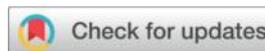


Issues Unique to the Maliki School in Women's Jurisprudence (A Case Study)

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Abstract:

This research paper aims to identify the issues in women's jurisprudence that are unique to the Maliki school, by examining the established opinion in each issue, presenting its textual and rational evidence, and highlighting the importance of benefiting from the diversity and flexibility of the school's legal principles in developing specific jurisprudential rulings on the issues under study. The paper also seeks to trace and analyze these issues for proper grounding, rigorous reasoning, and determining their strength through evidence.

The study comprises an introduction, three main sections, and a conclusion. The first section provides introductory definitions related to the Maliki school and its components. The second section presents practical examples of issues unique to the Maliki school concerning women in acts of worship. The third section discusses practical examples of issues unique to the Maliki school related to women in personal status matters, testimonies, and criminal punishments (hudud). The conclusion summarizes the key recommendations and findings.

Keywords: Maliki school, components, jurisprudential issues, women, established opinion.

Introduction:

The Maliki school is one of the four major Islamic jurisprudential schools that gained widespread recognition in the Muslim world, particularly in the Maghreb region. Its prominence is rooted in the scholarship of Imam Malik ibn Anas, the eminent jurist and meticulous hadith scholar, under whose guidance a generation of scholars mastered the school, codified its principles, and simplified its rulings. These scholars played a pivotal role in spreading Maliki jurisprudence through teaching, writing, judicial practice, and issuing fatwas, thereby enriching its intellectual heritage.

Maliki jurisprudence is distinguished by the diversity and richness of its foundational principles, which has enabled the school to develop unique jurisprudential rulings not found in other schools, particularly in matters related to women, as these rulings often consider the distinct legal circumstances of women compared to men.

1.1 Research Problem: The central research question of this study is: *What are the jurisprudential issues related to women that distinguish the Maliki school from other Islamic legal schools?*

1.2 Research Hypotheses: The study is based on the following hypotheses:

- There are jurisprudential issues related to women in which the established opinion in the Maliki school differs from that of other schools.
- The Maliki school's rulings concerning women encompass various areas, including acts of worship, transactions, personal status matters, judicial matters, and testimony.

1.3 Research Objectives: This study aims to:

- Clarify the nature of the Maliki school and provide a brief overview of its origin and development.
- Introduce the components of the school of the scholar of Medina and explain the reasons for its uniqueness.
- Present practical examples of jurisprudential issues concerning women in which Malik’s rulings diverge from those of other schools.
- Highlight the specificity of Maliki jurisprudence in its rulings and demonstrate its capacity to address women’s issues.
- Show that the Maliki school bases its unique rulings on strong textual and rational evidence.

1.4 Research Methodology: The study employs the following methodology:

- Quranic verses are referenced by citing the verse and chapter numbers.
- Hadith and reports are traced first to Sahih al-Bukhari and Sahih Muslim, then to other canonical collections of Sunan.
- Jurisprudential opinions are referenced from authoritative Maliki texts and compilations.
- Each issue under study is analyzed using both rational and textual evidence.

1.5 Research Structure:

- **Introduction**
- **Section One:** Introductory definitions related to the Maliki school and its components.
- **Section Two:** Practical examples of issues unique to the Maliki school concerning women in acts of worship.
- **Section Three:** Practical examples of issues unique to the Maliki school concerning women in personal status matters, testimony, and hudud (criminal punishments).
- **Conclusion**

2. Section One – Introductory Definitions of the Maliki School and Its Components

2.1 Definition and Origin of the Maliki School

2.1.1 Definition of the School (Linguistic and Technical):

a. Linguistic Definition: The term *madhhab* is derived from the verb *dhahaba* (ذَهَبَ). As Ibn Faris explains, the root letters *dhāl*, *hā’*, and *bā’* indicate goodness and freshness. From this root, the word *dhahab* (gold) became widely known. Another meaning of the root refers to a path; one says *dhahaba*, meaning “to follow a good path” (Al-Qazwini, 1979, p. 362).

b. Technical Definition: Technically, a *madhhab* is: “*A customary reality that reflects the rulings of a leading jurist, and among later jurists, the term came to denote the most authoritative opinions of a school, particularly the opinions most relied upon for issuing legal rulings*” (Al-Hattab, 1992, p. 24).

c. Concept of the Maliki School: The Maliki school refers to the set of principles and rules upon which Imam Malik established his rulings and which his followers adhered to (Al-Kashnawi, n.d., p. 6).

