

## English Translation of *Al-adilla al-ḥisān fī bayān taḥrīm shurb al-dukhān: Valid Proofs to Proclaim Smoking Forbidden*<sup>1</sup>

In the following text ⟨...⟩ are used to indicate where text was erased in the manuscript, and \.../ are used to indicate words that were written in the margin of a page and meant to be inserted in the text.

### Valid Proofs to Proclaim Smoking Forbidden

This is the ultimate study and statement concerning the prohibition of smoking. It was put together by the critical investigator and magnanimous shaykh and imām, our generous master Muḥammad al-Wālī, son of the shaykh *al-walī*<sup>2</sup> Sulaymān b. Abī Muḥammad b. Muḥammad b. Muḥammad b. Ibrāhīm al-Fulānī, follower of the Mālīkī legal school and of the Ash‘arī creed. May God grant him Paradise as his abode, to the honour of Muḥammad, the best of the  
<sup>1v</sup> prophets. Amen, amen. | In the name of God, the Merciful, the Compassionate, God’s blessing be on our lord and master Muḥammad, and on his family and companions. The learned and erudite shaykh, the holy and ascetic, who is pious, obeys (God) and is understanding, Muḥammad al-Wālī son of the shaykh *al-walī*, the generous Sulaymān b. Abī Muḥammad b. Muḥammad b. Muḥammad b. Ibrāhīm al-Fulānī, follower of the Mālīkī school and of the Ash‘arī creed. May God grant him Paradise as his abode. Amen.

Praise be to God who makes the truth manifest through evidence and annuls falseness through proof, who clarifies the truth to him whom he wishes from his servants, those who have spiritual knowledge. Blessing and peace be upon our lord Muḥammad, who was sent to make clear this message through the verses

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- 1 I am very grateful to Geert Jan van Gelder for his corrections and many suggestions for improvement of an earlier version of this translation. Also, most of the references to the sources of poetry quoted in the text come from his vast knowledge of Arabic poetry and literature.
  - 2 As mentioned in Chapter 3, al-Wālī’s name is usually written with ā and ī, as it is in this manuscript. His father, however, is here called al-walī, a word that can have many meanings including that of holy man, saint, legal guardian, benefactor, tutor.

of the Qur'an that He sent down to him; and to his family and companions, leading stars and suns of knowledge.

Now then, the humble servant in need of the mercy of his Lord, Muḥammad al-Wālī son of the shaykh Sulaymān, learned in the Mālikī school, of the Ash'arī creed, whose *nisba* is al-Fulānī, says:

People have had more and more questions concerning the judgement about smoking the plant *tinbāk*. Those of the competent ulema gave as legal judgement that smoking it is forbidden. Some others, who like to smoke, were inclined to proclaim it permitted. I say: The uncontestable truth is that it should be forbidden. The arguments for prohibition are clear to everyone who regards (this) properly. I give ten proofs, in a concise way in an epistle | which I have called *Valid proofs to proclaim smoking forbidden*. Then I wish to add an explanation to these arguments. I will show once and for all the invalidity of the claim of all those who plea for its permission. I will make an end to the desire for it, and take away the illusions about it. And I have called that *The ultimate study and statement concerning the prohibition of smoking*.<sup>3</sup> 2<sup>r</sup>

Know that this filthy plant was not known in the time of the prophecy, nor in the time of the (Prophet's) Companions and (their) Successors and after that their successors and those who came after them, until the end of the tenth century (of the Hijra) and the beginning of the eleventh. Then it came to the lands of Islam, while none of these Muslims knew anything of it. Tobacco reached them from the realms of the Christians, from a mountain that is called English, and from certain countries of the Black.<sup>4</sup> Then its consumption became general among all people, night and day, hidden and publicly, even in markets and roads, without a moment's pause. They prefer it over all treasures. Would a sensible person doubt (the necessity of) a prohibition of this repulsive habit? What the exemplary shaykh, our master Ibrāhīm al-Laḳānī enumerated in his epistle, called | *Advice to the brothers regarding the avoidance of smoking* is sufficient (to account) for the prohibition of tobacco. To all who agree regarding the prohibition, it leaves no doubt. May God, on account of all Muslims, compensate him with ample remuneration and beautiful favours. 2<sup>v</sup>

The theologian after him<sup>5</sup> only speaks to repeat his message to the masses of people of good faith, based on the truth that cooperation in what is good is demanded and cooperation in what is evil is blameworthy and undesired. The

3 The second part of the treatise in Or. 8362 has a separate title. *ALA* mentions both parts as separate works.

4 Al-Laḳānī talks of tobacco coming from the Maghrib (Or. 8288h, f. 124<sup>v</sup>) after it was introduced there by a Jew (Or. 8288h, f. 120<sup>v</sup>).

5 Other theologians who adopt al-Laḳānī's point of view, but al-Wālī himself in particular.

Most Exalted said: Help ye one another unto righteousness and pious duty. Help not one another unto sin and transgression—until the end of the verse.<sup>6</sup> And I say, by God whose help must be implored and on whom we rely, concerning the use of this disgusting plant ten arguments (proofs, *adilla*) have appeared to us.

In the first place, using it is a shameful innovation and (amounts to) downright *fitna*,<sup>7</sup> with which Satan has seduced people to keep them occupied with it and away from reciting the Qur'an and thinking of the Merciful and obeying the Judge, so that their lives would be spent in loss. And concerning the claim that its character is *bid'ā*, (heretical innovation) it is clear that the use of this filthy plant was not known in the time of the prophecy, nor in the centuries of (our) predecessors, until it turned up at the end of the tenth century and reached the lands of Islam, coming from the unbelievers.

Its use enervates the ways of the unbelievers and is an innovation in the <sup>3r</sup> religion of the chosen Prophet. If you say: but how many foodstuffs and drinks | have been introduced since the time of the prophecy without anyone having pronounced them to be forbidden, then my answer is: there is no ambiguity in the absence of a prohibition on those foodstuffs or drinks. There is no indication, either textual (i.e. in Qur'an or hadith) or through reasoning to prohibit them. As for the use of this filthy plant, however, it is a shameful innovation and most harmful. The evidence for prohibition is not obscure to anyone in his right mind, and there is no doubt about its classification as reproachable innovation according to the (authoritative) texts such as the words of the Prophet:<sup>8</sup> Beware of new matters, for every novelty is an innovation and every innovation is sin and every sin leads to hell. And there are other texts.

The second argument for prohibition is that smoking is play and idle amusement that is of no religious or worldly benefit, but only idle following of a whim. Play and idle amusement and empty waste of time is wrong.<sup>9</sup> The Most Exalted

6 Qur'an 5:2. For citations from the Qur'an, the translation of Marmaduke Pickthall (Everyman's Library, N.Y. 1992) was used.

7 *Fitna* is a polyvalent word that may mean chaos, (cause of) discord, strife and also temptation or sedition.

8 Here and in the rest of the text 'God bless him and grant him salvation', when used without preceding substantive, is translated as 'the Prophet'. Similarly, when the text does add the blessing to *rasūl Allāh* this is translated only with 'God's messenger' or 'the Prophet'.

9 *La'ib* (play) and *lahw* (amusement) are the words of Qur'an 6:32, 'Naught is the life of the world save a pastime and a sport.' Ḥanafī jurists like al-Aqḥiṣārī differentiated between idleness, play and amusement. In idleness or futility (*abath*), they argued, there is neither pleasure

says: Deemed ye then that We had created you for naught?<sup>10</sup> And the Prophet has said: I am not concerned with diversion and diversion is not my affair.<sup>11</sup> And diversion is amusement. Al-Bukhārī reports this in his *Adab al-mufrad*<sup>12</sup> as well as al-Bayhaqī in the *Kabīr* on the authority of Anas<sup>13</sup> and al-Ṭabarānī in his *Kabīr*<sup>14</sup> on the authority of Mu‘āwiya.<sup>15</sup> And (there are) the words of the Prophet: I am not one of the idle, and idleness is not of me. Ibn ‘Asākir reports it on the authority of Anas, and also in the *Rumūz al-jāmi‘ al-ṣaghīr* (explication to the small collection) of al-Jalāl al-Suyūṭī. And the Prophet said (also): |<sup>3v</sup> All amusement that distracts the believer is forbidden except amusement with his horse, arrow or dog. He also said: All that is not remembrance of God, is amusement and waste of time, except four (forms of amusement): when a man diverts himself with his wife, when a man trains his horse, running between two goals and teaching to swim.<sup>16</sup> That is reported by al-Nasā‘ī on the authority of Jābir b. ‘Abdallāh and Jābir b. ‘Umayr, and also in the *Rumūz al-jāmi‘ al-ṣaghīr*.

Thirdly, it is following the example of the unbelievers in their disgusting habits, and imitation of their awful ways. If imitating sinners is forbidden, then how would imitating unbelievers in their abhorrent habits not be forbidden, when indeed the use of this filthy plant is particularly (common) among sinners and the most despicable of them, in most cases. It is obvious in all places, always.

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nor advantage. In play and caprice there is pleasure but no advantage, whereby amusement is more distracting from the things one should be concerned with. (Al-Aqḥiṣārī in Michot 2010, 46). Al-Laḡānī only says that smoking is a frivolous or empty (*bāṭil*) habit.

10 Q 23:115.

11 *Dad* is an uncommon word. According to Lane it means ‘diversion, sport, play or such as in vain or frivolous.’ Lane refers to this same non-canonical hadith, which he takes directly from the lexicographic work *Asās al-balāgha* by al-Zamakhsharī (d. 538/1144). This hadith is not mentioned by other authors who fought tobacco.

12 Al-Bukhārī in *Al-adab al-mufrad*, 274/1. All the hadiths quoted in this treatise can indeed be found in the collections mentioned. From here on only exceptions will be mentioned.

13 Mālik b. Anas Abū Hamza.

14 I.e. al-Ṭabarānī’s *Mu‘jam al-kabīr ‘alā asmā’ al-ṣaḥāba*.

15 Mu‘āwiya b. Abī Sufyān.

16 The text says *furṣatayn*. It could refer to watering places for camels, but it is more likely a mistake by the copyist. Many versions exist of this non-canonical hadith, in which there is running between two goals (*hadafayn*), related to bow shooting. Other versions of the same hadith speak of running between *al-gharaḍayn* (two targets), the word the copyist must have misread as *al-furṣatayn*.

