no. 17117).

95 *Ibid.*, 4:541 (no. 8792). *Khamr* here means “a prohibited intoxicant,” as in the maxim *kull muskir khamr*. According to Tillier & Vanthieghem, “Amphores rouges,” 18 & 20, ‘Abd al-Razzāq’s tradition is about *ʿīlā*’ that is like *rubb* (“*premier jus d’un fruit, que l’on fait épaissir*” or “moût à peine fermenté”) and *ʿīlā*’ which is made of cooked wine (*khamr*) [and not cooked grape juice]. I find their interpretation unlikely. Here, *khamr* refers to *ʿīlā*’ after it is cooked, not to its main ingredient, which was probably grape juice. In sum, ‘Abd al-Razzāq’s tradition cannot serve as evidence that *ʿīlā*’ was made from wine.

96 Ibn Burqān transmitted a tradition that prohibited even thick molasses (*rubb*) as potentially intoxicating. See al-Qushayrī, *Tārīkh al-Raqqā*, 101 (no. 175).

97 Isrāʿīl reportedly transmitted an evaporator tradition on the authority of Ibrāhīm al-Nakhaʿī. See Ibn Abī Shayba, *Muṣannaf*, 8:125 (no. 24453).

‘Abd al-Ḥamīd b. Ja‘far (Medina, d. 153/770) and Ibn Lahī‘a (Egypt, 97–174/715–790) transmit a thickener tradition about ‘Umar I on the authority of Yazīd b. Abī Ḥabīb (Egypt, d. 128/745).<sup>98</sup> ‘Umar II appointed Ibn Abī Ḥabīb alongside two others as *muftīs* in Egypt. Ibn Abī Ḥabīb was considered the first person in Egypt to teach religious knowledge (*aḡhara l-‘ilm*) and the first teacher of law there. Prior to his arrival, it is said, the Egyptians only transmitted traditions about eschatology and the afterlife. Tillier and Vanthieghem have suggested that he played an important role in promoting ‘Umar II’s legal program, including the prohibition of non-*khamr* intoxicants.<sup>99</sup> If Ibn Abī Ḥabīb taught this thickener tradition, it was likely in accordance with ‘Umar II’s edict.

#### 2.6.4 Thickeners Strike Back at Evaporators

Thickeners considered evaporator traditions inadequate. Even though the evaporation of two-thirds made *ṭilā* thicker, it did not guarantee that it would be non-intoxicating. Therefore, some thickeners tried to deny the veracity of evaporator traditions. For example, according to a Ḥimṣī tradition, ‘Umar I entreated with the Almighty: “God, people have [falsely] attributed to me three things, of which I am most innocent before You. [(1) ..., (2)] They claimed that I permitted them to drink *ṭilā*’, even though it is *khamr*. I am most innocent before You of that. [(3) ...].”<sup>100</sup>

At some point, thickeners realized that evaporator traditions could not be ignored or denied. This realization led them to synthesize thickener and evaporator traditions. One of the first transmitters of a synthesizing tradition was al-Zuhri’s student, Mālik b. Anas (d. 179/795). In his *Muwattaʿa*, he includes a tradition in which ‘Umar I, during a visit to the Levant, approved of the consumption of *ṭilā* that has been cooked until two-thirds of its original contents

98 Ibn Zanjawayh, *Amwāl*, 2:545–6 (no. 895); Al-Fasawī, *al-Maʿrifa wa-l-tārikh*, ed. Akram Ḍiyāʾ al-‘Umarī, 4 vols. (Medina: al-Dār, 1410 A.H.), 1:464–5.

99 Mathieu Tillier, “Local Tradition and Imperial Legal Policy under the Umayyads: The Evolution of the Early Egyptian School of Law,” in *Egypt and the Eastern Mediterranean World*, ed. Jelle Bruning, et al. (Cambridge: Cambridge University Press, 2022), 131–68; at 148–9. Tillier & Vanthieghem, “Amphores rouges,” 33–4.

100 *Isnād*: Ibrāhīm b. Abī Dāwūd (Egypt) ← ‘Alī b. ‘Ayyāsh (Ḥimṣ) ← Shuʿayb b. Abī Ḥamza (Ḥimṣ, d. 162/779) ← Zayd b. Aslam (d. 136/753) ← Aslam a *mawlā* of ‘Umar I. Al-Ṭaḡhāwī, *Sharḥ maʿānī l-āthār*, 4:311 (no. 7078). The other two actions misattributed to ‘Umar I are: (1) his fleeing from the plague and (2) his permitting *maks* (customs duty). On traditions about ‘Umar I’s flight from the plague, see Lawrence Conrad, “‘Umar at Sargh: The Evolution of an Umayyad Tradition on Flight from the Plague,” in *Story-Telling in the Framework of Non-fictional Arabic Literature*, ed. Stefan Leder (Wiesbaden: Harrassowitz, 1998), 488–528. For a tradition about ‘Umar I’s collection of *maks*, see ‘Abd al-Razzāq, *Muṣannaf*, 6:95 (no. 10112).

have evaporated. However, the tradition adds at least three other restrictions: (1) unless one must drink *ṭilā’* for health reasons, drinking honey is preferable; (2) the *ṭilā’* must not be intoxicating; (3) and after the *ṭilā’* has been cooked, it should be so viscous that one could pick it up with one’s hand. At the end of the tradition, someone says to ‘Umar I that he “permitted” *ṭilā’*, to which the caliph responds: “Certainly not, by God! God, I will not permit them anything of what You have prohibited them, and I will not prohibit them anything that You have permitted them.”<sup>101</sup>

If one follows the recipe for *ṭilā’* in Mālik’s tradition, it is nearly impossible to concoct an intoxicating beverage. This strict recipe partly explains why later Mālikīs do not discuss in any detail the nuances of preparing *ṭilā’*, focusing instead on establishing culpability and determining punishments for drinkers.<sup>102</sup> Mālik’s student Ibn al-Qāsim (Egypt, d. 191/806) elegantly summed up his teacher’s position. According to Saḥnūn (Qayrawān, d. 240/855), Ibn al-Qāsim said:

I asked Mālik about cooked grape juice (*maṭbūkh*). He said: “what I heard [is that it is permitted] if two-thirds of it evaporate and one-third remains.” [...] I then asked Mālik: “And how do you define it?” [Mālik] answered: “My definition [is that it is permitted] if it is cooked until it does not intoxicate. Al-Qāsim added: I never saw Mālik show any concern about ‘a third’ or ‘two-thirds.’”<sup>103</sup>

As a true thickener, Mālik did not care about how much of a beverage’s original contents evaporated. His only concern was that the beverage was not an intoxicant.

One thickener tradition was apparently created by someone who considered Mālik’s tradition insufficiently strict. According to this tradition, which includes elements from the abovementioned Ḥimṣī tradition, ‘Umar

101 Mālik b. Anas, *al-Muwatta’*, *riwāyat Abi Muṣ’ab al-Zuhrī*, ed. Bashshār ‘Awwād Ma’rūf et al., 2 vols. (Beirut: al-Risāla, 1993), 2:51 (no. 1841). Mālik is the likely originator of this tradition.

102 See Haider, “Contesting Intoxication,” 71. The Egyptian Mālikī Ibn ‘Abd al-Ḥakam I, in his *al-Mukhtaṣar al-ṣaḥīr*, ed. ‘Alī b. Aḥmad al-Kindī al-Marar (Abu Dhabi: Baynūna, 2012), 201–2, permits cooking “fruit juice” (*‘aṣīr* [read: *‘aqīd*]). He stipulates that after the beverage has been cooked, it must be non-intoxicating, and that at least two-thirds of its contents must have evaporated. N.B. he does not call this beverage *ṭilā’*. Cf. Tillier & Vanthieghem, “Amphores rouges,” 56.

103 Saḥnūn, *al-Mudawwana al-kubrā*, ed. ‘Āmir al-Jazzār et al., 6 vols. (Cairo: al-Ḥadīth, 2005), 6:273–74. Cf. Haider, “Contesting Intoxication,” 55–7.

I permitted *ṭilā'* under conditions similar to those mentioned in Mālik's tradition and he gave Muslim soldiers this beverage as payment. Additionally, 'Umar I poured water on the *ṭilā'* before drinking it. The tradition takes an unexpected turn when a Muslim becomes inebriated and is pelted with shoes by his coreligionists. The accused Muslim begs for his life, explaining that he merely drank what 'Umar I gave him as payment. When he is brought before 'Umar I, the latter stands up and says:

People, I am merely a mortal. I cannot permit you what is prohibited, and I cannot prohibit what is permitted. God has taken away his Prophet (ﷺ) and removed revelation. ([Umar I] then added): Truly, I am most innocent before God of this, of permitting you a prohibited thing. Abstain from it [viz., *ṭilā'*]! I fear that people will become confused about it. I heard the Messenger of God say (ﷺ): "Every intoxicant is prohibited."

The tradition concludes by noting that when 'Uthmān (r. 23–35/644–55) became caliph he banned the consumption of *ṭilā'*.<sup>104</sup> It seems that permitting some forms of *ṭilā'* confused the public and led people to drink intoxicants. This tradition calls for a total ban of *ṭilā'* to avoid this confusion.

In sum, thickeners and evaporators transmitted traditions about Umar I and *ṭilā'*. The thickener traditions apparently arose as a Syrian-Medinan response to the Kufan evaporator traditions. However, the thickener traditions failed to oust the evaporator traditions from the public conversation. For this reason, thickeners introduced synthesizing traditions in which they adopted a key element of evaporator traditions, the required evaporation of two-thirds of *ṭilā'*'s original contents. Simultaneously, they added other elements that were consistent with the strict thickener view. By adding these elements, thickeners ensured that if the remaining one-third is intoxicating, it must be further evaporated until it is non-intoxicating.

### 2.7 *The Thickener IAH 1 vs. al-Sha'bī's Evaporator Tradition*

Having distinguished between thickeners and evaporators, we may now discuss IAH 1 and al-Sha'bī's tradition about 'Umar I's missive as representatives of these two camps. Al-Sha'bī's tradition is extant in numerous versions. Its exact original wording is difficult to reconstruct. However, the wording of one

104 Ibn 'Asākir, *Tārīkh*, 21:361. 'Abdallāh b. Yazīd Abū 'Abd al-Raḥmān al-Muqrī' (Basra, Mecca, d. 213/828) may have originated this tradition, which is based on a tradition of 'Abd al-Raḥmān b. Ziyād b. An'am (Tunisia, d. 156/773). It is influenced by Mālik's tradition and the Ḥimṣī tradition. Cf. Ibrāhīm b. Ishāq al-Ḥarbī, *Gharīb al-ḥadīth* (Jedda: Dār al-Madanī, 1985), 673.

version appears to be more archaic than those of most other versions. This version will stand here for al-Sha‘bī’s original tradition, and some notable variants found in other versions will be mentioned as needed. Let us compare ‘Umar I’s description of *ṭilā’* in IAH 1 and in the archaic version of al-Sha‘bī’s tradition:

## IAH 1

## Al-Sha‘bī’s Tradition (archaic version)

[‘Umar II writes:] Verily, a beverage of this sort was given to ‘Umar [I] (*wa-inna ‘Umar inna-mā utiya min-hu bi-sharāb*). It had been cooked until (*ṭubikha ḥattā*) it became thick. When it was given to him, he asked: “Is this *ṭilā’*?” referring to the tar that is smeared on camels (*ṭilā’ al-ibil*). After tasting it, he said: “There is no harm in this.”

[‘Umar I writes:] Verily, a drink from the Levant was given to me (*innī utītu bi-sharāb*). It had been cooked until (*qad ṭubikha ḥattā*) two-thirds of it disappear and one third remains. Once this is done, its devil and its tantalizing smell disappears. Its wholesome part (*ṭayyibu-hu*) and its permitted part remain. Issue an order to the Muslims under your watch and let them consume it liberally along with their beverages [of choice]<sup>1a</sup>

a Ibn Ḥazm, *Muḥallā*, 8:274, l. 4. See Appendix.

Both descriptions share common syntax and vocabulary (e.g., *utiya/utītu bi-sharāb*). They are clearly related. One may be responding to the other. In addition to the different cooking instructions, there are some interesting differences between them that will be discussed in what follows.

IAH 1 includes an element that is absent in al-Sha‘bī’s tradition. In IAH 1, ‘Umar I compares the beverage served to him to “the tar that is smeared on camels” (*ṭilā’ al-ibil*). The comparison of *ṭilā’* and tar is likely a folk etymology invoked to prove that permitted *ṭilā’* is a thick beverage. The absence of this comparison in al-Sha‘bī’s tradition may indicate that it is an evaporator tradition, because an evaporator would usually avoid implying that a beverage’s consistency is thick. Be that as it may, there are versions of al-Sha‘bī’s tradition that include this comparison.<sup>105</sup> If the comparison of *ṭilā’* and tar is an original part of al-Sha‘bī’s tradition, then he must have borrowed it from a thickener tradition, perhaps from IAH 1.

105 Abū Nu‘aym, *Tibb*, 703–4 (no. 787); ‘Abd al-Razzāq, *Muṣannaḥ*, 9:255 (no. 17120); al-Nasā‘ī, *Sunan*, 5:119 (no. 5207). See Appendix.

In al-Shaʿbī's tradition, ʿUmar I describes the process of evaporation and its results: Two-thirds evaporate and one-third remains. Concomitantly, the "devil" of the beverage, i.e., its capacity to intoxicate, and "its tantalizing smell" disappear, and what is "wholesome" and "permitted" remains. Other versions of al-Shaʿbī's tradition convey a similar idea. When two-thirds evaporate they take with them bad elements of the beverage. As for the good elements, they stay in the remaining third. In other words, evaporating two thirds of a beverage's volume makes it permissible. This is a justification for the standard evaporator position.

