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Title of research article

Analytical Framework of the Terms al-Rājiḥ and al-Mashhūr in Mālikī Juridical Literature: A Conceptual and Methodological Study

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Abstract

This study offers a conceptual and analytical examination of the juridical terms al-rājiḥ (the preponderant opinion) and al-mashhūr (the prevalent opinion) as applied by scholars of the Mālikī legal school. These terms serve as methodological instruments for classifying and prioritising legal views within the broader framework of comparative juridical analysis. The research investigates the semantic, epistemological, and methodological dimensions of both terms and clarifies the relationship between evidentiary strength and scholarly dissemination in the process of legal reasoning. Through an analytical review of classical sources such as al-Mudawwana al-Kubrā and Mukhtaṣar Khalīl, this study demonstrates that the relationship between al-rājiḥ and al-mashhūr is complex and non-synonymous. A ruling may be mashhūr without being rājiḥ, and vice versa. The study identifies the methodological principles through which Mālikī jurists established preference (tarjīḥ) and scholarly recognition (shuhra), highlighting the implications of these distinctions for legal decision-making, codification, and academic research in the field of Islamic legal theory. The results contribute to the field of legal hermeneutics by elucidating how hierarchical terminologies structure juridical reasoning and enhance methodological consistency in the interpretation of normative texts.

1. Introduction

The discipline of Islamic jurisprudence, or *fiqh*, represents not merely a compendium of legal rulings but a comprehensive analytical framework for interpreting, systematizing, and applying normative principles derived from textual and rational sources. Within this intellectual tradition, each school of law developed methodological instruments for evaluating, classifying, and reconciling differing legal views, thereby contributing to a dynamic and coherent legal system.

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Among the challenges confronted by jurists—particularly within the Mālikī school of law—is the issue of multiplicity of opinions on singular legal questions. Such plurality necessitates clearly defined criteria for *preference* (*tarjīḥ*) and *recognition* (*shuhra*) to ensure that the reasoning process remains logically consistent, evidentially grounded, and methodologically transparent. The ability to distinguish between more substantiated and more prevalent opinions is essential for maintaining internal coherence and interpretive stability within the school's legal tradition.

Two technical terms encapsulate this methodological tension: al-rājiḥ (the preponderant opinion) and al-mashhūr (the prevalent opinion). Both serve as hierarchical indicators of legal reliability, though they refer to distinct dimensions of authority. The *rājiḥ* opinion is primarily based on evidentiary strength—that is, the opinion most consistent with the sources of law and the analytical principles employed by the school's leading jurists. The *mashhūr* opinion, in contrast, reflects scholarly dissemination and practical recognition across the juristic corpus. It may derive its weight from frequency of citation, pedagogical adoption, or historical continuity, rather than from the intrinsic strength of its textual or analogical evidence.

Understanding the interaction between evidentiary preference and scholarly prevalence is critical for examining how Mālikī jurists regulate legal disagreement and formulate rulings. The classification of opinions as *rājiḥ* or *mashhūr* provides a systematic basis for *ijtihād* (juridical reasoning), codification, and the issuance of legal determinations, enabling a balance between normative rigor and interpretive flexibility.

This study approaches these terminological constructs as conceptual categories within the methodology of legal interpretation, rather than as religious doctrines. It seeks to clarify their theoretical foundations, internal consistency, and implications for contemporary studies in legal epistemology and comparative jurisprudence.

2. Significance of the Study

The academic significance of this research is both theoretical and applied, contributing to the fields of legal theory, hermeneutics, and historical jurisprudence.

1. Theoretical Contribution:
   This study provides a structured conceptual analysis of the Mālikī methodology of preference, thereby offering researchers, linguists, and legal theorists a clearer understanding of how hierarchical reasoning functions in the classification of legal opinions. It elucidates the epistemic principles underlying *tarjīḥ* (preference) and *shuhra* (prevalence), linking them to broader theories of legal rationality and decision-making.
2. Applied Contribution:
   By clarifying the distinction between *al-rājiḥ* and *al-mashhūr*, the research equips legal analysts, historians, and comparative law scholars with methodological tools to evaluate the authority of diverse legal views within a single intellectual framework. Such distinctions are relevant not only to classical *fiqh* studies but also to contemporary analyses of legal pluralism, consensus formation, and interpretive hierarchy.
3. Scholarly and Pedagogical Relevance:
   The study fills a research gap in modern juridical scholarship concerning the systematic relationship between evidentiary reasoning and scholarly diffusion within Mālikī legal methodology. It provides an organized academic reference that can support curricula in legal theory, hermeneutics, and the study of methodological approaches across historical schools of thought.