In some regions, and in rare cases, the \sick/ use of this plant spreads (even) to some ulema who, misled as they are, believe that it is permitted and not prohibited, provided that it is concealed from people by lowering a screen. However, we say that it is imitating the unbelievers, because the filthy plant came from the land of the unbelievers, with its shameful customs, as the leading theologians established. More precisely, they say that it came from the  
 4<sup>r</sup> Christians, | from a mountain called English, and from somewhere in the lands of the heathen Blacks \and that is confirmed by the continuous use of the plant in lands of the heathen Blacks/ east and west of it. It spread among them.

Knowing this, would an intelligent man doubt the prohibition to use this plant, or to follow this blameworthy innovation? The prohibition to imitate the unbelievers and sinners is proven by the words of the Prophet: he who imitates a people, is like them. This is reported by Abū Dāwūd on the authority of Ibn ‘Umar al-Ṭabarānī in his *Awsāt*, on the authority of Ḥudhayfa, and also in the *Jāmi‘ al-ṣaghūr*.

The fourth argument for the prohibition on the use of the plant is that the smoke and the smell of the smolder are offensive to people on roads and markets and at gatherings. Offending a Muslim is forbidden. The Prophet said: he who offends a Muslim, offends me, and he who offends me, offends God. Al-Ṭabarānī reports this in his *Awsāt* on the authority of Anas, and also in his *Jāmi‘ al-ṣaghūr*. And the Prophet said: He who offends the Muslims on their roads, must be cursed. That is what al-Ṭabarānī reports on the authority of Ḥudhayfa ibn Asīd, and also in the *Jāmi‘ al-ṣaghūr*. If someone had eaten garlic or onion or leeks, it was forbidden for him to enter the mosque and be present at pious gatherings. Then how much worse is smoking tobacco with its stinking smoulder, that smokers exhale, day and night, sitting down or on the move,  
 4<sup>v</sup> secretly or out in the open, so much that | the rest of the smell lingers in their mouth when they do not smoke, so that those who smell the stench of their mouths would almost vomit. Some use tricks to conceal the strong odour, but it only disappears after a long time.

Would a rational person doubt the prohibition to use something that makes impossible his presence at the prayer in the mosque and (among) the gatherings of piety and worship, while it is of no benefit and cures nothing? Evidence that entrance to the mosque and to the presence of people who gathered (there) was prohibited to him who has eaten garlic or onion or leeks, are the Prophet’s words: He who has eaten garlic or onion, let him keep away from us and disassociate from our mosques let him stay at home. Al-Bukhārī as well as Muslim reports that on the authority of Jābir in the *Jāmi‘ al-ṣaghūr*.

If you then say: why can smoking tobacco not be made analogous to eating garlic, onion, or leeks? Then one should forbid a person who is smoking to enter

the mosque and the presence of the people (there) so that he does not offend them. But when he smokes on his own, separate from the people, then it is not forbidden, as it is allowed to eat garlic and the like, as long as he keeps the stinking smell away from them. Then I reply: that analogy is not permitted, because there is a difference (between them).<sup>17</sup> For garlic and onion and leeks are beneficial foodstuffs and useful nourishment and common medicines, even though it is said that it is prohibited to eat raw garlic and the like, or that they are disapproved, but it is commonly known that it is permitted, because of the benefit mentioned above. But as for this filthy plant, | there is fundamentally 5<sup>r</sup> no benefit in it, as nutrition nor as medicine. It is rather pathogenic, as scholars of medicine have stated. Moreover, people of understanding and reflection differentiate between the smells in both cases, and find that of garlic and onion unpleasant (or disapproved, *karītha*) but the smell of tobacco (they find) abominable as the stench of a cadaver, and that is clear to the senses.

The fifth argument is that (smoking) distracts the tongue from remembering the Merciful, from reciting the Qur'an and studying the knowledge of religion. It keeps the body busy with what is not useful, but harmful. The Prophet has said: Wretched is the slave of the dinar, wretched is the slave of the dirham and the *khamīsa*; wretched and degenerate,<sup>18</sup> for when he is stung by a thorn, he does not pull it out. This about someone who (so) loves those things that he is dependent of his desire for them.

What do you think of a man who loves smoking tobacco, whose concern is absorbed by its consumption, who follows his passion and neglects the obedience to his Lord and occupies his mind and tongue, the two best things with which one may obey (God)? About those who are distracted from remembrance and worship, the Exalted says: Satan seeketh only to cast among you enmity and hatred by means of strong drink and games of chance, and to turn you from remembrance of Allāh and from (His) worship. Will ye then have done?<sup>19</sup> But when the devil heard the words of God:—O, ye who believe, remember Allah with much remembrance, and glorify Him early and late<sup>20</sup>— |he seduced his followers to the horrible practice, (to preoccupy them with it 5<sup>v</sup> away from what they had been commanded) and to make them err.

17 The argumentation and the wording resemble that of al-Aqḥiṣārī, see Michot 2010, 55.

18 The *khāmīsa* was a luxurious article of clothing. As transmitted by al-Bukhārī and Abū Hurayra a.o., the hadith continues: 'for if it is given to him, he rejoices; if it is not given, he is wretched.' I have not found this hadith in other works arguing against tobacco.

19 Q 5:91.

20 Q 33:41, 42.

The sixth argument is that it belongs to the matters that are harmful to the body, as has been told by those who know it and have experienced it. The Prophet, God's blessing and peace be upon him, has said: let there be neither injury nor counter-injury.<sup>21</sup> Imām Aḥmad reports it in his *Musnad* and Ibn Māja in his *Sunan*, on the authority of Ibn 'Abbās. Ibn Māja also recorded it on the authority of 'Ubāda. According to those who study the principles, the principle of law regarding usefulness is that it is permitted, and the principle regarding harm is that it is forbidden, since the arrival of the Prophet.<sup>22</sup>

The seventh argument is that it is said to belong to the intoxicants because there is addictiveness to it and clouding ('absence') of the mind, as anyone knows who has taken it once, or a few times, even though some deny it and say that it is not intoxicating at all. But in any case, if it is not an intoxicant, it is, without contradiction, a soporific or a corruptive and that is sufficient to prohibit it.<sup>23</sup>

The eighth argument is that it is prohibited to squander money on matters that have no use in divine law and no worldly use. Squandering one's means is uncontestedly forbidden according to God's prohibition of it, for instance in the hadith 'God has disapproved for you asking (too) many questions and wasting wealth'. This is reported by al-Bukhārī and Muslim, on the authority of Abū Hurayra, for instance in the *Jāmi' al-ṣaḡhūr*. Regarding the prohibition to sell it, our learned master Muḥammad al-Kharāshī<sup>24</sup> gave a specification, in his extensive commentary to the *Mukhtaṣar* of Khalīl,<sup>25</sup> (as a note) to his remark

21 The hadith, transmitted by Ibn Māja a.o., is still widely used in modern anti-tobacco campaigns. It was included in al-Nawāwī's (d. 1277) *Arba'ūn hadithan* ('Do not inflict injury nor repay one injury with another'), which was very popular in West Africa (see Hall and Stewart in Krätli and Lydon 2011, 163.) But al-Wālī had also seen it in al-Laḡānī's treatise.

22 In theology, and *ba'atha* (literally 'to send, set in motion'), refers to the sending of the prophets. Consequently, *al-ba'atha* is commonly understood as the coming of the Prophet.

23 Nūr al-dīn al-Ujhūrī (d. 1656 see chapter 6), who wrote *Ghāyat al-bayān li-ḥall shurb mā lā yughayyib al-'aql min al-dukhān*, starts this treatise by saying that tobacco is not an intoxicant, and that if it were established that it was also not a soporific or a corruptive, then it would be considered an absolutely legal substance, whose smoke was clean and lawful.

24 Abū 'Alī Muḥammad al-Kharāshī, d. 1689. GAL II 318, SII 438.

25 Abū l-Ṣafā' Khalīl b. Ishāq b. Mūsā al-Jundī, d. 1365 in Cairo. GAL S II, 96–99. Author of the *Mukhtaṣar*, a principal textbook of law for Mālikis in the Maghrib and sudanic Africa—law as it had developed by melting together of Maghribi and Egyptian practice, with Shāfi' influences.

that the conditions to conclude a contract | are purity and benefit. His words are: No one is allowed to consume what harms his body or his religion. And today that also refers to the consumption of smoke as it is used in these times. Regarding trading it, they stipulate that (a commodity) must be profitable. But there is no profit (in tobacco), because it does not lift harm, or take away illness, or bring benefit, or nourish. End of quotation. 6r

The ninth argument is that there is (in smoking) a love for fire, and an addiction to it. But fire and smoke belong to the category of torments that must be avoided and from which one must keep far. They are not to be desired. Indeed, man sides with whom he desires, as it is said in the hadith, and also because of the words of al-Ṣafī al-Ḥillī,<sup>26</sup> may God have mercy on him:

Because of the truth of your words:<sup>27</sup>  
If a man were to love stone (of his tomb)  
he would, at the Resurrection, not leave his resting-place.

But how would a rational person want to be gathered with fire and smoke at the time of the resurrection? What proves to you that this smoke is a torment, is God's word: But watch thou for the day when the sky will produce visible smoke. That will envelop the people. This will be a painful torment.<sup>28</sup> He also says: (...) the folk of Jonas—when they believed, We drew off from them the torment of disgrace in the life of the world and gave them comfort for a while.<sup>29</sup> What was removed from them was smoke.

Proof is in the words of the Prophet: The good and the bad companion are like the musk-seller and the bellows of the blacksmith. The muskseller does not saddle you (with anything), whether you buy from him or (only) smell his perfume. But the blacksmith's bellows set your house | or your clothes on fire, or you are hit by his filthy smell.<sup>30</sup> This is reported by al-Bukhārī on the authority of Abū Mūsā.<sup>31</sup> And as for fire, the matter is clear enough. Indeed, the Lawgiver mentioned fire in an absolute sense and said about it: Cool yourselves during prayer, for vehement heat is from the boiling fire of Hell. This is reported by al-

26 Ṣafī al-Dīn 'Abd al-'Azīz b. Sarāyā al-Ḥillī al-Ṭā'ī al-Sinbisī, a poet who died ca. 1339. (*ET*<sup>2</sup>).

