

# Translation & Explanation of The Mukhtasar of Imam Khalil

## The author:

Name: Khalīl

Father's name: Ishāq

Grandfather's name: Mūsā

Patronymic: Abū Muḥammad / Abu'l-Mawaddah

Agnomen: Al-Jundī

Reason for agnomen: He was one of the soldiers of the supported circle, and used to wear their uniform as a sign of asceticism and contraction away from the devotees of this world, thereby combining knowledge and action. His ancestry had a long-lasting association with the army. He took part in the military campaign to reconquer Alexandria after the city had been captured by the Crusader enemies in 770 AH

Epithet: Diyā' ad-Dīn (the Light of the Dīn)

Madhhab: Mālikī (His father, a friend of Allah, was Hanafī, but as his son used to cling to the company of 'Abdullāh b. al-Hājī, the author of *Al-Madkhal*, and of Shaykh 'Abdullāh al-Manūfī, he became *Mālikī*)

Place of birth: The land of the Kinānah tribe in Cairo, where he grew up and received knowledge

Date of death: 13 Rabī' al-Awwal, 776 (or 767) AH

Place of burial: The main cemetery in Cairo, next to his teacher 'Abdullāh al-Manūfī

His post-death state: Some seekers of knowledge saw him in their dreams after his death and asked him what Allah had done to him, whereupon he replied, 'He forgave me and whoever performed my funeral prayer'

His authorial legacy: It includes:

- *At-Tawdīh*, a large-size commentary on Ibn al-Hājī's own juristic abridgment, viz. *Jāmi' al-Ummahāt*
- *Al-Mukhtasar*
- A concise work on the rites of hajj

Each one of these works has been published.

## Author's introduction

(مُقَدِّمَةُ الْمُؤَلِّفِ)

In the Name of Allah, the All-Merciful, the Most Merciful

(بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ)

يَقُولُ الْعَبْدُ الْفَقِيرُ الْمُضْطَّرُّ لِرَحْمَةِ رَبِّهِ،

The needy slave compelled towards the mercy of his Lord,

الْمُنْكَسِرُ خَاطِرُهُ لِقَلَّةِ الْعَمَلِ وَالتَّقْوَى:

whose heart is painfully dismembered due to the dearth of virtuous action and taqwā:

خَلِيلُ بْنُ إِسْحَاقِ الْمَالِكِيِّ

Khalīl b. Ishāq al-Mālikī, says:

الْحَمْدُ لِلَّهِ حَمْدًا يُوَافِي مَا تَزَايَدَ مِنَ النَّعَمِ،

The whole praise belongs to Allah, a praise commensurate with the increasing overflow of blessings,

وَالشُّكْرُ لَهُ عَلَى مَا أَوْلَانَا مِنَ الْفَضْلِ وَالْكَرَمِ

and gratitude, too, is entirely owed to Him because of the favour and generosity He has bestowed upon

us.

لَا أُحْصِي ثَنَاءً عَلَيْهِ، هُوَ كَمَا أَتَى عَلَى نَفْسِهِ.

I am unable to laud Him. He is as He has lauded Himself.

وَنَسْأَلُهُ اللَّطْفَ وَالْإِعَانَةَ فِي جَمِيعِ الْأَحْوَالِ، وَحَالِ خُلُوقِ الْإِنْسَانِ فِي رَمْسِهِ.

We ask Him for His subtly-encompassing kindness and His assistance in all the states, also in the state

where man lodges in his grave.

وَالصَّلَاةَ وَالسَّلَامَ عَلَى مُحَمَّدٍ سَيِّدِ الْعَرَبِ وَالْعَجَمِ،

May the prayer of ennoblement and the salutation of peace be upon Muḥammad, master of the Arabs and

the non-Arabs alike,

الْمَبْعُوثُ لِسَانِ الْأُمَّمِ، وَعَلَى آلِهِ وَأَصْحَابِهِ وَأَزْوَاجِهِ وَذُرِّيَّتِهِ وَأُمَّتِهِ أَفْضَلَ الْأُمَّمِ.

who has been sent to all the nations, on his family, companions, wives and descendants, and on his

nation, the best nation.

وَبَعْدُ:

Having said that:

“... says”:

The author chose the present tense (yaqūlu) over the past one because the outward potentiality, i.e. the whole abridgment, was to unfold itself in the future at the time of his inaugural speech, given that its composition was expected to take a long time.

“... compelled towards his Lord”:

Muḍtarr means the one who reaches extremes of neediness, whom neediness has coerced, so that he sees neither strength nor power in himself, and likewise sees no intermediate cause he might rely upon save the succour of his Master, as in the case of the person drowning in the sea or lost in a waterless desert.

It is thus more specific than faqīr.

The move is thus from the lower to the higher.

“... painfully dismembered”:

Munkasir means the one who is paining, aching, who is doleful.

It is a noun of the agent from *inkisār* which originally (= literally) denotes the dismemberment / fragmentation into parts of something stiff / solid / hard.

In this passage, *inkisār* is used figuratively, based on the fact that pain is occasioned by breaking something into parts.

In rhetoric, this is called *majāz mursal* (metonymy [\[1\]](#) / synecdoche)

“[H]eart”:

It translates the Arabic khāṭir, which is here other than a mere “thought” in the mind.

Originally, the word khawāṭir (plural of khāṭir) denoted the matters that descend upon the heart (such as ideas and thoughts); it was secondarily extended to the heart itself, since it is the locus by which those matters alight = again an example of *majāz mursal* or metonymy.

“Khalīl”:

Khalīl is a proper noun (‘alam) originating in a qualificative (ṣifah) = the one whose quality is *khullah*, i.e.

pure / uncorrupted / undiluted / crystalline affection.

*Khullah* is also used to signify the *khalīl* = the person qualified thereby, whether masculine or feminine.

*Khalīl* might also denote *khallah* = poverty, indigence, neediness, as in a verse by the famous Arab poet Zuhayr b. Abī Salmā (520-609 AH).

“Grave”:

It translates the Arabic word *rams*, the original linguistic meaning of which is throwing or casting. It is thus used metaphorically here.

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[1] A [figure of speech](#) in which one word or phrase is substituted for another with which it is closely associated (such as “crown” for “royalty”) [So long as the close association is not resemblance, for then we talk in Arabic rhetoric of *isti`ārah* or metaphor; here the link is causation].

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#### KHALĪL’S ABRIDGMENT:

Bilingual text and explanation (2)

We saw in the first part the standard introduction to a classical text by a savant openly acknowledging his slavehood, turning to Allah and sending prayers on the Prophet, Sallallāhu ‘alahi wa-Sallam.

After the normal partition phrase (*wa-ba`du*), Khalīl goes on to explain the concrete inducement to the work and pinpoint what kind of juristic work he was commissioned to write.

