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**Family Conflicts in the Central Maghreb Through al-Wansharīsī's Nawāzil:
Marital Relations as a Case Study**

الصراعات الأسرية بالمغرب الأوسط من خلال نوازل الونشريسي
(العلاقات الزوجية أنموذجا)

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Abstract:

Nawāzil are considered among the most important sources in Islamic legislation due to their close connection with fatwas related to human life across different periods, whether in matters of transactions or acts of worship. These sources occupied a wide space in addressing social aspects that change over time and place. The Nawāzil of al-Mi'yār constitute one of these sources, as they compiled various incidents and events in the Islamic Maghreb in general, and the Central Maghreb in particular.

In this study, we seek to shed light on one of the social aspects addressed in al-Wansharīsī's al-Mi'yār, namely family conflicts in the Central Maghreb through al-Wansharīsī's nawāzil, with a particular focus on marital relations, given their positive and negative effects on the social structure of society.

Keywords: Nawāzil; Central Maghreb; family conflicts; marital relations.

المخلص:

تعدّ النوازل من المصادر الهامة في التشريع الاسلامي لارتباطها الوثيق بالفتاوى المتعلقة بحياة الانسان عبر العصور سواء تعلّق الأمر بالمعاملات أو العبادات، وقد شغلت هذه المصادر حيزا واسعا من الجوانب الاجتماعية المتغيرة زمانيا ومكانيا، فنوازل المعيار واحدة من هذه المصادر التي جمعت مختلف الوقائع والأحداث بالمغرب الاسلامي بصفة عامة والمغرب الأوسط بصفة خاصة.

وفي هذه الدراسة نسعى لتسليط الضوء على جانب من الجوانب الاجتماعية التي خصت بها في كتاب المعيار للونشريسي ألا وهي: "الصراعات الأسرية بالمغرب الأوسط من خلال نوازل الونشريسي خاصة العلاقات الزوجية لما لها من إيجابيات وسلبيات في التركيبة الاجتماعية للمجتمع.

الكلمات المفتاحية: النوازل، المغرب الأوسط، الصراعات الأسرية، العلاقات الزوجية.

1. INTRODUCTION

Society constitutes the fundamental building block for the construction and progress of states. For this reason, many historical studies have focused on documenting the most important social issues and phenomena experienced in the Islamic Maghreb in general, and in the Central Maghreb and Tlemcen in particular. Family life and domestic matters occupied a prominent place in juristic writings, and the jurisprudence of *nawāzil* paid special attention to the major family problems that led to disputes among different families. Al-Wansharīsī, in turn, addressed a wide range of aspects of social life in the Maghreb. Accordingly, this study raises the following questions: What are the most significant

nawāzil through which al-Wansharīsī dealt with family conflicts? To what extent did al-Wansharīsī's nawāzil contribute to correcting and regulating family relations?

2. Biographical Overview of Al-Wansharisi

He is the Mālikī jurist Abū al-‘Abbās Aḥmad ibn Yaḥyā ibn Muḥammad al-Wansharīsī al-Tilimsānī (ibn al-Athir, 1980, p. 76). He was born in 834 AH / 1430–1431 CE in the Wansharīs Mountains. (al-Wazzan, 1983, p. 45). He grew up under the rule of the Zayyanid sultans (al-Tunbukti, n.d, p. 5) and studied under their leading scholars, among them the jurist and imam Qāsim ibn Sa‘īd al-‘Uqbānī (al-Qarāfī, 2004, p. 152; Ibn Maryam, 1986, p. 147; al-Tunbukti, n.d, p. 13; Ben Daoud, 2010, p. 85). Al-Wansharīsī was known for his strong

personality and deep religiosity, as well as for his fearlessness and lack of submission to authority, which brought him into conflict with the rulers of his time—especially in 874 AH / 1469–1470 CE, when Sultan Abū Thābit al-Zayyānī ordered the plundering of his house. This incident forced him to flee to the city of Fez, where he settled and devoted himself to teaching Mālikī jurisprudence (al-Zirikli, 2002, pp. 87-88). The sources mention that he was eloquent in both speech and writing, and that a number of scholars and jurists studied under him.⁶ He died in 914 AH / 1508–1509 CE.⁷ Among the works he left behind is his book *al-Mi'yār al-Mu'rib* (al-Wansharisi, 1981).

