

## **Jurisprudential Rectification in Mukhtasar Khalil: A Foundational Study and Applied Examples**

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### **Abstract:**

Maliki legal texts, foremost among them Mukhtasar Khalil, constitute a fertile field for juristic scrutiny and critique owing to their extreme concision, which has led to subsequent clarification and supplementation by scholars and commentators. This study aims to clarify the nature of jurisprudential rectification and its methods, as well as the reasons that prompted commentators to review the wording of the abridgement and correct its basis.

Methodologically, the study takes a descriptive approach, grounding the concept of rectification and its theoretical justifications; an inductive approach, surveying applied examples drawn from commentaries on the abridgement; and an analytical approach, disassembling the rectified statements and examining the commentators' strategies in pursuing, interpreting and guiding legal positions. The research concludes that jurisprudential rectification represents a principled, critical movement intended to preserve the doctrine of the school and correct its trajectory in issuing fatwas. Furthermore, it demonstrates that the primary motivation for the jurists' follow-up was the severe concision that created ambiguity, necessitating the removal of confusion and the completion of overlooked or exceptional qualifications.

**Keywords:** jurisprudential rectification, Mukhtasar, Shaykh Khalil, commentators.

### **Introduction**

All praise is due to God, who revealed the law in its perfection and completeness, and appointed scholars as its guardians and arbiters. May prayer and peace be upon our Master Muḥammad, who was the clearest of all in exposition and the most judicious of all in formulation, and upon his family and Companions, who devoted their lives to serving the religion and elevating its status.

As to what follows:

One well-established scholarly approach within our juristic heritage is the practice of 'jurisprudential rectification and follow-up' upon the works of earlier authorities. This involves correcting and refining incomplete work, supplementing wording that falls short, addressing accidental deficiencies, removing ambiguity and preserving the body of legal materials while maximising their benefit.

This sound methodology has shaped the craft of authorship so that discerning experts in the field turn to the works of their predecessors. They refine their finer points and distinguish their correct rulings from their errors. Thus, they accomplish precisely what the leading scholars of the Maliki school

undertook in their commentaries, marginalia, treatises and scholarly formulations on the widely accepted abridgements.

One of the most prominent examples of this approach in practice is the ongoing process of Maliki scholars making corrections to Mukhtasar Shaykh Khalil. The high status of Shaykh Khalil and the elevated status of his abridgement did not stop scholars from examining its content and wording. They did not merely clarify its expressions and ground its subsidiary issues, but also supplemented and reformulated it, making explicit the weaker positions it sometimes cited — contrary to the accepted view and well-known doctrine.

Based on the foregoing, the research problem coheres around the central question: What is the reality of jurisprudential rectification, and what patterns did the scholars use to supplement and reformulate the wording of Shaykh Khalil b. Ishaq's abridgement through commentaries and authored works?

The following sub-questions emerge from this central research problem:

- What is the foundational (theoretical) concept of jurisprudential rectification, and what are its verbal and implicit formulations and modes as they appear in the commentaries?
- What scholarly and classification-based considerations necessitated the pursuit and rectification of an extremely concise text such as Shaykh Khalil's Mukhtasar?
- How did the applied patterns of jurisprudential rectification vary among the commentators of the Mukhtasar—ranging from correcting wording to remove ambiguity, completing deficiencies by adding relevant qualifications and weakening non-preferred opinions to safeguard the doctrine on which reliance is placed?

The importance of this research lies in the following:

- The scientific significance of 'Shaykh Khalil's Mukhtasar': because it is a text upon which juridical practice and fatwa issuance have come to be established across the Islamic West (the Maghrib). Its expressions are marked by very strict concision, so it is necessary to study how its commentators handled the precision of its wording and clarified its meanings.
- The methodological significance of 'jurisprudential rectification': as a critical tool that contributes to the dissection of legal texts, completing their overlooked or stray qualifications and protecting both fatwas and judicial rulings from being issued upon weak or non-preferred positions.

### **Research objectives**

This study aims to achieve the following objectives:

- To establish the terminological and methodological concept of jurisprudential rectification and trace commentators' methods and aims in critiquing juristic texts.
- To highlight the status of 'Shaykh Khalil's Mukhtasar' and identify the structural and scholarly characteristics that make it a rich subject for rectification.
- To classify the jurisprudential rectifications occurring in the Mukhtasar and demonstrate them through selected models from commentaries and independent authored works.

### **Methodology**

Given the nature of the study, three approaches must be integrated. The descriptive method is used to clarify the reality of jurisprudential rectification and elucidate its foundational features. The inductive

method is employed to identify selected examples of jurisprudential rectification in commentaries on ‘Mukhtasar Khalil’ and independent works. The analytical method involves dissecting the rectified wording, analysing the commentators’ approaches and guiding the legal positions relied upon.

### **Outline of the research**

The study is organised into an introduction, two chapters (two main sections) and a conclusion.

The introduction sets out the methodological framework.

The first section, entitled: ‘The Concept of Jurisprudential Rectification and Its Justifications in Mukhtasar Khalil’, is divided into three chapters:

- Chapter One: Defining Jurisprudential Rectification;
- Chapter Two: its aims and methods;
- Chapter Three discusses the position of Mukhtasar Khalil and the grounds for performing rectification upon it.