#### Author’s introduction

(مُقَدِّمَةُ الْمُؤَلِّفِ)

فَقَدْ سَأَلَنِي جَمَاعَةٌ أَبَانَ اللَّهُ لِي وَهُمْ مَعَالِمُ التَّحْقِيقِ، وَسَلَّكَ بِنَا وَبِهِمْ أَنْفَعُ طَرِيقٍ:

A group of people, may Allah make the landmarks of verified truth plain to me and to them and may He cause us and them to proceed along the most beneficial road, asked me for:

مُخْتَصَرًا عَلَيَّ مَذْهَبِ الْإِمَامِ مَالِكٍ رَحِمَهُ اللَّهُ تَعَالَى،

An abridgment on the methodology of Imām Mālik, may Allah, Exalted is He, have mercy on him,

مُبَيِّنًا لِمَا بِهِ الْفِتْوَى،

clarifying that by which fatwas are given in the school.

فَأَجَبْتُ سُوْأَهُمْ بَعْدَ الاسْتِخَارَةِ،

I accordingly acceded to their request after entrusting the choice on that to Allah

“... a group of people”:

What is meant by *jamā`ah*, those who asked *Khalīl* to pen his famous abridgment, is a group of scholars / devotees of knowledge (three or more): *Khalīl* did not put pen to paper out of his own accord, following a thought which came upon him independently. He seconded an externalized need, and did so having deemed himself qualified to discharge the weighty task.

“... may Allah make (the landmarks of verified truth) plain”:

Syntactically, *abānallāhu* is a parenthetical sentence interposed between the verb *sa`ala* (asked) and its second object / *maf`ūl* = *mukhtaṣaran* [The first object is the *yā`* of the attached first person pronoun, “me”].

The verb *abāna* can be intransitive or, as here, transitive (with the meaning of: manifested; made plain = May Allah manifest or make plain), exactly like the trilateral form *bāna* + *bayyana* + *tabayyana* + *istabāna*.

“... (may Allah make the landmarks of verified truth plain) to me”:

Read as *lī* or as *liya*.

The author mentioned himself first in the supplication, in conformity with the etiquette set out in the Book and the Sunnah:

«رَبَّنَا اغْفِرْ لِي وَلِوَلَدِي» (Sūrah Ibrāīm: 41).

It is reported that when supplicating the Prophet, *Ṣallallāhu `alayhi wa-Sallam*, would begin by entreating Allah for his own self. Of course, we are aware of other, less frequent occurrences in the *ḥadith* literature where he, *Ṣallallāhu `alayhi wa-Sallam*, deviated from that standard course and supplicated for specific individuals alone.

“... (may Allah make the landmarks of verified truth plain to me and) to them”:

“To them” = to the group of petitioners. He supplicated on their behalf as a recompense for having occasioned the writing of the abridgment and having thus acted as the medium of the abiding reward for it.

“... landmarks”:

In Arabic ma`ālim, the singular of which is *ma`lam*, meaning the place where something is presumably found (= its most likely location) and the pointer to something else one extracts from it.

Here, the loci where we expect ascertained truth to be found.

“... ascertained truth”:

More literally, ascertainment of truth.

The word *taḥqīq* is in fact the original (*maṣdar*) of the verb *ḥaqqāqa ash-shay`a yuḥaqqiquhu* = to attain certainty about something / to authenticate it in full / to thoroughly ascertain its truth (One can also say *ḥaqqahu yuḥiqquhu* in the simple trilateral form).

The author intended by it both the attainment of certitude and the arrival at a preponderant thought that is equated to it. In this context, certitude or preponderant thought about the correct *Mālikī* judgments on doctrinal and juristic issues dealt with in the text.

“... (may Allah make) the landmarks of verified truth (plain to me and to them)”:

Ma`ālim at-*taḥqīq*: The evidences leading to certainty in beliefs about inner realities and about practices.

*Taḥqīq* can mean either affirming the truth by establishing the proof thereof or actualized certainty and the like.

Here, the author is supplicating so that Allah might cause him and the inspirers of this text to attain thorough verification of judgments relating to inner truths and actions.

“... may He cause us and them (to proceed along the most beneficial road)”:

The author has moved from the first person singular of the initial supplication to the first person plural of this second supplication. The reference is probably to his dear ones, as a way of fulfilling the obligation of love.

“... (may He cause us and them) to proceed along the most beneficial road”:

The letter *bā`* in *salaka binā wa-bihim* makes the verb transitive, since *salaka* is used intransitively as well.

One says:

“من سلك طريقا يلتمس فيه علما سهل الله” – (Salaka Zaydun at-tarīqa = Zayd went along the path (Intransitive •

**Whoever treads a path where he seeks knowledge, Allah will facilitate a path**“”) ”طريقا إلى الجنة“  
to the Garden”), as in a famous hadith

- Salaktu bi-Zaydin at-tarīqa = I caused Zayd to proceed along the path (Transitive).

The letter *bā'* in the latter scenario does not indicate that you have proceeded along the path *with* Zayd, in his company, that is. Its use is transitivity, not accompaniment: it is an instrument by which the verb takes an (indirect) object.

“... an abridgment”:

Syntax-wise, the second object of the verb *sa'ala*.

What did they ask for? An abridgment.

Morphologically, it is a noun of the patient (= something abridged) from *ikhtisā'r*, i.e. conveying abundant meaning through a paucity of words. Conciseness (*ījāz*) is similar to it.

Why did they call for an abridgment, despite the fact that the well-distended juristic texts of the earlier scholars were easier to understand?

Because the levels of people's yearning had fallen short of the earlier style (mother-books and their commentaries), hence abridgments had become necessary.

“... may Allah, Exalted is He, have mercy on him”:

Raḥimahullāh is a parenthetical sentence of supplication, based on Mālik's benefaction to the ummah generally and to the *Mālikiyyah* specifically.

Ta'ālā is a parenthetical sentence to laud Allah by declaring His utter transcendence above and absolute purity from whatever is not a perfection in His respect.

“... clarifying that by which fatwas are given in the school”:

Fatwā is a notification of the judgment of the Law in a mas'alah that is not binding on its addressees, unlike a judicial determination or qadā'.

For some, its meaning here is *iftā'*, the pronouncement of such fatwas.

For others, what is meant in this case is, rather, the judgment that must find obligatory expression in the fatwā.

Fatwā is a notification of the judgment of the Law in a mas'alah that is not binding on its addressees, unlike a judicial determination or qadā'.

“I accordingly acceded to their request”:

The letter *fā'* is here causative, i.e. because such group of people had asked me for an abridgment, I complied with their petition, without any harmful tardiness on my part (the *fā'*, in fact, indicates a brief interlude between cause and effect). As it is said: ‘The best good is the most expedited one (*khayr al-khayr a`jaluh*).’

