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The Jurisprudential and Theoretical Methodology of Imam al-Fandalāwī in His Treatise: "Tahdhīb al-Masālik fī Nuṣrat Madhhab Mālik 'alā Manhaj al-'Adl wa-l-Inṣāf fī Sharḥ Masā'il al-Khilāf"

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Abstract: This academic study explores the jurisprudential (fiqhī) and legal theoretical (uṣūlī) methodology established by Imam Abū al-Ḥajjāj Yūsuf b. Dūnās al-Fandalāwī (d. 543 AH) in his seminal work *Tahdhīb al-Masālik fī Nuṣrat Madhhab Mālik*. The treatise constitutes a monumental benchmark in high-level comparative Islamic jurisprudence (al-Khilāf al-'Ālī), systematically defending the Mālikī school through rigorous textual and rational proofs. Employing inductive, historical, and analytical methods, the paper examines the author's scholarly persona, verifies the treatise's attribution based on its unique surviving manuscript in Morocco, and decodes his rigorous heuristic framework. The research elucidates how al-Fandalāwī intricately integrated substantive legal branches with foundational theoretical maxims (qawā'id uṣūliyyah), demonstrating an objective, dialectical approach that elevated classical Islamic jurisprudence above blind imitation.

Keywords: *Imam al-Fandalāwī, Tahdhīb al-Masālik, Mālikī Jurisprudence, Comparative Jurisprudence, Legal Theory (Uṣūl al-Fiqh), Legal Maxims.*

1. Introduction

In the Name of Allah, the Most Gracious, the Most Merciful. All praise is due to Allah; we praise Him, seek His aid and forgiveness, and turn to Him in repentance. We seek refuge in Allah from the evils of our souls and the shortcomings of our deeds. Whomever Allah guides, none can misguide; and whomever He leaves astray, none can guide. I testify that there is no deity worthy of worship except Allah alone, with no partner, and I testify that Muḥammad is His servant and Messenger.

Allah Almighty sent His Prophet Muḥammad ﷺ with the truth as a bearer of glad tidings and a warner, and revealed unto him the Holy Qur'ān as a guiding light and an illuminating beacon. He ordained Islam as a moderate religion and an upright methodology, ensuring for humanity—as long as they adhere faithfully to it—the rectification of both their worldly livelihood and their eternal hereafter. This magnificent faith has brought every form of good and joy to humanity while repelling and lifting from them every harm and distress. It is rightfully the concluding message and the eternal, pristine Sharī'ah.



As Allah Almighty has decreed immortality for His religion until His command comes to pass, and has safeguarded this faith through the preservation of the Glorious Qur'ān, it was of His divine wisdom and decree that He prepared dedicated scholars who devoted their lives and time to serving this purified Sharī'ah through preservation, teaching, practice, instruction, and propagation (Al-Dhahabī, 1985). They dedicated themselves to defending its sanctuaries and constructing its flourishing intellectual gardens. They laid foundational legal maxims, smoothed the branches of positive law (furū'), codified legal theory (uṣūl), and derived detailed legal cases (masā'il) (Al-Rā'ī, 1981). The fruition of these exhaustive efforts is evident in the vast manuscript repositories and libraries filled with classical compendia encompassing diverse sciences, derived from the luminous light of the two Divine Revelations: the Book and the Sunnah.

Among these distinguished treatises is Tahdhīb al-Masālik fī Nuṣrat Madhhab Mālik, a high-level comparative jurisprudence work (al-Fiqh al-'Ālī) wherein the author embedded a substantial wealth of legal theoretical principles (uṣūlī maxims). This represents invaluable scholarly material connecting derived legal rulings directly to their theoretical foundations, cultivating juristic aptitude (al-malakah al-fiqhiyyah) in students of Islamic knowledge, and unveiling the methodological frameworks employed by classical jurists in legal deduction and textual reasoning (Al-Fandalāwī, 2009; Benabdellah, 1983).

