

8. Hadith Al-Qadha, An Age Of Jungle Justice V

As the chief law enforcement officer of the *Ummah*, the *khalifah* has the authority to arrest and prosecute anyone who commits an offence in his presence. There is no requirement anywhere that the crime must be reported to him by someone else before he could arrest and prosecute. Imam 'Abd al-Razzaq (d. 211 H) records an instance where 'Umar, as the *khalifah*, invoked this authority:

أخبرنا عبد الرزاق قال: أخبرنا عبيد الله بن عمر عن نافع عن صفية ابنة أبي عبيد. ومعمر عن نافع عن صفية قالت: وجد عمر في بيت رجل من ثقيف خمرا، وقد كان جلده في الخمر فحرق بيته، وقال: ما أسمك؟ قال: رويشد، . قال: بل أنت فويسق

'Abd al-Razzaq – 'Ubayd Allah b. 'Umar AND Ma'mar – Nafi' – Safiyyah b. Abi 'Ubayd:

'Umar discovered alcohol in the house of a man from (the tribe of) Thaqif. He (the man) had already been lashed for alcohol consumption in the past. **Therefore, he ('Umar) burnt his house**, and asked, "What is your name?" He (the man) replied, "Ruwayshid." He ('Umar) retorted, "Rather, you are *Fuwaysiq* (an abusive word)".¹

Al-Hafiz (d. 852 H) states about the first narrator:

عبد الرزاق بن همام بن نافع الحميري مولاهم أبو بكر الصنعاني ثقة حافظ

'Abd al-Razzaq b. Hammam b. Nafi' al-Humayri, their freed slave, Abu Bakr al-San'ani: **Thiqah** (trustworthy), **hafiz** (a *hadith* scientist).²

There are two second narrators. So, this is what al-Hafiz has to say about *Second Narrator A*:

عبيد الله بن عمر بن حفص بن عاصم بن عمر بن الخطاب العمري المدني أبو
عثمان ثقة ثبت

‘Ubayd Allah b. ‘Umar b. Hafs b. ‘Asim b. ‘Umar b. al-Khāṭib al-‘Umari al-Madani, Abu ‘Uthman:
Thiqah (trustworthy), thabt (accurate).³

He also says about *Second Narrator B*:

معمر بن راشد الأزدي مولاهم أبو عروة البصري نزيل اليمن ثقة ثبت فاضل

Ma‘mar b. Rashid al-Azdi, their freed slave, Abu ‘Urwah al-Basri, he lived in Yemen: **Thiqah**
(trustworthy), thabt (accurate), fadhil (meritorious).⁴

Both second narrators transmitted from Nafi’, about whom al-Hafiz states:

نافع أبو عبد الله المدني مولى ابن عمر ثقة ثبت فقيه مشهور

Nafi’, Abu ‘Abd Allah al-Madani, freed slave of Ibn ‘Umar: **Thiqah (trustworthy), thabt (accurate)**, a
well-known jurist.⁵

Al-Hafiz seals it with these comments about the last narrator:

صفية بنت أبي عبيد بن مسعود الثقفية زوج بن عمر قيل لها إدراك وأنكره
الدارقطني وقال العجلي ثقة

Safiyyah b. Abi ‘Ubayd b. Mas’ud al-Thaqafiyyah, the wife of Ibn ‘Umar. It is said that she met the
Prophet, but al-Daraqūni denies that. Al-‘Ijli said: **Thiqah (trustworthy)**.⁶

Safiyyah is also a narrator of *Sahih Muslim*.⁷

In summary, the above chain is impeccably *sahih*. Elsewhere, ‘Abd al-Razzaq has recorded the exact
same report with this chain:

أخبرنا عبد الرزاق قال: أخبرنا معمر عن أيوب عن نافع عن صفية

‘Abd al-Razzak – Ma’mar – **Ayub** – Nafi’ – Safiyyah8

The only new name is Ayub. So, who is he? Al-Hafiz answers:

أيوب بن أبي تميمة جلس السختياني أبو بكر البصري ثقة ثبت حجة من
كبار الفقهاء العباد

Ayub b. Abi Tamimah al-Sakhtayani, Abu Bakr al-Basri: **Thiqah (trustworthy)**, **thabt (accurate)**, **hujjah (an authority in hadith)**, from the greatest jurists and worshippers of Allah.9

In other words, the *athar* about ‘Umar is doubly *sahih*!