3. Research Problem

The core research question addressed in this study is as follows:

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How does the Mālikī school conceptualize and distinguish between the terms al-rājiḥ *and* al-mashhūr, *and what is the nature of the relationship between evidentiary strength and scholarly prevalence in determining the authority of juridical opinions?*

From this central inquiry arise several subsidiary research questions:

- What are the linguistic, conceptual, and methodological definitions of the terms *al-rājiḥ* and *al-mashhūr?*
- What analytical criteria and procedural mechanisms are employed by Mālikī jurists to classify a legal view under either category?
- To what extent can a *mashhūr* opinion diverge from a *rājiḥ* one, and what rules govern such divergence?
- How do these classifications influence the processes of legal preference, codification, and the issuance of rulings within the Mālikī framework?

Addressing these questions contributes to a nuanced understanding of how interpretive authority is constructed, transmitted, and validated within a mature legal system.

4. Research Methodology

This study adopts a qualitative descriptive-analytical methodology, combining historical contextualization with conceptual analysis. The research process is structured in several stages:

1. Conceptual Clarification:
   A linguistic and terminological analysis of the expressions *al-rājiḥ* and *al-mashhūr* is conducted using primary classical sources. This step involves semantic disambiguation and contextual interpretation based on early and later Mālikī juristic writings.
2. Textual Examination:
   The research engages with core Mālikī reference works, including *Mukhtaṣar Khalīl, al-Mudawwana al-Kubrā*, and *Tafsīr al-Qarāfī*, among others. Selected passages are analyzed to trace the application of these terms within real juridical debates.
3. Comparative Analysis:
   Differences in definition, application, and methodological weighting among prominent Mālikī scholars are compared. Particular attention is paid to the interplay between rationalist and textualist tendencies in their reasoning.
4. Analytical Synthesis:
   The findings are synthesized into a conceptual model that delineates the epistemological structure of Mālikī preference methodology, identifying patterns of reasoning that balance authority, consensus, and evidentiary validation.
5. Contemporary Relevance:
   Finally, the study situates its findings within the broader field of legal theory and decision science, drawing parallels between classical methodologies of preference and modern analytical models of reasoning under uncertainty.

The research is based exclusively on documentary and textual analysis; it involves no empirical human data and hence aligns with the ethical standards of theoretical and archival scholarship.

5. Chapter One: The Term *al-Mashhūr* and the Divergence Concerning Its Concept in Mālikī Legal Discourse

5.1 Linguistic Definition of the Term *al-Mashhūr*

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The term *al-mashhūr* (المشهور) is the passive participle of the verb *shuhira* (شُهِرَ), which derives from the triliteral root *sh–h–r* (ش-ه-ر), meaning "to make manifest, to publicize, or to spread." Classical Arabic lexicographers define the expression *shahartu al-amra* as "I made the matter known or evident," and *ishtahara al-amr* as "it became well-known or widely recognized." Hence, in its linguistic sense, *al-mashhūr* denotes something that has gained public recognition or widespread acceptance.

In legal and scholarly usage, the term evolved to describe a view or statement that has become widely cited, circulated, or adopted within a school of thought, irrespective of its intrinsic evidentiary strength. Thus, linguistically, *al-mashhūr* conveys the dimension of visibility and prevalence, which later acquired a methodological function within the Mālikī legal framework.

5.2 Doctrinal Definitions of *al-Mashhūr* among Mālikī Jurists

The Mālikī jurists of the post-foundational period expressed divergent interpretations of the term *al-mashhūr* as it applies to the evaluation of legal opinions. The variation can be classified into three principal views, each emphasizing a distinct epistemological criterion: strength of evidence, multiplicity of proponents, and textual authority.

5.2.1 The First View: Al-Mashhūr *as the Opinion Supported by Strong Evidence*

According to the first interpretive strand, *al-mashhūr* refers to the opinion whose evidentiary basis is strongest, irrespective of the number of jurists who uphold it. This definition was transmitted by Ibn Bashīr, Ibn Khuwīz Mindād, and al-Dusūqī, and endorsed by Abū al-Ḥasan al-Tasūlī. The later commentator Muḥammad ʿAlīsh al-Mālikī described this as "the well-known interpretation" (*al-qawl al-mashhūr*) of the term within Mālikī literature.

According to this approach, there is no essential distinction between *al-mashhūr* and *al-rājiḥ*, since both are defined through the strength of the underlying proofs. However, this conceptual convergence provoked critique.

Ibn Rāshid al-Qafṣī objected to the definition, arguing that if *al-mashhūr* denoted the view supported by the strongest evidence, it would be inconsistent for the jurists to describe one opinion as *mashhūr* and another, in the same issue, as *ṣaḥīḥ* (sound). The coexistence of two such descriptors implies a conceptual differentiation that this definition fails to account for.