“... after entrusting the choice on that to Allah”:

In other words, he engaged in the well-known *salāt al-istikhārah*.

Having mentioned the reason for his authorship of the abridgment, the result of people’s need for such a condensed text, he then steps into the clarification of the terminology he adopted therein.

We will look into that next, Allah the Exalted willing.

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#### KHALĪL’S ABRIDGMENT:

Bilingual text and explanation (3)

Having explained the motivational genesis of his abridgment, that is, a text by nature tending to cryptic terseness, Khalīl feels compelled to remove ambiguities by explaining core terminology that continuously recurs in the work.

[As for the main body of the text, the most comprehensive work on the author’s technical lexicon is Dr. Muḥammad al-Muṣliḥ’s *Kashf al-Mustalahāt al-Fiqhiyyah min-Khilāl Mukhtaṣar Khalīl b. Ishāq al-Mālikī*, published in Beiut by Dār Ibn Ḥazm in 2014.]

#### Author’s introduction

(مُقَدِّمَةُ الْمُؤَلِّفِ)

مُشِيرًا ب: (فِيهَا) لِلْمُدَوَّنَةِ،

indicating, by the phrase “in it”, the *Mudawwanah*;

وَو (بِأَوَّلِ) إِلَى اخْتِلَافِ شَارِحِيهَا فِي فَهْمِهَا،



by the phrase “it has been interpreted”, the different understanding of it on the part of its commentators;

وَبِالْخِيَارِ لِلْخَمِي،

by the term “the choice”, al-Lakhmī’s juristic choice;

لَكِنْ إِنْ كَانَ بِصِيغَةِ الْفِعْلِ فَذَلِكَ لِاخْتِيَارِهِ هُوَ فِي نَفْسِهِ، وَبِالاسْمِ فَذَلِكَ لِاخْتِيَارِهِ مِنَ الْخِلَافِ،

whenever, however, the verbal form is used, that is a reference to al-Lakhmī’s personal choice, whereas the use of the nominal form is a reference to his choice in contentious issues;

“ ... indicating, by the phrase “in it”, the *Mudawwanah*”:

This is a terminological tool specific to Khalīl, who sometimes refers also to “*Al-Umm*” (the Mother-Book) and to “*At-Tahdhīb*”, i.e. al-Barādhā’ī’s famous abridgment *Tahdhīb al-Mudawwanah*.

The reference to the *Mudawwanah* might be in order to quote a corroboration for the ruling laid out by the author or to indicate the judgment in the mas’alah, such as his statement “and in it we find the meritorious nature of slightly delaying the Night prayer after the entry of its time”.

The source- or mother-books relied upon in the madhhab are, as we know, four:

- Sahnūn (d. 240 AH)’s *Al-Mudawwanah al-Kubrā*, which is the source of sources;
- The Andalusian Ibn Habīb as-Sulamī (d. 238 AH)’s *Al-Wāḍiḥah (fī as-Sunan wa al-Fiqh)*, most of which has been lost due to poor preservation of the extant manuscript [Only sections on prayer and hajj have been published by the orientalist Miklush Murani];
- *Al-‘Utbiyyah* by the Cordovan Muḥammad al-‘Utbī al-Umawī (d. 255 AH);
- *Al-Mawwāziyyah* by the Alexandrine Muḥammad b. al-Mawwāz (d. 269 AH).

“In it” (fīhā):

**In the Mudawwanah**

“... by “it has been interpreted”, the different understanding of it on the part of its commentators”:

This is another technical term widely encountered in this work. The passive verb “*uwwila*” (“it has been interpreted”) denotes the divergent way in which the mother-book, the *Mudawwanah*, has been understood by the scholars who, directly or indirectly, elucidated the meaning of its words.

*Ta’wīl* or interpretation means for the experts in *uṣūl al-fiqh* deflecting a word from its outward meaning to a less preferable possible import, sound if accompanied by a corroborating evidence, otherwise unsound. Khalīl, however, uses it in the sense of clear explanation (*tafsīr*).

We find thus such expressions as: “Should it be construed as per the outward signification or as denoting obligation? There are two interpretations (ta’wīlān).”

We said “directly or indirectly”. The word “commentators” stands here for the savants who tackled by commentary a specific mas’alah in the *Mudawwanah*, even if they did not write an actual commentary on that book. It might be found in a general legal text, such as al-Lakhmī’s *At-Tabṣirah*, or in a commentary on, say, *Al-‘Utbiyyah*, *Ar-Risālah* or *At-Talqīn*, or in a commentary on the *Mudawwanah* itself, such as Ibn Yūnus’, or in abridgments of or explanatory glosses on the *Mudawwanah*, e.g. al-Qādī ‘Iyād’s *At-Tanbīhāt al-Mustanbāḥah*.

Understanding (fahm) is more specific than knowledge, as it only stems from corroborating pointers. It is thus obligatorily created in-time, which explains why Knowledge, but not understanding, is an Attribute of Allah.

The focus of commentators is on what the wording used in the *Mudawwanah* signifies. Their different understanding has been described by Khalīl as *ta’wīlayn* / *ta’wīlāt*, not as *qawlayn* / *aqwāl* (two or more juristic views).

Ibn ‘Abdis-Salām, in his commentary on Ibn al-Ḥājjib’s own abridgment (*Jāmi’ al-Ummahāt*) criticised his tendency, shared by several later scholars in the madhhab but not by Khalīl, to equate the different understanding of the words in the *Mudawwanah* by its commentators to different juristic views, establishing therefore the existence of a juristic disagreement in the school based on such varied semantic interpretations. Rather, the speech they commented upon is one statement, a single *qawl*, concerning which they differed as to the exact meaning of the wording used in the text, regardless of whether it is legally sound or otherwise; whereas the holders of juristic views (*aqwāl*) aim at clarifying the correct judgment in the mas’alah [As a result, they quote for corroboration the Book, the Sunnah etc., not other pronouncements of the Imām, and the contrast in the school is as to whether such formulation of the judgment is confirmed as true or otherwise, not whether the meaning of the wording used in the *Mudawwanah* has been portrayed correctly or not]. The question with the commentators of the *Mudawwanah* is thus: Has that one single legal statement (*qawl*) being construed and passed on correctly?

Put it differently, a commentator on the speech of a scholar is saying, implicitly or implicitly: “This is what the author means”; whereas the proponent of a juristic view is saying: “This is Allah’s judgment in the mas’alah”.

The former need not be a mujtahid in the madhhab, let alone an unqualified mujtahid. All that is required is a knowledge sufficient to understand and convey the meaning of the speech he is commenting upon.

The latter, by contrast, must be a mujtahid in the madhhab or an unqualified mujtahid.