The second section, entitled “Applied Models of the Jurists’ Rectifications of Mukhtasar Khalil”, is also divided into three chapters: ‘Applied Models of the Jurists’ Rectifications of Mukhtasar Khalil’, is also divided into three chapters:

- Chapter One: Rectifications by the Commentators to Remove Ambiguity and Obscurity;
- Chapter Two: Rectifications to Complete or Remove Deficiency;
- Chapter Three: Rectifications Directed at Weak Opinions.

The study concludes with a conclusion that summarises the most important findings and recommendations.

## **Chapter One: The Concept of Jurisprudential Rectification and Its Justifications in Mukhtasar Khalil**

### **Section One: Defining Jurisprudential Rectification**

#### **First: Rectification in language**

It is a verbal noun (\*\*maṣdar\*\*) derived from the triliteral root ‘daraka’. Ibn Fāris stated: ‘dal, ra and kaf form a single root meaning: the occurrence of one thing with another — its reaching it and arriving at it.’<sup>1</sup>

It is said: (I apprehended/arrived at the thing) (إدراكًا).

The root “d-r-k” has multiple meanings and indications that revolve around the ideas of following, attaining and reaching. Among its meanings are:

1. Following and successive following/chain following. Hence “darak” came to mean ‘consequence/dependence’ (i.e. what follows a person). It is pronounced with a quiescent or moving vowel: يسكن و يحرك. It is said: ‘What has befallen you of darak is your attainment and realisation’, and ‘darak filan al-shay’ means: Some of it follows upon another<sup>2</sup>. Likewise: ‘ meaning تدارك منه فرط بالتوبة’

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<sup>1</sup>- Ibn Faris Aḥmad, (“Dictionary of Linguistic Measures”), edited by ‘Abd al-Salam Mohmed Haroun, Dar al-Fikr, 1399 AH – 1979 CE, (2/269)

<sup>2</sup>- Ibn Manzour, (“The Tongue of the Arabs”), Dar sadir, Beirut, 3rd ed., Lebanon, 1414 AH, (10/419)

‘it remedied/repelled what one neglected by repentance’, and “ meaning ’استدرك عليه قوله’ he rectified an error of judgement with what is correct’, i.e. ‘he corrected it’<sup>3</sup>.

2. Attaining something’s limit, endpoint, or utmost goal. Hence: ‘When the boy and girl reach maturity/are considered to have “attained” it’ and ‘when the fruit ripens and reaches its stage’<sup>4</sup>.

3. Gaining awareness of the reality of a thing. Hence: “ meaning ’أدركه ببصره’ he saw it’, i.e. he became aware of it with his eyes<sup>5</sup>. In this sense comes the saying of the Exalted One: ‘The sights do not perceive Him, while He perceives the sights’ (Qur’an, al-An’am: 301). In other words, the eyes do not see Him, though He sees the eyes<sup>6</sup>. It also means 'avoiding and remedying (correction)’<sup>7</sup>.

**Secondly, the definition of al-istidrak is as follows:**

Al-istidrak has been defined in several ways in the terminology. Considering its purpose, it has been defined as:

- 'Removing an illusion that arises from a previous statement.'<sup>8</sup>
- 'Correcting an error, completing a deficiency or removing ambiguity that another person fell into, with the aim of reaching the correct view.'<sup>9</sup>

Considering its mechanism of occurrence, it has been defined as:

- 'Following up on a statement by removing anything that creates the impression that something is established.'<sup>10</sup>

'Attaching one statement to a second statement that fixes its error, completes its deficiency or removes ambiguity from it.'<sup>11</sup>

It has also been defined as:

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<sup>3</sup>- al-Zamakhshari, (“The Foundation of Eloquence”), edited by Mohamad Basil, Dar al-Kutub al-‘Ilmiyya, Beirut, 1st ed., Lebanon, 1419 AH – 1998 CE, (1/284)

<sup>4</sup>- Ibn Dourayd Abu Bakr, (“The Encompassment of Language”), edited by Ramzi Mouni Baalbakk Dar al-‘Ilm lil-Malayin, Beirut, 1st ed., Lebanon, 1987 CE, (2/637)

<sup>5</sup>- Zayn al-Din al-Razi, (“The Select Correct (Sayings/Terms)”), edited by youcef al-Shaykh Mohammed, al-Maktaba al-Asriyya, Beirut, 5th ed., Lebanon, 1420 AH – 1999 CE, p. 104

<sup>6</sup>- See: al-tabari . (“The Comprehensive Elucidation Regarding the Interpretation of the Qur’an”), edited by Ahmad Mohamed Shakir, Mouassasat al-Risala, Beirut, 1st ed., Lebanon, 1420 AH – 2000 CE, (12/14)

<sup>7</sup>- Ahmad Mokhtar omar, (“Dictionary of Contemporary Arabic”), al-Kutub, Cairo, 1st ed., Egypt, 1429 AH – 2008 CE, (1/740)

<sup>8</sup>- al-Jurjani Ali ibn Mohamed, (“The Book of Definitions”), edited by a group of scholars under the supervision of the publisher, Dar al-Kutub al-‘Ilmiyya, Beirut, 1st ed., Lebanon, 1403 AH – 1983 CE, p. 21

<sup>9</sup>- Sulayman ibn salih al-Thunayyan, (“Supplementing Some of the Companions’ Reports on What Was Hidden from Others of the Prophetic Traditions”), compiling and study, Islamic University in Madinah, 1st ed., Kingdom of Saudi Arabia, 1439 AH – 2008 CE, (1/8)