A thickener encountering al-Shaʿbī's tradition may object that a beverage reduced to one-third of its original volume may still be intoxicating (even if it has lost some of its smell and potency). Thickener transmitters of al-Shaʿbī's tradition recognized this problem and reinterpreted his tradition. In a Basran version of the tradition, ʿUmar I tells his governor that *ṭilāʿ* must be cooked until its "two bad thirds" (*thuluthā-hu l-akhbathān*) evaporate. He explains that one bad third takes the beverage's "[bad] smell" (*riḥi-hi*) and the other bad third takes "its evil" (*baghyi-hi*),<sup>106</sup> i.e., its capacity to intoxicate. That is, the evaporation of two "thirds" does not refer to the evaporation of two-thirds of a beverage's volume, but rather to the removal of two of its bad aspects, its aroma and its capacity to intoxicate.<sup>107</sup> In another version, after the evaporation of "two thirds" (*thuluthān*), only a ninth (*thuluth al-thuluth*) remains.<sup>108</sup> Thus, thickener transmitters who received al-Shaʿbī's evaporator tradition modified its wording to support their legal position.

In IAH 1, ʿUmar I notes that "there is no harm" in consuming the thick "*ṭilāʿ*." In al-Shaʿbī's tradition, ʿUmar I orders his governor to notify the Muslims that they may consume evaporated *ṭilāʿ* liberally along with "their drinks [of choice]" (*ashribati-him*).<sup>109</sup> In other words, while IAH 1 merely notes that "*ṭilāʿ*" is not prohibited, al-Shaʿbī's tradition encourages Muslims to consume *ṭilāʿ*. The tradition's exhortation recalls ʿUmar II's assertion in IAH 1 that God has provided Muslims with numerous alternatives to *ṭilāʿ* in the form of "diverse

106 Al-Nasāʿī, *Sunan*, 5:119 (no. 5207). Another Basran tradition may have a similar meaning, though its text is confused. See ʿAbd al-Razzāq, *Muṣannaḡ*, 9:255 (no. 17120). See Group 2 in Appendix.

107 Cf. the comment of Nūr al-Dīn al-Sindī (d. 1138/1726) in al-Nasāʿī, *Sunan*, 5:119, n. 3.

108 See Abū Nuʿaym, *Tibb*, 701 (no. 783). The calculation here is confusing. Presumably, after two-thirds have evaporated, two-thirds of the remaining one-third should be evaporated. See Group 4 in Appendix.

109 Abū Nuʿaym, *Tibb*, 703–4 (no. 787); Ibn Ḥazm, *Muḥallā*, 8:274, l. 4. The original phrase was likely *fa-l-yatawassaʿū bi-hi fi ashribati-him*, but this phrase was simplified in other versions, see, e.g., ʿAbd al-Razzāq, *Muṣannaḡ*, 9:255 (no. 17120); al-Nasāʿī, *Sunan*, 5:119 (no. 5207).



wholesome beverages” (*ashriba kathīra ṭayyiba*). Curiously, al-Shaʿbī’s tradition, at least in its archaic version, notes that what remains of the ʾĪlĀʾ after the cooking process is wholesome (*ṭayyib*).

To sum up, al-Shaʿbī’s original tradition seems to contain literary allusions to IAH 1. These allusions suggest that al-Shaʿbī, or a student of his, introduced his tradition in response to ur-IAH 1. If so, then ‘Umar II’s criticism in ur-IAH 1 is directed at a tradition about ‘Umar I drinking ʾĪlĀʾ that is no longer extant. In any case, it is certain that al-Shaʿbī’s tradition was put into circulation shortly before or after ‘Umar II’s promulgation of ur-IAH 1 and that one is reacting to the other. Ur-IAH 1 represents the thickener position of the opponents of intoxicating ʾĪlĀʾ in Syria, Medina, and later Basra, whereas al-Shaʿbī’s tradition represents the evaporator position of its proponents in Kufa.

### 2.8 *The Legacy of Ur-IAH 1*

Evaporators and thickeners argued over ur-IAH 1’s prohibition of ʾĪlĀʾ. Each camp introduced traditions supporting their method for preparing this beverage. According to a thickener tradition with a Ramlan *isnād*, when the Basran jurist Ibn Sīrīn (d. 110/728) was asked about ʾĪlĀʾ, he replied: “A righteous *imām* – referring to ‘Umar II – prohibited it.”<sup>110</sup> As noted above, Ibn Sīrīn circulated an important evaporator tradition about Noah and the Devil. Showing that such a prominent Iraqi authority adhered to ‘Umar II’s prohibition was potentially advantageous for the thickeners. According to another Syrian tradition, ‘Umar II prohibited “the ʾĪlĀʾ of which two-thirds of its original contents have evaporated.” This statement astonished his companions in Syria, who challenged him: “‘Umar [I] has permitted it, yet you prohibit it?!” ‘Umar II justified himself saying: “I prohibited cooking it entirely so that prohibited [ʾĪlĀʾ] would be abandoned.”<sup>111</sup> Here, ‘Umar II prohibits the ʾĪlĀʾ of the evaporators as a precaution to prevent the consumption of intoxicants. Presumably, he did not trust people to follow the ʾĪlĀʾ recipe of the evaporators, or he considered their recipe unreliable. Similarly, in al-Jazarī’s abovementioned tradition, ‘Umar II prohibits ʾĪlĀʾ unless two-thirds of its contents have evaporated. He then adds that “every intoxicant is prohibited.”<sup>112</sup> In other words, if the remaining one-third of the ʾĪlĀʾ is intoxicating, then it is prohibited.

Evaporators responded to thickener traditions about ‘Umar II. According to a tradition of Muḥammad b. Fuḍayl (Kufa, d. ca. 195/811), ‘Umar II considered *munaṣṣaf* reprehensible, and he sent an edict prohibiting it to the garrison

110 See, e.g., Abū Nuʿaym, *Hilya*, 5:257; Ibn ʿAsākir, *Tārīkh*, 45:189–90.

111 Ibn ʿAsākir, *Tārīkh*, 31:234. Cf. Tillier & Vanthieghem, “Amphores rouges,” 53.

112 Al-Nasāʾī (d. 303/915), *Sunan*, 5:79 (no. 5090).

towns.<sup>113</sup> In other words, *munaṣṣaf* is permitted and ‘Umar II’s prohibition was precautionary. Ibn Fuḍayl’s tradition suggests that ‘Umar II did not consider *muthallath* reprehensible. The Egyptian transmitter ‘Abdallāh b. Wahb (d. 197/812) relates that ‘Umar II asked Sālim, the grandson of ‘Umar I, if it is permissible to consume *ṭilā*. Sālim told him that his father, Ibn ‘Umar, drank this beverage.<sup>114</sup> The detail that Sālim and Ibn ‘Umar consumed *ṭilā* in Ibn Wahb’s report appears to contradict IAH 1’s prohibition of *ṭilā*, although it is possible that the *ṭilā* consumed by them was non-intoxicating. Nevertheless, it is more likely that his report responds to ur-IAH 1 by portraying ‘Umar II as unfamiliar with the practice of notable descendants of ‘Umar I.

Following the promulgation of ur-IAH 1, ‘Umar II’s prohibition of *ṭilā* had a tumultuous afterlife. On the one hand, thickeners transmitted traditions establishing the prohibition’s legitimacy and adapted its details to make new legal points against their opponents. On the other, evaporators introduced traditions disparaging the legitimacy of the prohibition and adapted its details to promote their own position. The reliance of both sides on the authority of ‘Umar II is a testament to the nearly universal admiration that this caliph enjoyed after his death.

## 2.9 Conclusion

In Part 1, I examined IAH 1, the passage prohibiting intoxicating *ṭilā* (cooked grape-juice) in the fiscal rescript of the Umayyad caliph ‘Umar II. I argued that the core of IAH 1 goes back to an edict issued by this caliph. The Prophetic maxim “prohibited is every intoxicant to every believer” is probably a later addition to ur-IAH 1. If this maxim was part of ur-IAH 1, it likely appeared without attribution to the Prophet, possibly in its short version: “every intoxicant is prohibited”.

The main arguments in favor of an early dating of ur-IAH 1 include the following: (1) IAH 1 is part of ‘Umar II’s “fiscal rescript,” an archaic document that scholars generally consider as originating with that caliph. (2) In ur-IAH 1, ‘Umar II expresses the fear that if some Muslims drink intoxicants, divine catastrophe will strike the entire community; and this fear echoes sentiments that both Muslim and Christian writers attribute to ‘Umar II. (3) Transmitters with ties to ‘Umar II and the Umayyads transmit traditions that echo the doctrine of IAH 1; thus ur-IAH 1 was probably an Umayyad document as well. (4) IAH 1 does not cite any *ḥadīth* from the Prophet, except perhaps for the “every

113 Ibn Abī Shayba, *Muṣannaḥ*, 8:129 (no. 24470).

114 ‘Abdallāh b. Wahb, *al-Jāmi‘ li-Bni Wahb fi l-aḥkām*, ed. ‘Abd al-Muṭṭalib et al. (al-Mansoura: Wafā’, 2005), 44 (no. 45).

intoxicant” maxim; and the near-absence of Prophetic traditions indicates that ur-IAH 1 was created at an early date, prior to the popularization of relevant Prophetic traditions about *ṭilā’*. The early dating is more strongly confirmed if indeed ur-IAH 1 did not attribute the maxim to the Prophet or omitted it entirely. (5) Ur-IAH 1 is part of a long legal discussion about *ṭilā’* between evaporators and thickeners that began in the 1st/7th century. Ur-IAH 1 may even be one of the earliest known thickener traditions. Many other traditions explicitly or implicitly react to ur-IAH 1. Considering all these arguments, ‘Umar II is the likely author of ur-IAH 1.

IAH 1 and many other passages in the fiscal rescript appear to be authentic. However, caution is in order. The other passages may contain later interpolations, and some of the passages may be fabricated. Also, there is no guarantee that the rescript was not compiled from smaller textual units. A thorough study of each passage and its original literary and legal context is required to establish the provenance of the rescript and its various components.

The discussion of *ṭilā’* (and other intoxicating beverages not explicitly prohibited in the Qur’ān) probably began during the early Islamic conquests, following the creation of garrison towns that developed regional legal practices. The legal scholars in Basra and especially in Kufa were known for their tolerance of this drink. Nevertheless, some Iraqi scholars sought to regulate the preparation of this drink by requiring that a certain percentage of its contents, one-half or two-thirds, must be evaporated. The Iraqis may have been responding to Medinese and Syrian scholars who opposed this drink.

Prior to ‘Umar II’s caliphate, proponents of intoxicating *ṭilā’* circulated traditions in support of their position, claiming that early authorities, chief among them the caliph ‘Umar I, drank this beverage. The consumption of *ṭilā’* was sufficiently widespread in Muslim society that ‘Umar II prohibited it. His prohibition appears to be the first significant attempt to impose on the people of Iraq the opinion of the scholars of Medina and Syria regarding intoxicants. ‘Umar II considered the evaporation of two-thirds of the original contents inadequate because it did not preclude the possibility of intoxication. Hence, he ordered that *ṭilā’* should be cooked until it is “thick.” He added that the *ṭilā’* consumed by ‘Umar I was this thick beverage.

The impact of ‘Umar II’s prohibition appears to have been limited. For at least a century, scholars continued to discuss what he and ‘Umar I meant. To this end, Medinese and Syrians transmitted traditions against *ṭilā’* on the authority of ‘Umar I, ‘Umar II, and others, while their Kufan counterparts transmitted traditions in its favor on the same authority.

The preceding analysis of the Arabic, Greek, and Syriac sources sheds light on an important aspect of ‘Umar II’s caliphate. One of his major edificatory

reforms, the prohibition of all intoxicants, was motivated in part by his fear that if some Muslims drank *ṭilāʿ*, a cataclysmic event would befall the entire Muslim community. If the apocalypse were to come, he wanted to make sure that his community was as ready as it could be. In his view, failure to observe scriptural law would have consequences not only for the individual believer but also for the entire Islamic community.

### 3 ‘Umar II and the Prohibition of *Nabīdh*

In addition to IAH 1, there are eight other texts recorded by eight different authors that allegedly preserve an edict of ‘Umar II concerning intoxicants. Whereas IAH 1 focuses primarily on *ṭilāʿ*, these texts focus on the beverage *nabīdh*. One makes *nabīdh* by placing dates (alternatively, honey, raisins, wheat, barley, or *ṭilāʿ* itself) in a receptacle, adding water, and allowing the contents to ferment. Due to the potential of *nabīdh* to become intoxicating, legal scholars expressed concerns regarding its preparation. One concern relates to the receptacle used for the preparation of this beverage. According to many Hadith traditions, *nabīdh* is prohibited if it is prepared or stored in jars, hollowed out gourds, or receptacles lined with tar; and it is permitted if it is prepared or stored in waterskins. Another concern relates to the preparation of *nabīdh* from a combination of two different species, e.g., dates and raisins, or dates in different stages of ripeness.<sup>115</sup>

The juristic discussion of *nabīdh* appears to have been centered in Iraq. According to Basran and Kufan sources, ‘Umar II sent an edict prohibiting *nabīdh* prepared in jars, although a Kufan tradition adds that he allowed its preparation in waterskins.<sup>116</sup> There is no reason to doubt that he issued such a prohibition, although its exact details may be disputed.<sup>117</sup>

115 On *nabīdh*, see Elon Harvey, “The Decline of Green-Glazed Jars after the Early Abbasid Period,” *Islamic Law and Society* 28 (2021): 415–457; 423–4; Haider, “Contesting Intoxication,” 51–2. On the preparation of *nabīdh* from *ṭilāʿ* or *bukhtaj*, see Ibn Abī Shayba, *Muṣannaf*, 8:135–6 (*fi l-ṭilāʿ yunbadhu wa-l-bukhtaj*).