The former does not have to believe or endorse the correctness of what he is explaining through his commentary. Commentators of az-Zamakhsharī's exegesis *Al-Kashshāf* have faithfully captured his statements conforming to *Mu`taẓilī* doctrine and, having done that, have then moved to a refuting critique thereof.

“It has been interpreted” (uwwila):

**The different interpretations of commentators on masā'il of the *Mudawwanah* concerning the meaning of their words**

“... by the term “the choice”, to al-Lakhmī's juristic choice”:

Meaning the view selected by al-Lakhmī in issues where there is juristic disagreement.

It is, once more, a frequently encountered term in this work.

Al-Lakhmī (d. 478 AH) is Abu'l-Hasan 'Alī b. Muhammad ar-Raba'ī (an ascription to the tribe of Rabī'ah) al-Lakhmī (an ascription to his maternal grandfather). His family was originally from Qayrawān, though he lived and was buried in Sfax, Tunisia.

A versatile and God-fearing jurist with a penchant for literature and literary refinement, and the teacher of Imām al-Māzarī (who extolled him and used him as proof), he authored, among other works, the splendid and beneficial *At-Tabṣirah*, rich in knowledge, which he modelled after the *Mudawwanah*.

He was known for an abundance of juristic pronouncements in the school. Given his scholarly boldness, Khalīl began by his legal choices, which on occasions took him out of the *Mālikī* madhhab, as pointed out by the like of al-Qādī 'Iyād.

At first, the savants from the sixth and early seventh century did not rely for fatwa on *At-Tabṣirah*, as it had not been taken from him and checked (revised) in his presence. Later, however, accurate verifiers of matters, such as Khalīl himself and Ibn 'Arafah quoted from it profusely.

The term “his choice” was ambiguous, hence Khalīl decided to shed more light on it in his next sentence.

“... whenever, however, the verbal form is used, that is a reference to al-Lakhmī's personal choice”:

The form, that is, of the past verb:

- Ikhtāra, “he chose”, in the active;
- Ukhtāra, “it was chosen”, in the passive, as in “but if he performs four units of prayer it would be fine, and it was chosen (wa-ukhtāra)”.

Personal choice means a juristic view advocated by al-Lakhmī without any earlier precedent.

“... whereas the use of the nominal form is a reference to his choice in contentious issues”:

The form, that is, of the noun, either the noun of the agent or the noun of the patient (mukhtār).

Here the choice is the one made by al-Lakhmī, between two or more conflicting views in the mas’alah, in favour of a view that had already expressed before him.

Choice (ikhtiyār):  <b>Al-Lakhmī’s juristic choice</b>		
“He chose” / “it was chosen”:  <b>Al-Lakhmī’s novel juristic choice</b>	“The chosen (view)”:  <b>Al-Lakhmī’s choice in favour of one of the pre-existing views</b>	

KHALĪL’S ABRIDGMENT:

Bilingual text and explanation (4)

### Author’s introduction

(مُقَدِّمَةُ الْمُؤَلِّفِ)

و(بِالتَّرْجِيحِ) لَائِنِ يُونُسَ كَذَلِكَ،

by the term “juristic preference”, Ibn Yūnus’ preference. In a similar vein, whenever the verbal form is used, that is a reference to his personal preference, whereas the use of the nominal form is a reference to his preference for one of the pre-existing views on disputed issues;

وَبِالظُّهُورِ لِأَبْنِ رُشْدٍ كَذَلِكَ،

by “outward soundness” what Ibn Rushd deemed so. Again, whenever the verbal form is used, that is a reference to what he personally deemed congruous with the outward meaning, whereas the use of the nominal form is a reference to his approval of a pre-existing view as being so;

وَبِالْقَوْلِ لِلْمَازِي كَذَلِكَ.

and by “the statement” what was said by al-Māzarī. Whenever the verbal form is used, that is a reference to a novel view he expressed, whereas the use of the nominal form is a reference to his endorsement of a pre-existing view.

وَحَيْثُ قُلْتُ: خِلَافٌ، فَذَلِكَ لِاخْتِلَافٍ فِي الشَّهِيرِ،

Wherever I say, ‘A disagreement (exists)’, it is due to the existence of a scholarly disagreement as to which view is the famous one (mashhūr),

وَحَيْثُ ذَكَرْتُ قَوْلَيْنِ أَوْ أَقْوَالاً فَذَلِكَ لِعَدَمِ إِطْلَاعِي فِي الْفُرْعِ عَلَى أَرْجَحِيَّةٍ مَنْصُوصَةٍ.

and wherever I mention two or more views in the alternative, that is due to the fact that I have not come across, on the derivative issue, any explicit textual proclamation of the preferability of one over the other.

“ ... by the term “juristic preference”, Ibn Yūnus’ preference”:

Here is another common term in Khalīl’s special lexicon.

Tarjīh (‘juristic preference’) means to declare a juristic view qualitatively preponderant, i.e. preferable, over another, in a scenario of discordant views.

The verb in the trilateral form (*rajaha*) originally meant, as typical of the Arabic language in its motion from the tangible to the metaphorical, the concrete outweighing of one scale of the balance over the other. It was later extended to denote the act of lending preference to or fortifying something [*Rajjahtu Zaydan ‘alā ‘Amr*, i.e. I favoured Zayd over ‘Amr].

In the fiqh, a view is preferred over an alternative one because I have assigned greater power to it.

Ibn Yūnus (d. 451 AH) is the Imām Abū Bakr Muḥammad b. ‘Abdillāh b. Yūnus (Yūnus was thus the name of his grandfather he was famously ascribed to) at-Tamīmī, belonging therefore to the tribe of Banū Tamīm, aṣ-Ṣaqallī, the Sicilian, the largest Mediterranean island. He lived in fact there, prior to his relocation to al-Qayrawān, where he resided until 449 AH, when, two years before his death, the social and political turmoil brought about by al-Mu`izz b. Bādīs aṣ-Ṣanhājī and his proclamation of independence from Fatimid rule, forced him into exile (together with many other savants), precisely to al-Mahdiyyah where he met his death.

He engaged a lot in armed warfare to raise Allah’s word the highest, and was known for his valiant

strength.

In Sicily, he learnt from Judge Abu'l-Hasan al-Ḥaṣā'irī and 'Atīq al-Farādī (“the expert in fixed inheritance shares”), both of whom are mentioned in al-Qādī 'Iyād's *Tartīb al-Madārik*.

He authored a work on the law of fixed inheritance shares (*Al-Farā'id*) and his multi-volume *Al-Jāmi' li-Masā'il al-Mudawwanah wa al-Mukhtalāḥ*, both of them recently published by the Beirut-based Dār al-Kutub al-'Ilmiyyah. The latter, one of the most important texts in the school, is a detailed commentary on *Al-Mudawwanah* and *masā'il* from other mother-books as well.