‘Allamah al-Albani (d. 1420 H) also has some further words:

روى الدولابي في الكنى " (1 / 189) عن إبراهيم بن عبد الرحمن بن عوف قال:
رأيت عمر أحرق بيت رويشد الثقفي حتى كأنه جمرة أو حمة وكان جارنا يبيع
الخمير. وسنده صحيح. ورواه عبد الرزاق عن صفية بنت أبي عبيد كما في "
الجامع الكبير" (3 / 204 / 1) وأبو عبيد في "الأموال" (ص 103) عن ابن
عمر وسنده صحيح أيضا

Al-Dawlabi reported in *al-Kuni* (1/189) on the authority Ibrahim b. ‘Abd al-Rahman b. ‘Awf that he said:
“I saw ‘Umar burning the house of Ruwayshid al-Thaqafi until it became like firebrand or a hot spring.
He was our neighbour who sold alcohol.” Its chain is *sahih*.

‘Abd al-Razzaq also narrated on the authority of Safiyyah bint Abi ‘Ubayd, as stated in *al-Jami’ al-Kabirah* (3/204/1) as well as Abu ‘Ubayd in *al-Amwal* (p. 103) on the authority of Ibn ‘Umar, **and its chain is *sahih* too.**10

Interestingly, this Ruwayshid was one of the Sahabah! Al-Hafiz states:

رويشد الثقفي أبو علاج الطائفي ثم المدني له إدراك وله قصة مع عمر بسبب
بيعه الشراب قال بن أبي ذئب أنا سعد بن إبراهيم بن عبد الرحمن بن عوف عن

أبيه أن عمر أمر باحراق بيت رويشد وكان يبيع فيه الشراب فنهاه عمر فلم ينته

Ruwayshid al-Thaqafi, Abu 'Alaj al-Taifi al-Madani: **He met the Prophet. He also had a story with 'Umar due to his selling of alcoholic drinks.** Ibn Abi Dhaib said: Sa'd b. Ibrahim b. 'Abd al-Rahman b. 'Awf narrated to us from his father that 'Umar ordered that the house of Ruwayshid be burnt down. **He used to sell alcoholic drinks in it. 'Umar had warned him to desist, but he never desisted.** 11

Elsewhere, he reiterates:

رويشد الثقفي وله قصة مع عمر في شربه الخمر وإنما ذكرته في الصحابة لأن من كان بتلك السن في عهد عمر يكون في زمن النبي صلى الله عليه وسلم مميزا لا محالة ولم يبق من قريش وثقيف أحد إلا أسلم وشهد حجة الوداع مع النبي صلى الله عليه وسلم

Ruwayshid ... al-Thaqafi.... He had a story with 'Umar concerning his consumption of alcohol.... **I have mentioned him among the Sahabah** only because whosoever was of that age (as Ruwayshid) during the time of 'Umar must certainly have been matured during the time of the Prophet, peace be upon him. Also, there was no one from the tribes of Quraysh and Thaqif except that he had accepted Islam and had witnessed the Farewell *Hajj* with the Prophet, peace be upon him. 12

To summarize:

Ruwayshid was one of the Sahabah of the Prophet, from the tribe of Thaqif.

He accepted Islam during the Prophet's lifetime, met the latter, and did the Farewell *Hajj* with him.

During the rule of 'Umar, Ruwayshid was convicted for alcohol consumption and punished.

However, after his conviction and punishment, Ruwayshid went ahead to sell alcohol in his house.

'Umar warned him to desist from selling alcohol, but he refused to stop.

So, 'Umar burnt his house where he was selling the alcohol.