2. Research Problem and Objectives

Given that this treatise addresses high-level comparative jurisprudence across schools of thought in defense of the Madhhab of the Imam of Dār al-Hijrah, Imam Mālik (may Allah have mercy on him), it undeniably possesses a rigorous methodology in juristic and theoretical exposition. Accordingly, the central research problem is formulated as follows: What is the jurisprudential (fiqhī) and legal theoretical (uṣūlī) methodology pursued by Imam al-Fandalāwī in his book Tahdhīb al-Masālik?

From this overarching research problem, the following sub-questions branch out:

- Who is Imam al-Fandalāwī, and what are the hallmark features of his scholarly persona?
- What is the verification regarding the attribution of Tahdhīb al-Masālik, its precise title, and its contents?
- What are the key structural features of Imam al-Fandalāwī's substantive jurisprudential methodology in the book?
- What are the distinguishing features of Imam al-Fandalāwī's legal theoretical (uṣūlī) methodology in the book?

3. Research Methodology

To address this problematic, alongside the descriptive methodology foundational to humanities research, the study relies upon the following approaches:

- The Inductive Method (al-Manhaj al-Istiqrā'ī): Tracing legal issues (masā'il fiqhiyyah) across al-Fandalāwī's text to observe and extract the methodological patterns governing his handling of substantive rulings and theoretical uṣūlī material.
- The Historical Method (al-Manhaj al-Tārikhī): Employed when examining the biography of Imam al-Fandalāwī, studying his intellectual personality, and introducing his manuscript.
- The Analytical Method (al-Manhaj al-Taḥlīlī): Applied to evaluate his juristic and theoretical methods through deducing and analyzing his modes of reasoning, argumentative discourse, and utilization of legal theoretical maxims.

4. Significance of the Study and Literature Review

The significance of this research lies in several key dimensions:

- Reviving the rich heritage of Mālikī jurists and highlighting their seminal contributions to Islamic jurisprudence and legal theory.

- Examining Tahdhīb al-Masālik as a rich repository containing a massive corpus of comparative legal issues structured upon a unique scientific methodology worthy of critical exposition.
- Elucidating the integral, symbiotic relationship between positive substantive law (fiqh) and legal theory (uṣūl al-fiqh).
- Demonstrating the elevated scholarly stature and juristic caliber of Imam al-Fandalāwī.

Imam Abū al-Ḥajjāj Yūsuf b. Dūnās al-Fandalāwī has garnered scholarly interest in contemporary research. Among the notable academic studies devoted to his work are: *The Impact of Juristic Preference (Tarjih) on Legal Theorization through Tahdhīb al-Masālik* by Muḥammad Fāris (Sīdī Mohamed Ben Abdellah University, Morocco), and *The Legal Maxims of Sale Contracts among the Mālikīs through al-Fandalāwī's Tahdhīb al-Masālik and al-Qarāfī's al-Dhakhīrah* (Sīdī Mohamed Ben Abdellah University, Morocco).

5. Biographical Profile of Imam al-Fandalāwī

5.1. Personal Life: Name, Lineage, and Origin

He is Yūsuf b. Dūnās b. ʿĪsā al-Fandalāwī al-Maghribī, as recorded in the majority of biographical dictionaries (Ibn Farḥūn, 1972; Ibn Kathīr, 1997; Al-Ṣafadī, 2000). Textual corruptions (taḥrīf) occurred in certain historical manuscripts regarding his father's name 'Dūnās', transcribing it errantly as 'Darnās', 'Dūbās', or 'Darbās'. His predominant agnomen (kunya) is Abū al-Ḥajjāj, though he was also referred to as Abū Ya'qūb (Ibn Taghrī Bardī, 1992).