2.1.2 Origin of the Maliki School:

The Maliki school was founded by Imam Malik ibn Anas al-Asbahi, a native of Medina, born in 93 AH, where he also grew up and studied under several scholars, including Rabi‘ah al-Ra’i, Nafi‘, Al-Zuhri, Ibn Hurmuz, and others.

Imam Malik was renowned for his piety, integrity, justice, and meticulousness. He was an eminent jurist, hadith scholar, and teacher, and he contributed significantly to Islamic sciences, particularly through his compilation, *Al-Muwatta*, a comprehensive work on jurisprudence and hadith.

The main textual and rational sources on which Imam Malik based his school include: the Qur’an, the authentic Sunnah, consensus (*ijma’*), analogy (*qiyas*), customary practices (*‘urf*),

the practice of the people of Medina, public interest (maslahah), and blocking the means to evil (sadd al-dhara'i).

Imam Malik had numerous students and disciples across the Islamic world, including Al-Andalus, Africa, Egypt, and Iraq, such as Ibn al-Qasim, Asad ibn al-Furat, and Yahya ibn Yahya al-Laythi. Through their efforts, the Maliki school spread widely in both the East and the West. Prominent Maliki scholars continued the work of their predecessors, promoting the school through teaching, writing, and issuing legal opinions, thereby strengthening and enriching its intellectual heritage (Al-Baghdadi, n.d., p. 58).

The Maliki school became particularly widespread in the Maghreb and Al-Andalus, thanks to the efforts of scholars such as Ziyad ibn Abd al-Rahman (al-Shabtun), Asad ibn al-Furat, and Yahya ibn Yahya al-Laythi, among others, who were dedicated to teaching the school and issuing fatwas. These jurists followed their imam's methodology, emphasizing derivation, verification, and precision in extracting rulings from foundational principles (Al-Shanqiti, 2015, p. 38).

Stages in the Development of the Maliki School The development of the Maliki school can be divided into three main stages (Ali, 2000, p. 35):

a. The Formation Stage: This is the initial stage, beginning with the establishment of the school by Imam Malik and continuing until the end of the 3rd century AH. This stage culminated with the emergence of the distinguished jurist Qadi Isma'il ibn Ishaq from Iraq, who authored *Al-Mabsut*, the last of the major classical compilations. During this stage, the foundations of the school were established, Imam Malik's reports and oral transmissions were collected, recorded, and organized into recognized works.

b. The Development Stage: This stage encompasses the periods of elaboration, application, and preference. It began around the start of the 4th century AH and is marked by the emergence of prominent Maliki scholars who elaborated rulings, applied principles, and made preferences or distinctions between opinions. This stage ended by the end of the 6th century AH or the early 7th century, following the death of Ibn Shas (610–616 AH), considered the fourth major author relied upon by Khalil ibn Ishaq in his famous Maliki compendium.

c. The Stabilization Stage: This stage roughly began in the early 7th century AH with the appearance of Ibn al-Hajib's abridgment, *Jami' al-Ummah*, and continues to the present. During this stage, the school witnessed commentaries, abridgments, and marginal notes, as scholars realized that previous jurists' efforts had left little room for further independent reasoning except through selection, abridgment, or explanation.

Major Foundational Texts of the Maliki School

The principal texts of the Maliki school are considered the core sources that compile the opinions of Imam Malik and his disciples and detail the jurisprudential rulings of the school (Al-Kashnawi, n.d.; Humiti, 2011, pp. 157, 159, 166):

1. **Al-Mudawwana:** Considered the most important and oldest text of the Maliki school, it is a documented version of *Al-Asadiyyah*, compiled by Imam Sahnun in 240 AH.
2. **Al-Wadihah:** Authored by 'Abd al-Malik ibn Habib al-Sulami (d. 226 AH), this book is one of the most influential Maliki texts, heavily relied upon in Al-Andalus. It gained prominence for containing opinions from different Maliki schools.
3. **Al-Mustakhraja (or Al-'Atibiyah):** This is the third foundational text in Maliki jurisprudence. It was relied upon by many early scholars from both North Africa and Al-Andalus. Ibn Rushd took particular interest in explaining it and comparing its rulings with others. Qadi 'Iyad also referred to it for certain legal opinions.
4. **Al-Muwaziyah:** Authored by Muhammad ibn Ibrahim (known as Ibn al-Muwaz), this text is considered one of the most important Maliki works in North Africa (Al-Kashnawi, n.d., p. 71).