3. Introduction to Al-Mi'yār by Al-Wansharisi and its significance

The book *al-Mi'yār* by al-Wansharisi is considered one of the most important jurisprudential works that addressed various political, economic, social, and religious fields of the Islamic Maghreb, through the fatwas it included in its different volumes.

Al-Wansharisi's *Nawāzil* are precise and explicit, distancing themselves from theoretical discussions, as they focused on fatwas related to the daily life of the society of the Islamic Maghreb, covering different fields and domains. The book contains numerous texts and documents that are absent from historical sources, particularly regarding social life, making the book a mirror reflecting various issues of Moroccan society (Mousa, 1983, p. 37). **Ahmad Baba al-Tunbukti** states that al-Wansharisi based his fatwas on the *Nawāzil* of al-Barzali and Mazuna, and also drew from the scholars of Fes and al-Andalus (al-Tunbukti, n.d, p. 395). The book consists of twelve volumes, with the first volume dedicated to introducing the book and its author. As for the volumes relevant to this topic, volume three was dedicated to *Nawāzil al-Nikāḥ* (marriage-related rulings), and volume four addressed matters of divorce, maintenance, custody, al-'Ilā' (prohibition of sexual relations), and other issues related to married life (al-Wansharisi, 1981, p. 116).

Like other books of *Nawāzil*, al-

Wansharisi's work holds great importance in research writings and studies due to the precision of the issues and fatwas it presents, especially as the author addressed cases that his contemporaries did not touch upon, particularly political matters and matters of jihad, providing answers for every question.

4. Family Life:

The family is the fundamental building block of society. It is mentioned in most historical writings and jurisprudential *Nawāzil*. Al-Wansharisi's book dedicates a volume to *Nawāzil al-Nikāḥ* and all matters related to marriage and family life in the society of the Islamic Maghreb in general, and the Central Maghreb in particular.

A. Engagement:

Among the important matters pointed out by the scholar al-Wansharisi is the role of the khāṭiba (matchmaker), who was considered a link between families and households due to her importance in completing the engagement and concluding the marriage contract. She was entrusted with the task of paving the way for agreement between the families of the bride and groom. Thus, the groom's family would go to the bride's house to reach an agreement with her family on all matters related to the dowry, gifts, and other issues (al-Wansharisi, 1981, pp. 100, 116, 249, 406). The dowry in the lands of the Islamic Maghreb was divided into an advance portion and a deferred portion (Abu Mustafa, 1997, p. 12). Al-Wansharisi also mentions that the custom among the inhabitants of the Islamic Maghreb in general, and the Central Maghreb in particular, was for the suitor to purchase gifts for his fiancée throughout the engagement period according to the occasions that arose (al-Wansharisi, 1981, p. 96), until the wedding date arrived.

B. The Marriage Contract:

In the lands of the Central Maghreb, the marriage contract was concluded in congregational mosques or local mosques by the official in charge of marriages (Ashour, 1980, p. 13). This practice also applied to villagers and rural populations, as noted by

al-Wansharīsī (al-Wansharisi, 1981, p. 198). After the conclusion of the contract, both families would prepare the bridal trousseau, which included clothing for adornment, display, and pride. Sometimes, the bridal clothing formed part of the agreed-upon conditions of the trousseau. Al-Wansharīsī states that the father had the right to dispose of his daughter's trousseau, either by withholding it from her or by granting it to her. Once the trousseau was completed, the wedding date was set.

The groom would also present the bride's family with a quantity of meat for the preparation of the wedding feast. Al-Wansharīsī notes that this custom was widespread throughout the Islamic Maghreb, including the Central Maghreb, as the bride's father would stipulate a gift from his son-in-law consisting of two rams, or a ram and a bull (al-Wansharisi, 1981, p. 198).

Al-Wansharīsī further mentions that a woman was required to adorn and beautify herself before going to her husband's home, as is still customary today in various regions. In doing so, she relied on the hairdresser (*māshiṭa*), who was responsible for beautification, such as applying perfume to enhance the woman's appearance (al-Wansharisi, 1981, p. 145). Wealthy women and those of noble lineage enjoyed certain privileges, such as the condition that their husbands would not take another wife nor take a concubine to bear him children without their permission. They also had the right to visit their family or relatives at their own discretion and according to their own wishes (al-Wansharisi, 1981, p. 108).