'Al-Fandalāwī' (with a kasrah on the fā', sukūn on the nūn, fathah on the dāl, followed by alif, lām, alif, and wāw) is an attribution (nisbah) to Fandalāwah, a locality in Morocco near Ceuta (Sabtah), inhabited by a Moroccan Berber tribe situated between Sefrou and Ribāṭ al-Khayr in the territory of the modern Banī Yāzghah tribes (approx. 60 km from Fez) (Al-Idrīsī, 1989; Al-Ḥamawī, 1995; Ibn al-Athīr, 1980). In some manuscripts, this nisbah was corrupted to 'al-Qandalāwī'. Classical sources provide no substantive details regarding his immediate family.

5.2. Birth, Upbringing, and Martyrdom

Classical sources do not specify his exact birth year. However, historical evidence strongly suggests he was born between 460 AH and 470 AH based on several converging indicators (Al-Dhahabī, 1993; Sibṭ Ibn al-Jawzī, 1951):

- Sibṭ Ibn al-Jawzī (quoting al-Ḥāfiẓ Ibn ʿAsākir) noted that while residing in Bāniyās, al-Fandalāwī was already an elderly shaykh (Sibṭ Ibn al-Jawzī, 1951; Ibn ʿAsākir, 1997).
- Following his relocation from Bāniyās to Damascus, Tāj al-Mulūk Būrī b. Tughtakīn (reigned 522–526 AH) summoned eminent jurists in 523 AH to issue a legal ruling (fatwā) concerning the Bāṭiniyyah; al-Fandalāwī responded to this summon as an established senior shaykh (Ibn al-Qalānīsī, 1983; Al-Fandalāwī, 1966).
- At the time of his martyrdom, he was exceedingly advanced in age, to the extent that the military commander urged him to retreat due to physical frailty (Abū Shāmah, 1997; Al-Ḥarīrī, 1981).

During al-Fandalāwī's residence in the Levant, the region faced continuous Crusader invasions, including the siege of Damascus during the Second Crusade in 543 AH (Ibn al-Athīr, 1997; Ibn Kathīr, 1997). On Saturday, 6th Rabīʿ al-Awwal 543 AH, the populace marched out to defend their city. The commander pleaded with him: 'O revered Shaykh and Imam, turn back! You are excused due to old age; you have no strength, and I shall suffice you.' Al-Fandalāwī resolutely replied:

"I shall not turn back. I have entered into a transaction and Allah has purchased from me; by Allah, I shall neither cancel the contract nor seek its annulment!"—referring to the verse: «Indeed, Allah has purchased from the believers their lives and their properties [in exchange] for that they will have Paradise» [Al-Tawbah: 111] (Abū Shāmah, 1997; Ibn Khallikān, n.d.).

He advanced courageously toward the water sources to block the enemy, fought valiantly, and attained martyrdom on that very day.

5.3. Scholarly Life, Disciples, and Surviving Works

Although biographical works omit the explicit names of his teachers, his profound mastery across diverse branches of knowledge unmistakably demonstrates extensive training under prominent masters (Al-Dhahabī, 1985). Having served as the leading professor and chief Mālikī authority in Damascus—narrating the Muwaṭṭaʾ and teaching al-Talkhīṣ by Abū al-Ḥasan al-Qābisī—his circles attracted numerous prominent figures, including Al-Ḥāfiẓ Ibn ʿAsākir (1997) and the Muftī of the Levant, ʿAlī b. al-Muslim al-Shāfiʿī (d. 533 AH) (Al-Nuʾaymī, 1990; Ibn Qāḍī Shuhbah, 1987; Al-Subkī, 1992).

Two of his writings have survived to the present day: (1) *Tahdhīb al-Masālik fī Nuṣrat Madhhab Mālik*, the central subject of this study; and (2) *Fatwā al-Fandalāwī wa-Qiṣṣatuhā*, published by Jawād al-Murābiṭ in Beirut (1966) (Al-Fandalāwī, 1966).

