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The Imam Malik A Textualist? An Examination of the Maliki School's Legal Thought: From Methodology to Consistency in the Formulation of Fiqh

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Abstract: The Maliki School is one of the schools of Islamic jurisprudence that possesses a distinctive methodological character because it combines textual authority with the social realities of society. This study aims to analyze the consistency of the methodology of legal deduction in the Maliki School as well as the correlation between its application in the realms of worship, transactions, and marriage. This study is a library research project employing a normative-philosophical approach. Data were obtained from primary sources, namely classical texts of the Maliki School, such as *Al-Muwaththa', Al-Mudawwanah al-Kubra, Bidayat al-Mujtahid, Mukhtasar al-'Alamah Khalil*, and *Al-Muwafaqat*, and were supported by various relevant secondary sources. Data analysis techniques employed descriptive-analytical methods and content analysis. The results of the study concluded that the Maliki School's methodology for deriving legal rulings is based on the Qur'an, the Sunnah*, ijma', qiyas, qaul al-shahabi*, the practices of the people of Medina (*'amal ahl al-Madinah*), *maslahah mursalah, istihsan*, *sadd al-dzari'ah*, and *syar'u man qablana*. The application of this methodology to issues such as touching the opposite sex during *wudhu*, government intervention in the economy, and the dowry in marriage demonstrates a consistent approach that integrates textual evidence, public interest, and social reality. These methodological characteristics make the Maliki School flexible, contextual, and oriented toward the maqashid al-sharia. Thus, the Maliki School not only holds historical value but also remains relevant as an epistemological framework for addressing various contemporary issues in Islamic law.

Keywords: Imam Malik, textualist, Maliki legal thought, consistency, formulation of fiqh

Introduction

Islamic law is a legal system with a broad scope and diverse characteristics. This system is derived from the revelatory guidance revealed by Allah SWT and has been developed through the process of *ijtihad* by scholars in response to various issues of daily life (Nur Sa'adah Harahap & Uswatun Hasanah, 2025). An important element in the development of Islamic law is the emergence of schools of fiqh, which represent various schools of legal thought. These schools were formed through the interaction between scholarly study, the social conditions of

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the community, and the surrounding historical dynamics. Since the early period of the development of Islamic fiqh in the 2nd century, major schools of thought such as the Hanafi, Maliki, Shafi'i and Hanbali have made significant contributions to the formation of the Islamic legal system. Through the methodology of *istinbat* that they developed, these schools of thought have served as a guide for Muslims whilst also providing a theoretical foundation for addressing the various legal issues that arise as times change (Zalsabila & Haddade, 2023).

The Maliki school is one of the major schools of Islamic jurisprudence within the Sunni tradition. It holds an important position due to its methodological approach, which combines textual authority with the social realities of the community. Founded by Imam Malik ibn Anas, this school regards *'amal ahl al-Madinah* as a source of law with strong legitimacy. The religious practices that developed in Medina were not merely local traditions, but rather concrete representations of the Prophet's Sunnah, which were continuously passed down by generations of the Companions and the *Tabi'in*. On this basis, the collective practices of the Madinah community hold a special status within the Maliki school's legal framework and serve as a crucial instrument in determining legal rulings on various issues faced by the Muslim community (Siregar, 2025). The Maliki school has developed various methods of legal deduction (*istinbat*), such as *qiyas, maslahah mursalah, istihsan, sadd al-dzari'ah,* and *'urf* as tools for addressing evolving legal issues (Fatimatuzzahra et al., 2023). In this paper, the issues examined include the permissibility of striking a thief to compel a confession and the extended iddah period for a menstruating woman who has been divorced.

These methodological characteristics have made the Maliki School known for its flexibility and contextual approach compared to some other schools (Maulidah et al., 2024). This methodological approach can be found in various classical Maliki texts, such as Al-Muwaththa' by Imam Malik, *Al-Mudawwanah al-Kubra* by Abd al-Salam al-Tanukhi, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid* by Ibn Rushd, as well as works on the principles of Islamic jurisprudence (usul al-fiqh) such as *Al-Muwafaqat fi Ushul al-Ahkam* by Abi Ishaq ibn Musa al-Syathibi and *Tanqih al-Fushul fi Ushul al-Fiqh* by al-Qarafi (Fatimatuzzahra et al., 2023). These works demonstrate that the Maliki methodology is strongly oriented toward maqashid al-sharia and the protection of the public welfare (Ma'lufah & Muhajirin, 2025). However, the application of this methodology in various fields of law often raises issues regarding the consistency of the approach and the correlation among its legal products, especially when applied to the realms of worship, muamalah, and munakahat, which have distinct legal characteristics.

This study addresses these issues by analyzing the consistency of the application of usul al-fiqh methodology in the Maliki school through an examination of three legal issues: in the field of worship, the ruling on touching members of the opposite sex during *wudhu*; in the field of muamalah, government intervention in the economy to safeguard the public interest; and in the field of munakahat, the dowry in marriage. The analysis was conducted by linking the school's classical literature with developments in contemporary Islamic legal studies. Through this study, it is hoped that it can be demonstrated that the Maliki School not only holds historical value as a product of past legal thought but also offers a systematic, consistent, and epistemological framework that remains relevant in addressing legal needs throughout the ages.