<sup>10</sup>- Abd al-Raouf ibn al-Manawi. (“Stopping/Deterring (Clarifying) What Is Essential in Definitions”), edited by abd al-hamid salih hamdan, al-Kutub, Cairo, 1st ed., Egypt, 1410 AH – 1990 CE, p. 48

<sup>11</sup>- Naif ibn Said al-Zahrani, (“The Supplementary Reports of the Salaf in Exegesis in the First Three Centuries: A Comparative Critical Study”), Dar Ibn al-Jawzi for Publishing and Distribution, Dammam, 1st ed., Kingdom of Saudi Arabia, 1434 AH, p. 16

- 'Avoiding an actual or assumed defect in order to bring about a benefit or perfect it in the perspective of the person avoiding it.<sup>12</sup>

It has also been defined as: 'Following a word with what indicates its opposite.<sup>13</sup>

The comprehensive definition of al-istidrak among jurists is: 'Correcting a defect, shortcoming or loss in speech or action.<sup>14</sup>

## **Second requirement: The purposes of jurisprudential rectification (istidrak al-fiqhi) and its methods.**

### **First: The Purposes of Jurisprudential Rectification**

The aim of jurisprudential rectification and of following earlier works is to avoid any shortcomings or defects that may occur in jurisprudential compositions. These defects appear in three main dimensions:

1. errors in stating legal rulings and attributing statements;
- 2) a deficiency in covering the jurisprudential material;
- (3) obscurity and ambiguity affecting certain issues.

Based on this, the three principal purposes of jurisprudential rectification are as follows:<sup>15</sup>

### **Purpose One: Preventing Misconception and Removing Ambiguity**

This relies on preventive rectification to prevent incorrect interpretations of the legal text. Often, a lack of care and precision when drafting legal texts leads to ambiguity and causes difficulties in interpreting some issues. This may result in the flawed derivation of legal rulings. Therefore, follow-up by a jurist is required to remove such confusion, clarify the intended meaning and explain the objective.

### **Purpose Two: Completing What Is Missing**

This seeks to compensate for deficiencies in the work of earlier scholars. For example, an author may omit certain issues and rulings, or fail to give them adequate consideration through research and careful editing. Those who follow then fill these gaps through additional scholarly effort, whether in the form of an addendum, marginal notes or an explanation of the original work, or an entirely independent book.

### **Purpose Three: Correcting errors**

The aim is to avoid errors that occur in previous jurisprudential works. Often, methodological factors such as failing to verify information, relying on sources other than the original references or being careless when handling texts can lead to distortion and miscopying (confusion of letters or words). It may also involve adopting weak views and weakening stronger ones. This makes jurisprudential rectification necessary, through correction and revision, to preserve the material and protect readers from being misled by mistakes and misconceptions.

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<sup>12</sup>- Fiqh Supplementation: Theoretical Grounding and Application”), a Master’s thesis in fiqh, supervised by Abd Allah ibn atiyya al-Ghamidi, College of Sharia and Islamic Studies, Umm al-Qura University, Kingdom of Saudi Arabia, 1433 AH – 1434 AH, p. 40

<sup>13</sup>- al-Baali Abu al-Fadl Mohamed, (“A Look into the Phrases/Words of al-Muqni”), edited by Maḥmūd al-Arnā’ūt and Yacīn Maḥmūd al-Khatīb, Maktabat al-Seaoudi for Distribution, Jeddah, 1st ed., Kingdom of Saudi Arabia, 1423 AH – 2003 CE, p. 508

<sup>14</sup>- The Kuwaiti Fiqh Encyclopedia”), Ministry of Awqaf and Islamic Affairs, Kuwait, Dar al-Salasil, 2nd ed., Kuwait, 1404 AH – 1983 CE, entry: “istadraka” (“supplemented/reviewed”) (3/269)

<sup>15</sup>- See: (“Fiqh Supplementation: Theoretical Grounding and Application”), p. 309

## **Second: The Methods of Jurisprudential Commentators in Jurisprudential Rectification**

The methods and approaches adopted by commentators and jurists to indicate rectification and follow up on previous work vary. At their core, these methods fall into two main categories:

1) Explicit verbal methods: these are the words and phrases in which the rectifier clearly signals a jurisprudential observation. They appear in multiple forms, the most prominent of which are:<sup>16</sup>

a) Using explicit rectification terminology:

The rectifier uses expressions that clearly indicate that what is being said contains rectification from a jurisprudential perspective. Examples include words such as: (he rectified), (he followed up), (he noted), (he criticised), (he avoided), (he commented), (he rejected), (it is invalid), (it is denounced), and other derivatives.

b) Directly describing the flaw

The rectifier states that the wording of what is being rectified is rejected completely or partially, or that it requires completion.

c) Describing a potential flaw that may cause confusion: the rectifier indicates that there is room for misinterpretation or ambiguity in how the wording is understood, often due to illusion or misleading impressions (i.e. factors that create uncertainty regarding the intended meaning of the text).

d) Expressing the corrective action that achieves the intended avoidance: the rectifier explicitly states the type of rectification work, such as correction or addition, or equivalent wording to 'it should be...' (in the form of 'ينبغي').

e) Attributing the rectification to the cause of the flaw: this includes explaining that the rectified wording resulted from the cause of the flaw (e.g. illusion, forgetfulness, or heedlessness).