116 For examples of a Basran tradition and a Kufan one about ‘Umar II, see al-Bukhārī, *Tārīkh*, 7:17 (no. 75); Ibn Saʿd, *Ṭabaqāt*, 7:365.

117 See A.J. Wensinck: “Even the common people could not always and everywhere refrain from their national drink, date wine of several kinds; the caliph ‘Umar b. ‘Abd al-‘Azīz deemed it necessary to promulgate a special edict in order to abolish this custom.” “Khamr,” *EL*; Ignaz Goldziher: “Even such a pious caliph as ‘Umar II is reported to have declared that *nabīdh* was permitted.” *Introduction to Islamic Theology and Law*, trans. Andras and Ruth Hamori (Princeton: Princeton University Press, 1981), 60. Cf. Jack

Tillier and Vanthieghem examined five of the abovementioned eight edicts and concluded that they preserve, with different formulations, the wording of a lost edict of ‘Umar II. They suggested that the longest of these edicts (= IAH 2) represents the fullest record of the lost ur-edict. However, I will argue that all eight of the edicts descend from a common mid-2nd/8th century source, an edict pseudepigraphically attributed to ‘Umar II; and that IAH 2 contains many changes that are further departures from the original pseudepigraphical text. In what follows, the edicts will be discussed from the earliest to the latest.

### 3.1 *Al-Ṣa‘iq b. Ḥazn’s Version of the Edict (= Versions 1, 2, 3)*

Of the extant edicts, three are attributed with an *isnād* to al-Ṣa‘iq b. Ḥazn b. Qays al-‘Ayshī (Basra, d. after 160/777).<sup>118</sup> Although al-Ṣa‘iq’s original text is lost, there is no reason to doubt that the extant edicts originated with him. The three extant edicts are versions of a text that al-Ṣa‘iq taught to three of his students:

Version 1 is recorded by Aḥmad b. Ḥanbal (Baghdad, 164–241/780–855) on the authority of ‘Abd al-Ṣamad b. ‘Abd al-Wārith (Basra, d. 207/822) ← al-Ṣa‘iq.<sup>119</sup>

Version 2 is recorded by al-Fasawī (Fasā, Basra, d. 277/890) on the authority of Ḥātim b. ‘Ubaydallāh al-Namarī (Basra, Isfahan, d. after 200/815) ← al-Ṣa‘iq.<sup>120</sup>

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Tannous, *The Making of the Medieval Middle East: Religion, Society, and Simple Believers* (Princeton: Princeton University Press, 2018), 281–2.

118 Not much is known about al-Ṣa‘iq. In his *Tārīkh al-Islām*, ed. Bashshār ‘Awwād Ma‘rūf, 17 vols. (Beirut: al-Gharb al-Islāmī, 2003), 4:415, Shams al-Dīn al-Dhahabī estimates that he died between 161/778 and 170/787. According to idem, *Sīyar*, 10:265–6, one of al-Ṣa‘iq’s younger students, ‘Arim Ibn al-Faḍl, was born after 140/758. If ‘Arim was fifteen when he first studied under al-Ṣa‘iq, then the latter must have been alive in 155/772. Al-Dhahabī’s estimation is thus reasonable.

119 Ibn Ḥanbal, *Ashriba*, 56–57 (no. 98); al-Marrūdhī, *Wara’*, 98–99; Abū l-Faraj al-Ḥanbalī, Ibn al-Jawzī, *Manāqib ‘Umar b. ‘Abd al-‘Azīz*, ed. Carl Heinrich Becker (Berlin: S. Calvary, 1900), 66–67. These sources preserve three variants of the same version transmitted on the authority of Ibn Ḥanbal. They contain minor differences in wording. Even though the Ḥanbalī Ibn al-Jawzī omits the full *isnād*, he almost certainly copied his version from a manuscript of *al-Ashriba* or *al-Wara’*. The translation here is based on a reconstruction of Ibn Ḥanbal’s tradition based on these three sources. I note significant textual variants in the footnotes of my translation with reference to the three sources: *Ashriba*, Marrūdhī, and Ibn al-Jawzī. For a German translation, see Christoph Pitschke, *Skrupulöse Frömmigkeit im frühen Islam Das “Buch der Gewissensfrömmigkeit” (Kitāb al-Wara’) von Aḥmad b. Ḥanbal: Annotierte Übersetzung und thematische Analyse* (Wiesbaden: Harrassowitz, 2010), 229. On ‘Abd al-Ṣamad, see Ibn Sa‘d, *Ṭabaqāt*, 9:301 (no. 4183).

120 Al-Fasawī, *Mashyakha*, ed. Muḥammad b. ‘Abdallāh (Riyadh: al-‘Āṣima, 2010), 47–48 (no. 21). On al-Namarī, see Abū Nu‘aym al-Iṣbahānī, *Dhikr akhbār Aṣbahān*, ed. Sven Dederling, 2 vols. (Leiden: Brill, 1931), 1:296–97.

Version 3 is recorded in abbreviated fashion by al-Nasā'ī (215–303/830–915) on the authority Suwayd b. Naṣr ← 'Abdallāh b. al-Mubārak (Khurasan, d. 181/797) ← al-Ṣa'iq.<sup>121</sup>

Versions 1 and 2 are close in wording albeit with differences that become apparent when the texts are placed side by side. In the following translation, I have divided the texts into corresponding segments, that are numbered to facilitate comparison:

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### Version 1

[1] Al-Ṣa'iq b. Ḥazn reported to us: I witnessed the reading out of the edict (*kitāb*) of 'Umar b. 'Abd al-'Azīz that was sent to [the Basran governor] 'Adī [b. Arṭāt] and the people of Basra.

[2] *Ammā ba'd*

[3] Because of this beverage (*al-sharāb*), something has occurred among the people that ruined their piety (*ri'atu-hum*)<sup>a</sup> and made them engage (*ghashū fi-hā*)<sup>b</sup> in transgressions that they committed after they lost their judgment (*dhahāb 'uqūli-him*), and their minds became light witted.

[4] [These transgressions] brought them [to violate] prohibited blood, prohibited pudenda, and prohibited property. Most of the people who consume that drink wake up the next morning saying: "We drank (*sharibnā*) a drink with which there is no problem." By my life! Anything that causes (*ḥamala 'alā*) these transgressions and resembles what is prohibited is a big problem.

### Version 2

[1] Al-Ṣa'iq b. Ḥazn reported to us: I heard the secretary (*kātib*) of 'Umar b. 'Abd al-'Azīz reading out on the pulpit (*minbar*) of Basra: From the Servant of God, 'Umar, the Commander of the Believers to 'Adī b. Arṭāt and the people of Basra.

[2] *Ammā ba'd*

[3] It has reached me that some people are drinking a beverage (*sharāb<sup>an</sup>*) that they claim is permitted. By my life! Often that which resembles what is prohibited and leads to these transgressions is a big problem and a grave sin.

[4] [These transgressions] brought them [to violate] prohibited blood, prohibited property, and prohibited pudenda, while they say (*wahum yaqūlūn*): "We are drinking (*nashrabu*) a drink with which there is no problem." By my life! Often that which resembles what is prohibited is a big problem and a grave sin (*ithm 'aẓīm*).

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121 Al-Nasā'ī, *Sunan*, 5:79 (no. 5091).

## Version 1

[5] God, exalted be He, has supplied ample means of avoiding it (*mandūḥa*) and a breadth [of alternatives] (*wa-saʿa*), in the form of diverse wholesome beverages (*ashriba kathīra ṭayyiba*), that leave nothing (*hāja*) to be desired:<sup>c</sup> sweet fresh water, milk, honey, and oatmeal. Whoever prepares *nabīdh* should prepare it only in leathern waterskins (*asqiyat al-adam*) that have no tar in them (*allatī lā zift fī-hā*).

[6] It has reached us that the Messenger of God (ﷺ) prohibited the *nabīdh* of jars, gourds, and tarred receptacles (*al-ḡurūf al-muzaffata*), and it is said (*wa-kāna yuqālu*)<sup>d</sup>: “Every intoxicant is prohibited.”

[7] Therefore, take what God, exalted be He, has permitted to you as a substitute for what he has prohibited. Indeed, whoever we find drinking these drinks, after our warning to him, we will subject him to a severe and painful punishment. Whoever conceals [his drinking from us], God’s punishment “and chastisement are worse” [Qurʾān 4:84]. My intention in this edict of mine is to present legal proofs that will be held against you today and any time after today. I ask God, exalted be He, to increase the rectitude of those of us and those of you who are upright and to endeavor to turn those of us and those of you who are sinful towards repentance, with lenience and forgiveness from Him.

## Version 2

[5] God, exalted be He, has supplied ample means of avoiding it (*mandūḥa*) and a breadth [of alternatives] (*wa-saʿa*), in the form of diverse wholesome beverages (*ashriba kathīra ṭayyiba*), that leave nothing (*hāja*) to be desired: sweet fresh water, milk, oatmeal, honey, *nabīdh* made from raisins and dates (*nabīdh al-zabīb wa-l-tamr*) in leathern waterskins (*asqiyat al-adam*).

[6] It has reached us that the Messenger of God (ﷺ) said: “Every intoxicant is prohibited.”

[7] Therefore, take what God, exalted be He, has permitted to you as a substitute for what he has prohibited. Indeed, whoever we find drinking these drinks, we will subject him to a painful punishment. Whoever conceals [his drinking from us], God’s punishment “and chastisement are worse” [Qurʾān 4:84]. My intention in this edict of mine is to present legal proofs that will be held against you today and any time after today. I ask God to increase the rectitude of those of us and those of you who are upright and to endeavor to turn those of us and those of you who are sinful towards repentance, with lenience and forgiveness from Him.

## Version 1

## Version 2

[8] Peace be upon you!

[8] Peace be upon you, and God's  
mercy and his blessings!

a Ibn al-Jawzī & Marrūdhī: *rī'atu-hum*; *Ashriba: raghbatu-hum*.

b *Ashriba* & Ibn al-Jawzī: *ghashū fi-hā*; Marrūdhī: *ʿasaw fi-hā*.

c *Ashriba: ḥāja*; Ibn al-Jawzī: *jā'iḥa*; Marrūdhī: *mujāja*.

d Ibn al-Jawzī & Marrūdhī: *wa-kāna yuqālu*; *Ashriba: wa-kāna yaqūlu*.

Version 3, the abbreviated one, corresponds to two segments in Versions 1 and 2. It reads as follows:

[1] Al-Ṣa'iq b. Ḥazn told us: 'Umar b. 'Abd al-'Azīz wrote to 'Adī b. Arṭāt:  
[6] "Every intoxicant is prohibited (*kull muskir ḥarām*)."

### 3.1.1 A Segment-by-Segment Analysis of Versions 1, 2, and 3 of al-Ṣa'iq's Edict

**Segment 1:** Versions 1 and 2 agree that the edict was addressed to the Basran governor 'Adī b. Arṭāt and the people of Basra. Version 3 mentions only Ibn Arṭāt.

**Segment 2:** *Ammā ba'd* ("And now to the heart of the matter") is a formula that appears at the beginning of a letter signaling a shift from the salutations and blessings to the main contents. It is often omitted in translations.

**Segment 3:** Version 2 repeats elements found in segment 4 of Versions 1 and 2 (e.g., "By my life!"). This redundancy suggests that Version 1 better preserves al-Ṣa'iq's original wording than does Version 2.

Note that this segment mentions a "beverage" (*sharāb*) and does not use the term *nabīdh* used in segments 5 and 6. This inconsistency in terminology suggests that segment 3 and segments 5 and 6 were originally separate textual units originating in different sources.<sup>122</sup>

**Segment 4:** Here, drinkers of intoxicants claim that they are drinking a licit beverage. A similar depiction was found in ur-IAH 1, which probably served as a source.

**Segment 5:** The phrases "ample means of avoiding it" (*mandūḥa*) and "diverse wholesome beverages" (*ashriba kathīra ṭayyiba*), found in Versions 1 and 2, also occur in ur-IAH 1, from which they evidently were borrowed. Al-Ṣa'iq's version of the edict adds the more common word *sa'a* (breadth) as a synonym for the

122 Cf. Tillier & Vanthieghem, "Amphores rouges," 32–3.



rare word *mandūha*; and it gives an example of “diverse wholesome beverages,” e.g., water and milk. These additions indicate that al-Ṣaʿiq’s version was influenced by ur-IAH 1 and not *vice versa*.

In this segment, Version 2 notes that *nabīdh* can be prepared from raisins and dates, but there is no mention of this in Version 1. The reference to *nabīdh* made from raisins and dates presumably refers to the difference of opinion regarding the permissibility of preparing *nabīdh* from a combination of two different fruits. The advocates of a strict prohibition of combinations prohibited even the combination of ripe and less ripe dates. Version 2 apparently reflects a lenient approach. It permits the combination of raisins and dates.

Another significant difference here between Versions 1 and 2 concerns the preparation and storage of *nabīdh* in waterskins. Version 1 permits only untarred waterskins, while Version 2 permits all waterskins. Version 1 is thus more conservative than Version 2 regarding the use of waterskins.

Version 1 is more conservative than Version 2 in its prohibition of tarred waterskins. Version 2 embraces the permissive position that allows the preparation of *nabīdh* from two types of fruit. Similar differences are also found in the next segment.

**Segment 6:** This segment includes one or two traditions. One of these traditions is the “every intoxicant” maxim. Version 1 includes a Prophetic tradition prohibiting tarred receptacles, jars, and gourds and a non-Prophetic tradition, namely, the “every intoxicant” maxim. Version 2 includes a Prophetic tradition, namely, the maxim. Version 3 includes a non-Prophetic tradition, namely, the maxim. Two questions arise: (1) originally, how many traditions were there? (2) to whom were they attributed?