27 Al-Ḥillī is addressing the Prophet Muḥammad. The verse is Ṣafī al-Dīn al-Ḥillī's famous *badī'yya* poem in praise of the Prophet. Ṣafī al-Dīn al-Ḥillī, *Sharḥ al-Kāfiya al-badī'yya*, ed. Nasīb Nashawī, Damascus: Majma' al-Lughā al-'Arabiyya, 1982, 314.

28 Q 44:10–12.

29 Q 10:99.

30 See Juynboll, *Encyclopedia*, 67.

31 Abū Mūsā al-Ash 'arī. Early hadith transmitter. See Juynboll, *Encyclopedia*, 21.

Bukhārī and Ibn Māja on the authority of Abū Saʿīd, and by Aḥmad in his *Musnad* and by Ḥākim<sup>32</sup> in his *Musnad* on the authority of Ṣafwān Ibn Makhrama. And al-Nasāʿī mentions it on the authority of Abū Mūsā, and al-Ṭabarānī in his great work, on the authority of Ibn Masʿūd;<sup>33</sup> and Ibn ʿAdī mentions it on the authority of Jābir. Ibn Māja mentions it also on the authority of al-Mughīra Ibn Shuʿba.<sup>34</sup> And he also says: Cool your meal, because there is no blessing in heat. That is reported by al-Daylamī<sup>35</sup> in the *Musnad al-firdaws* on the authority of Ibn ʿUmar. And in certain traditions it says: For God does not feed us fire. In a Qurʾanic verse there is an indication that eating fire is blameworthy, viz. God's words: Those who devour the wealth of orphans wrongfully, they do but swallow fire into their bellies and they will be exposed to burning flame.<sup>36</sup>

Without doubt the imitation of the people of punishment is blameworthy and reprehensible. For our most learned master Ibrāhīm al-Laḳānī says in his epistle entitled *Advice from the brothers regarding the avoidance of smoking*: Consider, my brother, what smokers look like while (the smoke) comes from their throats and noses! This is imitation of the people of hell and those who will perish on  
 7<sup>r</sup> account of their sins at the end of time. In the old texts it says that | in the end of time, the earth will be filled by smoke, which will envelope the people for forty days. It touches the believer with a cold, but the unbeliever will have (smoke) coming from his nose and ears, his anus and his eyes, until the heads of each of them will be like a roasted calf, meaning a grilled one. It behoves no one to imitate the people of punishment, or to use something from a sort of punishment or any clothing associated with it.

Thus it is reprehensible to wear a ring of iron and copper, because in the hadith it says that these are the adornment of the people of hell. The jurists declare as reprehensible prayer when there is a stone in front of them, because it resembles worshipping stones. Rather, one should place it to one's right or left. The ulema have prohibited dressing with a *zunnār*, or to put on the *ghiyār*,<sup>37</sup> because both are articles of clothing of the unbelievers. And they declare it reprehensible to pray when one has a fire in front of one, so

32 Al-Ḥākim al-Naysābūrī, hadith transmitter, d. 405/1014.

33 Ibn Masʿūd, ʿAbd Allāh b. Ghāfil b. Ḥabīb b. Hudhayl. Companion of the Prophet.

34 Al-Mughīra b. Shuʿba, companion of the Prophet.

35 Abū Shujāʿ Shīrawayh ibn Shahridār al-Daylamī (d. 509/1115), author of *Firdaws al-akhbār*, also called *Musnad al-firdaws*. See *GALS* I, 586.

36 Q 4:10. Al-Aḳḥiṣārī uses this verse too.

37 The *zunnār* is a special kind of girdle or belt worn by Christians; the *ghiyār* is a cloth patch worn as a compulsory distinctive mark by Christians.

as not to imitate the worshipping of it, and kindling and lighting it after their (the unbelievers') custom.

There are sound reports that the Prophet disliked heated hot foods, saying that 'God—glorious and exalted is He—does not feed us fire', as al-Bilālī stated in his *Mukhtaṣar al-ihyā'*.<sup>38</sup> End of quotation.<sup>39</sup> God commends (us) to eat what is good and to avoid what is disgusting. The Exalted says: Eat of the good things and do right<sup>40</sup> and in the description of the Prophet He says: He will enjoin on them that which is right and forbid them that which is wrong.<sup>41</sup> Many shaykhs have considered it (tobacco) as included (in the latter category), according to Shaykh Khālīd of Mecca. | The Prophet said: He who eats good things and follows my way of life, and from whose evils people are safe, will enter Paradise. That is reported by al-Tirmidhī<sup>42</sup> and Ḥākim on the authority of Ibn Sa'īd in the *Jāmi' al-ṣaghīr*.

The tenth argument is that this continuous smoking in company and in markets and roads, without any shame, violates the norms of *murū'a* (manliness, honour, independence, decent behaviour) and cancels the capacity to act as a witness.<sup>43</sup> If eating permissible foods on the markets—foods that are not harmful people and which benefit the eater by removing the pangs of hunger—nullifies manliness, what, then, about smoking this filthy, stinking stuff that is harmful to people and whoever consumes it, or inhaling it all the time among the people, wherever they gather? Really, the user of this filthy thing cannot separate himself from it for one moment.

This is enough proof for the prohibition to smoke this filthy plant. These are the ten points of evidence altogether, but (even) one of them is sufficient for him who by his nature is just and inclined to accept the truth and acknowledge it. As for him who follows his whims, these admonitions will be of no use to him. As some scholar has said:

Preaching does no good to one absorbed by personal desires,  
whose heart is set on deviating from the norms.<sup>44</sup>

38 The reference is to *Rūḥ al-ihyā'* by Muḥammad b. Aḥmad al-Bilālī al-'Ajlūnī (d. 1417. *GAS* I, 749.10), a summary of al-Ghazālī's *Ihyā' ulūm al-dīn*.

39 The passage from 'Consider, my brother' to this point is a quote from al-Laḳānī. Cf Or. 8288, ff. 129<sup>a</sup>–130<sup>a</sup>.

40 Q 23:51.

41 Q 7:157.

42 Abū 'Īsā Muḥammad b. 'Īsā b. Sawra. *GAS* I, 161–162.

43 Smoking is so contrary to Muslim laws that the smoker cannot be regarded as a complete Muslim, so that his testimony would not be valid in a court of law.

44 The source is unknown.

By God, how excellent is he who says:

Inflamed, the eye may reject the light of the sun,  
Ailing, the mouth dislikes the fresh taste of water.<sup>45</sup>

(part II)

8<sup>r</sup> I have put forward ten arguments. Not one of the ulema can deny them, in no way whatsoever. Let him come, he who opposes this claim, in order to proclaim the use of this filthy plant permitted, with a single proof for his corrupt allegation. Indeed, it does not exist and none will appear, except by mere fancy and because of a lack of concern for what may harm him in his (worldly) abode. You will find him, rather, stumbling about in his words and talking irrationally of what is not useful for his aspiration. Sometimes, (that opponent) says that there is no evidence for its prohibition in the Holy Book. But this is proof of his ignorance of the method of reasoning, because it is based on the reverse of evidence and that is disreputable, and not allowed among the specialists of legal theory. Because evidence is inseparable from the thing that is demonstrated, and not inseparable from the reverse.<sup>46</sup> That is, the existence of what is demonstrated necessarily follows from the existence of proofs. But the absence of something to be demonstrated does not necessarily follow from a lack of proofs.<sup>47</sup> If you see smoke coming from a house, it is evidence of the presence of fire in it, but lack of smoke coming out is not proof of lack (of presence) of fire in it. Although evidence for the prohibition is not present in the literal text of the Qur'an and the Sunna, as is clear to all who possess reason, the texts we have written about it are nevertheless sufficient to invalidate his claim (that it is permissible). Sometimes, those whose passion drives them and whose lack of insight obscures their intellect say that tobacco is a plant among plants and just like eating the others is allowed, consuming this one is allowed (too).

45 From *Qaṣīdat al-burda*, the famous poem by al-Būṣīrī (Muḥammad b. Sa ʿīd al-Sanḥājī, born 608/1212, d. c. 694/1294), *GAL* I 264, S I 467.

46 Cf Rosenthal's translation of the terms *ṭard* and *ʿaks* as 'complete identity of the definition and the thing defined, and reversibility of the definition' in Ibn Khaldūn, *The Muqaddimah. An Introduction to History. Vol. III*. London: Routledge and Kegan Paul, 1958. 146.

47 The example of smoke and fire is famous in the instruction of *kalām* as an explanation of the relation between *dalīl* and *madlūl*, between proof and the object or fact that is demonstrated. See J. van Ess, 'The Logical Structure of Islamic Theology' In *Islamic Philosophy and Theology. Vol. II: Revelation and Reason*. London: Routledge, 2007: 31–55 (34, 35).