f) Expressing rectification through doubt: This is done by using phrases such as: "فيه نظر" (there is) or "فيه بحث" (there is room for discussion) or something to be considered) or

g) A dialectical method based on direct acceptance or rejection: This involves presenting an assumed objection and then answering it. For example: 'If you say such-and-such, then I say it is not accepted because...'

h) Direct rectification titling: Rectification may be highlighted by labelling it as a note, benefit, completion, etc., as a standalone item, two-part phrase or group.

i) Ending with directives of instruction and contemplation: The commentator may conclude by prompting reflection with phrases such as: "فأمله" (reflect on it), "افهم" (understand), "واعلم" (know), and similar expressions

2) Implicit (meaning-based) methods

These refer to what indicates jurisprudential rectification without explicit declaration — that is, rectification is understood indirectly from meanings and indications outside the text. One of the clearest manifestations of this category is:<sup>17</sup>

Presenting evidence from the text in a way that indicates rejection of the opposing view.

- Citing a respected view within the school after introducing wording that suggests the commentator is inclined towards the later view's meaning (i.e. the earlier statement signals a preference).

<sup>16</sup>- See: ("Fiqh Supplementation"), ("with grounding and with application"), pp. 359–378

<sup>17</sup>- See: ("Fiqh Supplementation"), ("with grounding and with application"), pp. 380–383

- Mentioning the corrupt consequences of the text in a way that suggests its rejection, and that the correct view is something else.
- Using negation or affirmation in a way that implies disagreement when considering the surrounding contextual clues and when there is a strong likelihood of this due to the fame or spread of the opposing view.

**Third topic: The status of Mukhtasar Khalil and justifications for its jurisprudential rectification**

**First: The status of Mukhtasar Khalil and its scientific value**

Mukhtasar Khalil ibn Ishaq is considered one of the finest works of the Maliki school, as well as being one of its most distinguished abridgments. Despite its small size, it contains a great deal of knowledge. In it, the author gathered numerous branches and issues and clarified specifically what is relied upon for issuing legal rulings (fatwas), as well as which views are deemed more correct and stronger. No other scholar has produced anything like it, nor has any other author written in its exact manner. Due to its brevity, it almost reaches the level of being ‘enigmatic’ (i.e. compact to the point that its meanings may require explanation).

Among jurists and students of the Maliki school, the high status and respected position of Mukhtasar Khalil is well known, both in scholarly circles and among ordinary people. This is due to its distinctive features and advantages.

From the time of its composition until the present day, Mukhtasar Khalil has been a leading text in the study of jurisprudence and has been adopted for the issuance of fatwas. Many works and commentaries have been written around it. Scholars and commentators have taken great care to explain its wording, unravel its symbols and codes, clarify its indications, reveal its benefits and organise its insights.

They praised it greatly, and their praise was abundant and extensive. Ibn Gazi al-Maknasi is quoted as saying:

‘Indeed, it is the finest of rare treasures and most deserving of attention. Scholars aspire to it because it is extremely useful and its meaning is profound. It clarifies what is relied upon for fatwa and the strongest preference. It combines brevity with strict accuracy and sound organisation, demonstrating mastery through its presentation and arrangement. No one has followed its example, nor has anyone been talented enough to produce something like it.’

Therefore, the abridgement became the main reference text for the Maliki school, gathering the core ‘foundations’ of the doctrine, summarising jurisprudence and highlighting the various viewpoints. It is the basis of practice across the different fields of Islamic jurisprudence that the community needs<sup>18</sup>. People throughout the world, both east and west, turned their attention to it, responding to the desires of jurists and meeting their needs in terms of study, issuing fatwas and judicial work. It was given priority and became the focus of scholarly ambitions because it contains a vast number of branches of knowledge that are scarcely found in other works<sup>19</sup>.

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<sup>18</sup>- See: Ibn Ghazi, Abu Abd Allah Mohamed, (“Relief of Distress in Solving Khalil’s Knot”), edited by Ahmad ibn abd al-Karim Najib, Najibwayh Center for Manuscripts and Heritage Services, Cairo, 1st ed., Arab Republic of Egypt, 1429 AH – 2008 CE, (1/111)

<sup>19</sup>- See: (“The Lofty Thought in the History of Islamic Jurisprudence”), Dar al-Kutub al-Ilmiyya, Beirut, 1st ed., Lebanon, 1416 AH – 1995 CE (2/286–287)

**Second: the justifications for the jurisprudential rectification of Mukhtasar Khalil.**

Although Mukhtasar Khalil was prepared over a period of twenty-five years, it could not contain and encompass all jurisprudential issues. In fact, in the introduction to his abridgment, Khalil himself stated that his purpose was to produce a concise work explaining what is required for issuing a fatwa. This does not mean that it covers every issue of Maliki jurisprudence in full.

For this reason, commentators produced critical works, sometimes criticising, sometimes completing, sometimes correcting certain issues and sometimes clarifying weak opinions that Khalil may have mentioned, especially when these differ from what is well known and relied upon in the madhhab.

As with scholarly works in general, it is only natural that they contain some shortcomings, errors and ambiguities. Such defects may reduce the work's value and prevent readers from benefiting fully from it. Therefore, we find scholars excusing the errors that occur in their writing and calling for careful review, so that flaws can be rectified, errors corrected, and defects resolved.