6. Introduction to the Treatise "Tahdhīb al-Masālik"

6.1. Attribution and Verification of the Text

The full title on the unique manuscript's folio is: *Tahdhīb al-Masālik fī Nuṣrat Madhhab Mālik ʿalā Manhaj al-ʿAdl wa-l-Inṣāf fī Sharḥ Masāʾil al-Khilāf* (Al-Fandalāwī, 2009). The editor, Prof. Dr. Aḥmad al-Būshikhī, verified its attribution based on a unique manuscript discovered by Muḥammad al-Manūnī in the Ḥamziyyah Library in Errachidia, Morocco (Al-Fandalāwī, 2009). Its authenticity is corroborated by: (1) historical consensus regarding his leadership of Mālikīs in Damascus; (2) his verified dialectical prowess in complex issues such as water impurities, hunting during ihrām, and ribā rationales; (3) explicit manuscript title pages; and (4) unanimous contemporary scholarly reception (Benabdellah, 1983; Al-Rāʾī, 1981).

6.2. Scholarly Value and Stature of the Treatise

The scholarly significance of the work is reflected in several key dimensions:

- Comparative Juristic Elevation (al-Khilāf al-ʿĀlī): Systematic treatment of disputed ijtihād-based legal rulings anchored in rigorous textual evidence, modes of indication (dalālah), underlying rationales (ʿilal), and higher objectives (maqāṣid) (Al-Fandalāwī, 2009).
- Comprehensive Scope: Encompasses 347 major legal issues systematically distributed across classical legal chapters.
- Evidentiary Defense: Championing the Mālikī madhhab through robust proof and deductive derivation rather than blind partisan imitation (taqlīd).
- Historical Rarity: A unique, archaic western Islamic (Maghribī) Mālikī text with no equivalent extant work matching its scope and analytical methodology (Al-Fandalāwī, 2009).

7. The Substantive Jurisprudential Methodology (al-Manhaj al-Fiqhī)

7.1. Structural Division and Organization

Al-Fandalāwī organized his treatise into major books (kutub), subdivided into chapters (abwāb) and individual legal issues (masāʾil). The work begins with the Book of Purification (Kitāb al-Ṭahārah) and extends over 50 thematic legal books, including Prayer, Funerals, Fasting, Zakāt, Ḥajj, Jihād, Emancipation, Inheritances, Marriage, Divorce, Commercial Sales, Leases, Partnerships, Judicial Decrees, Testimonies, Usurpation, Pledges, Preemption, Bequests, Prescribed Penalties (Ḥudūd), and Blood Monies (Diyāt) (Al-Fandalāwī, 2009).

7.2. Systematic Presentation and Formulary Phrasing

Al-Fandalāwī adhered to a strict six-step heuristic framework in presenting disputed cases, using precise formulary phrases as illustrated in the issue of Taking Wages for the Call to Prayer (Adhān) (Al-Fandalāwī, 2009):

- 1. Statement of the School's Ruling: He presents the ruling concisely without abstract headings (e.g., «There is no harm in receiving wages for the Adhān»).

- 2. Mention of Concurring Authorities: Ending with «And this was held by... [Wa bihi qāla] al-Shāfi'ī».
- 3. Mention of Dissenting Jurists: Commencing with «And [so-and-so] said... [Wa qāla] Abū Ḥanīfah: Taking wages for it is impermissible under any circumstances».
- 4. Opponent's Evidence: Commencing with «His associates argued... [Wa-ḥtajja aṣḥābuh] with His saying: <Say: I ask of you no reward for it> [Al-An'ām: 90]...».
- 5. The School's Evidentiary Proofs: Commencing with «The evidence for the validity of what we maintain is... [Wa-l-dalīlu 'alā ṣiḥḥati mā qulnā] that the Prophet ﷺ gave Abū Maḥdūrah a pouch containing gold and silver upon delivering the call to prayer...».
- 6. Dialectical Rebuttal: Beginning with «Once this is established, their deduction from... is invalid [Fa-idhā thabata ḥādḥā, fa-iḥtijājuhum bi... ghayru ṣaḥīḥ] because Allah obligated His Messenger to clarify...».