Due to the soundness of its exposition of juristic issues and the abundant knowledge gathered in it, it was referred to, as said by al-Mawwāq (a famous commentator on this abridgment), as “the mushaf of the madhhab”.

“... in a similar vein, whenever the verbal form is used, that is a reference to his personal preference, whereas the use of the nominal form is a reference to his preference for one of the pre-existing views on disputed issues”:

The same considerations are applicable here as apply to the term “ikhtiyār” relating to al-Lakhmī.

The verbal form *rajjahā* indicates a juristic preference Ibn Yūnus first expressed, whereas the nominal forms *al-arjah* (a comparative noun: the more preponderant, the preferable) and *al-murajjah* (a noun of the patient: the preferred view, the view deemed qualitatively preponderant) indicate the preference he gave to a view expressed before him.

Preference ( <i>tarjīh</i> ): Ibn Yūnus' juristic preference
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“He preferred/favoured”: Ibn Yūnus' novel juristic preference	“The preferred (view)”: Ibn Yūnus' preference for one of the pre-existing views
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“... by “outward soundness” what Ibn Rushd deemed so”:

Another key term recurring in the abridgment.

It means what Ibn Rushd the grandfather, the renowned Cordovan judge Abu'l-Walīd Muḥammad b. Aḥmad (d. 520 AH / 1156 CE) who authored *Al-Muqaddimāt al-Mumahhidāt* and the monumental *Al-Bayān wa at-Tahsīl* deemed congruous with the outward meaning of a foundational narration.

“Again, whenever the verbal form is used, that is a reference to what he personally deemed congruous with the outward meaning, whereas the use of the nominal form is a reference to his approval of a pre-existing view as being so”:

Same as above.

Hence:

The verbal form (istazhara) indicates a novel view of his Ibn Rushd deemed outwardly sound, whereas the nominal form (zuhūr) stands for a pre-existing view he deemed so.

Outward soundness (zuhūr):	
What Ibn Rushd deemed so	
“He deemed outwardly sound”:  Ibn Rushd’ novel view he deemed so	“Outward soundness”:  A pre-existing view Ibn Rushd described thereby

“... by “the statement” what was said by al-Māzarī”:

He is the matchless mujtahid Imām of the broadly understood Maghrib, Abū ‘Abdillāh Muḥammad b. ‘Alī b. ‘Umar at-Tamīmī al-Māzirī or al-Māzarī (d. 536 AH) as it has both been spelled. The correct spelling should be al-Māzarī, as he was originally from Mazara del Vallo on Sicily’s north-west coast. He is also al-Mahdawī as a noun of ascription to the Tunisian town he settled and operated in, al-Mahdiyyah.

A prominent student of al-Lakhmī, whose exceptional talent manifested at a precocious age, in his childhood, he was proficient in fiqh and *uṣūl al-fiqh*, ḥadīth, medicine, arithmetic and literature. People took him as a reliable authority in medicine just as they did in fiqh. It is said that the genesis of his engagement in that science was the fact that he fell ill, and a Jewish doctor who used to treat him said to him, ‘Master, the like of me treats the like of your person, so what act of attaining nearness to the Lord can I possibly find in my dīn if I cause the Muslims to suffer your loss?’. Since then, al-Māzarī devoted

himself to medicine as well.

He was a man of good character whose circle of learning was peppered by witty remarks, pleasant anecdotes and plentiful poetical quotations.

One day during his adolescence he was sitting in the company of an imam when news came that it was a day of Ramaḍān, though the people had not gone to sleep having made the intention for fasting. Al-Māzarī said, ‘This day is not made up according to the view of some of Mālik’s students, based on an anomalous narration (*riwāyah shādhah*).’ His teacher grabbed him by the ear and said to him, in a reproaching tone, that if he went all the way in pursuing that knowledge, a zindīq (heretic freethinker) would come out of him. He then approvingly declaimed the verse: **{ If you see of the crescent its growth, you are certain that it will become a full moon. }**

This is very instructive in an age where half-baked scholars toss around the most eccentric anomalies in the school, as if they were the equals of “that which fatwā in the school is based upon”.

Apart from his commentaries on Judge ‘Abdu’l-Wahhāb’s *At-Talqīn* and al-Juwaynī’s *Al-Burhān* in fiqh and *uṣūl al-fiqh* respectively, both of which have been published by Dār al-Gharb al-Islāmī, in the field of ḥadīth his major textual contribution is his commentary on Muslim’s authentic collection, *Al-Mu’lim bi-Fawā’id Muslim*, the published version of which was edited by my late teacher Muḥammad ash-Shādhilī an-Nayfar.

Al-Qāḍī ‘Iyād built on it for his own elucidation, titled *Ikmāl al-Mu’lim*. He would first present al-Māzarī’s explanation, and would follow it up with his own interpretative take.

The chain of Mālikī commentators on *Saḥīḥ Muslim* continued with a trio, the work of each of them bearing the title *Ikmāl al-Ikmāl* (the Completion of al-Qāḍī ‘Iyād’s Completion of al-Māzarī’s *Al-Mu’lim*).

- Abū ‘Abdillāh Muhammad b. Ibrāhīm al-Baqqūrī, a noun of ascription to the Andalusian town Baqqūr. He was a student of al-Qarāfī, whose *Furūq* he abridged (Al-Ḥabīb b. Tāhir has co-edited it for the Lebanese publisher Mu’assasah al-Ma`ārif);
- ‘Īsā b. Mas’ūd b. al-Manṣūr al-Mankalātī (a noun of ascription to Mankalāt, a Moroccan tribe) az-Zawāwī (a noun of ascription to a Moroccan town or to the tribe inhabiting it, Zawāwah). He travelled to Alexandria, Gabès, Cairo, Damascus and back to Egypt;
- Abū ‘Abdillāh Muhammad al-Ubbī (a noun of ascription to Ubbah, a Tunisian village), whose splendid work has been published in Arabic.

“Whenever the verbal form is used, that is a reference to a novel view he expressed, whereas the use of the nominal form is a reference to his endorsement of a pre-existing view”:



Same as above.

Use of the verbal form qāla, as in: “He said, like his doubt about fasting on the day of ‘Arafah, whether it is ‘īd): A reference to a novel of view of his.

Use of the nominal form, the noun of the patient maqūl, as in: “It would not be binding on them, according to what has been said (‘alā al-maqūl)”: A reference to an anterior view al-Māzarī verbalized.