In response, Judge Ibn Farḥūn clarified that there is no contradiction, since *al-mashhūr* in Mālikī usage may refer to the *position of the Mudawwana*—the canonical record of Mālik's transmitted doctrine—while another opinion, though less widespread, may be termed *ṣaḥīḥ* due to its strong hadith-based evidence. Thus, *mashhūr* here signifies doctrinal authority within the school's literature, whereas *ṣaḥīḥ* reflects evidential soundness from an external source.

5.2.2 The Second View: Al-Mashhūr *as the Opinion Supported by the Majority of Jurists*

The second and most influential position defines *al-mashhūr* as the opinion held by the majority of Mālikī authorities or most widely adopted in legal practice and instruction. This view was reported by Ibn Bashīr, Ibn Khuwīz Mindād, Abū al-Ḥasan al-Tasūlī, and Muḥammad ʿAlīsh al-Mālikī, and was later endorsed by Aḥmad al-Hilālī and Abū ʿAbd Allāh al-Fāsī, with al-Dusūqī identifying it as the *relied-upon* (*muʿtamad*) position of the school. It has also been adopted by several modern Mālikī scholars as the most methodologically consistent definition.

This view locates the authority of *al-mashhūr* not in the strength of proof, but in collective endorsement. Its legitimacy derives from the accumulated scholarly consensus or widespread juridical acceptance that confers normative stability on a given opinion.

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Ibn Rāshid al-Qafṣī critiqued this view on empirical grounds, observing that *mashhūr* opinions occasionally diverge from the actual juridical practice of later scholars, particularly when the prevailing social or customary conditions evolve. In reply, Ibn Farḥūn noted that such divergence is methodologically permissible, as later Mālikī judges and muftīs—such as Ibn ʿAṭṭāb, Ibn Rushd al-Jadd, and Ibn al-ʿArabī—often issued rulings according to alternative opinions based on contextual adaptation, changing customs, and public interest (maṣlaḥa).

Thus, within this interpretive frame, *al-mashhūr* derives its normative weight from juristic continuity and multiplicity of transmission, not from the intrinsic evidentiary superiority of its reasoning. The distinction between *al-rājiḥ* and *al-mashhūr* therefore lies in their epistemic foundations:

- *al-rājiḥ* gains authority from the internal strength of evidence,
- *al-mashhūr* gains authority from the external proliferation of adherents and applications.

5.2.3 The Third View: Al-Mashhūr *as the Statement of Ibn al-Qāsim in* al-Mudawwana

The third view identifies *al-mashhūr* with the recorded opinions of Ibn al-Qāsim—Mālik's foremost transmitter—in the canonical *al-Mudawwana al-Kubrā*. This position is cited by al-Dusūqī and Abū ʿAbd Allāh al-Fāsī, and implicitly favored by Ibn Farḥūn in *Tabsirat al-Ḥukkām*. According to him, "The statement of Ibn al-Qāsim, when found in *al-Mudawwana*, constitutes the *mashhūr* of the school."

Aḥmad al-Hilālī criticized this interpretation as overly restrictive, arguing that it excludes numerous authoritative opinions not recorded in *al-Mudawwana* yet acknowledged in other Mālikī sources. He proposed that this definition should be understood as illustrative rather than exhaustive: the statements of Ibn al-Qāsim represent *a prime instance* of *mashhūr* opinions but do not confine the term exclusively to them.

Consequently, this view reinforces the textual authority of *al-Mudawwana* as a foundational reference for the Mālikī tradition, while allowing flexibility for other recognized sources of doctrinal transmission.

5.3 Comparative Evaluation and Hierarchical Differentiation

The proponents of the second definition—which bases *mashhūr* on multiplicity of proponents—provided several arguments for its methodological superiority:

1. Linguistic Correspondence: The definition corresponds more closely with the etymological meaning of the word *mashhūr*, which denotes something well-known or widely circulated.
2. Doctrinal Hierarchy: The consistent differentiation made by Mālikī jurists between *mashhūr* and *rājiḥ* implies their non-synonymy. The jurists' practice of prioritizing the *rājiḥ* when the two conflict presupposes conceptual distinction.
3. Dual Attributions: Certain opinions in the Mālikī corpus are described simultaneously as *mashhūr* and *rājiḥ*, demonstrating that the two concepts operate along distinct epistemological axes—the former based on prevalence, the latter on evidence. For instance, the prohibition of listening to instruments of diversion (*maʿāzif*) is considered *mashhūr* due to the number of jurists who hold this view, and *rājiḥ* due to the strength of its textual proofs.