Hence, it follows that preparing a woman before the wedding is both obligatory and recommended. It is essential for her to adorn herself before going to her husband's home, to apply perfume, and to observe modesty in accordance with the provisions of Islamic law.

C. The Social Characteristics of the Maghrebi Family:

Family life in the lands of the Central Maghreb witnessed several characteristics related to the social aspect of the Maghrebi

family. Among these was the marriage of the orphan girl, which was primarily linked to puberty and physical maturity, as attested by a group of women. Al-Wansharisi reports that when Ibn al-Ḥājj was asked about the signs of her puberty, he replied: **"This is known from her face and stature, and from what trustworthy women inform him of"* (al-Wansharisi, 1981, p. 133).

Another phenomenon was mixed marriage, which raised questions and provoked feelings of group solidarity and tension within families, especially when the betrothed woman was from outside the tribe or from another religious community (Abu Mustafa, 1997, p. 17). Al-Wansharisi also mentions that if a pubescent girl's father had died in war or during a commercial journey, her paternal uncle would become her guardian, with the permission of the mother acting as testamentary guardian (Abu Mustafa, 1997, p. 159); (Brunschvig, 1988, pp. 174-175).

In addition, Maghrebi women engaged in herding livestock and attended weddings; they also washed wool and collected firewood. These practices were criticized in the *Nawāzil*, especially when they involved encounters between women and men, particularly immoral men, which often led to family problems and the spread of moral corruption, as noted by al-Wansharisi (Brunschvig, 1988, p. 475). At the same time, he praised women's work within the household through the duties assigned to them (Abu Mustafa, 1997, p. 20). Furthermore, women were granted the right to sell real estate in the absence of their husbands, a ruling confirmed by al-Wansharisi in cases of family necessity, especially when such circumstances coincided with epidemics, famine, or poverty, and when the family lacked a provide (al-Wansharisi, 1981, p. 100) r.

Family life in Tlemcen was predominantly characterized by a social nature, like other regions of the Islamic Maghreb. This was due to the simultaneity of events and the harmony of social life at that time. Thus, it sometimes assumed a

local character, while at other times a blending of characteristics occurred. This was often influenced by the lived conditions in the Central Maghreb and the conflict that existed between the Lower and Upper Maghreb over control of the Central Maghreb. This appears clearly and distinctly in customs and traditions, which became hybridized with certain traits drawn from incoming communities and ethnic groups to the Central Maghreb in general, and to Tlemcen in particular.

4. Family Problems:

Moroccan society, like other societies, was not entirely free of imbalance, as it experienced various conflicts and family problems. This was clarified by al-Wansharisi through the legal cases (*nawāzil*) included in his book *al-Mi'yār*, which can be summarized as follows:

a. Visiting One's Family:

It is well known that a woman has the right to visit her family and relatives with her husband's permission. However, this right often became a cause of family discord. This was due either to the wife's obstinacy and insistence or to the husband's rigidity and inflexibility in maintaining his position. Jurists held that a husband should allow his wife to visit her relatives without excess and according to circumstances. Yet, a woman's insistence on visiting them two or three times a week could lead to the breakdown and disintegration of the family, as a result of her neglect of the duties required within her household. Consequently, emotional distance would arise between spouses, affection would diminish, and this often led to divorce because of frequent visits.

Abu 'Imran's response in *al-Mi'yār* regarding the issue of visiting relatives states:

"A woman's visit to her relatives with whom kinship was established yesterday, such as parents and siblings, is a more obligatory right and more deserving of repetition, so long as it does not reach the level of excess... for the basic principle is that a man has the right to prevent his wife from going

out..." (al-Wansharisi, 1981, pp. 108-109).

Thus, visiting one's family should take place under conditions that satisfy both spouses. The woman must comply with her husband's wishes, attend to his service, and fulfill her household duties, while the man must respect his wife's desire to visit her relatives from time to time and not fall short in this regard.

b. Domestic Violence:

This was considered one of the most serious problems experienced by the Moroccan family in general. Husbands often resorted to beating as a means of disciplining their wives, under the assumption that this would correct their behavior. This, in turn, led to family conflict, especially after the wife's guardians became aware of the matter. The husband usually justified his violence by citing his wife's obstinacy, her frequent visits to public bathhouses, or her repeated visits to her parents. He might also refrain from providing financial support so as to deprive her of the means to persist in what he perceived as her stubbornness and defiance.