But this is a false syllogism, without the existence of a common factor, and making a link despite the existence of a disjoining factor. It is as if he who says this has heard about syllogism, but did not know that there are rules to it, that are well-known among people. And if it would not be so, how can they say such a thing, in spite of the said corruption in tobacco, which does not occur in eating plants whose consumption is allowed? And as for the giving of evidence for its permission, according to the claim of some scholar who gave a legal opinion allowing smoking without presenting proof, even though the proof of the opposite of what he says stands firm—this is a moving away from the truth and a return to ignorance after true evidence has (already) been furnished. For the truth is not known by men, but rather men are known by it. How excellent is he who says:

We know them by the truth, not vice-versa. For evidence, therefore, rely on it, not them; they are but the guides who lead to it.<sup>48</sup>

Know, o brother, that the ulema before me have spoken about this filthy plant, both in prose and in verse, and they have given legal opinions in their books concerning its prohibition, substantively. They have given arguments that banish all confusion and clarify the truth with (objective) knowledge. Not one (view) diverged, except what happened in the case of shaykh ‘Alī al-Ujhūrī,<sup>49</sup> may God have mercy on him. He composed an epistle about it, which he called *The ultimate explanation concerning the allowance of smoking*. O, would that he had not done so! But the horse may stumble and the fire may die—verse—<sup>50</sup>

But who is there whose character traits are all satisfying?  
It is sufficient nobility for a man that his defects can be counted!<sup>51</sup>

Perfection is impossible, except for Him who is glorious and splendid. Our imām Mālik, may God have mercy on him, said: You may select (take and leave) things from anybody’s words, except from the man of this. And he

48 From a poem by Muḥammad b. ‘Abd al-Karīm b. Muḥammad al-Maghīlī al-Tilimsānī (born 790/1425).

49 GAL II 84, SII 98.

50 From a poem by Abū al-Ṭayyib al-Mutanabbī, GAL GI 86, SI 138.

51 Often quoted anonymously (e.g. Abū Hilāl al-‘Askarī, *Jamharat al-anthāl*, Beirut, 1988, II, 226), sometimes attributed to Yazīd ibn Muḥammad al-Muhallabī (al-Ḥuṣrī, *Zahr al-ādāb*, Beirut, 1972, 93).

pointed at the tomb of the Prophet. It means: all of it should be taken, and not a thing can be left out, in contrast to (what you do with) other people's words.<sup>52</sup>

If only he (al-Ujhūrī) had supported his contemporary, the most erudite shaykh, our master Ibrāhīm al-Laḳānī, and agreed with his shaykh, Sālim al-Sanhūrī,<sup>53</sup> concerning the prohibition of tobacco smoking, he would have beautified all that is good and proper, yes beneficent, and it would have been a cause to quench the fire of this horrid innovation and a reprimand to idle people who are addicted to this practice. But it was a pre-destined matter, written on the (preserved) Tablet. May God, with His kindness and blessing, forgive him. A few verses on this topic occurred to me:<sup>54</sup>

Is it possible for a man to be an authoritative source in learning  
and at the same time to invite to this blameworthy smoking?  
Why does he not pronounce smoking to be forbidden,  
to make an end to this innovation that has become generally available?  
Because he declared it permissible, the number of idle people has  
increased  
continuously and without hesitation (on their part).  
Should the people of idleness and passion triumph  
and the God-fearing people, men of prominence, stay behind?  
Immense is the damage done to the godfearing by his declaring  
it lawful: May God grant (him) forgiveness and and have mercy.

<sup>9v</sup> I wished to discuss here the specious arguments that the most learned shaykh 'Alī al-Ujhūrī, may God have mercy on him, has come up with concerning the legality of smoking in his treatise that was mentioned, and I will refute it, God willing, with the help God will give me.<sup>55</sup>

52 That is: you may argue with anyone's words, but the Prophet's words must be accepted without modification.

53 D. 1606, *GAL* SII 416.

54 Lines from here to the end of the folio are marked with red dots on both ends.

55 The next paragraphs, until 12 recto (grain of banj or opium), follow al-Ujhūrī's text. However, the text al-Wālī quotes does not correspond exactly with the (partial) translation Batran (2003) made of manuscripts of *Ghāyat al-bayān li-ḥill mā lā yughayyib al-'aql min al-dukhān* in Rabat (no. 6929, pp. 73–85), Cairo (no. 111) and Fez (*Majmu' al-dukhān* ff. 92–100). I have not been able to see these manuscripts. Unfortunately, Batran did not add the Arabic text and he or his source seems to have skipped some of the more obscure passages.

I say, he says in his treatise: Questions were put to me repeatedly about smoking, which originated recently. And over and over I gave answers about it, since several years, in different wordings, with the outcome that smoking that does not remove one's reason is in itself allowed.

I say—and God is the one whose help must be implored and we rely on Him—: this answer does not imply that smoking tobacco is allowed. Surely, the things that necessitate its prohibition are other than removal of reason (or 'absence of the mind') from smoking it. I have pointed that out, as you know, with the evidence mentioned, and that does not lead to its permission, apart from the fact that the absence of clouding the mind by smoking is not to be taken for granted, for many of those who are familiar with smoking have said that the mind *is* absented by it for many people. This is something that is perceived by the senses and cannot be refuted.

Then he says, may God have mercy on him: this (opinion of mine, that tobacco is allowed) was unknown to some students. So I decided to write an epistle comprising an explanation of what I have stated about allowing what does not absent the mind, in essence. For prohibition occurs \the same way it occurs/ to certain things that are permissible (in essence, but become forbidden through some additional circumstance, e.g. drinking water on a day of fasting).

I say: his claim that the prohibition applies to it in the same way that it applies to some other permissible things, acknowledges that it should be prohibited, | because of matters in it that have been established as necessarily 107 leading to prohibition, as we explained. And after that there is no way for allowing it. If legality of something is accepted because of its essence, then declaring something allowed for its essence does not preclude declaring it forbidden in case of an accidental circumstance that necessitates declaring it forbidden. This regards those who speak out for allowing it for its essence, because its essence does not absent the mind when smoked. As for him who says that that smoking does cloud the mind, there are two arguments for prohibition. And for the first (the one who says that it does not cloud the mind), there is (still) one (argument), so prohibition is confirmed in either case. And the desired outcome is reached, thanks to God!

Then he says, may God have mercy on him: Some reliable (scholars) from the Ḥanafī and the Shāfi'ī and the Ḥanbalī and the Mālikī schools issued legal opinions that, because it is permissible to smoke what does not absent the mind, it is permitted because of its essence, according to the imams of the four schools, as you will see. I reply: the answer to this is precisely the same as what has been said above and the reply of what he attributed to the imams of the four schools will follow at the end of my book, God willing, in the discussion about their statements.

Then, God have mercy on him, he says: Introduction—comprising (definitions of) the meaning of intoxicant, of corruptive and of soporific and about the legal judgements of them, and he reviews what we have mentioned. In his commentary to Ibn al-Ḥāḥib,<sup>56</sup> the most learned shaykh Khalīl, author of the *Mukhtaṣar*, says: A note, useful for the legal scholar, by which he may know the difference between intoxicants and corruptives and soporifics: The intoxicant absents the mind but not the senses and comes with exhilaration and happiness, like wine. Corruptive is what | absents the mind but not the senses, without exhilaration or joy, like syrup of the marking-nut.<sup>57</sup> Soporific<sup>58</sup> is what absents the mind or the senses like in drunkenness. Unlike the latter two, three judgements apply to the intoxicant: *ḥadd*<sup>59</sup> punishment and impurity and the prohibition (even) of a little. If that is established, the more recent jurists who have regarded the issue of hashish have two (different) opinions: either it belongs to the intoxicants or to the corruptives, even though they agree in prohibiting its consumption. Al-Qarāfi<sup>60</sup> chose that it belongs to the narcotics and said: I find that they (eaters of hashish) do not tend towards violence and aggressiveness, but rather there is submissiveness and humility in them and sometimes they happen to weep. On the other hand, our shaykh, the renowned ‘Abd Allāh al-Manūfi,<sup>61</sup> chose that it belongs to the intoxicants. He said: (We say this) because we see that those who take it sell their belongings because of it. If there was no delight in it for them, they would not do that. We do not find that anyone sells his house in order to consume, except a drunk (an addict to intoxication by hashish).<sup>62</sup>

This is clear. End of quotation.

56 D. 1249.

57 *Asal al-balādhur*, *Semecarpus anacardium*. The famous scholar al-Balādhurī (or his grandfather) is said to have ‘died mentally deranged through the inadvertent use of *balādhur*’ (*ET*<sup>2</sup>, I, 971<sup>b</sup>).

58 Al-Ujhūrī has *henbane* as example, Batran 2003, 15.

59 Provisions regarding offences mentioned in the Qur’an and constituting violations of the claims of God, with mandatory fixed punishments; among these offences is drinking alcohol. R. Peters, *Crime and Punishment in Islamic Law*. Cambridge: Cambridge University Press, 2005. 7.

60 Al-Qarāfi, a Mālikī jurist, d. 1285. *GAL* I 385, SI 665. The work al-Wālī has seen is most probably *Mukhtaṣar al-qawā’id*.

61 ‘Abd Allāh al-Manūfi al-Mālikī (d. 1530) *GAL* II 316.

62 Al-Ujhūrī/al-Manūfi again has *henbane*, (according to Batran 2003, 153), and says that people do sell their house for intoxicants like hashish. Al-Wālī quotes him wrongly, or is wrongly copied.

I say—God is the one whose help must be implored—: what (al-Ujhūrī) has conveyed in his writings about<sup>63</sup> *al-Mudawwana* does not imply the permission of tobacco because tobacco, as is reported by those who know it and have tried it, absents the mind and the senses and the smoker becomes faint (swooning) in some instances. Therefore it is soporific and soporifics are forbidden, as has been mentioned. | If it does not remove the senses, but only the mind, then it is corruptive and corruptives are also forbidden, and severe discretionary punishment is in order for both. If it is intoxicating, like hashish, then it is definitely forbidden and it implies the prescribed punishment of eighty (lashes), as for wine. What our master ‘Abd Allāh al-Manūfī concluded regarding hashish as being intoxicating (also) applies to tobacco, to those who give it the slightest consideration. For Ibrāhīm al-Laḳānī wrote in his book: It will also not be unknown to you that the arguments with which my master ‘Abd Allāh al-Manūfī justified his opinion on the intoxicating nature of hashish and its uselessness, such as spending one’s wealth on it or selling one’s house—that he established a proof for that, without paying attention to the view of those who use it and claim that it is not intoxicating, just as the most learned Khalīl has explained in what was said earlier—also apply in the same way for smok(ing), because of the presence of these things in its users too. End of quote.<sup>64</sup>

Then (al-Ujhūrī) said, God have mercy on him: The author of the comment on *al-Shāmil al-Saḥīḥ* considered hashish a corruptive. He quoted the words of shaykh Abū al-Ḥasan in *Sharḥ al-Mudawwana* and the very learned Ibn Marzūq followed the words of Sidī ‘ Abdallāh al-Manūfī as will follow below. The source of the explanation is the most learned shaykh Shihāb al-Qarāfī and worthy men have followed him. He argued that intoxicant is what absents the mind and causes exhilaration and happiness and self-confidence.