Methods

This study is a qualitative study of Islamic law in the form of library research. The study was conducted by examining various primary and secondary sources related to the thought of the Maliki School, particularly regarding the consistency of the methodology of legal deduction (*istinbat*) and the correlation of its application in the realms of worship (ibadah), civil transactions (muamalah), and marriage (munakahat). The approach used is a normative-philosophical one. The normative approach is aimed at examining the foundations of Islamic law derived from the Qur'an and Hadith as the primary basis for legal determination. Meanwhile, the philosophical approach is used to examine the rationality of the law as well as the objectives of Sharia that underlie the formulation of Islamic law, particularly in responding to various challenges arising in matters of worship, muamalah, and munakahat (Kamal et al., 2025). This study also employs a limited comparative approach to examine the characteristics and consistency of the Maliki school of thought on several distinct legal issues, such as touching the opposite sex during wudu, government intervention in the economy, and the dowry in marriage.

The data sources in this study consist of primary and secondary sources. Primary sources include books on fiqh and usul al-fiqh of the Maliki school, such as *Al-Mudawwanah al-Kubra* by Imam Sahnun, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid* by Ibn Rushd, *Al-Muwafaqat* by Imam al-Shatibi, as well as several other works relevant to the research topic. Secondary sources come from books and scholarly journals that discuss the Maliki school's methodology of legal deduction, maqashid al-sharia, and developments in contemporary Islamic legal thought. Data collection was conducted through documentary research by reading, identifying, classifying, and recording data related to the research subject.

The data analysis techniques used in this study include the descriptive-analytical method and content analysis. The descriptive-analytical method is a research approach aimed at presenting a systematic description of an object based on collected data (Harun et al., 2022). Content analysis is used to understand, interpret, and uncover the meaning of relevant data (Setiawan et al., 2024). In this study, the data obtained will be systematically described to explain the methodological characteristics of the Maliki School's legal reasoning, and then analyzed to identify patterns of consistency and correlations in the application of legal methods within the domains of worship, civil transactions, and family law. The analysis is conducted by examining the basis of legal arguments and the methods of legal determination in various legal issues under study. Subsequently, the results of this analysis are reconstructed to assess the relevance and practical application of the Maliki School's thought in addressing issues in Islamic law. Using this method, the study is expected to provide a comprehensive overview of the consistency of the Maliki methodology and its contribution to the development of modern Islamic law.

Results and Discussions

The Malikiyya Methodology of Jurisprudence

Imam Malik had a different approach from that of Imam Abu Hanifah. While Abu Hanifah was known for actively developing fiqh discussions on hypothetical cases, Imam Malik placed greater emphasis on studying issues that had already occurred and were directly relevant to people's lives. Imam Malik believed that

discussions regarding events that have not yet occurred have the potential to lead the discussion into speculative territory (Innayah et al., 2025). Therefore, Imam Malik was generally reluctant to issue fatwas on cases that were still hypothetical and preferred to address issues that had actually occurred. This approach reflects the Maliki School's strong methodological orientation toward social reality and the practical lives of the faithful.

Imam Malik's profound knowledge made him a highly respected figure throughout the Islamic world. His reputation as a great scholar spread far and wide, so that many students from various regions came to Medina to attend his lectures. The presence of such a large number of students demonstrated the extent of his influence on the development of Islamic scholarship, particularly in the fields of hadith and fiqh. One of his monumental works is Al-Muwaththa', a book that reflects the breadth of his knowledge as well as his meticulousness in compiling hadith and formulating Islamic law (Jayus et al., 2024). In formulating legal rulings and developing the methodology of his school of thought, Imam Malik drew upon a variety of legal sources. In addition to relying on the Qur'an and the Sunnah, he also utilized ijma', qiyas, the opinions of the Companions (*qaul al-shahabi*), the practices of the people of Medina (*'amal ahl al-Madinah*), the public interest (*maslahah mursalah*), *istihsan*, the principle of blocking the path to harm (*sadd al-dzari'ah*), istihsan, and the sharia of previous communities (*syar'u man qablana*) (Fatimatuzzahra et al., 2023). All of these sources form an important foundation that shapes the characteristics and style of legal deduction within the Maliki School.

In the Maliki tradition, the primary source of law is the Qur'an, which serves as the main foundation for all provisions of Islamic law. Abu Ishaq al-Shatibi, in his book Al-Muwafaqat, describes the Qur'an as the primary source of Islamic law and the foundation of the entire legal system and religious teachings. Therefore, anyone who wishes to understand the universal principles of Sharia (*kulliyyat al-shari'ah*) and its objectives (*maqasid al-sharia*) must make the Qur'an the object of study and a guide for life—one that is continually studied and put into practice. This understanding cannot be separated from the Sunnah of the Prophet, which serves to elucidate the content of the Qur'an. Furthermore, the intellectual legacy of the salaf scholars and earlier imams also serves as an important means of achieving a deep understanding of the objectives of Islamic law (Al-Shathibi, 1997d, p. 144). Imam Malik understood the Qur'an not only through a textual approach but also by considering the objectives and wisdom of the laws contained within it. The interpretation of legal verses was carried out with due regard for the social context and the public interest of the Muslim community (Al Fikri Ys & Fu'ad, 2025).