<p>“Statement” (qawl):</p> <p>What was stated by al-Māzarī</p>	
<p>“He said”:</p> <p>A novel view of his al-Māzarī verbalized</p>	<p>“It was said”:</p> <p>An anterior view al-Māzarī verbalized</p>

Ibn Ghāzī (841–910 AH), the erudite scholar from Meknes, who penned the irreplaceable *Shifā al-Ghalīl fī Hall Muqfāl Khalīl*, published in two volumes, in 2008, by Markaz Najībawayh, on unlocking the cryptic expressions used by Khalīl in his abridgment, raised and answered therein four interesting questions:

- Why did Khalīl single out for mention the said four savants (al-Lakhmī, Ibn Yūnus, Ibn Rushd and al-Māzarī)? Because they abounded in juristic choices within the school, to an extent unequalled by others.
- Why did Khalīl advance mention of al-Lakhmī over mention of Ibn Yūnus, despite the latter’s seniority? Because al-Lakhmī was more prone to daring juristic choices. In *At-Tabṣirah*, in fact, he often quotes the fiqh on the issue and then adds: “As for me, my view is such-and-such”.
- Why did Khalīl make the verbal form a pointer to the savant’s personal (novel) view and the nominal form a pointer to his endorsement of a preceding scholarly view? Because the verb denotes a novel contingency, the occurrence of something new in time, and is thus better suited to express what the savant personally originated at some point in time; whereas the noun denotes something settled, firmly entrenched, and is thus better suited to express an entrenched view advocated by earlier jurists.

Why did Khalīl single them out, respectively, for juristic choice, preference, outward soundness and statement? Because al-Lakhmī exceeded the other savants in (bold) juristic choices he made, as we stated earlier, the bulk of Ibn Yūnus’s ijtihad consisted of preference accorded to a view over another, whereas his own novel views were comparatively rare, which is way, with him, Khalīl makes seldom use of the verbal form “rajjahā”, Ibn Rushd relied a lot (*Al-Bayān wa at-Tahṣīl*) makes it amply clear on the

outward wording of a report in the school, and he achieved a widespread prominence (zuhūr) surpassing fellow savants in the madhhab, and, lastly, al-Māzarī, having reached a peak of mastery over rational and transmitted sciences, from which he towered above the rest of scholars, the “statement” became what he had said, as in the proverb “the statement is what Jadhām had said”, based on the poetical verse: {**If Jadhām says something, believe in its truth; the statement is in fact what Jadhām said.**}

The foregoing shows the precision of both Khalīl and Ibn Ghāzī, may Allah have mercy on both of them. The latter, indeed, wrote a text comprising 100 beneficial points he drew from a short Prophetic ḥadīth: “**Abā ‘Umayr, what did the small nightingale do?**”. Its title is *Al-Mustanbatāt min-Ḥadīth Abī ‘Umayr*. We intend translating another wonderful commentary on it, Ibn al-Qāss’s *Juz’ fīhi Fawā’id Ḥadīth Abī ‘Umayr*, Allah the Exalted willing.

How many a secret, indeed, are encompassed by the concise words of the Prophet, Ṣallallāhu ‘alayhi wa-Ṣallam!

“Wherever I say, ‘A disagreement (exists)’”:

Rather than “I mention”, since he is following it with an indirect speech.

Khalīl uses the word khilāf (disagreement) in the case of regularity (*martū*), as primate (*mubtada’*) of a nominal sentence, mentioning the predicate (*khabar*) as in: “There is disagreement about zinā”, or omitting it as in: “Do people repeat the prayer, whether before or after its appointed time? Disagreement”, i.e. “there is disagreement on that”.

“... it is due to the existence of a scholarly disagreement as to which view is the famous one (mashhūr)”:

One savant ascribes wide acceptance/fame to a view, and another savant to a different view, whether or not they explicitly said “the mashhūr is this” or implied so, as with their expressions “the sounder view is this”, “the madhhab is to this effect”, and so on.

The term khilāf (disagreement) is used in a specific sense.

It is in fact a term applicable to one of two scenarios:

- A disagreement as to the ruling itself;
- A disagreement as to which view is the mashhūr.

Khalīl uses it in the latter sense only. That is true whenever he writes a complete speech, including the predicate of the primate khilāf, by which he lays down the ruling in the mas’alah.

Otherwise, in such syntactically incomplete phrases as “[a]nd he chose that there was disagreement; while

he said, ‘Nay, in a testimony’” and “[i]s there disagreement?”, the term is used to denote the existence of a disagreement about the ruling itself.

“... wherever I mention”:

Rather than “I say”, since he is not following it with an indirect speech.

“... two or more views in the alternative”:

Two or more views in the mas’alah, whether he expressly employs qawl in the dual or in the plural, or does so impliedly as in “I referred to the two of them” or “the third view on that”, “the fourth view on that”.

“... on the derivative issue”:

*Far`*, as opposed to *asl* or root-judgment.

A derivative mas’alah is the one branching out of an arch-rule (*qā`idah*).

For instance, our statement: “We may soundly purify ourselves with water of unqualified purity”, is an arch-rule or *qā`idah* encompassing many specific derivative rulings, such as: “We may soundly purify ourselves with water of unqualified purity some or all of the characteristics (taste, smell, etc.) whereof have undergone a change as a result of crossing a saltern”.

“... any explicit textual proclamation”:

Manṣūṣah in ‘Arabic, i.e. transmitted from the scholars, as opposed to a preferability Khalīl himself derives from the arch-rules (*qawā`id*), which he does not lean upon because of his scrupulousness.

Originally, the word *nass* in Arabic meant raising, lifting, e.g. a female gazelle raised (*nassat*) and stretched its neck, or a woman did so, as in a poem by Imru’u’l-Qays, the master of *Jāhilī* poetry.

Thereafter (transposition from concrete to abstract), it came to denote tracing a speech to the one who uttered it, as in a line of poetry by az-Zubayr b. ‘Abdi’l-Muttalib: {**He traced the speech to its owners; trust is indeed in tracing it.**}

This later, metaphorical sense, is the one employed by jurists, although they make the verb take an indirect object through the letter *‘alā* (*nassa ‘alā*), though the verb is transitive in itself and takes a direct object. It is as if they have equated it, meaning-wise, to the verb for “alerted to, drew attention to” (*nabbaha*).

“... wherever I mention two or more views in the alternative, that is due to the fact that I have not come across, on the derivative issue, any explicit textual proclamation of the preferability of one over the other”:

If Khalīl has come across a single view he considers mashhūr, he limits himself to setting it out, consonantly with his earlier self-imposed obligation of “clarifying that by which fatwas are given in the school”; sometimes he adds to that the refutation of the conflicting view.

When he comes across two mashhūr views, he alludes thereto by his term “disagreement”.

If he is unable to discern any declaration of a view as mashhūr, he quotes the two or more alternative views, indicating that by such expressions as “I referred to the two of them” or “the third view on it”.