Then he said: The words of the poet suggest the general rule concerning intoxicants: |

When we drink it, it makes us kings and lions.  
Battle action does not repel us.<sup>65</sup>

The intoxicant increases courage and pleasure and self-confidence and a tendency to ruthlessness and vengeance on enemies and competition in giving

63 The ms says that he (al-Ujhūrī) wrote *in* (fī) the *Mudawwana*, but this famous Mālikī book of law was of course written by Saḥnūn.

64 Cf. al-Laḳānī, Or 8288, f. 128<sup>a</sup>. The translation is uncertain.

65 A verse by Ḥassān b. Thābit, poet in the time and circles of the Prophet. *GAL* I, 37, S I 67. See Rosenthal 1971, 109.

presents and bestowing favours and pleasure, and this is the meaning of the verse. From this distinction it will be evident to you that hashish is a corruptive and not an intoxicant, for two reasons. The first of them is that it stirs the hidden humours in the body, in whatever situation that is, to the effect that the choleric becomes angry, the phlegmatic one turns silent, the melancholic becomes tearful and submissive and the sanguine becomes as happy as he can. The drinker of wine, however, always finds happiness, far from tearfulness and taciturnness.

The second (reason) is that I find that among drinkers of wine there is much quarrelsomeness and mutual assaulting, with weapons, and they commit atrocities they would not commit when in a sober state. When eaters of hashish assemble, nothing like that happens—we do not hear about quarrelsomeness among them as (we hear) about drinkers of wine. It is for these two reasons that they are convinced that hashish is a corruptive.

Then (al-Ujhūrī) said: ‘intoxicants are distinguished from soporifics and corruptives by three judgements (that apply to intoxicants): *ḥadd* and impurity<sup>127</sup> and the prohibition of (even) a small amount. | There is, however, no *ḥadd* for corruptives and soporifics, and there is no impurity. The prayer of a person who has taken henbane or opium is not invalid and it is allowed to take a little bit of it. Taking a grain of opium or henbane is permitted, up to the point where the mind or the senses are influenced (provided that they are not effected). End of quote (by al-Ujhūrī of al-Qarāfī).

And a little before this he says: The jurists in our time are agreed that it is forbidden to consume hashish. I mean: a large quantity such as absents the mind. Then, after (agreeing on) this, they have different opinions as to whether *taʿzīr*<sup>66</sup> or *ḥadd* punishment is obligatory. End of quote. According to the words of the *Tawdīh*,<sup>67</sup> among the things agreed upon, the prohibition to consume it convinced many, as is explicit in the words of al-Qarāfī. There is no misunderstanding about it. Ibn Marzūq says in his commentary on our master ‘Abd Allāh: The argumentation that he mentions is open to question because the fact that one wastes all one’s money on it can only indicate that they take a certain pleasure in it. As for specifying that (this pleasure) is similar to the elation caused by wine, this is not the case, for what is more general does not have any business with what is particular and specific. End of quote.

66 Provisions concerning discretionary punishment of sinful or forbidden behaviour or of acts endangering public order or state security. Ibid.

67 This may be the *Tawdīh* by Khalil b. Ishāq which is also mentioned below on f. 16<sup>a</sup>. But many others also used the title.

I (al-Wālī) say: in his (Ibn Marzūq's) words is nothing that indicates that he wished tobacco to be allowed. We do not need more of a reply to this than what was said above.

Then (al-Ujhūrī) says, may God have mercy on him: Conclusion, containing the intended (judgement). When this is established, we say: smoking as mentioned does not cloud the mind at all.

I say, God's help must be implored and we rely on Him, this is contrary to what many people say, | that smoking clouds the mind. This is, however, a <sup>12v</sup> clear and obvious matter and cannot be denied. As for his claim (that) it is not impure there is no reason for mentioning this, because there is no connection between a substance obscuring the mind and its being impure. The mind can be clouded by corruptives or soporifics and they are not impure, as follows from what he mentions in the introduction. Impurity is among the legally established attributes (*aḥkām*) of intoxicants. But absence of impurity would not contradict the prohibition.

Then he says, God have mercy on him: In this case, its use is not prohibited for what its essence is, but for the harm (and the like) it may cause. It is not prohibited for the person it does not harm. But he whom it harms, although he has the information of a knowledgeable and trusted person or from his own experience, to him it is prohibited. I say: this acknowledges that what he allowed should be prohibited, and the categorisation he invented makes no sense. Indeed, harm clings to whoever ingests this smoke himself and to others. It is amazing! How can he deny the harm of drinking this smoke while its harm is clearly visible in all who use it? A certain sufi, a friend of God from among the people of Anatolia, wrote in his epistle, as our master Ibrāhīm al-Laḡānī quoted, that 'the least of its harm is that it clouds the mind and body and it pollutes the exterior and the interior that should be clean from the point of view of law and custom and honour'.<sup>68</sup> The instrument of smoking is polluted too, and the exterior is a sign of the interior and the use of what is harmful is forbidden.<sup>69</sup> End of quote.

68 *Mūn al-arwām* (sg. *Rūm*). The author intended here is almost certainly Aḥmad al-Aḡḡiṣārī (see chapter 6). He was born in 1570 in Cyprus, to a Christian family, and later converted to Islam. (Michot 2010, 1) In such a case, the word *Rūm* can refer to the people of Anatolia or to Melkite Christians. See 'Rūm' *ET*<sup>2</sup>. As for the identification of al-Aḡḡiṣārī as a sufi (*ba'd al-'arifīn*), Michot believes that this is due to confusion with another person, and points out that Aḥmad al-Aḡḡiṣārī's milieu was a very different one. Ibid.

69 Cf. al-Laḡānī, Or. 8288, f. 123<sup>a</sup>.

13<sup>r</sup> Then he (al-Aqḥiṣārī) said, God have mercy on him: ‘There is disagreement about things that the Sharī‘a does not give a judgement about. It is preferred to prohibit what is harmful, but not other things.’ I say—and I seek my succour from God: this is an argument to prohibit smoking definitively, as we have put forward in the evidence, because harm occurs in it in any case. And in the *Advice to the brothers about the avoidance of smoke* by our master Ibrāhīm al-Laḳānī it is said: ‘The physicians agree that the varieties of smoke are desiccating.’ Or as the *Canon* (of Ibn Sīnā) has it: all the sorts of smoke are desiccating due to their earthy substance, and because there is an igneousness to it, because of its fiery nature. Therefore it seeks elevation as long as it remains mixed with fiery particles. End of quote.<sup>70</sup> Since smoke is desiccating to bodily moistures, it leads to the occurrence of many illnesses and after complete dessication the liver, the brain and heart will become inflamed, and the rest of the body will follow, which usually leads to death, with God’s permission. Ibn ‘Alī b. Sīnā has said: But for smoke and darkness (or dust) man would live a thousand years. End of quote.

13<sup>v</sup> And Galen too said about this: Avoid three things, make an obligation of four and you will not need doctors. Avoid dust, smoke and putrescence and make an obligation of (eating) fatty foods, | sweet things, perfuming and bathing. End of the words of Galen.

And I reply: all this indicates the confirmation that there is harm in smoking. The shaykh instructed us to follow the sayings of the doctors, and they agreed that it harms, as (is stated) in these reports, without excepting a person, a moment or a situation. How then would it not be forbidden! And as for benefits, there is no one who claims this for tobacco; it does not satisfy appetite nor does it cure, but it brings only distraction and amusement. The Prophet, peace be upon him, said: To the perfection of Islam belongs that man leaves aside that which does not concern him.

Then (al-Ujhūrī) says, God have mercy on him: You are well acquainted with the languor that affects some who start smoking, as (affects) someone who immerses himself in warm water, or someone who drinks a laxative. There are no reports that the brain is clouded by that at all, as people believe who have no knowledge of it. I say: this is clearly different from (what) many people (claim), for they report that it causes unconsciousness to some beginning smokers. Some even told me that some who smoked it dropped dead, without recovering.

70 Al-Laḳānī ended his quotation from al-Aqḥiṣārī here, and inserted a number of other sources before he quoted him again. Al-Wālī immediately continues with a next quotation from al-Aqḥiṣārī. Cf. al-Laḳānī Or. 8288, f. 123<sup>a-b</sup> and Michot 2010, 46–47, 81.

Then he says, God have mercy on him: And even if it is granted that it is something that clouds the mind, then it is definitely not an intoxicant, because it does not come with exhilaration and joy, as was established to be the case. I reply: In what went before we have already made an analogy between smoke and hashish regarding intoxication, according to what our master ‘Abd Allāh al-Manūfī said about its intoxicating qualities—and | his student, the erudite 14<sup>r</sup> Ḍiyā al-Dīn, grandson of our master Khalīl, followed him, God have mercy on them both—by pointing out the common factor: the fact that its user spends all his wealth and sells his necessities such as the house he lives in and the like. They say: only drunkards do that! But it happens with tobacco (too), more obviously and publicly, to the point where (the smoker) prefers it over his dinner and evening meal. Indeed, he sells those to acquire it, and is not ashamed to ask for it, not even from his in-laws. Are those other than the deeds of a drunkard?

Then how does one assert the absence in it of that which makes drunk—while the assertion of the lack of (a property that) makes drunk does not refute its prohibition—since it (still) clouds the mind? As for its corruptive or soporific properties and all that is forbidden, and therefore smoking is forbidden by unanimity, just as there is agreement about the prohibition of eating hashish, as (al-Ujhūrī) related in what preceded.