The second source of law after the Qur'an is the Sunnah, or the hadiths of the Prophet Muhammad SAW. Abu Ishaq al-Shatibi, in his book, *Al-Muwafaqat*, describes the Sunnah as bayan (an explanation) of the Qur'an. According to the author, the prophetic mission of the Prophet Muhammad (peace be upon him) was not only to convey the revelation in the form of the Qur'an but also to explain its intent, content, and the proper methods for applying it in daily life. Therefore, the Sunnah holds a very important position in understanding Islamic law, as it serves to elaborate on verses that are still general in nature, clarify what is mujmal, qualify what is absolute, and specify the laws contained in the Qur'an (Al-Shathibi, 1997c, p. 230). Thus, the study of the Sunnah is, in essence, an integral part of the

effort to understand the Qur'an and realize the objectives of Sharia. Imam Malik was very selective in accepting hadiths and gave priority to those practiced by the people of Medina (Jayus et al., 2024).

Furthermore, Imam Malik employed ijma' in his method of legal deduction. Imam Malik did not provide a formal definition of ijma' as formulated by later generations of scholars of usul al-fiqh. Al-Qarafi, in his book *Syarh Tanqih al-Fushul*, explains that ijma' is the consensus of the *ahlul halli wal-'aqd* of the Muslim community regarding a specific issue. This consensus can take the form of a shared opinion, action, or belief. The term ahlul halli wal-'aqd refers to the mujtahids who possess the competence to determine Sharia law. The subject matter of this consensus encompasses issues of Sharia, rational reasoning, and customs and traditions (Al-Qarafi, 1973, p. 322).

In addition, Imam Malik also used qiyas as a method of legal deduction. Al-Qarafi, in his book *Syarh Tanqih al-Fushul*, explains that qiyas is the process of applying a legal ruling that has been established in an original case to another case due to the similarity of the legal illat between the two, as determined by the person making the legal ruling (Al-Qarafi, 1973). However, although qiyas is one of the recognized sources of legal deduction in the Maliki school, its use is relatively more limited compared to the Hanafi school. This difference is influenced by the socio-historical context of each school's development. The Maliki school emerged and developed in the traditional environments of Medina and the Maghreb region, where the legal issues faced by the community tended to be simpler and did not require a significant expansion of qiyas. In contrast, the Hanafi School developed in Iraq, which had an urban society characterized by more complex levels of social, economic, and cultural interaction. These conditions encouraged a more intensive use of qiyas as a means to address a wide range of evolving legal issues (Arif, 2024).

Imam Malik regarded the opinions of the Companions (*qaul al-shahabi*) as a method of deriving legal rulings. Al-Qarafi, in his book *Syarh Tanqih al-Fushul*, explains that qaul al-shahabi (the opinions of the Companions) is considered one of the sources of law whose evidential value is disputed. According to Imam Malik and Imam al-Shafi'i in their qaul qadim, the opinions of the Companions possess legal authority and can generally be used as evidence. However, scholars differ regarding the scope of this evidential authority. Some limit it to the opinions of the Companions that cannot be explained through qiyas, while others grant special authority to the opinions of Abu Bakr al-Siddiq and Umar ibn al-Khattab. There are also those who consider the consensus of the Rightly Guided Caliphs to be a binding source of evidence. This text demonstrates the diversity of views among scholars of usul al-fiqh regarding the status of the Companions' opinions in the process of deriving legal rulings (Al-Qarafi, 1973).

Another distinctive method of Islamic jurisprudence used by Imam Malik is *'amal ahl al-Madinah*. Imam Malik demonstrated that a practice which has become a tradition, one that has been continuously observed and preserved, holds a more solid position as a guideline and is more suitable as a basis for legal reference (Al-Shathibi, 1997c). he concept of *'amal ahl al-Madinah* used by Imam Malik is not a new method devised without foundation; rather, it has a scientific basis in the tradition of Islamic legal deduction (Al-Qarafi, 1973). The Maliki school distinguishes *'amal ahl al-Madinah* into two categories. The first category is 'amal naqli, namely practices transmitted continuously from the Prophet Muhammad,

peace be upon him, through the people of Medina and preserved without undergoing significant changes. The second category is *'amal ijtihadi*, namely practices that arose from the *ijtihad* of the scholars and leaders of Medina in addressing various legal issues that emerged within the community. These practices subsequently gained social legitimacy through widespread acceptance and observance, thereby transforming from mere products of legal reasoning into a collective legal tradition that holds authoritative value within the Maliki school's methodology of legal deduction (Basri & Nasution, 2026).