Ibn Khaldun, in his *Muqaddimah*, summarized the significance of these foundational texts:

"Scholars of the school have continuously engaged with these foundational works through explanation, clarification, and compilation. Scholars in Ifriqiya wrote on the *Mudawwana*, such as Ibn Yunus, Al-Lakhmi, Ibn Muharriz, Al-Tunisi, Ibn Bashir, and others. Scholars in Al-Andalus wrote on the *'Atibiyyah*, such as Ibn Rushd and his contemporaries. Ibn Abi Zayd compiled all issues, differences, and opinions from these foundational works in his *Al-Nawadir*, encompassing all essential rulings of the *madhahib*. Ibn Yunus cited most of them in his commentary on the *Mudawwana*. The horizons of Maliki jurisprudence flourished in the East and West until the decline of the states of Cordoba and Kairouan, after which the people of the Maghreb adhered to them." (Ibn Khaldun, 2010, p. 450)

4. Key Terminology in the Maliki School : Some of the most notable terms used in the Maliki school include, but are not limited to:

- **Al-Riwayat (The Narrations):** Refers to the statements of Imam Malik (may Allah have mercy on him).
- **Al-Aqwal (The Opinions):** Refers to the opinions of Malik as well as those of later scholars.
- **Al-Shaykhan (The Two Sheikhs):** Refers to Ibn Abi Zayd and Abu Bakr al-Abhari.
- **Al-Muhammadan (The Two Muhammads):** Refers to Muhammad ibn Sahnun and Muhammad ibn al-Muwaz.
- **Al-Qadiyan (The Two Judges):** Refers to Abu Muhammad Abd al-Wahhab and Abu al-Hasan ibn al-Qassar from Baghdad.
- **Al-Quraynan (The Two Associates):** Refers to Ashhab and Ibn Nafi'.
- **Al-Madaniyyun (The Medinans):** Refers to Ibn al-Majshun, Mutarrif, Ibn Kinana, Ibn Muslim, and Ibn Nafi'.
- **Al-'Iraqiyun (The Iraqis/Baghdadis):** Includes Ibn al-Qassar, Qadi Isma'il, Qadi Abd al-Wahhab, Ibn al-Jallab, and Sheikh Abu Bakr al-Abhari.
- **Al-Qurawiyyun (The Qura Scholars):** Includes Abu 'Imran, Al-Qabisi, and Ibn Abi Zayd.
- **Al-Ittifaq (Consensus):** Refers to the agreement of the acknowledged scholars of the school, without including others.
- **Al-Rajih (The Strong Opinion):** Denotes the opinion supported by sound evidence that is not contradicted.
- **Al-Mashhur (The Well-Known Opinion):** Refers to an opinion that has strong evidence or is held by many scholars, including the opinion of Ibn al-Qasim in the *Mudawwana*.
- **Al-Mu'tamad (The Adopted Opinion):** Refers to a strong opinion, whether its strength comes from its wide acceptance or its superiority.
- **Al-Zahir (The Apparent):** Refers to what is evident in the evidence or in the school's ruling.
- **Ma Bihi al-Fatwa (The Opinion Used for Issuing Fatwas):** Refers to the prevalent or strongest opinion; fatwas are issued only based on well-supported or widely accepted opinions, while weak or isolated opinions are not used.
- **Al-Takhreej (Derivation/Attribution):** Has multiple meanings, including deriving legal rulings or identifying textual deficiencies in the sources.
- **Jaryan al-'Amal or al-Majriyyat (Deviation in Practice):** Refers to temporarily departing from the strong or well-known opinion in certain matters for the benefit of the community and in accordance with its social circumstances (Ibn Farhun, 1999, pp. 62–128).