The story of Ruwayshid flies in the face of repeated Sunni claims about the piety and righteousness of all the Sahabah!

It is a bit unclear on what ground 'Umar burned Ruwayshid's home. Was it to punish him for selling alcohol? Or, was it only an effort to disable him from further trading in alcohol?

One scenario is that the house-burning was inflicted as a judicial punishment. In other words, Ruwayshid was summarily tried, convicted and penalized for trading in alcohol. ‘Umar’ judicial sentence was that his house should be burnt to ashes. However, where did ‘Umar get that idea from? Was it from the Qur’an? Was it from the Sunnah? Imam Muslim records the standard procedure in a case like this:

حدثنا أحمد بن عيسى حدثنا ابن وهب أخبرني عمرو عن بكير بن الأشج قال
بينما نحن عند سليمان بن يسار إذ جاءه عبدالرحمن بن جابر حدثه فأقبل علينا
سليمان فقال حدثني عبدالرحمن ابن جابر عن أبيه عن أبي بردة الأنصاري: أنه
سمع رسول الله صلى الله عليه و سلم يقول لا يجلد أحد فوق عشرة أسواط إلا
في حد من حدود الله

Ahmad b. ‘Isa – Ibn Wahb – ‘Amr – Bukayr b. al-Ashja’ Sulayman b. Yasar – ‘Abd al-Rahman b. Jabir – his father – Abu Bardah al-Ansari:

I heard the Messenger of Allah, peace be upon him, saying: “None is to be given more than ten strokes of the cane (in punishment) except in the case of punishments immutably fixed by Allah.”¹³

So, the question is whether Allah has immutably fixed the punishment for alcohol sales business or not. Without an iota of doubt, there is no such fixed penalty for it. Therefore, the maximum sentence that can be inflicted upon an alcohol seller is ten lashes. Apparently, ‘Umar did not follow the instructions of Allah in this regard. This brought him face-to-face against this verse:

ومن لم يحكم بما أنزل الله فأولئك هم الكافرون

Whosoever does NOT give rulings, verdicts, judgments, or commands based upon what Allah has revealed, **such people are the infidels.**¹⁴

Another scenario is that ‘Umar actually burnt the house down only to forcefully put Ruwayshid out of business, without any intention to touch the latter himself personally for breaking the law. This theory is further strengthened by the fact that ‘Umar had earlier warned Ruwayshid to desist (thereby confirming his full knowledge of the alcohol trade). However, he made no effort whatsoever to arrest or prosecute him. When the latter would not listen to him, he burnt down his house – which also served as his brewery and alcohol store – solely to shut down his business. Normally, a caring government closes or destroys illegal ventures within its control. This is usually to protect the public. In addition to that, the same government proceeds to prosecute the owner of the illegal business for his crime. In the case of Ruwayshid, ‘Umar merely burnt his alcohol store, but allowed him to go scotfree!

A baffling twist to this whole saga is that when another Sahabi was discovered, also engaging in alcohol business, ‘Umar simply let him be! He did not arrest him. He did not prosecute him. He did not burn his house! Imam Muslim records:

حدثنا أبو بكر بن أبي شيبة وزهير بن حرب وإسحاق بن إبراهيم (واللفظ لأبي بكر) قالوا حدثنا سفيان بن عيينة عن عمرو عن طاوس عن ابن عباس قال: بلغ عمر أن سمرة باع خمرا فقال قاتل الله سمرة ألم يعلم أن رسول الله صلى الله عليه و سلم قال لعن الله اليهود حرمت عليهم الشحوم فجملوا فباعوها

Abu Bakr b. Abi Shaybah, Zuhayr b. Harb and Ishaq b. Ibrahim – Sufyan b. ‘Uyaynah – ‘Amr – Tawus – Ibn ‘Abbas:

‘Umar was informed that **Samrah sold alcohol**. So, he said, “May Allah curse Samrah! Does he not know that the Messenger of Allah, peace be upon him, said: ‘May Allah curse the Jews. The fat of animals was made *haram* for them. But they melt it and sold it.”¹⁵