Another very important method in the Maliki School is maslahah mursalah. Maslahah mursalah refers to a public interest for which there is no specific shar'i evidence, whether from the text (nash) or ijma', that explicitly supports or rejects it. An example of this is the compilation and writing of the Qur'anic mushaf. This action was not based on a text that explicitly commanded it. Consequently, Abu Bakr and 'Umar initially hesitated to carry it out until they became convinced that the action served the public interest of the religion and aligned with the objectives of Islamic law. The same applies to the establishment of the administrative government (diwan), the codification of Islamic legal sciences, and various similar endeavors. For example, the development of the science of grammar (nahwu) lacks a specific textual basis that directly mandates it. However, its existence is supported by general principles of Islamic law that are qath'i in nature and consistent with the objectives and legal policies of Islam (Al-Shathibi, 1997a, p. 32). Therefore, the legal rulings for such matters can be derived from these general principles, making them considered to be in accordance with Sharia, even though linking them to these principles requires several stages of reasoning.

In addition to maslahah mursalah, the Maliki School is also known for its use of the istihsan method. From the Maliki School's perspective, istihsan is understood as the practice of setting aside one legal basis in favor of another that is considered stronger and better able to fulfill the objectives of Islamic law. This concept is reflected in the practice of exempting the permissibility of buying and selling fresh dates through an 'araya contract from the general rule prohibiting the exchange of fresh dates for dried dates. Maliki scholars interpret istihsan as the application of a specific or partial public interest in the face of a general qiyas. In this context, tangible and relevant public interest takes precedence over the formal consequences of qiyas. Therefore, the Maliki School tends to prioritize istidlal mursalah over qiyas when qiyas is deemed incapable of optimally realizing public interest (Al-Shathibi, 1997e, p. 193). This approach demonstrates the epistemological character of the Maliki School, which is flexible, contextual, and oriented toward achieving the maqasid al-sharia, so that Islamic law can remain responsive to social dynamics without losing its normative foundation.

The next method is *sadd al-dzari'ah*; the principle of *sadd al-dzari'ah* is a legal method aimed at preventing harm by blocking various means that could potentially lead to prohibited acts. This principle is closely linked to efforts to ensure that the public interest remains within the boundaries established by Islamic law and does not develop freely without a clear legal basis. However, the application of sadd al-dzari'ah cannot be applied absolutely to all actions that have the potential to serve as a means leading to mafsadah. Rather, its application must take into account specific criteria, limitations, and methodological considerations to ensure it remains consistent with the objectives of sharia and does not result in an excessive narrowing of the law (Al-Shathibi, 1997b, p. 527). Thus, this principle

functions as a preventive instrument in Islamic law, but its application still requires oversight through established principles of usul al-fiqh.

he next method is syar'u man qablana; syar'u man qablana refers to the sharia of previous communities and falls under the category of ta'abbudi law, because all of it, along with similar matters, boils down to the implementation of commands based solely on dalil naqli, leaving no room for the intervention of reason or an individual's *ijtihad* (Al-Shathibi, 1997c). From the the Maliki school's perspective, syar'u man qablana is understood as the Sharia established by Allah for previous communities through the prophets who preceded the Prophet Muhammad SAW, the existence of which is known through the Qur'an and the Sunnah (Yusuf Anom Jayadimuda & Rizki Amar, 2024). Al-Shathibi classifies syar'u man qablana as a naqli and ta'abbudi source of evidence because it derives from transmitted revelation, not merely from rational reasoning. Therefore, the sharia of previous communities may serve as a basis for legal deduction (*istinbat*) as long as there is no Islamic legal evidence that abrogates or rejects it. This view indicates that the Maliki School recognizes the continuity of the prophets' messages as part of the Islamic legal system.

The nature of the Maliki school's methodology for deriving Islamic law demonstrates that this school places great emphasis on the balance between textual evidence, public interest, and social reality. The flexibility of its methodology has enabled the Maliki school to endure and remain relevant in the face of changing times. An approach oriented toward maqashid al-sharia ensures that Islamic law is understood not only in a formalistic sense, but also in a substantive and humanistic way. Therefore, the Maliki methodology has made a significant contribution to the development of contemporary Islamic law, particularly in addressing modern issues that require a contextual and responsive approach. Maliki thought demonstrates that Islamic law fundamentally has the capacity to evolve in accordance with the needs of society without losing its foundational principles as a sharia derived from revelation.

Does Touching a Woman Invalidate Wudhu?