Then he says, God have mercy on him: then, its use is permitted to him whose mind it does not cloud, just as the use of opium to one whose mind it does not cloud. And this is different for different temperaments, and for little or much. It may cloud the mind of one person and not of another. And the use of much may cloud the mind, but not of little. I say: The reply to all of this has already been given before, namely that smoking is an intoxicant comparable to hashish, according to the words of al-Manūfī, or a soporific, as many people relate in some circumstances. ⟨...⟩

⟨...⟩ (Then) his claim: this is different for different temperaments. The reply 14<sup>v</sup> is, that the proper thing in such a case is to avoid it altogether, no necessity induces to it, and neither one’s need nor benefit compels one to it, as it is said—and how excellent is he who said it:

Being safe from Salmā and her female neighbour  
consists in not passing by her valley under any circumstance.<sup>71</sup>

71 Verse referring to the dangers of falling in love. G.J. van Gelder found it quoted anonymously in al-Tawḥīdī’s *al-Ṣadāqa wa-l-ṣadīq* and in some later sources.

The intelligent person is he who takes good care of himself; but he who puts himself at risk—one fears that he would fall under (the category of) the general prohibition of suicide. From where should the masses get information about their temperament, so that they may know whether smoking would harm their temperament? For the use of what harms one is forbidden to people, even if (harm appears) later, and likewise, what is suspected to inflict harm, in the manner of prevention. As for changing (things to) absence of harm, that is not possible. Between smoking and allowing (it) there is a great distance, a far goal.

Then he says, God have mercy on him: It is not possible for a rational person to say that it is forbidden in essence, unless he were ignorant of the logical reasoning (*kalām*) of the legal schools, or arrogant. Because after having heard the reasoning of the scholars and their knowledge, the judgement to permit what does, in essence, not cloud the mind, becomes (a matter) in the category  
 15<sup>r</sup> of what is self-evident,<sup>72</sup> which | a rational person can't deny.

I say, the reply to all of this is evident from the preceding, namely that even if a rational person is of the opinion that it is not in itself forbidden, then he would have sufficient reason to declare it forbidden on account of accidental circumstances that require declaring it forbidden, as is shown by our proofs given before. So one should not be ignorant nor arrogant, for he who substantiates his judgement with proofs is not ignorant! Ignorant, rather, is he who firmly believes what the arguments contradict. And arrogant is he who knows the truth and refuses to accept it or declare it, like a person who is informed about the judgement, and the meaning of the evidence becomes clear to him with certainty and (yet) he refuses to stand by it. The ulema who speak out for the prohibition of tobacco have given their arguments and explained their pleas so the truth came out like a morning sun and like a full moon in the dusk.

Then he said, God have mercy on him: Let us point out by the first figure of syllogism that this is the self-evident conclusion: we say that smoking, on the basis of what was described, does not cloud the mind, in spite of exhilaration and joy, and is not (ritually) unclean, but pure. In a case like this, the use is always allowed for an amount that does not cloud the mind. The minor premise is clear, since it is derived from emotions or observations, the major premise is the evidence that was given before from the words of the leading authorities.<sup>73</sup> And the conclusion is self-evident and he who denies this denies what is self-evident.

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72 *Badihi* means self-evident (conclusion) in the terminology of syllogism.

73 See Chapter 6, n. 73.

I say, what he wrote here, God have mercy on him, about a logical figure does not lead to authorization to smoke tobacco; it would merely indicate that it does not have an intoxicating essence. But there is no relation between the lack of | intoxicating properties and allowing it. Indeed, if something is not 15<sup>v</sup> intoxicating, but is corruptive and soporific, then its use is prohibited except for the amount that is confirmed not to influence the mind. But this amount is not known for smoke. Therefore the procedure is to reinforce the prohibition as a precaution, even though we accept that it does not triumph over the mind. The other aspects sufficiently indicate prohibition, such as (the fact) that in essence it is a repulsive innovation, that is harmful to its user as well as to others by the stench of its smell, and (the fact) that its essence is caprice and nonsense and the like, as presented from the arguments for prohibiting. There is no reason at all to allow it. But let us present a logical form for the prohibition of smoking, by way of a syllogism that will produce a brilliant conclusion. Therefore we say that the prohibition on smoking tobacco is established with clear proofs, and anything for which the prohibition is established with clear proofs is forbidden. The conclusion is that smoking tobacco is forbidden. The evidence for the minor premise are the ten arguments we gave for its prohibition; the evidence for the major premise is the certainty of the things proven \the certainty of the evidence—correct/, so the conclusion in our syllogism is self-evident, and therefore denying it is denying what is self-evident.

Then he says, God have mercy on him: If you say that this smoking is clearly forbidden because it is moistened with wine and moistened with urine, as some say, then I reply that if that is true (confirmed), then its prohibition is because of an external characteristic (accident) and not because of its essence; and if it is not true (it is not confirmed), then in principle it is pure, on the assumption that that is | valid. It is, however, one of the things that come 16<sup>r</sup> from the lands of the Christians and thereabout. As for what comes from lands of Takrūr and surroundings, that is confirmed to be uncontaminated by that.<sup>74</sup> However, a trustworthy person has mentioned that he saw some people moisten it with urine, and that in towns in Muslim countries.<sup>75</sup> It is said that Ibn

74 Cf Al-Laqānī, who writes that tobacco from the Christians could be polluted with wine of the fat of swines, but that the tobacco that was imported from the Maghreb and the Muslim regions of al-Sūdān, as well as the tobacco that was grown in other Muslim countries, was free from this contamination. ‘However, the tobacco that was imported from Sūdān al-Majūs was as contaminated as the tobacco that was imported from the land of the Christians.’ Or. 8288, f. 124<sup>b</sup>.

75 This sentence seems to be al-Wālī’s again. The trustworthy person could be al-Laqānī, who has such anecdotes.

Rushd pronounced the smoke of something impure to be pure; and the evident meaning of his words is that this is agreed upon.

Also the statement is mentioned of Ibn ‘Arafa, and of shaykh Khalīl in his *Tawḍīh*, in the context of selling and buying: the least of its conditions must be given preference (i.e. determines the quality of a good). For that reason, some of the commentators of Khalīl followed his claim that the smoke from something impure is impure, by the words of Ibn Rushd.

At this point, there is something to which one should be alert. That is: the judgement of impurity regards herbs and the like that are moist(ened) with wine, or have even remained in the wine and are dried afterwards. If it is so that, when moistened (again), with something that releases the intoxicant—either because water or the like is used, which releases the intoxicant, or because nothing of the wine dissolves in it—then that is pure. The same goes for wine. If it dried up and was (again) moistened by something that does not intoxicate, it would be pure, as is said explicitly.

I say: there is no need to talk about this, because it is not about allowing smoking. All this is only about (establishing whether) its essence is pure or not. So let us turn away from it.

Then he says, God have mercy on him: if you argue that (the judgement of) impurity clinging to clothes for instance, (still) remains when it dries to the  
 16<sup>v</sup> point where no traces are | left, and that (that part of clothing) which has been in contact with it is judged impure, then I reply: wine is not like other things that are unclean. Its impurity is related to the presence of delightful exhilaration. But when that stops, it stops. And when no more wine remains in what was mixed with it and only its valuation (as impure would remain), the exhilaration from it stops altogether, and it is pure. Imām Abū ‘Abd Allāh al-Māzarī and others have pointed this out.

I reply: this is a legal matter with which allowing tobacco has nothing to do. We have nothing to say about it. Our discussion with him is only about allowing tobacco.

Then he says, God have mercy on him: if you argue that consuming this is wastefulness, and that is forbidden, \I reply that spending money this way is no waste. Correct/. I say—and God’s help must be implored—what was indicated—that spending money on buying tobacco is not prohibited—is not correct, according to what we have concluded regarding its prohibition by means of evidence. And we have previously mentioned the statement of (other) scholars concerning the prohibition to buy it because there is nothing to be gained from it neither by law nor by custom, so selling it is also forbidden. And spending money on it is waste, as is implied by what he cited himself. The argumentation he cited goes against (his opinion), not in favour of it.

Then he says, God have mercy on him: Imām al-Qurṭubī said in his exegesis of the words of the Highest 'Be not prodigal':<sup>76</sup> wastefulness is spending squanderingly. The meaning that was intended in the verse is: do not take something unrightfully and spend it unjustly. | Aṣṣbagh b. al-Faraj<sup>77</sup> said this and others. <sup>17<sup>r</sup></sup> And the words of Iyās b. Mu'āwiya:<sup>78</sup> What goes beyond God's commands is prodigality. And Mujāhid<sup>79</sup> said: If someone had Abū Qubays<sup>80</sup> in gold and spent it on something that pleases God, or on a pious deed, it would not be prodigality. But if he spent a dirham or a *mudd*<sup>81</sup> in disobedience to God, it is prodigality. Now, you may say: this interpretation of what is intended by the verse on prodigality is weakened by what Ibn 'Abbās and others have mentioned, that Thābit Ibn Qays b. Shimās<sup>82</sup> attended to five hundred palmtrees, and felled them and cut them up in one day and left nothing to his family. This led to the Qur'anic revelation: Be not prodigal. Al-Suddī said: That is, do not spend your wealth, so that you will end up poor. It is being told on the authority of Mu'āwiya b. Abī Sufyān,<sup>83</sup> that he was consulted about His words 'be not prodigal' and he answered: Prodigality is that (part) which is not spent according to God's law.

Then I (al-Qurṭubī) reply: because of this, giving away all one's wealth and depriving the poor from their rights both fall under the verdict of prodigality. And it is in contradiction with justice. So let one give alms, and he will remain as the Prophet has said: The best alms are those that are based on wealth.<sup>84</sup> Only one who is strong of mind and rich, who relies on God and is on his own, without a family, may decide to give away in charity all that he owns. End of quote.<sup>85</sup> And they quoted the words of the Highest: And squander not in wantonness.<sup>86</sup> | Squandering (*al-tabdhīr*) is scattering. The word 'seed' (*badhr*) <sup>17<sup>v</sup></sup>

76 Q 6:141, Q 7:31.

77 Scholar of hadith and Mālikī fiqh, d. 839.

78 Qāḍī of proverbially great justice in Basra, d. 739 or 740.

79 Mujāhid b. Jabr, 642–720/721. Reported more than one hadith concerning luxury. See G.H.A. Juynboll, 2007, 430.

80 Mountain near Mecca.

81 A measure for corn.

82 Thus in the ms. Correct is Shammās, companion of the Prophet, spokesman of the *anṣār*. See G.H.A. Juynboll, 2007, 380.