In the introduction to his abridgment, Khalil says:

'I apologise to those with understanding for the shortcomings in this book. I humbly ask that it be examined with approval and accuracy: whatever is deficient should be completed; whatever is mistaken should be corrected. Hardly any author produces a work without slips or mistakes.'<sup>20</sup>

The purpose of the jurisprudential rectification of such works is therefore to fix errors, complete missing parts, remove deficiencies, and remove misconceptions — after verifying them through examination, whether that verification relates to transmission (quoting or reporting), wording and phrasing, or similar issues of slips, mistakes, and faults — so that the work's benefit is maximised<sup>21</sup>.

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**Section Two: Applied Examples of Jurists' Rectifications upon Mukhtasar Khalil**

Anyone examining the commentaries on Mukhtasar Khalil and associated works will notice differences in the commentators' methodology. Some limited themselves to explaining the wording, expanding upon it and clarifying the issues. Others went further by adding opinions, deriving branches from the issues and providing evidence for the legal rulings.

Some commentators also expanded further during their explanation of the abridgement by performing verification and revision. During this process, they would correct any errors or mistakes that they identified, and amend anything that they believed to be incorrect. They thus addressed these deficiencies and completed what was missing, either within their commentary on Khalil or in an independent work.

Taking into account the practical reality and inductive approach to dealing with Maliki commentaries and marginal notes on Mukhtasar Khalil, this study has organised the types of these jurisprudential rectifications in a sequence starting with the most frequently mentioned and recurring in the

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<sup>20</sup>- Khalil ibn Ishaq, ("A Concise Work of the Scholar Khalil"), edited by Ahmad Jad, Dar al-hadith, Cairo, 1st ed., Egypt, 1426 AH / 2005 CE, p. 12

<sup>21</sup>- See: al-hattab, ("Gifts of the Glorious"), (1/42), Ministry of Awqaf and Islamic Affairs, Kuwait, ("The Kuwaiti Fiqh Encyclopedia"), 2nd ed., Dar al-Salasil, Kuwait, 1404 AH – 1983 CE, (3/269)

commentators' speech, and ending with the least common and most exceptional. This organisation is as follows:

**First requirement: Rectification by the commentators of ambiguous phrases in Mukhtasar Khalil to remove confusion and ambiguity.**

**First: Rectification to remove ambiguity and confusion in explaining the Mukhtasar**

Commentators clarified some ambiguous phrases in Khalil's text by using explicit wording to indicate where there was ambiguity or difficulty. These phrases include: 'There is something to be considered' or 'problematic'. One example is the issue of walking during ṭawāf<sup>22</sup>.

Khalil said: 'And for tawaf: walking, and if not, a blood-payment (dam) for one who does not repeat it.'<sup>23</sup>

Since tawaf is a bodily act of worship that a person should perform in person, Khalil counted walking during it as one of the sunnas of tawaf, in line with Ibn al-Hajib's view that walking is one of its sunnas<sup>24</sup>.

**Clarification by rectification**

In explanation, Sheikh al-Dardir said:

"Then he mentioned the sunnas of tawaf... and the sunnas of tawaf are four: the first of them is walking during tawaf—['there is something to be considered']—for it is obligatory, and a dam is used to make it up in the case of an obligatory matter, as he said."

Here, the commentator corrected Khalil's wording and clarified whether the practice was Sunnah or effectively obligatory. They also explained why the expression 'there is something to be considered' was used.

**Secondly, rectification is required to remove ambiguity and confusion through independent works.**

Khalil wrote his abridgment and compressed the issues so much that they became almost enigmatic. This made it necessary for scholars to unlock its meanings and clarify unclear issues through independent works aimed specifically at removing confusion<sup>25</sup>.

Among these independent works are:

1. The Breath of Precious Gems in Unlocking the Obscurities of Khalil's Words Regarding the Attainment of the Dower by Ahmad Baba al-Tinbukti.

He wrote it to clarify the analogy that Khalil made between ṣadaq (marriage payment) and sale (bay') in the section on ṣadaq. Regarding guarantee, destruction, entitlement, defects, or part of it, Khalil said:

"Like the sale."

However, the correct point is that this analogy applies to a valid marriage, not an invalid one, a view with which some commentators disagreed.

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<sup>22</sup>- Khalil, ("Concise Khalil"), p. 69

<sup>23</sup>- See: al-hattab, chemseddine \*\* ("Gifts of the Glorious: A Commentary on Concise Khalil"), Dar al-Fikr, 3rd ed., 1412 AH – 1992 CE, (3/107)

<sup>24</sup>- al-Dardir, ("The Grand Commentary") by al-Shaykh Aḥmad al-Dardir on ("Concise Khalil"), Dar al-Fikr, (n.d./n.p.) (2/40)

<sup>25</sup>- Khalil, ("Concise Khalil"), p. 104

2. 'The Gift of the Friend in Resolving a Dilemma from the Abridgment of Khalil' by Abd al-Salam ibn Abd al-Rahman as-Sultani al-Jazzair al-Maliki (d. 1378 AH).

The author wrote it after attending a study session in which Mukhtasar Khalil was taught. The students argued with their teacher about an issue related to guarantee (daman) and raised a difficulty. The scholar therefore wrote the treatise to clarify the issue<sup>26</sup>.