Touching between men and women as a cause for the invalidation of wudhu is one of the fiqh issues that is often debated among scholars of the various schools of thought. These differing viewpoints arise from variations in the methods of legal deduction (*istinbat*) used to interpret the evidence from the Qur'an and hadith, particularly regarding the interpretation of Allah's words in Surah an-Nisa' verse 43 and Surah al-Ma'idah verse 6 concerning the phrase aw lamastum al-nisa'. In this context, the Maliki school holds a more moderate and contextual view compared to some other schools of thought. In *al-Muwaththa'*, Imam Malik narrated:

عَنْ أَبِيهِ عَبْدِ اللَّهِ بْنِ عُمَرَ: أَنَّهُ كَانَ يَقُولُ: قُبْلَةُ الرَّجُلِ امْرَأَتَهُ وَجَسُّهَا بِيَدِهِ مِنَ الْمُلَامَسَةِ فَمَنْ قَبَّلَ امْرَأَتَهُ أَوْ جَسَّهَا بِيَدِهِ فَعَلَيْهِ الْوُضُوءُ

> *Meaning: From his father, Abdullah ibn Umar, who held the view that: A husband kissing his wife and touching her body with his hands are included in the definition of "mulamasah." Therefore, whoever kisses his wife or touches her with his hands must perform wudhu* (Malik bin Anas, 1985a, p. 43).

In the Maliki school of thought, touching or kissing between a man and a woman does not absolutely invalidate wudu. Imam Malik held that the invalidation

of wudu is not determined solely by the presence of physical contact, but is linked to the presence of *taladzdzudz*, that is, a feeling of pleasure or sexual desire arising from such contact, or the occurrence of sexual arousal such as an erection. Thus, if the touch or kiss occurs without sexual desire or without causing sexual pleasure, wudu remains valid and is not invalidated. Conversely, if such physical contact is accompanied by sexual desire, wudhu must be renewed. This view is based on a narration transmitted by Imam Malik from Abdullah bin Mas'ud, who stated that a man who kisses his wife is required to perform wudhu. This opinion is also supported by a number of reports from the Companions and the Tabi'in, including Abdullah ibn Umar and Abdullah ibn Mas'ud, who held that kissing one's wife accompanied by sexual desire requires one to perform wudhu (Sahnun, n.d., pp. 121–122). Thus, the Maliki school of thought considers the element of sexual desire to be the determining factor in whether wudu is invalidated as a result of touching or kissing between a man and a woman.

Ibn Rushd explains that scholars differ in their interpretation of the phrase *aw lamastum al-nisa'* in Surah an-Nisa' [4]:43. Some interpret it as jima' (sexual intercourse), while others understand it as physically touching a woman. Scholars who interpret mulamasah as physical contact also differ in their views; some require the presence of sexual desire (*lazzah*), such that only contact accompanied by pleasure invalidates wudhu, while others argue that any physical contact can invalidate wudu without requiring sexual desire. The group that requires sexual desire bases its opinion on a number of hadiths indicating that not all touching contact between a man and a woman invalidates wudhu. Among these is a narration explaining that the Prophet once touched Aisha while praying without renewing his wudhu. In addition, there is a hadith from Aisha stating that the Prophet once kissed one of his wives and then performed prayer without renewing his wudhu. Although the authenticity of this hadith is disputed, with some scholars of Hijaz deeming it weak and scholars of Kufa deeming it authentic, Ibn Abd al-Barr tends to accept its authenticity (Rusyd, 2004, p. 44). Differences in the interpretation of the verse and the assessment of these hadiths have become one of the main factors leading to differing fiqh opinions regarding whether touching contact invalidates wudhu or not.

The Maliki school interprets the term *al-lams* as a touch of the hand accompanied by sexual desire, thus falling under the application of the principle *al-'am al-murad bihi al-khass*. Based on this interpretation, the invalidation of wudhu is not determined merely by the occurrence of physical contact, but by the presence of an element of pleasure or sexual arousal accompanying that touch. This understanding stems from a linguistic analysis of the term *al-lams*, which is then linked to the process of tadqiq al-manaṭ to identify the legal illat, thereby distinguishing between ordinary touch and touch that arouses sexual desire as the cause of the invalidation of wudhu (Dewi Indriani et al., 2025). In addition to interpretations of Qur'anic verses, the Maliki School also bases its opinion on several hadiths of the Prophet Muhammad SAW. One hadith frequently cited as evidence is the narration explaining that the Messenger of Allah, peace be upon him, once kissed his wife and then performed prayer without repeating wudhu. The Maliki School interprets this hadith as an indication that physical contact between a man and a woman does not automatically invalidate wudhu. However, the Maliki School still imposes a limitation; physical contact that arouses sexual desire can invalidate wudhu because it is considered to be related to the

occurrence of minor ritual impurity or a strong biological urge. Thus, the Maliki School combines a textual understanding of the hadith with a rational approach in determining the legal rationale (*illat*).

The Maliki perspective occupies a middle ground between two distinct approaches. The Hanafi school holds that physical contact between men and women does not invalidate wudhu; even touching one's spouse's genitals does not invalidate wudhu. Wudhu is only invalidated during marital relations if sexual intercourse occurs. In the Shafi'i school, direct physical contact between a man and a woman is considered to invalidate wudhu. This rule applies if the contact occurs without a barrier between their skin, whether or not it is accompanied by sexual desire. Thus, both the person doing the touching and the person being touched are required to renew their wudhu. The Hanbali school, meanwhile, holds a view relatively close to that of the Maliki school, namely that wudhu is invalidated only if accompanied by sexual desire (Dewi Indriani et al., 2025). This difference indicates that the issue of touching the opposite sex during wudhu is an area of *ijtihad* that is heavily influenced by each school's methodology of usul al-fiqh. In this context, the Maliki school exhibits a moderate methodological approach based on considerations of public interest (maslahat).