5.4 Applied Examples of *al-Mashhūr* in Mālikī Jurisprudence

To illustrate the operational meaning of *al-mashhūr* in legal discourse, the following examples from classical Mālikī texts are instructive:

1. Example 1: Ibn al-Ḥājib records that "A traveller performs *tayammum* (dry ablution)… and likewise a healthy resident who fears the lapse of time, according to the *mashhūr* opinion, and he does not repeat

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[the prayer]."

→ Here, *mashhūr* indicates the dominant procedural view despite possible minority dissent.

2. Example 2: Ibn Shās writes, "The *witr* prayer is a single unit (*rakʿa*), and its permissible time extends until the *ṣubḥ* prayer, according to the *mashhūr* view of the school."

→ The term marks consensus by prevalence, not necessarily by evidentiary analysis.

3. Example 3: Abū al-Qāsim Ibn Sirāj al-Andalusī was asked about a legal case concerning a woman who bore a child two months after marriage; he answered, "The *mashhūr* opinion is that she never becomes lawful again for her husband, as he had married her during a prohibited waiting period."

→ This instance highlights the practical authority of *mashhūr* rulings in judicial decision-making.

5.5 The Related Term *al-Ashhar* and Its Usage in Mālikī Literature

In addition to *al-mashhūr*, Mālikī scholars also employed the comparative form *al-ashhar* (الأشهر), meaning "more well-known" or "more prevalent." The debate surrounding *al-ashhar* parallels that of *al-mashhūr*, with interpretations diverging according to the same methodological criteria.

- For those who define *mashhūr* by evidentiary strength, *ashhar* denotes a higher degree of evidentiary superiority or stronger textual support.
- For those who define *mashhūr* by prevalence and acceptance, *ashhar* signifies a higher degree of recognition or wider scholarly endorsement within the school.

Thus, *al-ashhar* functions as a comparative indicator of preponderance, representing a secondary but refined level within the gradation of legal authority, extending from individual opinion (*qawl*), to *mashhūr*, to *ashhar*, and ultimately to *muttafaq ʿalayh* (consensual view).

5.6 Summary of Chapter One

The analysis of *al-mashhūr* in Mālikī jurisprudence reveals that the term has evolved from a linguistic notion of publicity to a technical device of methodological classification. Three major definitional trends exist—based respectively on evidence, prevalence, and textual attribution—with the prevalence-based interpretation emerging as the most accepted and operationally consistent within the school's historical practice.

This conceptual diversity reflects the methodological pluralism inherent in Mālikī jurisprudence, where both rational proof and juristic consensus serve as co-constitutive elements of legal authority. The comparative differentiation between *al-mashhūr*, *al-rājiḥ*, and *al-ashhar* provides critical insight into the school's internal epistemology and continues to influence interpretive hierarchies in modern Mālikī legal analysis.

6. Chapter Two: The Term *al-Rājiḥ* and the Divergence Concerning Its Concept in Mālikī Juridical Literature

6.1 Linguistic Definition of the Term *al-Rājiḥ*

The term *al-rājiḥ* (الراجح) is derived from the active participle of the verb *rajaha* (رَجَحَ), which carries the meaning "to outweigh, to be preponderant, or to exceed in weight or strength." Classical Arabic grammarians note that the verb *rajaha yarjuḥu*—with the middle letter (jīm) variably vocalized—conveys the sense of superiority or predominance.

The root *(r–j–ḥ)* expresses, according to Ibn Fāris, "steadiness and increase" (*al-thabāt wa-l-ziyāda*), implying the idea of something that tips the balance or possesses greater stability and weight. Hence, linguistically, *al-rājiḥ* denotes that which is stronger, weightier, or more convincing when compared with alternatives.

This linguistic foundation forms the basis for its technical usage in Mālikī jurisprudence, where *al-rājiḥ* serves as a hierarchical indicator of evidentiary superiority among competing opinions.

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6.2 Doctrinal Definitions of *al-Rājiḥ* among Mālikī Jurists

The Mālikī jurists formulated two principal interpretations of the term *al-rājiḥ*, reflecting different criteria for juridical preference:

6.2.1 The First View: Al-Rājiḥ *as the Opinion Supported by the Strongest Evidence*

The dominant view within the Mālikī school defines *al-rājiḥ* as the opinion founded upon the most persuasive and well-established evidence—whether textual (from the Qurʾān and Sunna), analogical, or based on the practice of authoritative predecessors. This interpretation was articulated by Muḥammad al-Dusūqī and Aḥmad al-Ṣāwī, and explicitly preferred by Abū ʿAbd Allāh al-Fāsī.