83 Caliph 661–680, founder of the Umayyad dynasty.

84 On the authority of Abū Hurayra in Bukhārī kitāb 24, bāb 18 and 69:2. Muslim kitāb 12, bāb 95.

85 I.e. end of al-Ujhūrī's quote from al-Qurṭubī.

86 Q 17:26.

belongs to that (category), because it is ‘dispersed’ in the earth. Subsequently it (the word *tabdhīr*) was predominantly used for ‘spending wealth’. Mujāhid said: If people spend all they have in virtue, it is not squandering. When Ibn Mas‘ūd was asked about squandering, he said: (it is) spending (money) on other things than what is right. ‘Umar ibn al-Aswad said, on the authority of Mujāhid: if a man spent like that, that is (as much as) Mount Abū Qubays, in obedience to God, he would not be a squanderer. But if he spent a single dirham in disobedience to God, he would be a squanderer.

They also quote the words of the Highest: Let not thy hand be chained to thy neck.<sup>87</sup> The verse means: do not refrain from spending to the point where it keeps you and your family short of the gift of the Merciful, ‘nor open it with a complete opening’,<sup>88</sup> meaning: do not be large in spending to the point that you leave nothing in your hand. End of quote. And they quote the words of the Highest: And those who, when they spend, are not prodigal—until the end of the verse.<sup>89</sup> Ibn ‘Abbās and Mujāhid and Qatāda and al-Ḍaḥḥāk said: Prodigality is spending in disobedience to God, and stinginess is depriving God of what is due to Him. And Mujāhid said: if a man spent the mountain Abū Qubays in gold in obedience to God, it would not be extravagance, but if he spent a dirham in disobedience to God, it would be prodigality.

I say: all these words point the way to the prohibition of spending money on tobacco, and its being forbidden, as is not hidden.

<sup>18r</sup> Then (al-Ujhūrī) says, God have mercy on him: You may argue | that it is harmful and forbidden because of its harm, and I would say: that is true, and its prohibition is for an incidental reason, as (argued) before. It is specifically forbidden to those whom it harms, not to others. The claim that it is harmful in the absolute sense is a claim unsustainable by proof.

I (al-Wālī) say: His words ‘a claim unsustainable by proof’ are untrue. Rather, it is a claim *with* proof, since he refers, concerning the harm it does to the smoker himself, to following the opinions of the physicians. But we have mentioned their agreement regarding smoke being harmful in an absolute sense. As for its harm to others, that is something perceived by sensation and which follows necessarily from the stench of its smell and the harm caused by the smoke, and all that has been discussed.

87 Q 17:29.

88 Idem.

89 The verse, Q 25:67, is: And (they are) those who, when they spend, are neither prodigal nor grudging; and there is ever a firm station between the two.

Then he says, God have mercy on him: There is even benefit in it, as is observed in the case of some illnesses, for instance it makes a clean sweep of an ill spleen and of bad smell. I know of someone who wrote (a treatise) on its benefits, and a reliable person suffering from diseases told me that it benefited him in these two cases.

I say: These are words that are untrue. Proof of their refutation are the words of the Prophet: God did not invest a cure in that which is forbidden to you. That is what al-Ṭabarānī wrote in the *Kabīr*, on the authority of Umm Salama, may God be pleased with her.

Then he says, God have mercy on him: The pious and devout shaykh Khalīl Sīdī ‘Abd Allāh, son of our eminent shaykh Muḥammad al-Niḥrīrī al-Ḥanafī, gave a fatwa that smoking is only forbidden to him whom it harms, if that is established by a physician who is learned, Muslim and trusted, \issue: his words *al-Niḥrīrī gave a fatwa etc.* are an untrue statement/ | or according to 18<sup>v</sup> experience. Otherwise it is permitted. End of quote.

Then he gave a fatwa again, to a question presented to him, that it is not prohibited, except to him whose mind it clouds or to whom it harms. The question was: What would you say, may God be pleased with you, about smoking as it occurs in these times? Is it forbidden to him whose mind it does not cloud and whose body it does not harm? And is there a hadith, even a weak one, about its being objectionable? Please, give us a fatwa, may God reward you. And the text of his answer is: Praise be to God, the Lord of the worlds. Lord, increase me in knowledge.<sup>90</sup> It is not prohibited, except to him whose mind it clouds or to whom it harms. Not to others. As for the existence of a hadith like that, none has been transmitted in the books of hadith that we know, neither in a sound manner, nor a weak manner, nor even fabricated, from those who find it necessary to mention fabricated hadiths. Regarding (the stories) that have been passed on orally, they are forgeries of the people of our own times. But God, praised be He, knows better the true state of the matter! Shaykh Muḥammad al-Niḥrīrī al-Ḥanafī wrote this, praising (God). End of quote.

I say—and God’s we implore God’s help and rely on him—the reply to the words of shaykh ‘Abd Allāh b. Muḥammad al-Niḥrīrī is like the preceding reply, letter by letter. The preceding discussions are sufficient, about the harm in smoke being firmly established by the words of the physicians such as have already been quoted.

90 Q 20:114.

19<sup>r</sup> There is no reason to regard | their information concerning the established harm as conditional. Likewise, the obscuring of the mind has been established by the information of many people who made such observations. Therefore everyone must avoid (smoke) in order not to come to harm. Regarding what he said of the rejection of hadiths in which tobacco is blamed as coming from the urine of Iblīs, may God curse him, at the time when he was terrified after hearing the words of the Highest: As for My slaves, thou hast no power over any of them,<sup>91</sup> upon which he was shocked and urinated, and this plant sprang up from his urine; and also the hadith related by Ḥudhayfa ibn al-Yamān who said: I went out with the Prophet, God bless him, and he saw a plant and shook his head. I asked: O, messenger of God, why do you shake your head? He said to me: A time will come to the people when they will drink from the leaves of this plant; and more hadiths like these are being related, of which we do not know the source.

As for the hadiths implying the prohibition of tobacco, they must be accepted; for instance the hadith ‘Do not harm yourself, do not harm another’, that Ibn Māja reports, and the hadith ‘Beware of novelties, for they are *bid’ā* and all *bid’ā* is straying from the right path, and all straying leads to hell,’<sup>92</sup> besides those hadiths that we have presented, demonstrating the prohibition  
19<sup>v</sup> of smoking tobacco. There is no reason to refute them, | for they are sound or good. They must be acted upon.

Then he says, God have mercy on him: If this is established (that smoking is only harmful to those whose mind it clouds and whom it harms), then it should not be prohibited by means of a ban from an authority to a person who experiences its benefit and whose mind is not clouded by it, because (such a person) is compelled to use it. To stop using it would be to stop what he is required to do; and obedience to the imām is not binding in a case like that, based on the two opinions given below. Similarly, if one does not experience (benefit) and is not harmed and one’s mind is not clouded, then one would know that the motive for the prohibition by the authority on using it is (merely) the belief that it is forbidden.

I say, this fatwa is not sound, because it is based on legitimising (declaring it permissible), whereas illegality (declaring it forbidden) is obvious because of the arguments given above. Therefore one is bound to respect the ruler’s ban in this matter. Indeed, obedience in such a case is an obligation, without dispute, according to the words of the Highest: O ye who believe! Obey Allāh, and obey

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91 Q 15:42.

92 Abū Dawūd, kitāb 39, bāb 5.

the Messenger and those of you who are in authority.<sup>93</sup> A large number of verses are dedicated to what is proper for rulers. In the words of the Prophet: People cannot be obedient to a created being when they are disobedient to the Creator. Obedience to the ruler is obligatory except in disobedience (to God).

Then he says, God have mercy on him: If one knows that the prohibition to use it is caused by another interest, while (the authority who imposes the ban really) believes that it is permitted, then this (prohibition) is forbidden, because (man) is (only) obliged to obey the ruler in anything that is not (tantamount to) disobedience to God or reprehensible—which is hidden even to some teachers. If one does not know the reason, one should give preference to the first (principle), for it is assumed, or even a given fact, that (an authority) must not keep people from the permission to use something when there is no interest for him in forbidding it. | For it is said, however, that the prohibition by an imām <sup>20f</sup> of what is permitted is only binding to one who is from (the same) school of law. But in case his school of law were (to hold) that (the ruler's) ban on something permissible is null and void, then one would not be held to it. The son of our shaykh, the said shaykh 'Abd Allāh, told me that his ban on something permitted does not entail its being forbidden, and it was not for him to keep people from it. Some of our Shāfi'ī brothers gave as their legal opinion that the ban of the imam only imposes a prohibition in an obviously similar case. This is reported on the authority of our shaykh Ibn Qāsim. The (literal) text of what he wrote about it on the authority of the imām is: If it is permitted, pursuing this (prohibiting things) should be forbidden, based on the evident words of our colleagues (of the same legal school). Merely refraining from it is enough. The shaykh of our shaykhs, al-Shihāb b. Qāsim, said: The issue is that, if someone were forbidden to drink coffee because of the public interest, he must comply only in public. And this is the direction to take. Now let one consider that. End of quote. I say, we have no words for this and let us ignore it.

Then he says, God have mercy on him: The leader of Shāfi'ites 'Alī al-Ziyādī, God bless him and give (us) benefit through him, gave a fatwa on this. He wrote it in answer to a question, (saying) that smoking is prohibited to those whose mind is clouded by it but not to others. Allah knows best. The answer to this is that smoking is prohibited to those whose mind is clouded by it, as it is prohibited to those whose mind is not clouded by it, because of the corruption mentioned before this, in the arguments. There is absolutely no reason to allow it.

20<sup>v</sup> Then he says, God have mercy on him: The sufi shaykh ‘Abd al-Ra’ūf al-Munāwī,<sup>94</sup> who is close to God has informed us likewise. I say: the answer to that is similar to what was said before.

Then he says, God have mercy on him: The understanding and pious, devoted shaykh, brother in God, Muḥammad al-Shawbarī al-Shāfi ʿ<sup>95</sup> (wrote) like that, and the passage he wrote is: Smoking is not forbidden for its essence, it is on the contrary like other things that are allowed. The claim that it is forbidden is a claim that no evidence supports.