5. Defining the Components of the Maliki School and Reasons for Its Distinctiveness

1. Definition of Components (Linguistic and Technical):

- **Linguistic Definition:** The term *mufradat* (components) is derived from the verb *farada*, which signifies “unity” or “singleness.” From this root comes *al-fard*, meaning “the odd number” or “single,” and it also refers to something that has no equivalent or counterpart. For example, one says *istafradtu bil-shay’* (I took something individually) to indicate acquiring it uniquely without a similar item (Ibn Faris, 1979, p. 362; Ibn Manzur, 1992, p. 331).
- **Technical Definition:** In jurisprudential terminology, *mufradat* refers to legal issues in which one of the four imams holds a well-known opinion in his school that is not shared by any of the other three imams (Al-Bahuti, 2006, p. 14).

2. Definition of the Maliki School’s Components:

The components of the Maliki school refer to *jurisprudential issues in which the Maliki school holds unique positions, such that its established opinion does not coincide with any of the accepted opinions in the Hanafi, Shafi’i, or Hanbali schools, regardless of whether these schools agree or differ among themselves* (Ibn Khadda, 2024, p. 453).

3. Reasons for the Maliki School’s Distinctiveness:

The main reasons for the Maliki school’s unique positions can be summarized as follows (Salihin, 2005, p. 53):

- **Unique use of certain principles:** Imam Malik employed some principles in legal deduction that other schools did not consider authoritative. For example, he regarded the practice of the people of Medina (‘*amal ahl al-Madina*) as a foundational principle, giving it the status of *mutawatir* (mass-transmitted) reports and prioritizing it over solitary reports (*khobar al-ahad*) in cases of conflict.
- **Specific conditions for valid principles:** Maliki jurists imposed conditions on the foundational principles used for deriving rulings, resulting in unique positions in certain legal issues that differ from other schools.
- **Ambiguous textual evidence:** Some texts allow multiple interpretations due to linguistic context. For instance, the term *al-qur’* may refer to purity (*tahara*) or menstruation (*haidh*), and Imam Malik preferred the interpretation favoring purity. Similarly, Maliki uniquely require rubbing the body when performing ritual purification (*ghusl*) because the Arabic linguistic usage of *ghusl* includes this action.
- **Conflict between the apparent meaning of the Qur’an and the explicit Sunnah:** Disagreements arose among jurists regarding which source to prioritize, leading the Maliki school to adopt distinctive rulings. An example is the Maliki approach to assessing *capability* (*istita’ah*) in Hajj, prioritizing the apparent meaning of the Qur’anic text over explicit hadiths.
- **Non-inclusion of certain hadiths in Imam Malik’s compilation:** Some issues were not recorded by Malik in *Al-Muwatta*. For example, Maliki do not adopt the requirement of sequential washing of a vessel after contamination by a dog because Malik did not report this practice.

6. Key Publications on the Components of the Maliki School: Several significant studies have addressed the components of the Maliki school, both in terms of their foundations and practical applications:

1. **“Components of the Maliki School (A Comparative Study with the Three Other Schools in Criminal, Hudud, and Ta’zir Rulings)”** – This was a doctoral dissertation by Hassan Muhammad al-Amin at Umm al-Qura University, Saudi Arabia, 1415 AH (Khadda, 2024, pp. 10–11). The dissertation is divided into an introduction, a preface, two main sections, and a conclusion. The preface introduces Imam Malik, his upbringing, and his scholarly status. The first section examines the Maliki school’s unique positions in criminal law, while the second section addresses Hudud and

discretionary punishments (ta'zir). The conclusion summarizes the main research findings and recommendations.