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## KHALĪL’S ABRIDGMENT:

### Bilingual text and explanation (5)

#### Author’s introduction

(مُقَدِّمَةُ الْمُؤَلِّفِ)

وَأَعْتَبِرُ مِنَ الْمَفَاهِيمِ مَفْهُومَ الشَّرْطِ فَقَطً.

Of the implicit (divergent) meanings, I pay regard only to the conditional meaning.

وَأَشِيرُ ب: (صَحَّحَ) أَوْ (أَسْتُحْسِنُ) إِلَى أَنَّ شَيْخًا غَيْرَ الَّذِينَ قَدَّمْتُهُمْ صَحَّحَ هَذَا أَوْ اسْتَظْهَرَهُ،

By the phrases “it has been declared sound” or “it has been deemed appropriate” I indicate the fact that a learned master (shaykh) other than the aforementioned ones declared any such thing sound or personally deemed it outwardly correct,

وَبِالْتَرَدُّدِ لِتَرَدُّدِ الْمُتَأَخِّرِينَ فِي النَّقْلِ أَوْ لِعَدَمِ نَصِّ الْمُتَقَدِّمِينَ،

whereas by “hesitation” I indicate the later scholars’ hesitation in transmitting a ruling, alternatively, the absence of any text on the mas’alah transmitted by the earlier scholars;

وَب: (لَوْ) إِلَى خِلَافٍ مَذْهَبِي.

lastly, by “if” (law) I indicate a disagreement inside the school.

وَاللَّهُ أَسْأَلُ أَنْ يَنْفَعَ بِهِ مَنْ كَتَبَهُ أَوْ قَرَأَهُ أَوْ حَصَلَهُ أَوْ سَعَى فِي شَيْءٍ مِنْهُ، وَاللَّهُ يَعْصِمُنَا مِنَ الزَّلَلِ وَيُؤَقِّنُنَا فِي الْقَوْلِ وَالْعَمَلِ، ثُمَّ أَعْتَدِرُ لِدَوِيِّ الْأَبَابِ مِنَ التَّفْصِيرِ الْوَاقِعِ فِي هَذَا الْكِتَابِ.

Allah is the One I ask to benefit by it whoever writes it down or reads it or attains knowledge of it or

busies himself with any aspect thereof. May Allah safeguard us from slips and may He grant us success in our deeds and sayings. Thereafter, I apologize to the possessors of inner cores for the shortcomings appearing in this book.

وَ أَسْأَلُ بِلِسَانِ التَّضَرُّعِ وَالْحُشُوعِ، وَخِطَابِ التَّدَلُّلِ وَالْحِضْوَعِ: أَنْ يُنْظَرَ بَعَيْنِ الرِّضَا وَالصَّوَابِ، فَمَا كَانَ مِنْ نَقْصٍ كَمَلُوهُ، وَمِنْ خَطَاٍ أَصْلَحُوهُ؛ فَقَلَمًا بِجَانِبِ مُصَنَّفٍ مِنَ الْهَفَوَاتِ، أَوْ يَنْجُو مُؤَلَّفٌ مِنَ الْعَثَرَاتِ.

I ask by the tongue of humble imploration, and by the address of abasement and submissiveness, that readers might looked at it through the eye of satisfaction and properness. Let them complete whatever is incomplete and put right whatever is wrong in it. Rarely, in fact, is a writing free from lapses and an author rescued from blunders.

“(Of the implicit meanings,) I pay regard to”:

The verb a`tabiru can mean to pay consideration to a thing, which is its import here, to draw a lesson (‘*ibrah*) from it, to test it, or to stipulate it as a condition.

“Of the implicit (divergent) meanings”:

Mafāhīm, implicit meanings, is the plural of *mathūm*, implicit meaning.

In the Law, we speak of:

- The *mantūq*, i.e. the pronounced. It is what the wording indicates in the locus of verbalization itself, i.e. the meaning is understood from the wording itself, without any need to move onto it from another meaning;
- The *mathūm*, i.e. the implied. It is what the wording indicates in other than the locus of verbalization, i.e. the meaning is not in the wording itself, and it is necessary for the mind to move from the meaning of the first word to this different meaning.

Let us apply this division to the Qur’ānic āyah prohibiting the utterance of ‘ugh!’ to one’s parents:

- The prohibition of uttering ‘ugh!’ to one’s parents is the *mantūq*, since the wording indicates it in the very locus of verbalization;
- The prohibition of hitting them is the *mathūm*, since the wording (impliedly) indicates it in other than the locus of verbalization.

The implicit meaning or *mathūm* is thus the meaning the explicitly pronounced wording has not indicated, but has rather implied.

There are two categories of implicit meanings:

a) The harmonious meaning (*mathūm al-muwāfaqah* or *al-mathūm bi'l-awlā*, the meaning a fortiori, or *lahn al-khitāb*, the parallel meaning, or *fahwā al-khitāb*, the superior meaning, as it is sometimes interchangeably termed)

Affirming, for what is passed over in silence but implied, the same ruling as the one applying to what is explicitly pronounced, on an equal footing at least.

It is an implicit meaning on which the text may be silent yet is in harmony with the pronounced meaning.

Example: If Allah, in an explicit text of the Qur'ān, has prohibited the utterance of 'Ugh!' to one's parents, a fortiori He has prohibited by the same text, pursuant to the implicit meaning thereof harmonious with such a prohibition, what is worse than that, such as verbal or physical abuse of them.

The harmonious meaning (*mathūm al-muwāfaqah*) is of two types:

- *Fahwā al-khitāb*, the superior meaning: what is implied and not pronounced is more entitled to the judgment (*hukm*) than what is explicitly pronounced;
- *Lahn al-khitāb*, the parallel meaning: what is implied and not pronounced is equally entitled to the judgment as what is explicitly pronounced.

Lexically speaking, the two terms are synonymous, and both indicate a meaning understood by the addressee, to the exclusion of others, from an allusive reference rather than an explicit utterance. They are distinguished in the technical vocabulary of the legal experts for the sake of a more exact definition.

Example of *fahwā al-khitāb*: The aforementioned prohibition of abusing one's parents.

Another example is Allah's statement, may He be Exalted: «**Among the People of the Book there are some who, if you entrust them with a pile of gold, will return it to you**» (Sūrah Āl 'Imrān: 75). A fortiori would they return to you, as a loyally discharged trust, what is less than a pile of gold (*qintār*).

Likewise with His statement in the same āyah: «**But there are others among them who, if you entrust them with just a single gold coin, will return it to you**» (Sūrah Āl 'Imrān: 75). With even greater force, then, they would fail to return what is worthier than a single dīnār.

A third example is Allah's statement, Exalted is He: «**Whoever does an atom's weight of gold will see it. Whoever does an atom's weight of evil will see it**» (Sūrah Āl 'Imrān: 75). The divergent implied meaning is that, a fortiori, what is weightier than one atom will be seen since He who is not heedless of the tiniest thing will not be heedless of the weightier ones.