**Second requirement: Rectifications for completing or removing deficiencies.**

**First: Rectification by commentators to complete or remove deficiencies in the explanation.**

Completion or removal of deficiencies occurs when commentators highlight what Khalil omitted, whether that means:

- issues that Khalil did not mention;
- conditions and rules that were not included in the issues and legal rulings;
- when Khalil stated something in an unrestricted form that actually requires restriction, or restricted something that actually requires unrestricted application.

This is done with at least some detail.

(a) Commentators' rectification of what Khalil omitted by indicating missing conditions and rules: this occurs when commentators point out the conditions and controlling rules for issues and rulings that Khalil did not explicitly state. They do so using expressions that indicate this, such as:

- "... (the author should have ...)
- "... (he should have restricted it ...)" and similar phrases conveying the same meaning.

Example: what suffices and what does not suffice from sacrificial animals.

Khalil said: 'As for what suffices: The exempt cases, i.e. sickness, itchiness, thinness, lameness, blindness and missing limbs—except for castration and a totally blind eye.'<sup>27</sup>

(The text as provided in your excerpt is preserved in meaning. If you would like me to, I can rewrite the example in a cleaner outline format.)<sup>28</sup>

The rectification (clarification):

Al-'Alīsh said in explanation:

“... meaning ...” ضم الخاء المعجمة’ with the sound of ...” خصية’a testicle/egg’. However, if a man is born without a testicle, this is sufficient. Likewise, if a testicle is missing and the person did not become sick because of it, then it suffices. However, if they did become sick, then it does not suffice, as transmitted. The apparent meaning is that it does not suffice even if the missing testicle is not clearly evident; however, this should be restricted to cases where illness is present, whether obvious or hidden.’

Therefore, the rectification is that the ruling of non-sufficiency must be limited to the presence of illness, not the mere existence of the defect. The use of the word خصية (meaning a testicle-related defect) indicates that what is missing and does not count as ‘testicled’ in common usage is treated

<sup>26</sup>- See: abd al-Salam ibn Abd al-Rahman al-Sultani al-Zaytouni, (“A Gift for Khalil: Solving the Problematic Passages of Concise Khalil”), al-Matbaa al-Jazairiyya al-Islamiyya in Constantine (n.d./n.p.), Algeria (n.d.), pp. 1–2

<sup>27</sup>- Khalil, (“Concise Khalil”), p. 80

<sup>28</sup>- See: alish, (“The Gracious Bestowal: A Commentary on Concise Khalil”), Dar al-Fikr, Beirut (n.d./n.p.), 1409 AH – 1989 CE, (2/469)

differently. Hence, the author used this wording rather than the word *خصي* (castrated), as this would restrict the ruling more narrowly than intended.

**b) Clarification by the commentators**

He notes the issues and rulings that Khalīl omitted and refers to them using wording that indicates omission, such as phrases like: ‘left upon him’, ‘he did not mention’, ‘he was silent’, and so on, using expressions that convey the same meaning. An example of this is:

Issue: (The borrower’s liability for borrowed property).

Khalīl said: ‘The borrower is liable for what is concealed from him, except with proof.’<sup>29</sup>

Khalīl’s view is that if the borrower claims that the borrowed item was destroyed and it is something that can be lost without being noticed, then he is liable unless he can prove that it was destroyed.

Explanation of the clarification: The commentator ‘Alish pointed out what the author failed to mention when discussing liability, namely who must bear responsibility. ‘Alish said: ‘The author did not mention who is liable for it at the time of his ruling on liability.’<sup>30</sup>

**c) Clarification due to imprecise wording**

This corrects an error or lack of precision in the wording that affects the ruling. An example of this is:

Issue: (impurity that is excused/overlooked)<sup>31</sup>.

Khalīl said: ‘It is recommended to pray in a garment with less than one dirham of blood on it.’<sup>32</sup>

Therefore, any amount of blood less than one dirham is excused. As for ‘one dirham’, the ‘baghli’ dirham is the amount contained in the circle/measurement of the forearm (the ‘baghl’), according to the given definition.

**Explanation of the clarification:**

In response to his statement ‘less than one dirham’, the Amir said: ‘Rather, one baghli dirham — by way of leniency/margin.’<sup>33</sup>

**Second: clarification of how to complete or remove a deficiency through independent works.**

Some Mālikī jurists devoted themselves to filling the gaps in Mukhtasar Khalīl by writing their own books on the subject. They did this by examining issues that Khalīl did not mention in his abridgement. Among these works are:

1. ‘The Sweet Watering Spring of Salsabil: A Commentary on the Poem of Abu Zayd al-Jushtumi’. This work provides commentary on the poetic lines of Abu Zayd al-Jushtumi concerning matters referred to by the two Shaykhs, Ibn ‘Āṣim and Khalīl. It discusses issues and subsidiary rulings that Khalīl did not include in his abridgement<sup>34</sup>.