2. **“Components of the Maliki School in Financial Transactions (A Comparative Study)”** – Originally a doctoral thesis by Shams al-Din Muhammad Hamid al-Takina at Umm al-Qura University, 1415 AH. The book was published in 2016/1437 AH by Dar Ibn Hazm in Beirut. The work is organized into a preface and five main chapters. The preface introduces the Maliki school and its components, while the five chapters cover specific issues in financial transactions, including usury (riba), sales, salam contracts, loans, pledges, bankruptcy, partnerships, and agency. The book concludes with key findings and recommendations.
3. **“Components of the Maliki School in Acts of Worship (A Comparative Jurisprudential Study)”** – This doctoral dissertation by ‘Abd al-Majid Mahmoud Salihin was published by Dar Ibn Hazm in Beirut, 1426 AH/2005 CE. The study includes an introduction, preface, six chapters, and a conclusion. The preface outlines Imam Malik, the origins of the Maliki school, and its primary sources. The chapters address components related to purification, prayer and funerals, zakat and fasting, Hajj and ‘Umrah, dietary laws, sacrifices and ‘Aqiqah, and oaths, vows, and jihad. The dissertation concludes with the main practical findings and recommendations.
4. **Master’s Thesis: “Maliki Distinctiveness in the Chapter of Marriage (Collection and Study)”** – Prepared by ‘Abd al-Latif Ba’ji at the University of Al-Hajj Lakhdar, Batna, Algeria, 1430–1431 AH/2009–2010 CE. The thesis is organized into a preface, four chapters, and a conclusion. The preface addresses the concept of distinctiveness and its historical classification, while the four chapters cover topics such as engagement and guardianship, marriage contracts, marital rights, and invalid or prohibited marriages. The conclusion presents the main findings.
5. **“Components of the Maliki School in the Chapters of Marriage, Divorce, and ‘Iddah (A Comparative Jurisprudential Study)”** – A doctoral dissertation by Si Muhammad ibn Khadda at the University of Ben Yousef ibn Khadda, Algeria, 1443 AH/2024 CE. The dissertation includes a preface on the Maliki school and its components and two main sections. The first section collects issues in which Imam Malik held unique positions in the chapter of marriage, while the second section addresses issues related to divorce and ‘iddah. The research concludes with a summary of the main scholarly findings and recommendations (Salihin, 2005, pp. 11, 453–454).

3. Section Two: Practical Examples of Issues Unique to the Maliki School Concerning Women in Acts of Worship

The Maliki school exhibits clear distinctiveness in issues related to women’s acts of worship. Maliki jurists hold certain opinions and rulings that differ from those of other scholars. Below is a detailed presentation of the main issues:

3.1 Issue of *Istihzar* (Determining Purity Days) for a Menstruating Woman When Her Flow Continues Beyond Its Usual Duration

Jurists differ on the ruling for a woman whose menstruation continues beyond her regular period. The Maliki school holds that she should perform *istihzar* for three days beyond the longest of her usual periods, provided it does not exceed fifteen days. For instance: if her usual period is thirteen days, she performs *istihzar* for two days. If it is fourteen days, she performs it for one day. If it is fifteen days, no *istihzar* is necessary; she is considered pure after the usual period (Al-Madani, 1994, p. 151; Ibn Ishaq, 2005, p. 26).

Evidence for the Maliki Ruling:

- Qur’an: “*So enjoy yourselves in your homes for three days*” (Hud: 65).
- Hadith: “*It is not permissible for a Muslim to forsake his brother for more than three nights*” (Al-Bukhari, 1422, p. 28).

- **Reasoning:** The “three days” indicate a short, limited duration, which supports the Maliki position of restricting *istihzar* to three days if the flow continues.
- Al-Qarafi, citing Ibn Yunus, reports a hadith narrated by Al-Madaniyyun and Qadi Isma‘il where the Prophet (PBUH) instructed Fatimah bint Abi Hubays: “*Sit for the days you usually menstruate, then perform istihzar for three days, then perform ghusl and pray.*” This interpretation also considers the physiological nature of blood, describing it as a bodily residue influenced by nutrition and body condition, thus justifying the three-day *istihzar* for ensuring ritual purity (Al-Qarafi, 1994, p. 383).