That the Prophetic tradition prohibiting receptacles is found only in Version 1 may suggest that it is an addition there. Note, however, Version 3’s abbreviated nature. Al-Nasāʾī lists this version under a subheading devoted to “the prohibition of every beverage that intoxicates.” Under this subheading he lists several traditions that contain iterations of the “every intoxicant” maxim.<sup>123</sup> Al-Nasāʾī’s teacher Suwayd b. Naṣr likely taught him a more complete version of al-Ṣaʿiq’s tradition, from which he removed all elements unrelated to the maxim, so that it would fit the theme of the subheading. Thus, the Prophetic tradition about receptacles may have originally been a part of Version 3.

Versions 1 and 3 cite the “every intoxicant” maxim as a general statement, whereas Version 2 attributes it to the Prophet. These two versions, which agree

123 Al-Nasāʾī, *Sunan*, 5:75–9 (*tahrīm kull sharāb askara*).

with one another, better preserve al-Ṣaʿīq's original text. As we have seen,<sup>124</sup> the maxim was originally a non-Prophetic saying. Its attribution in Version 2 to the Prophet reflects a later development.

Version 2's attribution of the maxim to the Prophet is best explained as follows. Al-Ṣaʿīq's original version included a Prophetic tradition followed by a non-Prophetic tradition. This sequence is accurately preserved in Version 1, which states: "It has reached us that the Messenger of God (ﷺ) {prohibited the *nabīdh* of jars [etc.], and it is} said: 'every intoxicant is prohibited.' A redactor of Version 2 omitted the text between curly brackets. Due to this omission, the *isnād* on the authority of the Prophet was prefixed to the non-Prophetic tradition. Hence, Version 2 reads: "It has reached us that the Messenger of God (ﷺ) said: 'every intoxicant is prohibited.' In this way, the "every intoxicant" maxim, originally presented as a general adage, became a statement of the Prophet.

In short, al-Ṣaʿīq's original version of the edict probably included two traditions: (1) a Prophetic tradition prohibiting jars, gourds, and tarred receptacles; and (2) a non-Prophetic tradition (the "every intoxicant" maxim). The maxim may have been borrowed from ur-IAH 1, where it was non-Prophetic and appeared in its short version. Version 2's redactor probably omitted the contents of the Prophetic tradition because he was not interested in the status of *nabīdh* in receptacles. Version 3's redactor, likely al-Nasāʿī, omitted the contents of the Prophetic tradition because he was interested only in the maxim.

The Prophetic tradition prohibits jars (*al-jarr*), gourds (*al-dubbāʾ*), and tarred receptacles (*al-ẓurūf al-muzaffata*). This unusual combination of prohibited items reflects a combination of Iraqi and Hijazi traditions. Whereas the term *jarr* was used primarily in Iraq, *dubbāʾ* and *muzaffat* are Hijazi terms.<sup>125</sup> Furthermore, many early traditions prohibit *dubbāʾ* and *muzaffat* as a pair.<sup>126</sup> However, several traditions point to a secondary development. Transmitters commonly added two Hijazi terms, *ḥantam* (green jars or jars)<sup>127</sup> and *naqīr*

124 See the discussion of the "every intoxicant" maxim above.

125 According to a tradition transmitted by Shuʿba, *ḥantama*, *dubbāʾ*, *muzaffat*, and *naqīr* in the dialect of the Medinan Ibn ʿUmar are equivalent to *jarra*, *qarʿ*, *muqayyar*, and *nakhla* in the dialect of the Kufan Zādhān. See, e.g., Ibn Abī Shayba, *Muṣannaḥ*, 8:103 (no. 24326); cf. Harvey, "Green Jars," 431, 433. The term *jarr* may have been used in Iraq and other places outside the Hijaz.

126 According to Juynboll, *ECH*, 239 (no. 15936), one of the oldest traditions prohibiting *dubbāʾ* and *muzaffat* was transmitted by Ibrāhīm al-Nakhaʿī (Medina, Kufa, d. ca. 96/717) on the authority of ʿĀ'isha. See e.g., al-Nasāʿī, *Sunan*, 5:87 (no. 5116), & 6:288–9 (nos. 6798, 6799, 6800, & 6801).

127 On *ḥantam* as "green jars" or "jars," see Harvey, "Green Jars," 428–33. I also discuss there some Kufan traditions that claim that *ḥantam* are "red jars" (*jīrār ḥumr*). I argue

(hollowed out tree stumps), to this pair. In this way, they formed a list of four prohibited items.<sup>128</sup> Sometimes, transmitters added the Iraqi term *jarr* to this pair.<sup>129</sup>

The term *al-zurūf al-muzaffata* means “tarred receptacles.” It is clearly an exegetical expansion of *muzaffat*, which may refer to “tarred receptacles,” “tarred jars,” or “tarred waterskins.”<sup>130</sup>

In addition to al-Ṣaʿīq’s tradition, the unusual list of jars, gourds, and tarred receptacles appears in a Prophetic tradition that likely originates with al-Awzāʿī (Beirut, d. 157/774).<sup>131</sup> It is tempting to situate this list in a Syrian or Umayyad milieu. However, since both traditions are late, it is unlikely that ‘Umar II is their direct source. Another transmitter, Sufyān b. ‘Uyayna (d. 198/814), citing his father, reported that ‘Umar II’s edict to Kufa prohibited [“gourds” and] “tarred receptacles” (*al-zurūf al-muzaffata*).<sup>132</sup> In the decades following ‘Umar II’s death, some Muslims remembered that he prohibited “gourds” and “tarred receptacles.” This memory may have inspired al-Ṣaʿīq, al-Awzāʿī, and Ibn ‘Uyayna. However, it is unlikely that ‘Umar II used the Iraqi term *jarr*.

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- that this is a corruption of “wine jars” (*jirār khamr*). Against my argument, Tillier & Vanthieghem, “Amphores rouges,” 43–4, insist that the definition of *ḥantam* as “red jars” has an archaeological basis, and they identify these jars with certain Egyptian amphorae (LRA 7). In my Ph.D. dissertation at the University of Chicago, I explain in detail why Tillier & Vanthieghem’s claims are incorrect. For now, I will say that Kufan transmitters invented the definitions of *ḥantam* as “wine jars” and then “red jars” to deny that the prohibited *ḥantam* are “green jars.” See, e.g., al-Khaṭīb al-Baghdādī, *al-Mūdiḥ li-awḥām al-jamʿ wa-l-tafriq*, ed. al-Muʿallimī, 2 vols. (Beirut: al-Fikr al-Islāmī, 1985): 2:359–60; Ibn Abī Shayba, *Muṣannaḥ*, 8:118 (no. 2441). Here, Anas defines *ḥantam* as “wine jars” (or “red jars”) to discredit the definition of *ḥantam* as “green jars.” And so, the Egyptian LRA 7 are not *ḥantam*, although they are *muzaffat* because of their bitumen lining.
- 128 See, e.g., al-Khaṭīb al-Baghdādī, *Mūdiḥ*, 2:359–60; al-Bukhārī, *Ṣaḥīḥ*, 7:105–06 (no. 5587); al-Kulaynī, *al-Kāfī*, 15 vols. (Qom: Darolhadith, 2012), 12:738–9 (no. 12327).
- 129 See, e.g., ‘Abd al-Razzāq, *Muṣannaḥ*, 9:203 (no. 16934).
- 130 Cf. Harvey, “Green Jars,” 433–4.
- 131 *Isnād*: al-Awzāʿī ← Yaḥyā b. Abī Kathīr (Basra, al-Yamāma, d. 129–32/747–50) ← Abū Salama ← Abū Hurayra ← the Prophet. See, e.g., al-Nasāʿī, *Sunan*, 5:89–90 (no. 5125); al-Ṭaḥāwī, *Sharḥ maʿānī l-āthār*, 4:226–27 (nos. 6525 & 6527).
- 132 Al-Fasawī, *Maʿrifā*, 2:226; idem, “*al-Maʿrifā wa-l-tārīkh*,” MS 2391, Esad Efendi, Süleymaniye Kütüphanesi, Istanbul, 65v, l. 1. The manuscript has *KDY wa-ʿan* which the editor emended to *kadhā aw ʿan*. However, *KDY* should be emended to *al-DBY*, i.e., *al-dubbā* (gourds). Cf. Tillier & Vanthieghem, “Amphores rouges,” 24–5, where Sufyān b. ‘Uyayna is misidentified as Sufyān al-Thawrī.

‘Umar II was generally unfamiliar with Prophetic traditions.<sup>133</sup> The citation of a Prophetic tradition suggests that he was not the author of this edict.

**Segment 7:** Here, both Versions 1 and 2 mention two punishments for drinkers: one will be inflicted by ‘Umar II or his agents in this world, and the other by God in the Hereafter. By contrast, IAH 1 mentions only a divinely ordained “calamity” that will strike all Muslims in this world. ‘Umar II’s caliphate lasted less than three years. There is no indication that ‘Umar II’s eschatological anxieties subsided during this brief period. His immediate successor, Yazid b. ‘Abd al-Malik (r. 101–105/720–24), appears to have inherited these anxieties.<sup>134</sup> Since ‘Umar II’s reign was ideologically consistent, the two different conceptions of punishment in IAH 1 and in al-Ṣa‘iq’s edict are best explained as products of two different time periods. The punishment in IAH 1 reflects ‘Umar II’s fear of an eschatological catastrophe ca. 100/718, whereas the punishments in al-Ṣa‘iq’s version of the edict reflect a period when such fears were no longer current. Threats of disaster tend to lose some of their force over time if the disaster never materializes. The punishments cited in al-Ṣa‘iq’s version were likely meant to serve as deterrents in perpetuity at a time when there was no concern over an imminent apocalypse. The long-term nature of these punishments is accentuated by the assertion that the prohibition of *nabīdh* is forever and not limited to the caliphate of ‘Umar II. For these reasons, it is highly unlikely that the two punishments cited in al-Ṣa‘iq’s version reflect ‘Umar II’s concerns. A later redactor, most likely al-Ṣa‘iq, pseudepigraphically attributed them to ‘Umar II.

**Segment 8:** Ending a letter with “Peace be upon you!” as in Version 1, is Umayyad chancery practice.<sup>135</sup>

In sum, the preceding analysis of al-Ṣa‘iq b. Ḥazn’s version of the edict suggests a late date of composition that makes the attribution of this version to ‘Umar II unlikely. The Basran al-Ṣa‘iq, the first person known to have transmitted it, is most likely its author. In composing the edict, al-Ṣa‘iq appears to have drawn upon ur-IAH 1. He may have also relied upon other sources, perhaps even a lost edict of ‘Umar II. However, the most substantial parts of al-Ṣa‘iq’s version of the edict, which deal with crime and punishment, were almost certainly introduced by al-Ṣa‘iq in Basra decades after ‘Umar II’s death. Al-Ṣa‘iq taught versions of this edict to three students. Of these, ‘Abd al-Ṣamad b. ‘Abd al-Wārith appears to have most faithfully preserved his edict. The original edict likely prohibited *nabīdh* prepared in “jars, gourds, and tarred receptacles,” and

133 Crone & Hinds, *God’s Caliph*, 77–80; Juynboll, *Muslim Tradition*, 34–8.

134 Sahner, “First Iconoclasm,” 34–8.

135 Abu Safieh, “Umayyad Epistolography,” 43 and 80, n. 16.

permitted it in untarred waterskins. In addition, the *nabīdh* must be non-intoxicating, no matter in which receptacle it was prepared. The edict threatened drinkers with punishment in this world if they are caught, or in the Hereafter if they evade punishment in this world.

### 3.2 *Al-Balādhūrī and Ibn Qutayba's Versions of the Edict (= Versions 4 and 5)*

Two other versions of ‘Umar II’s edict share a close affinity with each other: Version 4 recorded by al-Balādhūrī (Baghdad, d. 279/892) in his *Ansāb al-ashraf*,<sup>136</sup> and Version 5 recorded by Muslim b. Qutayba al-Dīnawarī (Baghdad, d. 276/889) in his *Kitāb al-ashriba*.<sup>137</sup>

Al-Balādhūrī introduces Version 4 with the verb *qālū* (“they said”), suggesting that he learned about the edict from three or more informants and that he combined their reports into a single edict. A couple of pages earlier, when introducing another edict of ‘Umar II, unrelated to intoxicants, al-Balādhūrī says, “*al-Madāʿinī wa-ghayru-hu qālū*” (“al-Madāʿinī and others said”).<sup>138</sup> The Basran *akhbārī* ‘Alī b. Muḥammad al-Madāʿinī (ca. 135–228/752–843)<sup>139</sup> may have been one of the sources for Version 4 as well. Ibn Qutayba cites Version 5 without indicating its provenance.

Whereas Version 4 identifies the recipients of ‘Umar II’s edict as his “governors,” Version 5 identifies the recipient as Ibn Arṭāt, the same Basran governor who was named as the recipient in al-Ṣāʿiq’s version. Version 5 adds that ‘Umar II sent the edict after hearing about many cases of people drinking intoxicating beverages while citing [fallacious] legal justifications (*ʿalā l-taʿwīl*). Whereas Version 5 ends abruptly after the Qurʾānic paraphrase “God’s punishment and chastisement are worse,” Version 4 continues in a manner similar to that found in Versions 1 and 2. Version 4 is probably independent of the truncated Version 5. The opposite seems also to be true.