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<sup>29</sup>- Khalīl, (“Concise Khalīl”), p. 189

<sup>30</sup>- See: Alish, (“The Gracious Bestowal”), (7/56)

<sup>31</sup>- Khalīl, (“Concise Khalīl”), p. 17

<sup>32</sup>- See: al-Dardir, (“The Grand Commentary”), (1/72)

<sup>33</sup>- Mohamed al-Amir, (“The Crown: A Commentary on Concise Khalīl”), edited by Abd Allah al-sadik al-Ghammari. Cairo library (n.d./n.p.), Egypt (n.d.), p. 15

<sup>34</sup>- The book was printed in the year (1399 AH) in three volumes, without mentioning the name of the press. See: abd al-Aziz ibn Ibrahim ibn Qasim, (“A Guide to Scholarly Texts”), p. 393

2. 'The Simplification and Facilitation in Mentioning the Rulings of Agricultural Plantation Contracts, Property Evasion, and Management Omitted by Sheikh Khalil' by Abu Zayd Abd al-Rahman ibn Abd al-Kader ar-Rachidi al-Mujaji al-Jazairi (d. 1020 AH).

It is also called The Elevation and Eminence in Elaborating the Rulings of Agricultural Plantation, Property Settlements, and Inheritance Evasion. In his book, the author discusses the rulings of mugharasah and similar issues that do not appear in the abridgement. This book is independent of Mukhtasar Khalil: although the author used Khalil's terminology and approach, he dealt with a topic that Shaykh Khalil did not mention<sup>35</sup>.

**Third requirement: Clarifications/notes on the weak opinion.**

**First: Clarification of a weak opinion in the explanation of the abridgement.**

These clarifications aim to undermine the opinion stated by Khalil in the issue where the clarification is made. Commentators differed in their methods for achieving this. They used various formulations to indicate the weakness of some of the opinions found in the abridgement.

(a) Stating explicitly that the opinion is weak. They use the phrase "weak" (ḍa'if), which is the most commonly used, or wording that clearly conveys the same meaning. For example:

Issue: If the Imam prostrates once and leaves the second (by mistake), Khalil said:

"If an imam prostrates once and leaves the second, then if his prostration is followed by praise or tesbih, and if it is feared that his body will be harmed (i.e. he will be delayed), the people stand. When he sits, they stand; when he gives the salām, they prostrate themselves before him, and one of them leads them in one rak'ah.<sup>36</sup>"

According to Khalil, if the imam unintentionally leaves out the second prostration and then stands up, the congregation does not follow him while standing. Instead, they sit and perform tasbih so that he may return. If he does not return, their prayer becomes invalid. If he does return, the next steps are discussed. This is Sahnūn's view, and the author adopted it here because he believes that speaking for the purpose of correction invalidates the prayer<sup>37</sup>.

Clarification of the weakness: The Shaykh al-Dardīr added that what Khalil followed is weak. He stated that the correct view is that if they do not understand his return through tasbīḥ, they should speak to him. If he still does not respond by speaking, they should prostrate themselves and not follow him in leaving it, otherwise their prayer will be invalid. They should then sit with him and give salām with his salām. If he later remembers and returns to prostration, according to the stronger view, they do not repeat it with him<sup>38</sup>.

(b) Commenting on Khalil's statement, an accepted Maliki scholar offers a contrary view, indicating that Khalil's opinion is weak. For example:

Issue: Does mustard (khardal) fall under riba al-fadl (the riba of excess/commensurate kinds)?

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<sup>35</sup>- See: al-Majaji Abu Zayd Abd al-Rahman, ("Clarification and Elaboration in Mentioning the Rulings of Mugarasa, Tasyir, and Tawlij"), edited by Khalid Boushama, Dar Ibn hazm for Printing and Publishing and Distribution, Beirut, 1st ed., Lebanon, 1426 AH – 2005 CE, pp. 42–44

<sup>36</sup>- Khalil, ("A Concise Work of the Scholar Khalil"), p. 37

<sup>37</sup>- See: al-Dardir, ("The Grand Commentary"), (1/300)

<sup>38</sup>- See: al-Dardir, ("The Grand Commentary"), (1/301)

Khalīl said: ‘No, not mustard, saffron, purslane, medicine, figs, bananas or fruit, unless they are stored using the method of preservation known as “قطر”.’<sup>39</sup>

Khalīl held that mustard is not among the items that fall under ribā al-fadl.

Clarification of the weakness: After Khalīl, al-Dardīr stated a contrary opinion: ‘The accepted view is that it is ribawi (subject to riba).’<sup>40</sup>

The discussion of Ibn al-Ḥājj also points out that it is ribawi by agreement, and he reinforced its status as riba in his explanation<sup>41</sup>.

(c) Limiting the commentators to the well-known or accepted opinion after Khalīl indicates that what he mentioned is weak because it contradicts the well-known or accepted opinion in the madhhab. For example:

Issue: Ruling on slaughtering the pilgrim’s offering (hady) in Mina

Khalil said: “It is recommended to return for it after two days and perform it at the standing places. Slaughtering in Mina is for the pilgrim performing the Hajj, as well as for the pilgrim who stands there or his deputy.”<sup>42</sup>

Khalil held that slaughtering the hady in Mina is recommended once its conditions are fulfilled.

Clarification of the weakness: Al-Dardīr corrected Khalil, saying: ‘But the accepted view is that slaughter in Mina is obligatory when the conditions are met. If he slaughters in Mecca and the conditions are met, it is valid despite opposing the obligatory ruling.’<sup>43</sup>

**Second: clarification of a weak opinion through independent works.**

Although Shaykh Khalīl was obliged to state the basis of the ruling (fatwā) in his abridgment, he still included opinions that are considered weak and unreliable when issuing fatwā. There were also mistakes and oversights in some areas. Scholars therefore undertook to correct these and draw attention to them.