The proponents of this view emphasize that juridical preference (*tarjīḥ*) is a rational and evidentiary process rooted in the epistemic hierarchy of proofs. Accordingly, the authority of a ruling derives not from its circulation or popularity but from the robustness of its inferential grounding.

Three primary arguments support this interpretation:

1. Both al-Dusūqī and al-Ṣāwī, authoritative Mālikī commentators, restricted their definition of *al-rājiḥ* exclusively to evidentiary strength, making no mention of the number of adherents.
2. Abū ʿAbd Allāh al-Fāsī explicitly chose and validated this view as the correct one (*al-ṣawāb*). No extant Mālikī source contradicts this preference by asserting the alternative definition.
3. The majority of later Mālikī jurists adopted this position, treating *al-rājiḥ* as conceptually synonymous with *al-aṣaḥḥ* (the most correct), *al-ṣaḥīḥ* (the sound), and *al-ẓāhir* (the apparent or manifest).

Within this framework, the *rājiḥ* opinion constitutes the operative basis for fatwa (legal response) and judicial practice, since it represents the highest evidentiary grade among competing legal interpretations.

6.2.2 The Second View: Al-Rājiḥ *as the Opinion Supported by the Majority*

A minority view, transmitted by Abū ʿAbd Allāh al-Fāsī, posits that *al-rājiḥ* denotes the opinion endorsed by a greater number of jurists. This interpretation mirrors the second definition of *al-mashhūr*, emphasizing quantitative prevalence over evidentiary quality.

However, this view is not widely accepted among Mālikī authorities, as it conflates the concept of *rājiḥ* (based on rational preference) with that of *mashhūr* (based on juristic consensus). The relative scarcity of Mālikī endorsement and the methodological dominance of the first definition have led most scholars to regard the "evidentiary strength" interpretation as both linguistically and conceptually superior.

6.3 The Related Term *al-Arjaḥ* and Its Significance

Closely associated with *al-rājiḥ* is its comparative form, *al-arjaḥ* (الأرجح), literally meaning "more preponderant." Mālikī jurists use *al-arjaḥ* to signify an opinion that is even stronger in evidence than another view already classified as *rājiḥ*.

In this hierarchical spectrum of preference, *al-arjaḥ* thus represents a higher degree of evidentiary superiority, marking the culmination of rational preference in jurisprudential reasoning. It serves as a tool for fine-grained differentiation within a school's corpus, indicating which opinion should guide fatwa or judicial practice when several plausible *rājiḥ* views exist.

6.4 Applied Examples of *al-Rājiḥ* and *al-Arjaḥ* in Mālikī Texts

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The following textual instances illustrate how Mālikī jurists applied the concepts of *al-rājiḥ* and *al-arjaḥ* to actual legal issues, thereby operationalizing the principle of juridical preference:

1. Example 1 — Classification of Pre-Childbirth Blood:
   Al-Dardīr states: "*Al-nifās* (postpartum bleeding) is the blood issuing from a woman during or after childbirth. As for blood that issues before it, the *rājiḥ* opinion is that it constitutes menstruation and is not counted among the sixty days."
   → Here, *rājiḥ* indicates the evidentially superior opinion derived from biological reasoning and established textual analogies.

2. Example 2 — Repetition of Prayer upon Discovering Impurity:
   Al-Ḥaṭṭāb observes: "Regarding the obligation to repeat the prayer when impurity is discovered after performance—there is disagreement, and the *rājiḥ* is that repetition within the time is recommended, not obligatory. If the time has elapsed, no repetition is required."
   → The use of *rājiḥ* reflects the predominance of rational leniency grounded in procedural logic.

3. Example 3 — Interlacing the Fingers During Prayer:
   Al-Dardīr states: "It is disliked (*makrūh*) to interlace the fingers during prayer or to crack them therein, but not outside the prayer, even in the mosque, according to the *arjaḥ* opinion."
   → The term *arjaḥ* here expresses a refined evidentiary preference validated through juristic consensus and behavioral precedent.

4. Example 4 — Intercourse in Open Spaces:
   Al-Ḥaṭṭāb writes: "Intercourse is prohibited in open spaces without a screen, but permitted in private dwellings with one. As for rooftops without a screen and open fields with one, there is disagreement; permissibility is *arjaḥ*."
   → This example illustrates the function of *arjaḥ* as the most contextually defensible opinion, integrating moral reasoning with social custom.

6.5 Comparative Analysis: *Al-Rājiḥ* and *Al-Mashhūr*

From a methodological perspective, *al-rājiḥ* and *al-mashhūr* represent complementary axes of juridical reasoning within the Mālikī tradition. While *al-rājiḥ* is governed by epistemic rigor and textual validation, *al-mashhūr* operates through institutional recognition and scholarly prevalence. The two terms thus embody the dialectic between rational proof and juristic authority, ensuring equilibrium between analytical precision and normative stability.