Versions 4 and 5 resemble al-Ṣāʿiq’s version of the edict. Indeed, they appear to be derived from a common source that combines Versions 1 and 2 (or unknown texts closely resembling them). If we examine segments 4 and 5 of Versions 1 and 2, we find that some elements are unique to Version 1 and others are unique to Version 2. When we examine the corresponding segments

136 Al-Balādhūrī, *Ansāb*, 8:148. Here, *al-ḥantam* was likely originally *al-jirār*. Al-Balādhūrī or a copyist may have changed *jirār* to *ḥantam*. Cf. Tillier & Vanthieghem, “Amphores rouges,” 61, n. 286.

137 Ibn Qutayba, *Ahsriba*, 51. Here, instead of *al-dīnān*, read *al-dubbāʿ* as noted in one manuscript. The word *dubbāʿ* (collective plural) was changed to *dīnān* (plural), probably to make it analogous to *jirār* (plural) which follows it.

138 Al-Balādhūrī, *Ansāb*, 8:146.

139 Ilkka Lindstedt, “al-Madāʿinī,” *ET*<sup>3</sup>.

in Versions 4 and 5, we find the unique elements of Versions 1 and 2 combined in Versions 4 and 5.

In segment 4, the verbs *sharibnā* (first person, plural, perfect) and *ḥamala ‘alā* (third person, singular, perfect) appear in Version 1, but are absent in Version 2. In the corresponding segment, Versions 4 and 5 have *sharibnā* and *ḥamala ‘alā* (or *ḥamala... ‘alā*). In segment 4, the phrases *wa-hum yaqūlūn* and *ithm ‘azīm* are present in Version 2, but absent in Version 1. In the corresponding segment, Versions 4 and 5 have *wa-hum yaqūlūn* and *ithm ‘azīm* (or *al-‘azīm... al-ithm*).

In segment 5, the phrase *allatī lā zift fī-hā* appears in Version 1, but is absent in Version 2. This phrase appears in the corresponding segment of Versions 4 and 5. In segment 5, the phrase *nabīdh al-zabīb wa-l-tamr* appears in Version 2, but is absent in Version 1. In the corresponding segment, Versions 4 and 5 have a similar phrase, *nabīdh al-tamr wa-l-zabīb*.

These examples strongly suggest that Versions 4 and 5 are derived from a common source that collated Versions 1 and 2 (or unknown texts closely resembling them). Version 4, which al-Balādhūrī cites on the authority of several informants, contains some minor additions that may have been derived from other sources. However, the bulk of Version 4 closely resembles Version 5. The lost common source of these versions can be reconstructed with great accuracy. Here, it will be noted only that this source mentioned that the Prophet prohibited “tarred receptacles,” “gourds,” and “jars” (*jirār*). It also presented the “every intoxicant” maxim as a common saying unattributed to the Prophet. The identity of the author of this common source is a mystery. He may be the abovementioned al-Madā’inī, from whom al-Balādhūrī learned other traditions about ‘Umar II. Ibn Qutayba is known to have relied in a separate work on al-Madā’inī,<sup>140</sup> and may have relied on him for Version 5. As a Basran, al-Madā’inī likely would have been familiar with ‘Abd al-Ṣamad, al-Namarī, and other Basran students of al-Ṣa‘iq. Thus, al-Madā’inī may have served as a mediator between al-Balādhūrī and Ibn Qutayba and the students of al-Ṣa‘iq.

In sum, Versions 4 and 5 are derived from a lost source that combined Versions 1 and 2.

### 3.3 *Ibn ‘Abd al-Ḥakam’s Version of the Edict (= IAH 2)*

The Egyptian Abū Muḥammad ‘Abdallāh b. ‘Abd al-Ḥakam (I) (d. 214/829),<sup>141</sup> who is closely associated with the Mālikī school, records the longest known

140 See, e.g., ‘Abdallāh b. Muslim al-Dīnawarī Ibn Qutayba, *Gharīb al-ḥadīth*, 3 vols. (Baghdad: al-‘Ānī, 1977), 2:572 & 573.

141 Jonathan Brockopp, *Early Mālikī Law: Ibn ‘Abd Al-Ḥakam and His Major Compendium of Jurisprudence* (Leiden: Brill, 2000), 1–65.

version of the edict (= IAH 2) in his biography of ‘Umar II.<sup>142</sup> The biography is extant only in the recension of Ibn ‘Abd al-Ḥakam I’s son, Abū ‘Abdallāh Muḥammad b. ‘Abdallāh b. ‘Abd al-Ḥakam (II) (d. 268/882). Jonathan Brockopp suspects that Ibn ‘Abd al-Ḥakam II may have made some substantial revisions to this work of his father.<sup>143</sup> Ibn ‘Abd al-Ḥakam (I or II) cites this long edict immediately after citing the fiscal rescript that includes IAH 1. He is the sole known authority for the rescript and IAH 2. As in the case of IAH 1, he presents IAH 2 without an *isnād*. Muslim scholars sometimes criticized Ibn ‘Abd al-Ḥakam I for omitting *isnāds*. In the introduction to his biography of ‘Umar II, he remarks that he heard all the book’s material from his teachers, naming nine of them while noting other unnamed informants. He adds that each of his teachers narrated to him a portion of the material, presumably with chains of transmission, and he gathered it all together.<sup>144</sup>

As mentioned, according to Tillier and Vanthieghem, IAH 2 represents the most detailed and reliable record of ‘Umar II’s edict, albeit with some changes and interpolations. In their view, Versions like Versions 1, 4, and 5 are abbreviated variations of [ur-] IAH 2 sent to different addressees. They also claim that ‘Umar II may have issued [ur-]IAH 1 to clarify [ur-]IAH 2.<sup>145</sup> As we have seen, however, IAH 1 faithfully preserves the core of ur-IAH 1; and Versions 1, 2, 3, 4, and 5, are all derived from an edict that the Basran al-Ṣa‘īq pseudepigraphically attributed to ‘Umar II. In what follows, I will demonstrate that IAH 2 is also derived from al-Ṣa‘īq’s version of the edict.

What follows is a translation of IAH 2, divided into numbered segments corresponding to those used above in Versions 1, 2, and 3:

[1] From the Servant of God ‘Umar b. ‘Abd al-‘Azīz the Commander of the Believers to Ayyūb b. Shuraḥbīl and to the Believers and Muslims of Egypt, men and women: Peace be upon you!

[2] *Ammā ba‘d*. I praise to you God, besides whom there is no god.<sup>146</sup>  
*Ammā ba‘d* [sic!].

God has revealed three verses regarding *khamr* in three *sūras* of the Qur’ān. When the first two were revealed, people drank [*khamr*], but when the third was revealed, it became prohibited to them and the prohibition was firmly established. In the first one, God, blessed and

142 Ibn ‘Abd al-Ḥakam, *Sīrat ‘Umar*, 88–91.

143 Brockopp, “Early Mālikī Law,” 24–6, 62.

144 Ibn ‘Abd al-Ḥakam, *Sīrat ‘Umar*, 23. On criticisms of Ibn ‘Abd al-Ḥakam for omitting *isnāds*, see Brockopp, “Early Mālikī Law,” 37–9.

145 Tillier & Vanthieghem, “Amphores rouges,” 32.

146 On these opening formulae, see Abu Safieh, “Umayyad Epistolography,” 41–43; Tahera Qutbuddin, *Arabic Oration: Art and Function* (Leiden: Brill, 2019), 65–75.

exalted be He, said speaking the truth: “They ask you about *khamr* and gambling. Tell them: In both, there is a grave sin, but also some utility for the people. Their sin is greater than their utility” [Q 2:219]. Because of this [revelation], the people drank it due to this mentioned utility. Then God revealed the second verse, saying: “O Believers, do not approach prayer, while you are drunk, until you know that which you utter [...]” [Q 4:43]. Because of this [revelation], the people drank it, when it was not prayer time, and they avoided intoxication when it was prayer time. Finally, God revealed the third verse, saying: “O Believers, *khamr*, gambling, idols, and divining arrows are filth of Satan’s handiwork. Avoid it so that you may succeed! The Devil seeks only to sow enmity and hatred between you by means of wine and gambling and to prevent you from mentioning God and from praying. Will you desist?! Obey God, obey the Messenger, and beware! If you turn away, know that the message of our Messenger is clear!” [Q 5:90–1].

[3] Afterwards, because of this drink (*al-sharāb*), something occurred that ruined the piety of many people (*ri’at kathīr mina l-nās*). Consequently, they engaged in activities prohibited by God thereby accumulating many things that are forbidden to them, after they lost their judgment and their minds became light witted (*dhaḥāb ‘uqūli-him*). [4] It reached the point that, in their eyes, prohibited blood (*ḥattā... al-dam al-ḥarām*), devouring prohibited property, and prohibited pudenda became permitted. Most<sup>147</sup> of the people who consume that drink wake up the next morning with only one excuse, saying: “There is no problem with us drinking *ṭilā’* (*lā ba’sa ‘alaynā fī shurbi-hi*).” By my life! Any food or drink or other thing that resembles *khamr* must be avoided. Those who drink this drink, which they permit, only do so with the help of Christians, who easily divert Muslims from their religion and cause them to engage in what is prohibited to them. There is high demand for their merchandise, and they easily meet it. There is no excuse for any Muslim to drink any drink that resembles drinks that have no good in them.

[5] God has supplied abundant means of avoiding it (*ghin<sup>an</sup>*) and a breadth [of alternatives] (*wa-sa’a*) in the form of fresh water and beverages that leave nothing to be desired: honey, milk, oatmeal, and *nabīdh* from raisins and dates (*nabīdh al-zabīb wa-l-tamr*). However, whoever prepares *nabīdh* from honey or raisins or dates should prepare it only in waterskins (*asqīya*) that have no tar in them (*allatī lā zift fī-hā*). [6] It has reached us on the authority of the Messenger of God (ﷺ) that he

147 The text has *kull* but it should probably be emended to *jull*. The meaning is the same.



prohibited drinking that which has been placed in jars (*jirār*), gourds, and tarred receptacles (*al-zurūf al-muqayyara*). Whoever drinks ʾīlāʾ knows that it is prepared in tarred receptacles (*al-zurūf al-muzaffata*), be they jars (*qilāl*) or waterskins (*ziqāq*), due to a single benefit, that [ʾīlāʾ prepared in these receptacles] intoxicates. We heard that the Messenger of God (ﷺ) said: “Every intoxicant is prohibited.”

[7] Therefore, take what God has permitted to you as a substitute for what he has prohibited or what resembles it. Truly, of all the drinks, only this one drink resembles it. Indeed, whoever we find drinking any of these drinks after our warning to him, we will subject him to a painful punishment, financially and corporally (*bi-māli-hi wa-naḥsi-hi*), and we will make an example of him for others (*nakāl<sup>an</sup> li-ghayri-hi*). Whoever conceals this [viz., his drinking] from us, God’s punishment, “torment, and chastisement are worse” [Q 4:84]. By issuing this prohibition of drinking *khamr*, the ʾīlāʾ that resembles it, and [beverages] contained in gourds, jars, and tarred receptacles (*al-zurūf al-muzaffata*), my intention is to present legal proofs that will be held against you today and any time after today. Whoever obeys, it will be good for him, and whoever violates what has been prohibited, we will punish him publicly, and make an example of him to others. God will take care of anything that is hidden from us, for he is “watchful over all things” [Q 33:52] and “vigilant over all things” [Q 5:117 et al.]. I ask God to supply us and you with substitutes for what he has prohibited, to increase the rectitude and good-guidance of those of us and those of you who are upright, and to endeavor to turn the sinful to repentance with forgiveness. [8] Peace!<sup>148!</sup>

In segment 2 of this edict, the repetition of the *ammā ba’d* formula is a result of disorganized composition. According to Tillier and Vanthieghem, this clumsy opening as well as other features of this edict are signs of later editing. But they did not consider these inelegant features of IAH 2 sufficient criteria for dismissing the edict in its entirety as a later forgery.<sup>149</sup> In fact, IAH 2 is clearly a composite tradition cobbled together from multiple sources. With its combined prohibition of ʾīlāʾ and *nabīdh*, it appears to be based on IAH 1 as well as on al-Ṣāʾiq’s version of the edict.

IAH 2 is closely related to Versions 4 and 5: It possesses narrative elements that are unique to those versions and absent in Versions 1 and 2. In segment 4, IAH 2 has the sequence *ḥattā... al-dam al-ḥarām*. In the corresponding segment, Versions 4 and 5 have the same sequence. What is important in this sequence is the use of *ḥattā* as a connective particle, an element absent in

148 The printed edition has “Peace be upon you and God’s mercy and blessings!”

149 Tillier & Vanthieghem, “Amphores rouges,” 26–9.

Versions 1 and 2. In segment 6, IAH 2 has the broken plural *jirār*. In the corresponding segment, Version 5 uses the same plural. By contrast, Versions 1 and 2 use the collective plural *jarr*. IAH 2 is evidently relying on the common source of Versions 4 and 5.

IAH 2 also appears to be influenced by Version 1 (or a non-extant version closely resembling it). Both IAH 2 and Version 1 use the phrase *dhahāb ‘uqūli-him* in segment 3 and the phrase *aṣḥāḥa jull/kull man yuṣību min dhālika l-sharāb* in segment 4. These phrases are absent in Versions 2, 4, and 5. Apparently, IAH 2 is an eclectic version of the edict attributed to ‘Umar II; it was influenced by at least three sources.

Its muddled composition notwithstanding, IAH 2 methodically lays out the origin of the prohibition of all intoxicants, the threat drinking poses to the Muslim community, the prohibition of all intoxicants, and the punishments for transgressors.