(a) independent works, such as abridgements and refinements of Mukhtasar Khalil.

In these works, well-grounded and accepted opinions from the Maliki madhhab replace the weak ones found in Khalil’s abridgement. Examples include:

1. ‘The Nearest Paths to the School of Imam Malik’ by Shaykh Abu al-Barakat al-Dardir al-‘Adaw (d. 1201 AH).

The author abridged and refined Mukhtasar Khalīl, replacing weak opinions with stronger, more widely accepted ones within the madhhab.

The book is notable for the simplicity of its wording<sup>44</sup>.

In the introduction to the book, the author says:

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<sup>39</sup>- Khalil, (“Concise Khalil”), p. 148

<sup>40</sup>- al-Dardir, (“The Grand Commentary”), p. 45

<sup>41</sup>- See: al-Kharshi Abu Abd Allah, (“Commentary on Concise Khalil”) by al-Kharshi, Dar al-Fikr for Printing, Beirut (n.d./n.p.), Lebanon (n.d.), (5/62)

<sup>42</sup>- Khalil, (“Concise Khalil”), p. 75

<sup>43</sup>- al-Dardir, (“The Grand Commentary”), (2/86)

<sup>44</sup>- The (text) was printed in the year (1399 AH) in three volumes, without mentioning the name of the press. See: abd al-Aziz ibn Ibrahim ibn Qasim, (“A Guide to Scholarly Texts”), dar al-soumay‘i for Publishing and Distribution, Riyadh, 1st ed., Kingdom of Saudi Arabia, 1420 AH – 2000 CE, p. 396

‘After this, this is a great book in which I selected the most important parts of Imam Khalīl’s abridgement of the madhhab of the imam of the imams of the House of Revelation. I limited myself to the most likely opinions, replacing those that are not accepted, and restricting what he left absolute and what opposes it, so as to make things easier.” I named it: Aqrab al-Masālik to the madhhab of Imam Mālik.<sup>45</sup>

2. ‘The Compendium of Al-Amir al-Maliki’, also known as ‘Mukhtasar al-Amir’, by the scholar Abu Abdullah Muhammad ibn Muhammad ibn Ahmad al-Sunbawi al-Maliki, also known as al-Amir (d. 1232 AH).

He followed Shaykh Khalīl’s approach, but relied on stronger opinions and added legal branches not mentioned in the abridgment. Hence he named it “” (the collected/compiled book), because it gathered content from multiple works<sup>46</sup>.

(b) Independent works: collections of commentator corrections

These books contain the commentators’ istidrākāt (clarifications/corrections) on Khalīl’s abridgement. One example is:

‘The Victory of the Benevolent Lord in Extracting Some of the Weak Opinions Contained within the Mukhtasar’ by Talib al-Wafi, also known as Qadi Sanbir al-Arawani.

He collected many of the commentators’ clarifications on Khalil and arranged them according to the order of the issues in the abridgement.

## **Conclusion**

Following this analytical survey of the topic of ‘the scholars’ clarifications/corrections on Mukhtasar Khalīl’, the study produced a number of results, recommendations and proposals. The most important of these are:

### **First: Results**

- Fiqh clarification: constitutes a conscious, critical, foundational movement. Its purpose is to protect the attribution to the madhhab and correct the course of fatwā, rather than merely engaging in superficial objection or word-level discussion.
- The extreme brevity adopted by Shaykh Khalīl in his abridgement was the main reason behind the emergence of ambiguity or the omission of some necessary qualifications. This made the text fertile ground for commentators’ responses aimed at explanation and completion.
- Clarification intended to remove confusion and ambiguity is the most frequently used form of speech among the commentators. This is followed by supplementary clarification to complete the relevant conditions, and then substantive clarification intended to draw attention to a weak opinion and strengthen the accepted one.

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<sup>45</sup>- See al-Dardir, *The Closest Paths to the School of Imam Malik*, Ayoub Kano Library, Nigeria, 1420 AH–2000 CE, p. 5.

<sup>46</sup>- The text was printed together with the author’s commentary in several editions: at the Shahin Press in Egypt in 1281 AH and at the al-Sharqiyya Press in Egypt in 1304 AH, in two volumes.) The author added a marginal commentary entitled ‘The Light of Lamps upon al-Majmou’’. This was printed alongside Hijazi al-Adawi’s marginal commentary on ‘The Total/Compilation’ in two large volumes at al-Khayriyya Press in Egypt. See: Abd al-Aziz ibn Ibrahim ibn Qasim, ‘A Guide to Scholarly Texts’, p. 398.

- The movement of clarification did not stop at footnotes and commentary. Rather, it also extended to the writing of independent works that clarified specific issues and the creation of new or reshaped texts that refined the abridgement and replaced weak opinions with accepted ones.

**Second: recommendations and proposals**

- Expand the scope of the survey by extracting the fiqh clarifications (istidrākāt) found in other foundational Maliki texts, such as *Matn ar-Risalah* and *Matn al-Murshid al-Mu'in*, and organise them according to rigorous methodological frameworks.
- Paying greater attention to independent treatises and works written to clarify specific issues mentioned in the abridgement through academic verification/editing (taḥqīq).
- Preparing a specialised lexicon (concordance/dictionary) that records the expressions and phrasing used by jurists to provide clarification (e.g. 'there is room for discussion', 'there is research', 'rather', 'the apparent'), and determining their precise critical meanings and functions.

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