In cases of conflict, Mālikī jurists consistently prioritize the *rājiḥ* view, since it is grounded in stronger evidentiary reasoning. However, when the *rājiḥ* cannot be decisively established, the *mashhūr* serves as a default referential standard, ensuring continuity of legal application and preserving the coherence of the school's doctrine.

7. Conclusion

The analysis of *al-rājiḥ* and *al-mashhūr* as technical juridical terms within the Mālikī school reveals a sophisticated methodology of preference and classification. These concepts function as the twin pillars of interpretive hierarchy, allowing jurists to navigate the multiplicity of opinions while maintaining methodological order.

1. Conceptual Distinction:
o *Al-rājiḥ* emphasizes evidentiary superiority, determined through analytical comparison of textual and rational proofs.
o *Al-mashhūr* emphasizes scholarly prevalence, based on dissemination and adoption across the juridical corpus.
2. Functional Relationship:
The Mālikī methodology gives precedence to *al-rājiḥ* in cases of conflict, ensuring that reasoning based on robust evidence governs legal conclusions. In the absence of a clearly preponderant view, *al-mashhūr* assumes practical authority, guiding application through consensus and institutional continuity.

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3. Epistemological Value:

The interplay between *rājiḥ* and *mashhūr* demonstrates how classical legal systems integrated rational assessment and social validation, producing a self-regulating framework of jurisprudential reasoning adaptable to both theoretical inquiry and applied legal practice.

Through this analysis, the study contributes to the academic understanding of legal epistemology in premodern systems and provides a conceptual model for evaluating hierarchical reasoning in any discipline where multiple interpretations coexist. Understanding these terms allows jurists, scholars, and students of legal theory to better grasp the mechanisms of preference, legitimacy, and methodological rigor that underpin the Mālikī intellectual tradition.

Methodology

This research adopts a descriptive-analytical approach based on a systematic examination of primary and secondary juridical texts. The methodology proceeds through four key stages:

1. Descriptive Phase: Identification and classification of the core terminological usages of *al-rājiḥ* and *al-mashhūr* in classical Mālikī sources, including *al-Mudawwana al-Kubrā* and *Mukhtaṣar Khalīl*.
2. Comparative Phase: Cross-examination of varying definitions, interpretive tendencies, and methodological applications among leading Mālikī jurists, focusing on the interplay between evidentiary reasoning and scholarly consensus.
3. Analytical Phase: Exploration of the epistemic implications of these terms for legal reasoning, focusing on how they regulate juridical authority, methodological consistency, and the resolution of intra-school divergence.
4. Contemporary Relevance Phase: Integration of insights from modern academic discussions in legal theory and methodology to situate the traditional Mālikī approach within the broader discourse of comparative jurisprudence and epistemic analysis.

The research relies on qualitative content analysis, emphasizing conceptual coherence and methodological precision rather than confessional or dogmatic evaluation. All data are derived from textual sources, ensuring reproducibility and transparency of interpretation.

Author Contribution

Dr. Khediri Adel was solely responsible for the conception, design, and execution of this study. The author conducted the literature review, textual analysis, interpretation of classical juridical material, and drafting of all manuscript sections, including the abstract, methodology, and conclusion.

Ethical Considerations

This research adheres to the ethical standards of academic integrity, including full citation of primary and secondary sources and avoidance of plagiarism or misrepresentation of scholarly materials. The study involves no human or animal participants and thus does not require institutional ethical clearance. It was conducted within the ethical framework of research transparency and respect for intellectual property in academic scholarship.

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Conflict of Interest

The author declares no conflict of interest. The views expressed in this paper are those of the author and do not necessarily represent the official stance of the University of Ghardaia.

References

1. ʿAbd al-ʿĀl, I. S. (1413 AH). *Juridical research: Its nature, characteristics, principles, sources, with the juridical terms in the four schools*. Beirut, Lebanon: al-Zahrāʾ Library.

2. ʿAlīsh, M. (n.d.). *Fatḥ al-ʿAliyy al-Mālik fī al-fatwā ʿalā madhhab al-Imām Mālik* [The noble Mālikī opening in issuing fatwā according to the school of Imām Mālik]. Cairo, Egypt: Muṣṭafā Muḥammad Press.

3. Al-Dardīr, A. (2008). *Al-Sharḥ al-ṣaghīr ʿalā Aqrab al-masālik* [The minor commentary on "The nearest of paths"] (Al-S. ʿA. al-Hāshimī, Ed.). Cairo, Egypt: Dār al-Faḍīla.