8. The Legal Theoretical Methodology (al-Manhaj al-Uṣūlī)

8.1. Comprehensiveness across Theoretical Disciplines

The treatise covers the entire spectrum of classical uṣūl al-fiqh (Al-Fandalāwī, 2009; Al-Subkī, 1992):

- Legal Norms and Capacity (al-Aḥkām wa-l-Taklīf): Extended obligations, binding nature of initiated supererogatory acts, legal capacity of minors and the insane, and accountability of non-Muslims for branch rulings.
- Textual Sources (al-Kitāb wa-l-Sunnah): Authority of anomalous Qur'anic readings (al-qirā'ah al-shādhḥah), status of the Basmalah, prophetic actions, solitary reports in public necessity (khabar al-wāḥid fīmā ta'ummu bihi al-balwā), additions by reliable transmitters (ziyādat al-thiqah), and mursal narrations.
- Consensus and Analogy (al-Ijmā' wa-l-Qiyās): Silent consensus (ijmā' sukūṭī), normative practice of Madinah ('Amal Ahl al-Madīnah), invalidity of establishing prescribed penalties via analogy, and impermissibility of analogy conflicting with explicit text.
- Abrogation (al-Naskh): Cessation of abrogation upon prophetic demise, posterior texts abrogating anterior ones, and whether an addition to a text constitutes abrogation (al-ziyādah 'alā al-naṣṣ naskh).
- Linguistic Indications (Dalālāt al-Alfāz): Unconditioned commands denoting obligation, prohibitions implying invalidity, rule of general wording over specific cause (al-'ibrah bi-'umūm al-lafẓ), qualifying absolute texts (ḥaml al-muṭlaq 'alā al-muqayyad), and restriction particles (innamā).
- Conflict and Preference (al-Ta'āruḍ wa-l-Tarjīḥ): Harmonizing reports over discarding, prohibition overriding permissibility in conflicts, and continuous practice of Madinah taking precedence over solitary reports.

8.2. Precision of Maxims and Evidentiary Hierarchy

Al-Fandalāwī formulated theoretical maxims with exceptional conciseness, such as: «A Companion does not speak except based upon direct prophetic transmission (tawqīf)»; «The addition by an upright, trustworthy transmitter is accepted»; and «When legal capacity is valid, legal obligation is valid» (Al-Fandalāwī, 2009). He strictly prioritized evidentiary sources in a consistent four-tier hierarchy: (1) Qur'anic verses, (2) Prophetic Sunnah, (3) Scholarly Consensus (Ijmā'), and (4) Juristic Analogy (Qiyās).

8.3. Strategic Contextual Deployment of Maxims

Al-Fandalāwī deployed theoretical principles across three strategic argumentative contexts (Al-Fandalāwī, 2009): (1) Establishing the School's Doctrine, demonstrating that widespread practice overrides solitary anomalies; (2) Articulating Opposing Doctrines, presenting opponent deductions faithfully; and (3) Dialectical Rebuttal, where he masterfully utilized opposing maxims dialectically (ilzām) to dismantle the dissenter's arguments on their own theoretical grounds.

9. Conclusion

This study yields several crucial conclusions regarding the scholarship of Imam al-Fandalāwī and his masterwork Tahdhīb al-Masālik:

- Imam al-Fandalāwī represents a towering Mālikī jurist and theoretical master whose life and dialectical contributions bridge western Islamic scholarship with Eastern intellectual centers.
- Tahdhīb al-Masālik implements a rigorous, uniform pedagogical heuristic in comparative jurisprudence, establishing the Mālikī doctrine while treating dissenting schools with objective scholarly fairness (al-ʿadl wa-l-inṣāf).
- The treatise serves as a masterclass in integrating substantive positive law (furūʿ) with foundational legal theory (uṣūl), establishing that substantive legal divergence is rooted in principled theoretical variance.
- His dialectical strategy of employing opponents' theoretical premises against their own derived conclusions represents an advanced model of classical Islamic argumentation.

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