3.2 Issue of a Menstruating Woman Reading the Qur’an Without Touching the Mushaf

Jurists agree that a menstruating woman may not touch the Mushaf, except in the Maliki school, which allows it for teachers and students. Regarding reading from memory:

- Malikis permit a menstruating woman to recite the Qur’an while the blood continues but prohibit recitation after it stops until she performs ghusl.
- Al-Zurqani notes that menstruation prevents touching the Mushaf but does not prevent reading without direct contact. Recitation is allowed even before menstruation begins, provided the blood has ceased (Al-Zurqani, 2002, p. 246).
- Al-Mawwaq reports Imam Malik’s view: a person in a state of major ritual impurity may read only a few verses without intention of full recitation. In contrast, a menstruating woman is permitted because she cannot control the occurrence of menstruation. After purification, however, reading is not allowed until ghusl is performed (Al-Mawwaq, 1994, p. 463).

Evidence:

- Hadith: “*Recite the Qur’an, for it will come as an intercessor for its companions on the Day of Judgment*” (Muslim, n.d., p. 553).
- **Reasoning:**
- The hadith permits recitation.
- Menstruation is beyond the woman’s control, unlike major impurity, which can be removed by ghusl.
- Since menstruation may last for several days, prohibiting recitation during this period would cause hardship, hence the allowance (Al-Baghdadi, 1999, p. 129).

3.3 Issue of a Woman Leading Other Women in Prayer

While all four schools (Hanafi, Maliki, Shafi‘i, Hanbali) agree that a woman may not lead men in prayer, Malikis uniquely hold that a woman may not lead other women, whether in obligatory (*fard*) or voluntary (*nafl*) prayers.

- Al-Kharshi asserts that a woman cannot lead either men or women in any prayer (Al-Kharshi, n.d., p. 22).
- Ibn al-Jallab supports this, stating that a woman’s leadership in prayer is invalid for both obligatory and voluntary prayers (Ibn al-Jallab, 2007, p. 63).

Evidence:

- Hadith: “*A people who appoint a woman as their leader will never prosper*” (Al-Bukhari, Hadith 4425).
- **Reasoning:** This indicates a prohibition of female leadership, and prayer leadership is a form of authority.
- Hadith on prayer rows: “*The best rows for men are the front ones and the worst are the back; the best rows for women are the back ones and the worst are the front*” (Muslim, Hadith 440, p. 326).
- **Reasoning:** Placing women behind men conflicts with the idea of following them as leaders.

- Ibn Mas‘ud’s commentary on Bani Israel notes that women sought adornment for their companions, leading to divine imposition of menstruation and the directive to place women at the back.
- Femininity is considered a natural limitation affecting some obligations, thus preventing prayer leadership. This is analogous to prohibitions on children or the insane leading prayers (Al-Baghdadi, 1999, p. 296).

3.4 Issue of Women Clapping During Prayer

All four schools agree that men should say *subhanallah* in case of error or distraction during prayer (Al-Bukhari, Hadith 1234, p. 70). Views differ on women: Hanafis, Shafi‘is, and Hanbalis permit women to clap. Malikis uniquely hold that women should say *subhanallah*, similar to men, rather than clap. Ibn al-Qasim reports that Malik preferred *subhanallah* for women and considered clapping inappropriate (Ibn Anas, 1994, p. 190). Al-Sawi emphasized that *subhanallah* is preferable in all circumstances (Al-Sawi, 1956, p. 342).

Evidence and Reasoning:

- Generality of the hadith commanding *subhanallah* for all worshippers, men and women (Al-Qarafi, 1994, p. 146).
- Principle of analogy (*qiyas*): women are treated like men in legal rulings unless specific texts indicate otherwise.
- *Subhanallah* is consistent with prayer as verbal worship, whereas clapping is not.
- Clapping appears in texts primarily in a negative context, not as a prescribed act (Al-Baghdadi, 1999, p. 258).

5.3 Issue of Feeding a Dependent Infant if a Nursing Woman Breaks Her Fast Out of Fear for the Child

Jurists agree that both pregnant and nursing women who break their fast during Ramadan are required to make up the missed days (*qada’*), but they differ regarding the obligation to feed a needy person (*fidyah*). Specifically, the Maliki school holds that: A nursing woman who breaks her fast out of concern for her infant must provide *fidyah* for each day she breaks. A pregnant woman who fears for her pregnancy is not required to provide *fidyah*.

Al-Sawi states: “*It is obligatory to feed [a needy person] for every day a nursing woman breaks her fast out of fear for her child, unlike a pregnant woman fearing for her pregnancy*” (Al-Sawi, 1952, p. 722).