Compared to al-Ṣa‘īq’s version of the edict, IAH 2 is more apologetic, a quality that indicates the lateness of IAH 2. It subtly downplays the magnitude of the drinking epidemic among Muslims in ‘Umar II’s generation. While al-Ṣa‘īq’s version of the edict states that drinking intoxicants ruined the piety (*ri‘a*) of “the people” (*al-nās*), IAH 2 states that it ruined the piety of “many people” (*kathīr mina l-nās*). Furthermore, IAH 2 shifts some of the blame from Muslim drinkers, placing it on their Christian enablers and accomplices. Without the Christians, IAH 2 asserts, Muslims would not have easy access to forbidden drinks. In al-Ṣa‘īq’s version of the edict, there is no such excuse. Muslims are solely to blame. Finally, whereas in al-Ṣa‘īq’s version, ‘Umar II asks God “to endeavor to turn those of us and those of you who are sinful towards repentance,” in IAH 2, he asks God “to endeavor to turn the sinful to repentance,” without attributing sin to ‘Umar II and other respectable Muslims. IAH 2 portrays ‘Umar II and contemporary Muslims more favorably than al-Ṣa‘īq’s version of the edict. IAH 2 is thus more hagiographical, a sign that it was composed later.

In segment 5, IAH 2 notes that *nabīdh* made of “raisins and dates” is a permissible alternative to intoxicants. This element originates in Version 2. However, in IAH 2 the probable meaning is “raisins or dates,” whereas in Version 2 the probable meaning is “raisins mixed with dates.” The redactor of IAH 2, who likely was intolerant of such combinations, is careful to add that *nabīdh* may be prepared from “honey or raisins or dates.” While Version 2 permits the preparation of *nabīdh* from a combination of types of fruit, IAH 2 does not appear to permit it. *Nabīdh* prepared from combinations, especially dates and raisins, is prohibited in the Mālikī school,<sup>150</sup> to which Ibn ‘Abd al-Ḥakam (I and II)

<sup>150</sup> Cf. Mālik, *Muwattaʿa*, 2:47–8 (nos. 1833 & 1835).

adhered. The father or the son may be responsible for the reservations in IAH 2 concerning combinations.

IAH 2 addresses crime and punishment in more detail than al-Ṣa‘īq’s version of the edict. In the latter, ‘Umar II threatens that he will punish drinkers (*awja’nā-hu ‘uqūba*), providing no details about this punishment. However, in IAH 2, he names three ways in which he will punish them: financially, corporally (*fī māli-hi wa-naḥsi-hi*), and as a public example to others (*nakāl<sup>an</sup>*). The financial punishment may refer to breaking receptacles. The corporal punishment may refer to lashes and confinement. The public punishment may refer to a ruler’s prerogative to punish drinkers publicly as a deterrent to others. Note that these three punishments are mentioned by Ibn ‘Abd al-Ḥakam I in his *al-Mukhtaṣar al-kabīr fī l-fiqh*. If there is any doubt that IAH 2 and the *Mukhtaṣar* are speaking in one voice, it is removed by the fact that both use of the Qur’ānic term, *nakāl*, to denote exemplary punishment.<sup>151</sup> It seems that Ibn ‘Abd al-Ḥakam (I or II) used a heavy hand to fashion the contents of IAH 2 in his *Sīra* of ‘Umar II. He based IAH 2 on existing traditions but modified them so that they would better fit within his Mālikī legal framework.

IAH 2 opens with an introduction listing three Qur’ānic verses that form the basis of the laws prohibiting intoxicants. This element is not found in other versions of the edict and is unique to IAH 2. Such use of Qur’ānic quotations is rare in the Umayyad era,<sup>152</sup> suggesting that IAH 2 is not an authentic Umayyad document.

Another edict in Ibn ‘Abd al-Ḥakam’s biography of ‘Umar II opens with Qur’ānic verses that form the basis of a law. This edict concerns the treatment of Christians and other non-Muslims under Islamic rule.<sup>153</sup> Like IAH 2, it is an eclectic composition containing elements borrowed from different traditions.<sup>154</sup> Luke Yarbrough has argued that this edict is an example of

151 Ibn ‘Abd al-Ḥakam, *al-Mukhtaṣar al-kabīr*, ed. Aḥmad b. ‘Abd al-Karīm Khubayb (Dublin: Najibwayh, 2011), 437–9.

152 Daniel Potthast, “Qur’ān Quotations in Arabic Papyrus Letters from the 7th to the 10th Centuries,” in A. Kaplony et M. Marx (eds.), *Qur’ān Quotations Preserved on Papyrus Documents, 7th-10th Centuries, and the Problem of Carbon Dating Early Qur’āns* (Leiden: Brill, 2019), 42–85, esp. 59–65; Abu Safieh, “Umayyad Epistolography,” 82, 133; Tillier & Vanthieghem, “Amphores rouges,” 27–9.

153 Ibn ‘Abd al-Ḥakam, *Sīrat ‘Umar*, 140.

154 See, e.g., al-Balādhurī: *wa-an yunzilū-hum bi-manzilati-him* etc. *Ansāb*, 8:196; Abū Yūsuf: *wa-lā yarkabanna [...] naṣrānī* etc. *Al-Kharāj* (Beirut: al-Ma‘rifa, 1979), 127–8. Parallels between the edict and other sources are discussed by Luke Yarbrough, “Did ‘Umar b. ‘Abd al-‘Azīz Issue an Edict concerning non-Muslim Officials?” in *Christians and Others in the Umayyad state*, ed. Antoine Borrut and Fred M. Donner (Chicago: Oriental Institute, 2016): 173–206, esp. 182–4.

“pseudepigrapha composed by Muslim officials for an audience of ‘Abbāsīd ruling elites.”<sup>155</sup> It seems that Ibn ‘Abd al-Ḥakam (I or II) regularly composed new ‘Umar II edicts by combining elements from different reports with his own additions. He sometimes prefaced these edicts with relevant Qur’ānic quotations. In this way, he introduced many new traditions that reflect his own legal outlook and have tenuous ties to ‘Umar II. Additional examples of edicts composed in this way are likely to be found in Ibn ‘Abd al-Ḥakam’s biography of ‘Umar II. The fiscal rescript may also contain interpolations by Ibn ‘Abd al-Ḥakam (I or II). Generally, Ibn ‘Abd al-Ḥakam’s *Sīra* of ‘Umar II should not be read merely as a work of historiography but also as a systematic Abbasid legal treatise. We are likely to learn from it no less about Ibn ‘Abd al-Ḥakam (I or II) than about ‘Umar II.

As mentioned, IAH 2 accuses Christians of causing Muslims to drink intoxicants, a charge that is not found in earlier versions of the edict. It is noteworthy that both IAH 2 and the edict discussed by Yarbrough adopt a pejorative attitude toward Christians in particular. This attitude seems to reflect an anti-Christian bias of Ibn ‘Abd al-Ḥakam (I or II).

In sum, IAH 2 does not represent an edict of ‘Umar II. It is based on diverse sources that are often inconsistent with the known views of ‘Umar II. It is an adaptation of existing material by a later author, most probably Ibn ‘Abd al-Ḥakam I or his son. The adaptation testifies to the more developed legal doctrine of the father or the son in Egypt in the early Abbasid period.

### 3.4 *Ibn ‘Abd Rabbih’s Version of the Edict (= Version 6)*

Version 6 is recorded by Ibn ‘Abd Rabbih (Cordoba, d. 328/940).<sup>156</sup> According to Tillier and Vanthieghem, Version 6 may be a version of ‘Umar II’s edict sent to the western part of the Muslim empire.<sup>157</sup> In fact, this version is clearly derived from two eastern sources: Version 5 and IAH 2. In his doctoral dissertation, Abu Safieh argues that Version 6 contains many alterations and interpolations and is not a genuine letter from ‘Umar II.<sup>158</sup> Walter Werkmeister

155 Yarbrough, “Did ‘Umar.” Yarbrough does not identify Ibn ‘Abd al-Ḥakam as the potential creator of this edict. Since Ibn ‘Abd al-Ḥakam (I or II) likely created the long edict about intoxicants (= IAH 2), he likely also created the edict discussed by Yarbrough.

156 Ibn ‘Abd Rabbih, *al-Iqd al-farīd*, ed. Muḥammad Sa‘īd al-‘Aryān, 8 vols. (Cairo: al-Istiḳāma, 1953). 8:64–5. For a translation, see Abu Safieh, “Umayyad Epistolography,” 75–76. This edict is addressed to the *ahl al-amṣār* and not to ‘Adī and the people of Basra.

157 Tillier & Vanthieghem, “Amphores rouges,” 33.

158 Abu Safieh, “Umayyad Epistolography,” 75–80.

suggests that Version 6 is likely based on Version 5 but that it diverges from it in many ways.<sup>159</sup> The influence of Version 5 on Version 6 is apparent: both end abruptly with the Qurʾānic paraphrase “God’s punishment and chastisement are worse.” Werkmeister does not identify a source that would account for Version 6’s divergence from Version 5. It is now clear that this divergence is due to the influence of IAH 2, with which Version 6 shares many distinctive phrases, including: *lā ba’sa ‘alay-nā fī shurbi-hi* and *nu’āqib-hu fī* (or *‘alā*) *l-‘alāniya*, neither of which appears in any other version of the edict. Ibn ‘Abd Rabbih probably created Version 6, basing it on Ibn Qutayba’s *Ashriba* and Ibn ‘Abd al-Ḥakam’s *Sīra*.

### 3.5 *Pseudo-Ibn Kathīr’s Version of the Edict (= Version 7)*

One of the manuscripts of *al-Bidāya wa-l-nihāya* by the Damascene historian Ibn Kathīr (d. 774/1373) contains a long section that appears to be the work of a later author.<sup>160</sup> This author, to whom I refer as Pseudo-Ibn Kathīr, records Version 7, a short redaction of the edict of ‘Umar II.<sup>161</sup> Like Versions 5 and 6, this redaction ends with the Qurʾānic paraphrase “God’s punishment ‘and chastisement are worse.’” Thus, it appears to be based on either Version 5 or Version 6. Version 7 appears to be based on Version 1, since both include the phrase *dhahāb ‘uqūli-him*. In sum, Version 7 is recorded in a very late work and is derived from earlier versions.

### 3.6 *Conclusion*

An examination of the extant versions of an edict attributed to ‘Umar II prohibiting *nabīdh* reveals that it originated with the Basran al-Ṣā‘iq b. Ḥazn, who died after 160/777 (see Diagram 2). Al-Ṣā‘iq copied some elements from ‘Umar II’s passage prohibiting *ʾīlāʾ* (= UR-IAH 1) and perhaps from other unidentified sources. Be that as it may, the contents of al-Ṣā‘iq’s version of the edict reflect his time and place rather than those of ‘Umar II. Unlike ‘Umar II, al-Ṣā‘iq was not worried that the Muslim world was on the eve of destruction. He was concerned about the long term. He held that drinkers in every generation must be punished by agents of the caliph, and that if they evade capture in this world, God will punish them in the Hereafter. Al-Ṣā‘iq’s version of the edict also addressed contemporary debates regarding the preparation of *nabīdh* in

159 Walter Werkmeister, *Quellenuntersuchungen zum Kitāb al-‘Iqd al-farīd des Andalusiers Ibn ‘Abdrabbih (246/860-328/940): ein Beitrag zur arabischen Literaturgeschichte* (Berlin: K. Schwarz, 1983), 122–31, esp. 126–7.

160 Ibn Kathīr, *al-Bidāya wa-l-nihāya*, ed. Ma’mūn al-Ṣāghirjī, 20 vols. (Damascus: Dār Ibn Kathīr, 2010), 10:35, n. 4.

161 *Ibid.*, 10:39–40, n. 4.

receptacles. In accordance with contemporary Basran law, it prohibited *nabīdh* prepared in virtually all receptacles, except waterskins that are not lined with pitch.

Al-Ṣaʿīq taught his edict to at least three students: ʿAbd al-Ṣamad, al-Namarī, and Ibn al-Mubārak, whose versions were preserved respectively by Ibn Ḥanbal, al-Fasawī, and al-Nasāʿī. The version of al-Namarī/al-Fasawī (= Version 2) departs radically from al-Ṣaʿīq's original tradition, permitting the use of waterskins lined with pitch instead of prohibiting it and allowing *nabīdh* made of a combination of dates and raisins.

A collector of traditions, possibly al-Madāʿinī, combined the versions of al-Namarī and ʿAbd al-Ṣamad (or ones closely resembling them) into a single version. This composite version has survived in three recensions recorded by two Baghdadis, al-Balādhurī and Ibn Qutayba, and by one Egyptian, Ibn ʿAbd al-Ḥakam (I or II). Al-Balādhurī's version (= Version 4) may have been influenced by other sources as well.

The Egyptian Ibn ʿAbd al-Ḥakam's version (IAH 2) contains many interpolations and changes that make it the longest version descended from al-Ṣaʿīq's tradition. It is influenced not only by al-Ṣaʿīq's tradition, but also by other sources, including IAH 1. IAH 2 reflects Ibn ʿAbd al-Ḥakam's world view, or possibly that of his son. It has little connection with the perspectives of al-Ṣaʿīq or ʿUmar II. In IAH 2, it is stated that Christians are to be blamed for facilitating the consumption of intoxicating beverages by Muslims. This charge is not found in earlier versions of the edict and seems to reflect the anti-Christian sentiment of Ibn ʿAbd al-Ḥakam (I or II). IAH 2 focuses on prohibiting the preparation of *nabīdh* and *ṭilāʿ* in any receptacle lined with pitch, whether jar or waterskin. IAH 2's description of crime and punishment matches that of Ibn ʿAbd al-Ḥakam, as he expresses it in his legal compendium.

Ibn ʿAbd Rabbih of al-Andalus recorded a version that combines the versions of Ibn Qutayba and Ibn ʿAbd al-Ḥakam, whereas Pseudo-Ibn Kathīr recorded a version that combines the versions of Ibn Qutayba (or Ibn ʿAbd Rabbih) and ʿAbd al-Ṣamad.