Imam Abu Ya’la (d. 307 H) also documents:

حدثنا أبو خيثمة و أبو سعيد قالوا : حدثنا سفيان بن عيينة عن عمرو عن طاوس عن ابن عباس قال : باع سمرة خمرا فقال عمر : قاتل الله سمرة ألم يعلم أن رسول الله صلى الله عليه و سلم قال : لعن الله اليهود حرمت عليهم الشحوم فباعوها وأكلوا أثمانها ؟

Abu Khaythamah and Abu Sa’id – Sufyan b. ‘Uyaynah – ‘Amr – Tawus – Ibn ‘Abbas:

Samrah sold alcohol. So, ‘Umar said, “May Allah curse Samrah! Does he not know that the Messenger of Allah, peace be upon him, said, ‘May Allah curse the Jews. The fat of animals was made *haram* for them. So, they sold it and ate its price.”¹⁶

Shaykh Dr. Asad comments:

إسناده صحيح

Its chain is *sahih*¹⁷

Samrah was a prominent Sahabi. He too traded in alcohol. But, what was ‘Umar’s response? He merely cursed him *by name*, and that was it! There was no arrest, and no prosecution! Samrah’s house was equally left intact.

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1. Abu Bakr ‘Abd al-Razzaq b. Hamam al-‘a’nani, al-Musannaf [annotator: Habib al-Rahman al-A’zami], vol. 6, p. 77, # 10051
 2. Ahmad b. ‘Ali b. Hajar al-‘Asqalani, Taqrib al-Tahdhib (Beirut: Dar al-Maktabah al-‘Ilmiyyah; 2nd edition, 1415 H) [annotator: Mustafa ‘Abd al-Qadir ‘Ata], vol. 1, p. 599, # 4078
 3. Ibid, vol. 1, p. 637, # 4340
 4. Ibid, vol. 2, p. 202, # 6833
 5. Ibid, vol. 2, p. 239, # 7111
 6. Ibid, vol. 2, p. 647, # 8669
 7. See for instance Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, ‘ahih Muslim (Beirut: Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. 2, p. 1126, # 1490 (63-64)
 8. Abu Bakr ‘Abd al-Razzaq b. Hamam al-‘a’nani, al-Musannaf [annotator: Habib al-Rahman al-A’zami], vol. 9, p. 230, # 17036
 9. Ibid, vol. 1, p. 116, # 606
 10. Muhammad Nasir al-Din al-Albani, Tahzir al-Sajid min Itikhaz al-Qubur Masajid (Beirut: al-Maktab al-Islami; 4th edition). p. 49, footnote # 47
 11. Ahmad b. ‘Ali b. Muhammad b. Hajar al-‘Asqalani, Ta’jil Munfa’at bi Zawaid Rijal al-Aimah al-Arba’at (Beirut: Dar al-Bashair; 1st edition, 1996 CE) [annotator: Dr. Ikram Allah Imdad al-Haqq], vol. 1, p. 539, # 328
 12. Abu al-Fadhl Ahmad b. ‘Ali b. Hajar al-‘Asqalani, al-Isabah fi Tamyiz al-‘ahabah (Beirut: Dar al-Jil; 1412 H) [annotator: ‘Ali Muhammad Bajawi], vol. 2, p. 500, # 2699
 13. Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, ‘ahih Muslim (Beirut: Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. 3, p. 1332, #1708 (40)
 14. Qur’an 5:44
 15. Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, ‘ahih Muslim (Beirut: Dar Ihya al-Turath al-‘Arabi) [annotator: Muhammad Fuad ‘Abd al-Baqi], vol. 3, p. 1207, #1582 (72)
 16. Abu Ya’la Ahmad b. ‘Ali b. Muthanna al-Mawsili al-Tamimi, Musnad (Damascus: Dar al-Mamun li al-Turath; 1st edition, 1404 H) [annotator: Dr. Husayn Salim Asad], vol. 1, p. 178, # 200
 17. Ibid

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