Similarly, *As-hal al-Madarik* notes: “*If a nursing woman fears for her child and cannot hire someone to feed it, or no one else accepts, she may break the fast and must provide food*” (Al-Kashnawi, n.d., p. 427).

Evidence and Reasoning:

- The rationale differentiates between a pregnant woman, who breaks her fast out of fear for herself (similar to a sick person), and a nursing woman, who breaks her fast out of concern for her infant. Since the latter is concerned for another, she is obliged to feed a needy person (*fidyah*) (Ibn Ishaq, 2008, p. 448).

6.3 Issue of the Requirement of a *Mahram* for a Woman Performing Hajj

This issue has been debated among jurists, particularly regarding obligatory Hajj. The Maliki school uniquely holds that a *mahram* is not strictly required if the woman has a trustworthy companion, as this is considered sufficient. Ibn Rushd al-Jadd discussed the disagreement concerning a woman who has not performed Hajj before and has no husband or *mahram* to accompany her. According to Imam Malik, the obligation of Hajj remains, and she may travel with a safe group of women or trustworthy believers (Al-Qurtubi, 1988, p. 228). Ibn Yunus affirmed that a woman may perform Hajj accompanied by a group of trustworthy women or men without a *mahram* among them (Ibn Yunus, 2013, p. 162).

Evidence:

- Qur'an: "*And Hajj to the House is a duty that mankind owes to Allah—those who can afford the journey*" (Al-'Imran: 97).
- **Reasoning:** The verse applies to all capable individuals, including women.
- Consensus supports the obligation for a Muslim woman to migrate to a safe Islamic territory even without a *mahram* if living in a war zone. By analogy, this supports the permissibility of a woman performing Hajj without a *mahram* when accompanied by a trustworthy group, consistent with Maliki jurisprudence based on textual and rational evidence (Ibn Rushd, n.d., p. 228).

4. Practical Examples of Issues Unique to the Maliki School Concerning Women in Personal Status, Testimony, and Hudud (Penal) Matters

4.1 Issue of "Two Guardians" (*Dhat al-Waliyyayn*)

This concerns a woman whose marriage is contracted by two guardians without coordination between them. Jurists differ, but the Maliki school uniquely holds that the husband who contracts the marriage first has priority as long as the second does not consummate the marriage. If it is known who contracted first, he is entitled to the marriage. If one of them consummates the marriage, he is entitled, even if he contracted later. If the first is unknown and neither has consummated, both contracts are annulled, and the woman may choose a new marriage partner (Ibn Anas, 1994, p. 110). Al-Qarafi supports this, stating that if a woman is married to two men, the first contract is valid if identified, unless the second consummates, in which case consummation determines entitlement, based on the ruling of Caliph 'Umar (Al-Qarafi, 1994, p. 253).

Evidence:

- Narration from Mu'awiya ibn Salih via Yahya ibn Sa'id: Caliph 'Umar ruled that the husband who consummates first is entitled; if neither consummates, priority goes to the first (Al-Qarafi, 1994, p. 253).
- The case of Musa ibn Talha: Zayd ibn Mu'awiya married Fatimah bint Talha, then she was contracted to Al-Hasan ibn Ali. When Al-Hasan consummated after two days, entitlement went to the one who consummated first (Al-Qarafi, 1994, p. 253).
- Consensus among the Companions (e.g., 'Umar, Al-Hasan, Mu'awiya, Ali) reinforces this ruling (Al-Baghdadi, 1999, p. 697).

4.2 Issue of Exempting Noble Women from Breastfeeding Their Child

Regarding the obligation of breastfeeding, the Maliki school uniquely holds that noble women (*sharifah*) are not obliged to breastfeed, except in specific necessary cases. Ibn al-'Arabi explains that while all mothers are generally required to breastfeed according to Sharia, Imam Malik exempted women of high social standing, based on public interest (*maslahah*) (Ibn al-'Arabi, 2003, p. 278).

Ibn Rushd adds that Maliki's impose breastfeeding on lower-class women, but noble women are exempt unless the child refuses other milk (Ibn Rushd, 2004, p. 79).