With the important exception of the core of IAH 1, we do not have the text of an edict sent by ʿUmar II to the provinces prohibiting intoxicants. This does not mean that no such edict was sent, but only that we do not know its details. In addition to prohibiting *ṭilāʿ*, ʿUmar II apparently prohibited the consumption of *nabīdh* prepared in jars, encouraging the use of waterskins instead.

Reconstructing the transmission history of Islamic traditions is not merely an exercise in textual criticism and stemmatic theory. It is a necessary step toward gaining a more complete understanding of early Islamic intellectual history. Transmitters of religious knowledge were not merely parroting the

traditions they received from their teachers. For many of them, the transmission of traditions was a critical endeavor. First, transmitters had to determine if a tradition was worthy of transmission. If so, they would examine its contents, and if something appeared incorrect or objectionable, they emended it. To this end, they often compared the received tradition with similar traditions received from other sources, and emended it accordingly. Transmitters did not always acknowledge the collation process. In addition, it is important to remember that handwritten Islamic texts are subject to the same rules of textual criticism as Homer’s *Iliad* or the New Testament. The task of a critic of Islamic texts is rendered easier, since the texts are often accompanied by *isnāds* that give precious clues about their provenance. Finally, when examining traditions, it is important to bear in mind Ignaz Goldziher’s valuable observation that Islamic traditions may teach us no less about the times in which they were transmitted than about the events documented in them.<sup>162</sup> Goldziher was referring to traditions with *isnāds*, but the same is true for many traditions without them.

### Acknowledgements

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162 Goldziher, *Muslims Studies*, 2:[5].

## Appendix: The Transmission of al-Sha‘bī’s Tradition about ‘Umar I’s Missive Permitting *ṭilā’*

In Part 1, I discussed al-Sha‘bī’s tradition about ‘Umar I’s missive to his governor ‘Ammār b. Yāsir permitting *ṭilā’* after two thirds of its original content have evaporated. In what follows, I will outline the transmission history of this tradition. I have found twenty relevant versions of this tradition preserved in numerous works. An analysis of the textual variations of these different versions and their paths of transmission allows us to construct a stemma of the tradition’s transmission history (see Diagram 3). This stemma suggests that al-Sha‘bī is this tradition’s originator. In what follows, I will discuss the various versions and how they relate to each other.

The extant versions may be divided into four groups based on two criteria: (1) their *isnāds* and (2) a stylistic element, ‘Umar I’s opening words in his missive. In the first group, ‘Umar I opens with *innī*. In the second group, he opens with *ammā ba‘du fa-inna-hu/hā*. In the third group, he appears to combine the openings of the first and second groups: *ammā ba‘du fa-innī*. In the fourth group, he opens with: *ammā ba‘du fa-inna*. While this division is arbitrary, it yields four distinct groups that represent four different stages in the textual evolution of the tradition.

Before analyzing the different versions of al-Sha‘bī’s tradition, I will describe some of the textual methods of criticism upon which I rely for dating these versions. My methods may be divided into two:

- (1) *Isnād* critical methods: Given two versions with competing *isnāds*, the version with the less impressive *isnād* is likely to be earlier.<sup>163</sup> For example, as noted in Part 1, al-Sha‘bī’s tradition sometimes includes Abū l-Hayyāj as a mediator between him and ‘Ammār b. Yāsir. The addition of this mediator is likely an attempt to improve the *isnād* by filling in a gap. Versions that have Abū l-Hayyāj in the *isnād* are generally later than those that do not.
- (2) Content critical methods: A version that is more polished or developed than another version is likely later. If one version uses simpler or less ambiguous language than another, the simpler version is later. For example, al-Sha‘bī’s tradition includes a missive. Some versions present the missive without any opening or closing formulae that are characteristic of Arabic epistolography. Other versions include such formulae. Transmitters tended to add these formulae to lend the tradition an air of authenticity. The versions without these formulae are more likely earlier.

163 This principle for dating traditions was first formulated by Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford, 1967), 33.



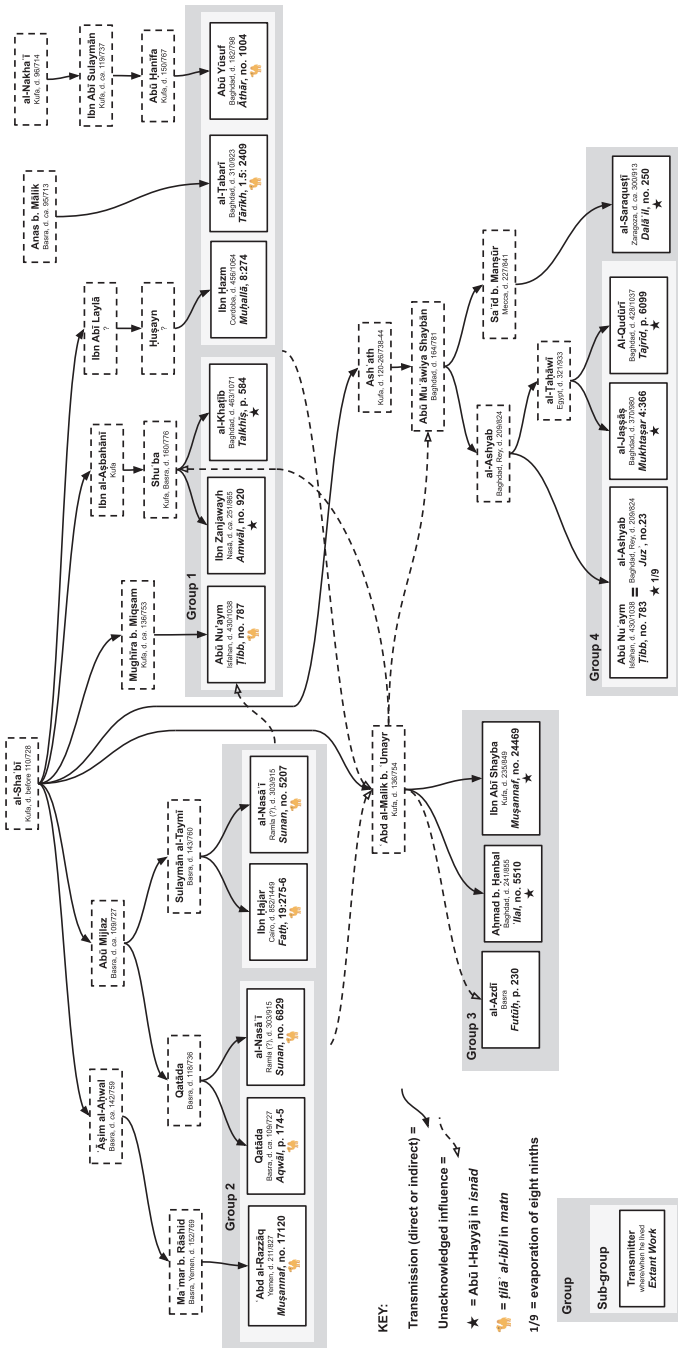


DIAGRAM 3Simplified *Stemma* of al-Shaḥīḥ's Tradition

Group 1: *innī*

In this group, ‘Umar I’s missive opens with *innī*. The group may be divided into two sub-groups. In one sub-group, the missive opens with *innī utītu bi-sharāb*. In the other, it opens with *innī qadīmtu l-Shām*. The formulation *innī utītu bi-sharāb* is probably earlier.

In the first sub-group, there is only one known version with an *isnād* from al-Sha‘bī. It is recorded by Ibn Ḥazm (Cordoba, d. 456/1064) on the authority of Ḥuşayn ← Ibn Abī Laylā ← al-Sha‘bī. Ibn Ḥazm omits the later part of the *isnād*.<sup>164</sup> Ibn Ḥazm’s version is “the archaic version” discussed in Part 1. It does not mention Abū l-Hayyāj and it presents the missive without any epistolary formulae, like *ammā ba‘d*. Ibn Ḥazm’s uncorroborated version may not inspire confidence in the minds of some Hadith critics, who require that a report be corroborated by multiple transmitters on every level of transmission. Indeed, other versions of al-Sha‘bī’s tradition are attested in greater numbers (see Diagram 3). However, this distribution of versions is exactly what we should expect. Later versions represent improved versions of the original. Transmitters likely preferred to transmit the improved ones due to the greater clarity of their language or more mature doctrine.

The phrase *innī utītu bi-sharāb* appears in at least two other early versions that are not attributed to al-Sha‘bī: (1) a version transmitted by Abū Ḥanīfa<sup>165</sup> and (2) a version recorded by al-Ṭabarī.<sup>166</sup> These versions are likely “dives” intended to corroborate or surpass al-Sha‘bī’s tradition.<sup>167</sup>

164 Ibn Ḥazm, *Muḥallā*, 8:274, l. 4. Typically, this *isnād* refers to Ḥuşayn b. ‘Abd al-Raḥmān al-Sulamī (Kufa, d. 136/753) ← ‘Abd al-Raḥmān b. Abī Laylā (Kufa, d. ca. 83/702). However, it is unlikely that Ibn Abī Laylā transmitted traditions from his junior al-Sha‘bī. If the *isnād* is not completely corrupt, then Ibn Abī Laylā may be Muḥammad b. ‘Abd al-Raḥmān b. Abī Laylā (Kufa, d. 148/765), a known student of al-Sha‘bī’s. In any case, this odd *isnād* lacks corroboration. It cannot serve as proof that ‘Umar I’s missive existed before Ibn Abī Laylā’s death. Its dubious *isnād* notwithstanding, the contents of this version appear to be archaic.

165 Abū Yūsuf, *Āthār*, 227 (no. 1004). Abū Ḥanīfa may have learned this tradition from his teacher Ḥammād b. Abī Sulaymān (d. ca. 119/737), but the attribution to Ibrāhīm al-Nakha‘ī (d. 96/714) is doubtful. Abū Ḥanīfa and Ḥammād were rivals of al-Sha‘bī. See Judd, *Religious Scholars*, 46–9. Perhaps this rivalry prevented them from citing his tradition.

166 Muḥammad b. Jarīr al-Ṭabarī, *Annales*, ed. M.J. de Goeje, 3 vols. (Leiden: Brill, 1883–1885), 1.5: 2409–10; idem, *the History of al-Ṭabarī, volume XI: The Battle of al-Qādisiyyah and the Conquest of Syria and Palestine*, trans. Yohanan Friedmann (Albany: State University of New York Press, 1992), 197. Al-Ṭabarī cites Anas b. Mālik as his source. Cf. Kueny, *Rhetoric*, 85–6.

167 On diving *isnāds*, see Juynboll, *ECH*, xxii–xxvi.

There are three versions in the second sub-group. Two versions descend from the recension of Shuʿba b. al-Ḥajjāj (Kufa, Basra, d. 160/776).<sup>168</sup> The other version is recorded by Abū Nuʿaym.<sup>169</sup>

The relation between the two sub-groups is unclear. One may be derived from the other or each may represent a separate formulation by the same author. In any case, the group appears to be archaic.

The versions in this group convey the standard evaporator position: cooked grape juice is permitted after two thirds of its original contents have been boiled away.

### Group 2: *ammā baʿdu fa-inna-hu/hā*

This group may be divided into two sub-groups. Versions in the first sub-group have the sequence *ʿīlāʾ al-ibil... yaṭbuhkūna-hu*. Versions in the second sub-group have the sequence *ʿīlāʾ al-ibil qad ṭubikha*. The first sub-group appears to originate with Sulaymān al-Taymī (Basra, d. 143/760) ← Abū Mijlāz Lāḥiq b. Ḥumayd (Basra, d. ca. 109/727) ← al-Shaʿbī.<sup>170</sup> The versions in the second sub-group appear to descend from two recensions: (1) Two versions descend from the recension of Qatāda (Basra, d. 117/735) ← Abū Mijlāz Lāḥiq b. Ḥumayd, who omits al-Shaʿbī's name.<sup>171</sup> (2) A single

168 *Isnād*: Shuʿba ← ‘Abd al-Raḥmān al-Aṣbahānī (Kufa, d. 105–20/723–38) ← al-Shaʿbī ← Abū l-Hayyāj. Ibn Zanjawayh, *Amwāl*, 2:559 (no. 920); al-Khaṭīb al-Baghdādī, *Talkhīṣ al-mutashābih fī l-rasm*, ed. Sukayna al-Shihābī (Damascus: Tlas, 1985), 584 (no. 970). In Ibn Zanjawayh, read *al-Asādī* instead of *al-Azdī*. Shuʿba's version was contaminated by other traditions. He inserted Abū l-Hayyāj into the *isnād* likely under the influence of the third group. He also added that Christians break their fast on cooked juice. This detail is ultimately borrowed from a source resembling Ibn Abī Shayba, *Muṣannaf*, 8:126–7 (no. 24460).

169 *Isnād*: al-Ghiṭrīfī ← al-ʿAdawī ← al-Shālanjī al-Kisāʾī (Tabaristan, d. 230/844–5) ← Jarīr b. ‘Abd al-Ḥamīd (Kufa, Rey, 110–188/728–804) ← Mughīra b. Miqṣam (Kufa, d. ca. 136/753) ← al-Shaʿbī. Abū Nuʿaym, *Ṭibb*, 703–4 (no. 787). In this version, ‘Umar I compares the beverage to “the tar of camels.”