Example of *lahn al-khitāb*: Allah the Exalted says: «**People who consume the property of orphans wrongfully consume nothing in their bellies except Fire. They will roast in Searing Blaze**» (Sūrah al-Baqarah: 241).

- The pronounced meaning: The Divine threat against those who devour the property of orphans indicates the prohibition of such a wrongful consumption thereof;
- The implicit meaning harmonious with it and equally entitled to the judgment applicable thereto: The Divine threat against those who devour the property of orphans implies the prohibition of destroying such property altogether in a different manner, by for instance burning it. Consuming and burning (or the like) are in fact equal in bringing about the destruction of the orphan's property, which is the efficient cause (*'illah*) of the prohibition. That is so even if burning his property goes to an event greater extent of wasting it away than its consumption, since that extra degree of destructiveness is not what the *āyah* purposively focuses on.

We have thus a vertical motion (↑) from a meaning to what is higher than it, and a horizontal motion (→) from a meaning to what is equal to it.

There is no third category of harmonious meanings, i.e. no reverse vertical motion (↓) from a meaning to what is lower than it. Had it been said, 'Do not kill the boy!', no prohibition against hitting him might be implied, since the prohibition of what is more severe does not necessarily entail the prohibition of what is lighter.

b) The divergent meaning (*mathūm al-mukhālafah* or *dalīl al-khitāb*, as it is interchangeably termed)

Affirming, for what is passed over in silence but implied, the opposite ruling of what is explicitly pronounced, wherever the sole purpose behind mention of the explicitly pronounced ruling is negating its applicability to what is passed over in silence.

It is a meaning derived from the words in the text in such a way that it diverges from the explicit meaning thereof.

In other words, making a judgment (*ḥukm*, also translated as ruling) dependent on something implies the negation thereof in respect of other than it.

This implied meaning must be in harmony and not in disharmony with the pronounced meaning.

Example: The fact that in explicit texts of the Qur'ān Allah has made it incumbent on people of taqwā and good-doers to give maintenance to their divorced women, the sole purpose for pronouncing that meaning being the negation of its applicability to the generality of Muslims, implies that such a maintenance is not a legal obligation on them.

The Hanafis and even some Mālikī scholars, such as al-Bājī, essentially refute its permissibility.

“Of the implicit meanings, I pay regard only to the conditional meaning”:

There are ten different types of divergent meanings, with different degrees of probative cogency:

1. *Mathūm as-sifah* (The meaning implied from the descriptive attribute)
2. *Mathūm ash-shart* (The meaning implied from the condition)
3. *Mathūm al-'illah* (The meaning implied from the efficient cause)
4. *Mathūm al-laqab* (The meaning implied from the inert noun, whether a proper noun or a noun of the genus). It is not a proof according to the bulk of the savants
5. *Mathūm al-istithnā* (The meaning implied from the exception)
6. *Mathūm al-'adad* (The meaning implied from the number)
7. *Mathūm al-makān* (The meaning implied from the place)
8. *Mathūm az-zamān* (The meaning implied from the time)
9. *Mathūm al-ḥaṣr* (The meaning implied from the restrictive specification). It is the only type of divergent meaning deemed valid by Imām al-Bājī [Cf. *Al-Ishārah ilā Ma`rifah al-Uṣūl wa al-Wajāzah*]. Example: His, Ṣallallāhu `alayhi wa-Sallam, statement: “**Clientage is only for the one who sets a slave free**” (reported by Mālik in the *Muwatta`*), the outward wording whereof indicates the fact that no clientage can accrue in favour of one who does not set a slave free (= it cannot accrue in favour of the buyer of the slave).
10. *Mathūm al-ghāyah* (The meaning implied from the end-point, time- or place-wise, of a thing)

In *Shitā al-Ghalīl fī Hall Muqfāl Khalīl*, Ibn Ghāzī elaborated on each one of them, after he joined them in a verse of poetry:

{**Sif washtarit` allil wa-laqqib thunyā \* wa-`udda zarfayni wa-ḥaṣran aghyā.**}

Khalīl has told us that in his abridgment he has only taken into consideration the conditional meaning, *mathūm ash-shart*.

According to the grammarians, *shart*, the first term of a conditional sentence (if ...), is the opposite of *jazā* or the answer to the condition (then ...).

For the experts in *uṣūl al-fiqh*, the *shart* or condition, as we know, is part of declaratory law. It is that attribute whose absence necessitates the absence of the *ḥukm* (judgment, ruling), but whose presence does not automatically bring about its (conditioned) object (*mashrūṭ*). Thus, the presence of ablution is a necessary condition of prayer, without which prayer is invalid, but its presence does not necessitate prayer, since I may or may not perform *ṣalāt* with that ablution.

Here are some examples of meanings implied from a condition:

Allah the Exalted says, about the irrevocably divorced women: «**If they are pregnant, maintain them**



**until they give birth**» (Sūrah at-Talāq: 6).

- Condition: If ... then ...;
- Implied divergent meaning: No maintenance is owed to an irrevocably divorced woman who is not pregnant.

He says: «**If any of you do not have the means to marry free believing women, you may marry believing slave-girls**» (Sūrah an-Nisā': 25).

- Condition: If ... then ...;
- Implied divergent meaning: A man with the means to marry a free mu'minah is not allowed to marry a mu'minah slave.

He also says: «**If you are travelling in the land, there is nothing wrong in you shortening the salāt**» (Sūrah an-Nisā': 101).

- Condition: If ... then ...;
- Implied divergent meaning: It is not permissible for the sedentary man (who is in his place of residence) to shorten the salāt.

“By the phrases “it has been declared sound” or “it has been deemed appropriate” I indicate the fact that a learned master (shaykh) other than the aforementioned ones declared any such thing sound or personally deemed it outwardly correct”:

Once the author has singled out the four jurists and identified each one of them through what specifically indicates his choice, being incapable of overlooking views which other than them had declared sound, deemed appropriate or personally advocated, he referred to their juristic choices by the terms shuḥḥiḥa (“it has been declared sound”) or ustuḥsina “it has been deemed appropriate”.

“... whereas by “hesitation” I indicate the later scholars’ hesitation in transmitting a ruling, alternatively, the absence of any text on the mas’alah transmitted by the earlier scholars”:

The later scholars are from Ibn Abī Zayd al-Qayrawānī onwards, and the earlier scholars are the likes of Mālik and Ibn al-Qāsim.

“... lastly, by “if” (law) I indicate a disagreement inside the school”:

By the word law (“if”) he indicates a disagreement in the school, i.e. the existence of a view conflicting

with the first view in the madhhab.

By this, we have completed our survey of Khalīl's introduction and dived into the balsamic waters of his *Abridgment*.