4. Al-Dusūqī, M. ʿA. (n.d.). *Ḥāshiyat al-Dusūqī ʿalā al-sharḥ al-kabīr* [al-Dusūqī's marginalia on the major commentary] (M. ʿAlīsh, Ed.). Beirut, Lebanon: Dār al-Fikr.

5. Al-Fāsī, M. b. Q. (1406 AH). *Rafʿ al-ʿitāb wa-l-malām ʿamman qāl: "al-ʿamal bi-l-ḥadīth al-ḍaʿīf ikhtiyāran ḥarām"* [Lifting blame and reproach from one who says: "Acting on a weak ḥadīth by choice is forbidden"] (M. al-Muʿtaṣim bi-llāh al-Baghdādī, Ed.). Beirut, Lebanon: Dār al-Kitāb al-ʿArabī.

6. Al-Fīrūzābādī, M. (1979). *Al-Qāmūs al-muḥīṭ* [The comprehensive lexicon] (Al-Ṭ. A. al-Zāwī, Ed.). Beirut, Lebanon: Dār al-Maʿrifa.

7. Al-Ḥaṭṭāb al-Ruʿaynī, M. b. M. b. ʿAbd al-Raḥmān. (2003). *Mawāhib al-jalīl li-sharḥ Mukhtaṣar al-Khalīl* [The sublime gifts: A commentary on Khalīl's epitome] (Z. ʿUmayrāt, Ed.). Riyadh, Saudi Arabia: Dār ʿĀlam al-Kutub.

8. Al-Jawharī, I. b. Ḥ. (1987). *Al-Ṣiḥāḥ* [The sound lexicon] (A. ʿA. al-Gh. ʿAṭṭār, Ed., 4th ed.). Beirut, Lebanon: Dār al-ʿIlm li-l-Malāyīn.

9. Al-Khulayfī, ʿA. ʿA. Ṣ. (1414 AH). *Juridical disagreement in the Mālikī school: Its terms and causes* [al-ikhtilāf al-fiqhī fī al-madhhab al-Mālikī: istiṣlāḥātuhu wa-asbābuhu]. [Publisher: al-Maṭbaʿa al-Aṣliyya].

10. Al-Mallālī, A. b. ʿA. (n.d.). *Nūr al-baṣar fī sharḥ al-Mukhtaṣar* [Light of vision: A commentary on the Mukhtaṣar]. Lithographed edition.

11. Al-Rajrājī. (1940). *Manār al-sālik ilā madhhab al-Imām Mālik* [The traveller's lighthouse to the school of Imām Mālik] (Al-S. A. b. ʿAbd al-Majīd al-Azraq, Publ.). Fez, Morocco: al-Maṭbaʿa al-Jadīda wa-maktabatu-hā.

12. Al-Ruwaytiʿ, K. b. M. b. M. (2013). *Al-tamadhhub: Dirāsa naqdiyya naẓariyya* [Affiliation to a madhhab: A critical theoretical study]. Riyadh, Saudi Arabia: Dār al-Tadmuriyya. Ejournal+1

13. Al-Ṣāwī, A. (1415 AH/1995 CE). *Bulghat al-sālik li-Aqrab al-masālik* [Sufficiency of the traveller to "The nearest of paths"] (M. ʿAbd al-S. Shāhīn, Ed.). Beirut, Lebanon: Dār al-Kutub al-ʿIlmiyya.

14. Al-Tasūlī, A. al-Ḥ. b. ʿAbd al-Salām. (1951). *Al-Bahja sharḥ al-Tuḥfa* [Joy: A commentary on "al-Tuḥfa"] (2nd ed.). Cairo, Egypt: Muṣṭafā al-Ḥalabī Press.

15. Al-ʿAṣrī, ʿA. al-S. (1417 AH). *Naẓariyyat al-akhḏ bimā jarā bihi al-ʿamal fī al-Maghrib fī iṭār al-madhhab al-Mālikī* [The theory of adopting prevailing practice in Morocco within the Mālikī school]. Rabat, Morocco: Ministry of Endowments and Islamic Affairs.

16. Ibn Farḥūn, I. b. ʿA. (1986/1406 AH). *Tabṣirat al-ḥukkām fī uṣūl al-aqḍiya wa-manāhij al-aḥkām* [Guidance for judges in the principles of adjudication and judicial methods] (1st ed.). Cairo, Egypt: Maktabat al-Kulliyāt al-Azharīya.

17. Ibn Farḥūn, I. b. ʿA. (1990). *Kashf al-niqāb al-ḥājib ʿan muṣṭalaḥ Ibn al-Ḥājib* [Lifting the concealing veil from Ibn al-Ḥājib's terminology] (Ḥ. Abū Fāris & ʿA. al-S. al-Sharīf, Eds.). Beirut, Lebanon: Dār al-Gharb al-Islāmī.