170 Al-Nasāʾī, *Sunan*, 5:119 (no. 5207), = 6:296 (no. 6828); Ibn Ḥajar al-ʿAsqalānī, *Fath al-Bārī sharḥ Ṣaḥīḥ al-Bukhārī*, ed. Shuʿayb al-Arnaʿūṭ et al., 24 vols. (Beirut: al-Risāla, 2013), 19:275–6. Here, “ʿĀmir b. ‘Abdallāh” is al-Shaʿbī. See al-Bukhārī, *Tārīkh*, 6:450 (no. 2961). In al-Nasāʾī's version, Abū Mūsā appears instead of ‘Ammār b. Yāsir. Ibn Ḥajar found his own version in a now lost text of Saʿīd b. Manṣūr (Mecca, d. 227/841) on the authority of Abū Mijlāz. Ibn Ḥajar omits the transmitters in the *isnād* between Ibn Manṣūr and Abū Mijlāz. A search for “Abū Mijlāz” or “Lāḥiq b. Ḥumayd” in extant writings of Ibn Manṣūr (I used al-Maktaba al-Shāmīla) reveals that Ibn Manṣūr often cited Abū Mijlāz through the recension of Sulaymān al-Taymī. Also, the versions of al-Nasāʾī and Ibn Ḥajar are similar in wording. Thus, it is highly likely that they both relied on al-Taymī. The wording of al-Taymī's version may be influenced by Group 3.

171 Al-Nasāʾī, *Sunan*, 6:296 (no. 6829); Abdulrahman Al-Salimi, *Early Islamic Law in Basra in the 2nd/8th Century: Aqwāl Qatāda b. Dīʿāma al-Sadūsī* (Leiden: Brill, 2017), 174–5.

version descends from the recension of Ma‘mar b. Rāshid (Basra, Yemen, d. 152/769) ← ‘Āṣim b. Sulaymān al-Aḥwal (Basra, d. ca. 142/759) ← al-Sha‘bī.<sup>172</sup>

Group 2 clearly originates in Basra. Abū Mijlaz is its likely originator, although it cannot be ruled out that it began with his students Sulaymān al-Taymī or Qatāda. While the *isnād* of Ma‘mar’s version may suggest that this group originates with al-Sha‘bī, it is more likely that this *isnād* is inaccurate. Ma‘mar’s version resembles Qatāda’s. Therefore, it probably originated with Qatāda or Abū Mijlaz. Whoever introduced the ur-version of this group was responding to the evaporator tradition attributed to al-Sha‘bī.

In this group, ‘Umar I’s missive begins with the words *ammā ba’d*. At first glance, the tradition appears to promote the standard evaporator view. However, it notes that the permitted beverage resembles “the tar of camels.” It also implies that evaporating two-thirds is not sufficient if the beverage’s capacity to intoxicate and its potent smell are not removed as well. This group represents a conservative or thickener reinterpretation of al-Sha‘bī’s tradition.

### Group 3: *ammā ba’d* *fa-innī*

This group originates with ‘Abd al-Malik b. ‘Umayr (Kufa, d. 136/754), who cited it on the authority of al-Sha‘bī.<sup>173</sup> I discussed one version from this group in Part 1. Ibn ‘Umayr formulated this tradition as an improved version of the original evaporator tradition attributed to al-Sha‘bī (the first group). He added the story about al-Ḥajjāj and Ibn Abī l-Hayyāj that explains how al-Sha‘bī heard about ‘Umar I’s missive. He also prefixed the formula *ammā ba’d* to the beginning of the missive to make it appear more credible. This addition may have been influenced by the second group. Ibn ‘Umayr also appended to the missive a farewell blessing (*wa-l-salām*).

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Al-Nasā’ī omits the contents of his version. However, there is no reason to assume that they were radically different from what is preserved in the *Aqwāl* attributed to Qatāda. Even though the *Aqwāl* is an Ibādī work, its *isnād* has transmitters upon whom *Ahl al-Sunna* often rely. The version in the *Aqwāl* may be based on the transmission of Sa‘īd b. Abi ‘Arūba mentioned in al-Nasā’ī’s version.

172 ‘Abd al-Razzāq, *Muṣannaf*, 9:255 (no. 17120), = Abū Nu‘aym, *Ṭibb*, 703 (no. 785). The *matn* of this version is very confused. Its *isnād* may be as well.

173 Ibn Abī Shayba, *Muṣannaf*, 8:128–9 (no. 24469); Ibn Ḥanbal, *al-‘Ilal wa-ma‘rifat al-rijāl*, ed. al-Khānī, 3 vols. (Riyadh: al-Khānī, 2001), 3:341–2 (no. 5510); Abū Ismā‘īl al-Azdī, *Futūḥ al-Shām*, ed. W.N. Lees (Calcutta: Baptist Mission, 1854), 230. In Ibn Abī Shayba, read ‘an Ibn Abī l-Hayyāj instead of ‘an Abī l-Hayyāj. In Ibn Ḥanbal, read ‘Abd al-Malik b. ‘Umayr instead of ‘Abdallāh b. ‘Umayr. Al-Azdī’s version does not have an *isnād* but its contents are unmistakably similar to those of Ibn Abī Shayba’s version. Al-Azdī lived in mid-2nd/8th century Basra and had many Kufan teachers. He may have studied under Ibn ‘Umayr.

Group 4: *ammā baʿdu fa-inna-hu/hā*

This group may be divided into two sub-groups based on their paths of transmission.

(1) One sub-group descends from Abū ʿAlī al-Ḥasan b. Mūsā al-Ashyab (Baghdad, Rey, d. 209/824) ← Abū Muʿāwiya Shaybān b. ʿAbd al-Rahmān (Baghdad, d. 164/781) ← Ashʿath b. Sulaym Abī l-Shaʿthāʿ (Kufa, d. 120–26/738–44) ← al-Shaʿbī ← Abū l-Hayyāj.<sup>174</sup>

(2) The other sub-group descends from Muḥammad b. ʿAlī (Mecca) ← Saʿīd b. Maṣṣūr (Mecca, d. 227/841) ← [Abū Muʿāwiya] ← Ashʿath ← al-Shaʿbī ← Abū l-Hayyāj.<sup>175</sup> Shaybān appears to be the common link.

Shaybān’s tradition is highly developed. He seems to have been influenced by Ibn ʿUmayr’s tradition. He not only mentions Abū l-Hayyāj as al-Shaʿbī’s source but also explains that Abū l-Hayyāj saw ʿUmar I’s missive with his own eyes and acted upon it. The tone of Shaybān’s tradition is apologetic. For example, whereas in the other groups, ʿUmar I consumes the cooked juice himself, in Shaybān’s tradition, one of ʿUmar I’s governors drinks it. Furthermore, in this group, ʿUmar I reluctantly approves of the beverage: According to ʿUmar I’s governor, Muslims had difficulty finding

174 This sub-group may be divided into two recensions: (1) Abū ʿAlī al-Ḥasan b. Mūsā al-Ashyab, *Juzʿ fi-hi aḥādīth [...] al-Ashyab*, ed. al-Radādī (Dibbā al-Fujayra: ʿUlūm al-Ḥadīth, 1990), 49 (no. 23), = Abū Nuʿaym, *Ṭibb*, 701 (no. 783). The versions of “al-Ashyab” and “Abū Nuʿaym” are almost identical and share the same *isnād* from Abū Nuʿaym (Isfahan, d. 430/1038) ← [...] ← Bishr b. Mūsā (Baghdad, d. 288/900) ← al-Ashyab. (2) Al-Qudūrī, *al-Tajrīd*, ed. Sirāj (Cairo: al-Salām, 2004), 6099; Aḥmad b. ʿAlī al-Jaṣṣāṣ, *Mukhtaṣar ikhtilāf al-fuqahāʿ*, ed. ʿAbdallāh Nadhīr Aḥmad, 5 vols. (Beirut: al-Bashāʿir al-Islāmiyya, 1996), 4:366. The versions of al-Qudūrī (Baghdad, d. 428/1037) and al-Jaṣṣāṣ (Rey, d. 370/981) both descend from al-Ṭaḥāwī (Egypt, d. 321/933). Al-Qudūrī does not cite al-Ṭaḥāwī as his source here. However, he is a Ḥanafī and appears to be relying on the same source as the Ḥanafī al-Jaṣṣāṣ, namely, the lost *Ikhtilāf al-ʿulamaʿ* of al-Ṭaḥāwī. Al-Qudūrī’s text more completely preserves al-Ṭaḥāwī’s lost text, while al-Jaṣṣāṣ informs us that al-Ṭaḥāwī is the source. Al-Jaṣṣāṣ omits the names of the transmitters between al-Ṭaḥāwī and al-Shaʿbī. Given the similarity between al-Ṭaḥāwī’s tradition and that of Bishr b. Mūsā ← al-Ashyab, they are reasonably closely related. A search for al-Ashyab in al-Ṭaḥāwī’s extant works reveals that he cited multiple traditions on the authority al-Ashyab. Al-Ṭaḥāwī probably received al-Shaʿbī’s tradition from an Egyptian teacher who studied under al-Ashyab.

175 Al-Saraqusṭī, *Dalāʾil*, 459 (no. 250). Al-Saraqusṭī records this version with an *isnād* through Muḥammad b. ʿAlī ← Saʿīd b. Maṣṣūr ← Abū ʿAwāna (Wāsiṭ, d. 176/792) ← Ashʿath. This is a known *isnād* that recurs in many works. If this *isnād* is correct, then Ashʿath is the common link of the versions in Group 4. However, given the developed contents of the versions in this group, Ashʿath is not a believable common link, because he is too early. It is more likely that “Abū ʿAwāna” is a corruption of “Abū Muʿāwiya.” Al-Saraqusṭī records the *isnād* of Muḥammad b. ʿAlī ← Saʿīd b. Maṣṣūr ← Abū Muʿāwiya, elsewhere in the same work. See, e.g., *ibid.*, 541 (no. 293), 758 (no. 408), 886 (no. 477). The *isnād* of Abū Muʿāwiya ← Ashʿath is known, e.g., from Ibn Saʿd, *Ṭabaqāt*, 2:184; al-Bukhārī, *al-Ṣaḥīḥ*, 8:151 (no. 6734). If “Abū Muʿāwiya” is the correct reading, then Abū Muʿāwiya Shaybān is the common link.

potable water and could hardly afford to drink honey [mixed with water]. Due to this constraint, ‘Umar I permits the beverage. Notably, ‘Umar I stipulates, in one version, that after the juice is cooked one-ninth of the original contents should remain.<sup>176</sup>

In sum, the fourth group represents Shaybān’s more conservative reinterpretation of the evaporator tradition attributed to al-Sha‘bī by Ibn ‘Umayr and others.

## Conclusion

The four groups of versions of al-Sha‘bī’s tradition examined in this appendix represent four stages in the development of his tradition about ‘Umar I’s missive. In the first stage, al-Sha‘bī (d. between 103/721 and 110/728), or a student of his, transmitted an evaporator tradition in Kufa on the authority of ‘Umar I. In the second stage, Abū Mijlaz (d. ca. 109/727), or a student of his, reinterpreted this tradition in Basra as a thickener tradition. In the third stage, the Kufan Ibn ‘Umayr (d. 136/754) reaffirmed the Kufan evaporator tradition by improving its *isnād* and alleging its existence in the time of al-Ḥajjāj. In the fourth stage, Shaybān b. ‘Abd al-Rahmān (d. 164/781) offered his own conservative or thickener reinterpretation of al-Sha‘bī’s tradition.

Al-Sha‘bī’s tradition must have been circulating before Ibn ‘Umayr’s death in 136/754. By that time, it had traveled in Kufa and Basra. The tradition may have begun with al-Sha‘bī; alternatively, his students may have attributed it to him. One might object: Just as Ibn ‘Umayr and others attributed to al-Sha‘bī elements that were absent in the original tradition, someone may have fabricated al-Sha‘bī’s tradition entirely. To this, I respond: There are two good reasons to accept al-Sha‘bī’s status as a common link and to view him as the originator of this tradition. First, Kufans and Basrans agreed that al-Sha‘bī transmitted this tradition. Notably, the Basrans, who modified the contents of the original Kufan tradition, did not deny al-Sha‘bī’s role as transmitter. Second, Ibn ‘Umayr sought to improve al-Sha‘bī’s *isnād* by naming his informant as Abū l-Hayyāj. If someone had fabricated al-Sha‘bī’s tradition, the fabricator would have equipped it with an impressive *isnād*. The fact that the *isnād* had to be improved

<sup>176</sup> Note that the reading *thuluth al-thuluth* (one-ninth) is found only in Bishr b. Mūsa’s version in al-Ashyab, *Juz’*, 49 (no. 23), = Abū Nu‘aym, *Ṭibb*, 701 (no. 783). Al-Ṭaḥāwī has *thuluthu-hu* (its third). See al-Qudūrī, *al-Tajrīd*, 6099; al-Jaṣṣāṣ, *Mukhtaṣar*, 4:366. The reading *al-thuluth* (the third) appears in al-Saraqustī, *Dalā’il*, 459 (no. 250). It would make sense that al-Ṭaḥāwī would revert to the standard Ḥanafī position that requires the evaporation of only two-thirds.

indicates that this tradition was introduced at an early period when *isnāds* were not yet required or in common use,<sup>177</sup> i.e., in al-Sha‘bī’s lifetime.

Al-Sha‘bī likely transmitted the tradition about ‘Umar I’s missive. Obviously, the historicity of his transmission does not mean that ‘Umar I’s missive is authentic. Al-Sha‘bī may well have invented it with the intention of countering ‘Umar II’s edict.

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<sup>177</sup> See Pavel Pavlovitch, “The Origin of the *Isnād* and al-Mukhtār b. Abī ‘Ubayd’s Revolt in Kūfa (66–7/685–7),” *al-Qanṭara* 39 (2018), 17–48. While Hadith transmitters may have only begun to require *isnāds* in the aftermath of al-Mukhtār’s revolt (66–7/685–7), *isnāds* or their primitive equivalents may have been in limited use since the time of ‘Ā’isha (d. 58/678). See Elon Harvey, “Five are Killed: An Islamic Tradition, its Development, and its Talmudic Parallel,” M.A. thesis, Hebrew University of Jerusalem (2014) [in Hebrew with English abstract].