In the modern context, the Maliki School's view on physical contact with the opposite sex during wudhu holds significant relevance. Contemporary social life, which is filled with interactions between men and women, often makes such contact difficult to avoid. Therefore, the Maliki approach is considered more practical and offers flexibility without compromising the principle of caution in worship. This perspective also demonstrates that the flexibility of Islamic law can be realized without deviating from the principles of sharia. Thus, the issue of touching members of the opposite sex during wudhu serves as an important example of how the Maliki School applies a legal reasoning methodology that harmoniously integrates textual evidence, public interest (*maslahat*), the objectives of sharia (*maqashid al-sharia*), and social realities.

The Government's Intervention in the Economy

Tas'ir, from the muamalah perspective, is understood as a government policy of setting prices for a commodity in order to regulate market mechanisms and prevent practices that harm the public. Therefore, merchants are required to adhere to the set prices and must not exceed the limits determined by the authorities (Mahendra & Zen, 2025). In essence, the practice of price-setting (*tas'ir*) is considered impermissible, as it refers to a hadith of the Prophet Muhammad SAW in which he rejected price intervention in the market despite price increases at that time. However, interpretations of this hadith have led to diverse views among the fuqaha. These differing perspectives are particularly evident in the scholarly analyses of the four major schools of Islamic jurisprudence, the Hanafi, Maliki, Shafi'i, and Hanbali schools, which, under certain conditions, offer differing legal rulings regarding price-fixing policies (Shifa & Mutho`am, 2021).

According to the scholars of the Shafi'i and Hanbali schools of thought, government intervention in the form of price fixing (*tas'ir*) is not legally justified. They maintain that prices should be determined through the interaction between sellers and buyers without coercion from the government (Zaenol Hasan, 2023). The Maliki school of thought holds that the government plays a vital role in regulating the economic life of society to achieve justice and the public good

(Putrindwika et al., 2026). Imam Malik stated in Al-Muwaththa':

عَنْ سَعِيدِ بْنِ الْمُسَيِّبِ أَنَّ عُمَرَ بْنَ الْخَطَّابِ مَرَّ بِحَاطِبِ بْنِ أَبِي بَلْتَعَةَ وَهُوَ يَبِيعُ زَبِيبًا لَهُ بِالسُّوقِ فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ: «إِمَّا أَنْ تَزِيدَ فِي السِّعْرِ وَإِمَّا أَنْ تُرْفَعَ مِنْ سُوقِنَا

Meaning: It is narrated from Sa'id ibn al-Musayyab that 'Umar ibn al-Khattab saw Hatib ibn Abi Balta'ah selling raisins in the market at a lower price. 'Umar then said to him, "Raise your selling price (so as not to disrupt market prices), or leave our market." (Malik bin Anas, 1985b, p. 651).

Basically, the practice of tas'ir is considered impermissible according to the consensus of the scholars. However, if the owners of goods, particularly foodstuffs, set exorbitant prices that cause hardship for the public, and the government cannot protect the public interest except through price intervention, then price regulation may be justified. Under such circumstances, prices are determined based on the assessments of experts and implemented as a policy that can be effectively enforced. Some other scholars permit *tas'ir* under certain conditions. This view is based on considerations of the public interest and the prevention of harm, rather than solely on a literal interpretation of the text. According to the Hanafi and Maliki schools of thought, the permissibility of price intervention is always linked to efforts to promote the public interest. Therefore, the government has the authority to maintain market balance and may intervene through price regulation if practices are found that disrupt market mechanisms, such as hoarding of goods or other actions that harm the public interest.

In his book *Al-Tafri' fi Fiqh al-Imam Malik ibn Anas*, Ibn al-Jallab explains that the government is not permitted to forcibly set prices for market participants. However, if a merchant sells goods at a price that deviates significantly below the general market price, thereby potentially causing losses or disrupting market mechanisms, then he may be ordered to adjust his selling price to the prevailing market price. If he is unwilling to do so, he may be prohibited from selling in that market (Al-Maliki, 2007, p. 111). Ibn al-Jallab explained that ihtikar refers to withholding or hoarding goods needed by the public with the intent of waiting for prices to rise, thereby making it difficult for the public to obtain those goods. Therefore, this practice is prohibited if it causes harm to the public. His statement is quoted as follows:

من جلب طعاماً أو غيره إلى بلد خلى بينه وبين حكرته وبيعه

This indicates that a person who brings goods from outside a region into that region should not be prevented from owning, storing, and selling those goods. Restrictions apply when such storage amounts to a monopoly or hoarding that harms the public interest. (Al-Maliki, 2007).