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18. Ibn al-Ḥājib, ʿU. b. ʿU. (1431 AH). *Jāmiʿ al-ummahāt* [Compendium of foundational issues] (2nd ed., Abū ʿAbd al-Raḥmān al-Akhḍar al-Akhḍarī, Ed.). Beirut, Lebanon: Dār al-Yamāma. Brill

19. Ibn Shās. (n.d.). *ʿAqd al-jawāhir al-thamīna* [The necklace of precious jewels] (M. Abū al-Ajfān & ʿA. al-Ḥ. Manṣūr, Eds.). Beirut, Lebanon: Dār al-Gharb al-Islāmī.

20. Ibn Sirāj al-Andalusī, A. al-Q. (2000/1420 AH). *Fatāwā Qāḍī al-Janāʿa Abī al-Qāsim b. Sirāj al-Andalusī* [The fatwās of the chief judge Abū al-Qāsim b. Sirāj al-Andalusī] (M. Abū al-Ajfān, Ed.). Abu Dhabi, United Arab Emirates: al-Mujammaʿ al-Thaqāfī.

21. Muḥammad, R. (1996). *Uṣūl al-fatwā wa-l-qaḍāʾ fī al-madhhab al-Mālikī* [The foundations of fatwā and adjudication in the Mālikī school]. [Publisher information not specified]. Brill+1

22. Below are extra references you can add to strengthen the theoretical and methodological background of your study on *al-rājiḥ*, *al-mashhūr*, Mālikī methodology, and juridical disagreement:

23. Al-Qarāfī, A. b. I. (n.d.). *Al-Furūq* [Legal distinctions]. Cairo, Egypt: Dār al-Salām.

24. Al-Qarāfī, A. b. I. (n.d.). *Sharḥ Tanqīḥ al-fuṣūl fī ikhtiṣār al-maḥṣūl fī uṣūl al-fiqh* [Commentary on refining the chapters of legal theory]. Cairo, Egypt: Dār al-Fikr.

25. Al-Shāṭibī, I. (1997). *Al-Muwāfaqāt fī uṣūl al-sharīʿa* [The reconciliations in legal theory] (A. Darrāz, Ed.). Beirut, Lebanon: Dār al-Maʿrifa.

26. Al-Zarkashī, B. M. (1992). *Al-Baḥr al-muḥīṭ fī uṣūl al-fiqh* [The vast ocean in legal theory] (Vol. 6). Hurghada, Egypt: Dār al-Ṣafwa. Academia

27. Al-Ruwaytiʿ, K. b. M. (2013). *Al-tamadhhub* [Affiliation to a school of law] (Vol. 2). Riyadh, Saudi Arabia: Dār al-Tadmuriyya. JML+1

28. Dryaz, A. (2019). *Ikhtilāf al-fuqahāʾ wa-atharuhu fī al-fiqh al-Islāmī* [Juridical disagreement and its impact on Islamic law]. Amman, Jordan: Dār al-Nafāʾis.

29. Hallaq, W. B. (1994). *Authority, continuity and change in Islamic law.* Cambridge, United Kingdom: Cambridge University Press.

30. Hallaq, W. B. (1997). *A history of Islamic legal theories: An introduction to Sunnī uṣūl al-fiqh.* Cambridge, United Kingdom: Cambridge University Press.

31. Kamali, M. H. (2003). *Principles of Islamic jurisprudence* (3rd ed.). Cambridge, United Kingdom: Islamic Texts Society.

32. Krawietz, B. (2013). Cut and paste in legal rules: Designing Islamic norms with *talfīq. Islamic Law and Society, 21*(2), 143–182. Academia

33. Mālik b. Anas. (n.d.). *Al-Muwaṭṭaʾ* [The trodden path] (Critical ed.). Beirut, Lebanon: Dār al-Gharb al-Islāmī.

34. Nyazee, I. A. K. (1996). *Theories of Islamic law: The methodology of ijtihad.* Islamabad, Pakistan: Islamic Research Institute.

35. Opwis, F. (2010). *Maslaha and the purpose of the law: Islamic discourse on legal change from the 4th/10th to 8th/14th century.* Leiden, Netherlands: Brill.

36. Schacht, J. (1964). *An introduction to Islamic law.* Oxford, United Kingdom: Oxford University Press.

37. Zaydan, ʿA. (1997). *Al-Wajīz fī uṣūl al-fiqh* [A concise work in legal theory]. Beirut, Lebanon: Muʾassasat al-Risāla.

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