I reply: on the contrary, it *is* a claim that is supported by evidence, as we have shown in the analogy between smoking and eating hashish, because of its intoxicating essence, and in agreement with the fatwa given by our master ‘Abd Allāh al-Manūfi. His student Ḍiyā’ al-Dīn and master Khalīl b. Ishāq followed him in this, God have mercy on them both. Thus, it makes one sleepy, as many among those who know it relate. Therefore it is fundamentally forbidden. If, however, we take it for granted that it clouds the mind, then the proofs for it being forbidden that we have mentioned as requiring its being forbidden, are sufficient, as has been said before more than once.

Then he says, God have mercy on him: Their origin (of these claims) lies merely in openly showing contrariness, in a figurative sense. I reply: it implies being contrary in a way that confirms the truth and invalidates falsehood, as is obvious to every person in his right mind.

Then he says, God have mercy on him: Similarly, the brother in God, the understanding and pious shaykh Ismāʿīl al-Sanjīdī, may God preserve him, gave 21<sup>r</sup> a fatwa and said: The said smoke is not prohibited for smoking, | as long as it does not cloud the mind and does not harm the body. The most learned and sufi shaykh Aḥmad al-Mālikī gave a fatwa to this intent, and the passage he wrote is: Smoking as mentioned is forbidden to him whose mind it clouds and whose body it harms, when a knowledgeable and trusted physician tells (him) that, or when one knows it himself, from experience. Otherwise it is forbidden.<sup>96</sup>

I say: what he set as a condition for the prohibition of smoking is an inherent, necessary matter that he cannot separate from it, since the harm done to the smoker’s body has been reported by the physicians, as is already mentioned

94 Egyptian scholar and ṣūfi (d. 1031/1621), see *ET*<sup>2</sup> vii, 565 (A. Saleh Hamdan).

95 Muḥammad ibn Aḥmad al-Shawbarī (d. 1069/1659), Egyptian jurispudent, see al-Muḥibbī, *Khulāṣat al-athar* (Bulaq, AH 1284), iii, 385–386.

96 A slip of the pen. Shaykh Aḥmad al-Mālikī wrote, quite logically, that otherwise, it is *not* forbidden. Cf Batran 2003, 158.

in quotes from them. Its harm to other people than oneself is an unavoidable thing. So from where does he get the idea of declaring it permissible, what with all the other corruptive qualities that require prohibiting it, as said before?

Then he says, God have mercy on him: The lassitude and the like that occur, without clouding the mind or harm, do not make it incumbent to prohibit it. God knows best. End of quote.

I say: what he calls lassitude is not lassitude, but obscuring of the mind, perceived by the senses. Its harm is serious, clearly perceived by the soul and not a mere conjecture.

Then he says, God have mercy on him: There is difference (of opinion) about the intoxicating substance, whether that occurs in other things than liquids or not. One of the commentators of the treatise<sup>97</sup> in fact argues that it does not occur in any non-liquid, with the exception of hashish, according to those who say that it is an intoxicant. | I say: therefore smoking is analogous with hashish, <sup>21v</sup> because of the underlying factor they have in common.

Then he says, God have mercy on him: As for the hadiths that he quotes in connection with its derogation, they are false and have no source, as was stated earlier. The learned shaykh ‘Abd al-Rūf al-Munāwī, mentioned before, told me that he had received many questions containing hadiths about the derogation of smoke, that are not authentic, and that there exists no hadith about its derogation that *is* authentic, and God knows best.

I say, what he mentions of false hadiths in dispraise of smoking, meaning the hadiths that speak explicitly about the tobacco plant—there is no objection to him at this point. Indeed, the matter is as he says, since there is nothing like that in the known books of hadiths. But (there are) the hadiths that necessitate its prohibition like the hadith ‘Do not inflict harm’, meaning that it is not allowed in religion; or the hadith that God does not feed us fire, or the hadith that ‘He who offends a Muslim offends me, and he who offends me offends God’, or the hadith that ‘He who offends Muslims on their roads must be cursed’, and other hadiths that we have presented. They must be accepted, because of their true and sound character. So they cannot be rejected but must be accepted as argumentation and as obligation.

Then he says, God have mercy on him: Our brother in God, the hard-working <sup>22f</sup> and accomplished shaykh Murbī al-Ḥanafī,<sup>98</sup> may God guard him, reports this

97 Aḥmad al-Mālīkī’s treatise?

98 According to Batran’s translation, al-Ujhūrī here mentions shaykh Mar ‘ī al-Ḥanbalī. Either al-Wālī or his copyist misread the name, and did not know or think of Mar ‘ī ibn Yūsuf al-

also, for he wrote upon a question whether he could support the judgement regarding smoking as mentioned. What he wrote is: smoking is not forbidden in itself, as long as it does not result in corruption.

I say, the answer to this is as in similar cases, that if it were not prohibited in itself, it is prohibited for what appears in it of (accidental) things that do lead to prohibition. This goes for those who consider smoking as something that does not cloud the mind, as for those who consider it an intoxicant, analogous with hashish, as was said before, or a corruptive, or a soporific, as is confirmed by continuous reports from people, it is forbidden on account of its essence.

(And concerning) his claim ‘as long as no corruption results from it’, I say: corruption does result, it is unseparable, as was said before.

Then he says, God have mercy on him: It has the same status as taking in the smoke of fire that we inhale while breathing.

I reply: the comparison of tobacco smoke with regular smoke is not correct, because of the strong stench and its intoxicating, corrupting, soporific essence, or because of the waste of money on what is useless for other things, as is inherent to the persistence of smoking. But if someone would ingest ordinary smoke as persistently as tobacco smoke is inhaled, it is not far-fetched  
 22<sup>v</sup> to assume that this would be deemed to be forbidden for him, too. | (And the reasons for this are) sufficient, such as that it amounts to imitating those that are tormented, and to addiction to amusement and play. We are told: God does not feed us fire. Therefore there is offence in smoke. But if the one who said ‘the same status as taking in the smoke of fire that we inhale while breathing’ meant that someone (merely) sits next to smoke so that it enters his mouth and his nose without (actively) inhaling it by means of a device such as is used for tobacco, then there is nothing to say about it. Otherwise, his claim of agreement is correct when he speaks of ‘agreement’; no one declares this as forbidden.

Then he says, God have mercy on him: The principles of the law do not require the prohibition of smoking as mentioned.

I say: If he means smoke of tobacco, then what he maintains is untrue. For, on the contrary, the principles of the law do require its prohibition, according to the proofs given above. If he means other smoke than tobacco, but smoked by means of a device that encourages people to consuming it with a smoking device, for amusement and distraction, the principles of the law require prohibition as we just pointed out. And if he means inhaling other smoke than

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Karmī al-Ḥanbalī, d. 1624. Al-Wālī does refer to Ḥanbalī law in one of the next paragraphs. As mentioned in chapter 6, al-Karmī wrote *Tahqīq al-burhān fī shurb al-dukhān*.

from tobacco, without a tool, but staying in a place where there is smoke, then prohibition is not necessary, unless it causes him obvious harm, or unless he is fasting. But the comparison with tobacco smoke is not correct.

Then he says, God have mercy on him: There is no doubt that it is an innovation, and it is well-known that recent innovations are to be assessed according to the principles of the Shari‘a. If they are similar to permissible things, they are permitted, and if they are similar to forbidden things, they are forbidden, | and so on for the rest of the legal categories. Thus, if a sensible person considers the matter of smoke, he will see it as related to permitted innovation. <sup>23f</sup>

I say: These words are untrue. On the contrary, if a sensible person considers the matter of smoke, he finds it as related to forbidden innovation, since various categories of prohibition are implied, as we have mentioned in the arguments. It is not possible to consider it as one of the permissible innovations.

Then he says, God have mercy on him: ... if no corruption results from it.

I say: corruption results from smoking unavoidably, as we have shown. Regarding his words, ‘there is no hadith about its derogation according to the Ḥanbali jurists; someone of them, however, did mention that he found a fabricated hadith on the topic in some book of hadith, but God knows best.’ I have already presented a detailed statement about all this, which makes a repetition superfluous.

Then he says, God have mercy on him: Some consider that proclaiming this prohibition is an act of scrupulousness. To them one should say, as the imām shaykh ‘Izz al-Dīn said in his rebuke to him who declares (accepting) the possessions of wrongdoers forbidden: It is scrupulousness that moves him, but if he were scrupulous about God’s religion when he says something that is not God’s judgement, it would be better for him!

I say: the judgement that smoking is forbidden is not be considered as a matter of scrupulousness, no, it belongs to the category of what is definite as far as judgement is concerned, because of the firmness of the evidence. Whereas (one should speak of) scrupulousness only in matters about which there is doubt. As Ḥassān b. Abī Sinān<sup>99</sup> said: | I have seen nothing easier than scrupulousness. Leave that which makes you doubt for that which does not make you doubt!—as (written) in the *Ṣaḥīḥ* of Bukhārī, and God knows best.<sup>100</sup> <sup>23v</sup>

99 Ḥassān ibn Abī Sinān, a *mawlā* of the tribe of ‘Abd al-Qays, said to be *min awra‘ ahl al-Basra*, ‘one of the most scrupulous people of Basra’. (Ibn Qutayba, *al-M‘ārif*, Cairo, 1981, 420).

100 Al-Tirmidhī and al-Nasā‘ī report this saying of the Prophet on the authority of Ḥasan b. ‘Alī b. Abī Ṭālib, and as such the hadith is also included in al-Nawāwī’s collection.

It will now be clear to you, from what we have established in refuting the aforementioned specious arguments, that smoking is forbidden according to the evidence we laid out and to how we refuted the specious arguments, praise be to God. There is no might and no power except with God the highest, the sublime, and God suffices unto us. A good Trustee is He, a good Lord is He, a good Helper is He!

Writing this was finished on the blessed Tuesday, the 17th in the month Muḥarram in the year 1157 of the hijra of the Prophet,<sup>101</sup> the worthiest blessing and greetings be upon him (who glorified the hijra), by the hand of the humble servant ‘Umar al-Badrāwī. May God forgive him and his parents and all Muslims. Amen.

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101 Tuesday, March 2, 1744 A.D.