The text reflects one of the key principles of the Maliki school of thought, namely maintaining a balance between individual property rights and the public interest in economic activities. This perspective departs from the characteristics of Maliki legal methodology, which assigns significant importance to the concept of istihsan. Istihsan is an effort to select the legal provision that is most in line with the will of the sharia, as comprehensively understood through the entirety of the legal arguments, principles, and practices established in sharia. This method is understood as a means of legal determination oriented toward realizing public interest and preventing harm in specific cases (Ilhami et al., 2024). This perspective views economic activity is not merely viewed as a private matter but

also possesses a social dimension that must be safeguarded to prevent inequality, exploitation, or harm to the broader public. Therefore, the government is granted the authority to intervene when market mechanisms are no longer capable of ensuring economic justice and balance.

The Dowry in Marriage

The dowry is a form of respect that Islam bestows upon women within the institution of marriage. Through the dowry, women obtain rights that the prospective husband is obligated to fulfill as part of the marriage contract. The amount of the dowry is not fixed; rather, it is agreed upon by both parties based on their mutual consent. Scholars of Islamic jurisprudence agree that the payment of the dowry is an obligation that must be fulfilled by the husband to his wife, either directly at the time of the marriage contract or deferred as agreed. The payment of the dowry must follow the terms agreed upon in the marriage contract (Busyro et al., 2023). Furthermore, the scholars also agree that the dowry is an inherent right within the marriage; therefore, any agreement that nullifies this obligation is not permissible (Akmal & Nginayah, 2022).

Islamic principles place women in a position of honor by granting them various rights that must be respected and fulfilled, one of which is the right to a dowry in marriage. The dowry is a gift that specifically belongs to the prospective wife and must be given to her by the prospective husband (Asma et al., 2024). Therefore, the dowry is not intended for any other party, not even close relatives. Ownership of the dowry rests entirely with the wife, so no one has the right to use or control it without her permission and consent, not even her own husband. The dowry is explicitly addressed in Surah al-Nisa', verse 4, which affirms that the dowry is the wife's right that must be provided by the husband as a form of respect and responsibility within the marriage. The use of the word *niḥlah* indicates that the dowry must be given with complete sincerity and without coercion. This verse also affirms that ownership of the dowry rests entirely with the wife, so that the husband may use only part or all of the dowry if the wife voluntarily grants it (Sulfa & Khair, 2025). Thus, this verse reflects Islam's recognition of women's economic rights and legal status within marriage.

According to the Maliki's school, as outlined in the book Muhktasar al-'Alamah Khalil, the essential elements of marriage include the guardian, the dowry, the parties to the marriage (husband and wife), and the sighat of the marriage contract. The sighat of the contract is performed using phrases such as "I marry you" (أنكحت) or "I wed you" (زوجت), accompanied by the mention of the dowry (Musa, 2005, p. 96). Furthermore, the dowry is not viewed merely as a condition that completes the validity of the marriage but is considered one of the essential elements of marriage that must be present during the marriage contract. This view positions the dowry as an essential element in the formation of the marital bond. Therefore, the presence of the dowry is understood as an integral part of the marriage contract that reflects respect and honor for women. In the Maliki school of thought, the dowry (sadaq or mahr) is one of the legal consequences arising from the marriage contract as a form of respect and honor for women (Tahir & Amin, 2025). The dowry is understood as property or benefits that the husband is obligated to provide to the wife based on a valid marriage contract. Therefore, in the view of Maliki scholars, the dowry is not merely a symbol or a social tradition, but a financial right that, under Islamic law, belongs entirely to the wife and may not be taken or utilized by any other party without her consent.

In the Maliki's school, the determination of the dowry amount places greater emphasis on the value and benefit of the dowry given. The dowry must meet certain requirements to be considered valid under sharia law, which stipulates that the minimum dowry is one-quarter of a dinar or the equivalent of three dirhams of pure silver. This requirement serves as the baseline for determining the acceptable value of the dowry in a marriage contract. In addition to money, the dowry may also take the form of various types of property that have economic value and are recognized by Islamic law, such as goods, livestock, buildings, or a plot of land acquired through lawful and valid means. Furthermore, the Maliki's school requires that the object of the dowry must be something pure, capable of being owned, and possessing a benefit permitted by Islamic law (Zulaifi, 2022). Therefore, items that have no beneficial value according to Islamic law, or whose use is prohibited and is considered futile, cannot be used as a dowry. Examples include prohibited entertainment instruments, such as the lute and flute according to some classical scholars, as well as other items that do not provide benefits recognized by Islamic law. Additionally, the dowry must be clearly understood by both parties, regarding its type, size, quantity, and nature, so that it can be handed over to the wife without causing ambiguity that could potentially lead to disputes in the future.

According to Imam Malik, the status of the dowry as an essential element of the marriage contract is based on the similarity in characteristics between the marriage contract and commercial contracts, particularly sales contracts, in terms of the fundamental elements that determine the validity of a contract. Based on this similarity, Imam Malik employed the method of qiyas by drawing an analogy between the marriage contract and the sales contract. Through this process of analogy, matters not explicitly addressed by the textual sources are equated with matters for which legal provisions already exist, as both share the same ‘illat (legal rationale) (Akmal & Nginayah, 2022). Therefore, just as a contract of sale requires the exchange of consideration as an essential element, the dowry (mahar) in marriage is regarded as a fundamental and inseparable part of the marriage contract; consequently, its inclusion is established as one of the pillars of marriage in the Maliki’s School.