Evidence:

- Qur'an: "*Mothers shall breastfeed their children for two full years for those who wish to complete the period*" (Al-Baqarah: 233).
- **Reasoning:** The verse is general, but Imam Malik qualified it according to customary practice, exempting noble women.

4.3 Issue of Women's Testimony in Matters Not Typically Observed by Men

Jurists agree that women may testify alone in matters not commonly witnessed by men, such as menstruation or childbirth. Maliki's uniquely hold that the testimony of two women suffices, equating it to that of two men.

Maliki texts allow two women's testimony in matters not accessible to men, such as childbirth, the beginning of menstruation, and certain physical defects, without contradicting the general

principle that women's testimony is not accepted in financial matters (Abu al-Hasan, 1994, p. 344; Al-Qarafi, 1994, p. 250).

Evidence:

1. 'Abd al-Razzaq: "*The Sunnah allows women to testify alone in matters concerning childbirth or newborn cries, and in other women's matters not seen by men, and two women's testimony is valid*" (Abd al-Razzaq, n.d., p. 333).
2. Analogy to the number of men in testimony.

4.4 Issue of Excluding Women from Exile (*Taghrib*) in Adultery Cases

All jurists agree that a non-married adulterer is to be flogged 100 lashes. However, the Maliki school uniquely holds that exile applies only to men, not women.

Al-Qarafi notes: "*Women and slaves are not exiled; only free men may be exiled according to the Sunnah*" (Al-Qarafi, 1994, p. 289).

Evidence:

1. Qur'an: "*The adulteress and the adulterer – flog each one of them a hundred lashes*" (An-Nur: 2).
2. **Reasoning:** The verse does not mention exile; Maliki jurists limit exile to free men.
3. Exiling women without a *mahram* could lead to harm, contrary to the Prophet's guidance: "*It is not permissible for a believing woman to travel for a day and night without a guardian*" (Al-Bukhari, n.d., p. 43). Hence, Maliki hold that not exiling women ensures protection and prevents potential corruption.

5. Conclusion

Through the concise presentation of this article, which addressed the definition of the Maliki school, its unique rulings (*mufradat*), the reasons for its distinctiveness, and an examination of the issues in which it has a unique stance regarding women's jurisprudence, highlighting the Maliki jurists' meticulousness and rigor in evidentiary reasoning, the following conclusions and recommendations were reached:

Findings:

- The Maliki school refers to the principles and foundations upon which Imam Malik ibn Anas based his legal rulings, followed by subsequent jurists within the framework of this school.
- The *mufradat* of the Maliki school are the legal issues in which Imam Malik held distinctive opinions differing from those of other schools, where the authoritative view in Maliki jurisprudence contrasts with the authoritative views in other schools.
- Maliki jurists studied *mufradat* through thorough analysis and derivation, focusing on precise ruling formulation and reasoning according to the standards of *ijtihad* and evidentiary methodology, particularly in matters concerning women.
- Examples of Maliki *mufradat* in worship include the ruling on a menstruating woman: she should perform *istihzaar* for three days beyond her usual menstruation period if bleeding continues, provided it does not exceed fifteen days.
- Prominent *mufradat* in personal status include the ruling that if a woman is married by two different guardians, the first husband has priority unless the second consummates the marriage.
- In the penal (*hudud*) domain, Maliki jurisprudence uniquely prescribes exile for a male adulterer but not for a female.
- The study demonstrates the richness of Maliki jurisprudence in both principles and branches, its emphasis on precise reasoning supported by evidence, and the diligence of Maliki jurists in identifying and systematizing unique issues.
- The examination of practical examples of women-related *mufradat* across different legal chapters illustrates that the distinction between unique issues and general jurisprudential matters lies in the authoritative opinion: a *mufrad* arises when the Maliki

ruling differs from other schools. These findings underscore the importance of understanding the distinct features of the Maliki school and the need to highlight its *mufradat*, reflecting its depth and accuracy in addressing legal issues.

Recommendations:

1. Encourage academic and scientific research focusing on the terminology used across different jurisprudential schools, with particular attention to women's jurisprudence.
2. Utilize the scholarly legacy of Maliki jurists by editing and publishing manuscripts related to jurisprudential *mufradat*.

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