The analysis of these three fiqh issues shows that the methodological consistency of the Maliki School does not lie in the uniformity of its legal rulings, but rather in the consistency of the pattern of *istinbat* applied to each issue. In the category of worship, the ruling that wudhu is invalidated by physical contact with the opposite sex is not based solely on the textual meaning of the term al-lams, but rather through the identification of the 'illat, the underlying legal rationale, as the presence of sexual desire (*taladzdzudz*), ensuring that the established ruling aligns with the objectives of Islamic law. In the category of muamalah, the government’s authority to intervene in pricing does not constitute a deviation from the principle of free markets, but rather the application of maslahah mursalah, istihsan, and sadd al-dzari’ah to safeguard the public interest when market mechanisms cause harm. Meanwhile, in the category of munakahat, the establishment of the dowry (mahar) as one of the pillars of marriage is based on the method of qiyas, which is linked to the nature of the contract and the objective of protecting women’s rights. These three issues demonstrate that although they employ different instruments of usul al-fiqh, they are all directed toward the same overarching goal; realizing the maqashid al-shari’ah through the protection of religion (hifz al-din), wealth (hifz

al-mal), and lineage (hifz al-nasl). Thus, the consistency of the Maliki School lies in the continuity of its paradigm of legal deduction, which always integrates naqli evidence, the identification of 'illat, considerations of the public interest, and social realities in producing fiqh rulings.

This methodological consistency ensures that the Maliki's School remains relevant in addressing contemporary issues of Islamic law. The evolution of modern legal issues demands a methodology of legal deduction capable of integrating the authority of the text with social dynamics, so that Islamic law remains responsive to change without neglecting the principles of sharia (Aji & Azzahra, 2026). An orientation toward maqashid al-sharia enables Islamic law to adapt to the dynamics of modern society without abandoning the normative foundations of the Qur'an and Sunnah. This approach can be applied to various contemporary issues, such as digital economic transactions, consumer protection, public policy, family law, and technological developments, because its primary focus is not merely to preserve the textual form of the law but to uphold the objectives of Sharia through considerations of the public interest that remain within the framework of the textual evidence. This demonstrates that the flexibility of the Maliki's School is not a form of legal liberalization, but rather methodological consistency in applying the principles of usul al-fiqh to responsibly address social change.

Conclusion

The Maliki's school, which is regarded as one of the more textual schools in the derivation of Islamic law, actually possesses a distinctive methodological character that combines textual authority, rational consideration, and the social realities of the community. This methodology is built upon the use of various legal sources, such as the Qur'an, the Sunnah, ijma', qiyas, qaul al-shahabi, *'amal ahl al-Madinah*, maslahah mursalah, istihsan, sadd al-dzari'ah, and syar'u man qablana. Taken as a whole, these methods demonstrate that the Maliki's School is not only oriented toward a normative-textual approach but also prioritizes the substance of the law and the objectives of sharia (maqasid al-sharia). Studies of issues such as touching the opposite sex during wudhu, government intervention in the economy (tas'ir), and the dowry in marriage reveal methodological consistency within the Maliki's School. These three examples demonstrate that Imam Malik consistently integrated revelatory evidence with considerations of public interest, the identification of the legal rationale (ʻillat), and the evolving social conditions within society Imam Malik consistently integrated textual evidence with considerations of public interest, the identification of the legal rationale (ʻillat), and the evolving social conditions within society. This approach makes the legal rulings of the Maliki's School flexible, contextual, and responsive to changing times without neglecting the fundamental principles of sharia. Thus, a reconstruction of Maliki's School thought reveals that this school possesses a systematic, consistent, and relevant epistemological framework for the development of contemporary Islamic law. Its strong orientation toward maqasid al-sharia and the public interest enables the Maliki methodology to address various modern legal challenges while preserving the authenticity of Islamic teachings as an adaptive and humanistic legal system.

Statement on the Use of AI

The author(s) used ChatGPT to assist in clarifying selected conceptual explanations and improving their presentation in the manuscript. All AI-generated suggestions were independently assessed against the relevant literature and the author(s)' own scholarly judgment before inclusion in the final text.

Authors' Contribution Statement

The first author (Zukifli Firdaus) was responsible for formulating the initial ideas and concepts for the research, drafting the first version of the article, and collecting the research data. The second author (Rahmiati) contributed to the development of the analytical framework, the identification and strengthening of the theoretical foundation, and the analysis and interpretation of the data. Meanwhile, the third author (Embrizal) was responsible for conducting a critical review of the article's content, refining the arguments and discussion, and editing and polishing the manuscript until it reached its final, publish-ready form. All authors were involved in the revision process, approved the final manuscript, and are responsible for the content of the article.

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Conflict of Interest

The authors declare that there are no conflicts of interest, either amongst the authors themselves or with any other parties, that could affect the objectivity, integrity and independence of the research and the writing of this article

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