Such circumstances prompted judges to establish the position of the *amīna* (trustworthy woman), whose duty was to reside in the *الزوجين*'s home for a period of time in order to reach a solution and determine responsibility for the conflict and the harm caused. This practice was based on what is reported in *al-Mi'yār*, when Judge Muhammad ibn Bashir was asked about a man who complained of his wife's going out to the bathhouse or to her mother's house, while the woman complained of insufficient maintenance despite living with him in an urban setting, claiming that no one else resided with her in the house. She further alleged that he beat her and that she wished to be placed with a righteous man. He replied: "She should be placed with a trustworthy person until what she has complained of is verified." Qarra'ūs ibn al-'Abbās said: "She should be placed among women, and women should not be placed among men" (al-Wansharisi, 1981, p. 131).

c. Travel, Migration, and Change of

Residence:

It was incumbent upon a woman to submit to her husband's command and follow him to a place of residence that suited him, especially if the journey was undertaken in pursuit of livelihood or a change of employment. Unfortunately, this phenomenon often generated family problems in the lands of the Islamic Maghreb, due to a wife's refusal to join her husband on the grounds that she was settled in her own town and comfortable living with her parents. This situation was unacceptable to the Maghrebi man, whose only recourse to resolve the dispute was to turn to judges or jurists for a solution.

Al-Wansharisi records this in *al-Mi'yār* through the response of certain jurists to a man's question regarding transferring his wife to Kairouan. The jurist replied: "As for his departure with his wife and relocating her to Kairouan, if the condition was imposed without an oath, it is binding upon him and no alternative is given to him. He may depart provided the route is safe, and he must settle in Kairouan in a secure place, with righteous neighbors and a well-protected dwelling" (al-Wansharisi, 1981, p. 133).

c. False Piety:

In most cases, a woman would ask her suitor about the issue of drinking alcohol or using drugs, and the man's response would usually be a denial, presenting himself as righteous and virtuous. However, after marriage he would often revert to his former behavior, such as keeping bad company, consuming drugs, and drinking alcohol or smoking. This situation was unacceptable to the wife, especially once he openly committed sins and prohibitions, frequented disreputable places, and engaged in immoral conduct.

As a result, the woman would turn to his family in an attempt to find a solution and put an end to the husband's reprehensible behavior. It was commonly accepted that the woman's guardian would seek separation between his daughter and her husband out of fear for her religion or

moral integrity, lest she be drawn into corruption and indulgence in pleasures. This conflict would continue until the matter was brought before the judge of social cases, who would issue a ruling in favor of one of the parties.

In this context, Shaykh Abu al-Hasan al-Lakhmi (may God have mercy on him) was asked about a man who married a woman whose father and brother were people of the Qur'an and had perceived righteousness in him, but after consummation the opposite became evident when the son-in-law openly committed sins. The question was whether the father had the right to intervene. Shaykh Abu al-Hasan replied:

"The father is the guardian of the daughter. If he realizes that marrying her to that man was not appropriate and fears that her religion may be corrupted and that she may be led into what is impermissible, such as drinking and the like, and there is no hope of a good outcome for her with him, then he should separate them. Whoever marries his daughter to a man who drinks wine has exposed her to corruption, for she lives with him in sin; and rarely does one who drinks wine escape from oaths of divorce and the violation of oaths" (al-Wansharisi, 1981, p. 272).

Thus, pretension in religious conduct and concealment of true behavior often led to divorce and family disintegration, due to their effects and repercussions on the family and children, and consequently on society, which constitutes the backbone of any civilization.

d. The Refusal of the Girl's Family to Take Her to Her Husband's Home:

The legal cases recorded by al-Wansharisi indicate that this issue often stemmed from a father's refusal to take his daughter to her husband on the grounds of a contagious illness, the appearance of leprosy, or other diseases that diminish a woman's beauty and attractiveness. The reverse was also true in the case of a man afflicted with leprosy, which necessitated judicial intervention to verify the truth of the

claim.

In one legal case cited in al-Wansharisi's work, the man was required to undress in order to confirm or refute the allegation, and he was subjected to medical examination. At times, non-Muslims were consulted due to their expertise in medicine, in order to examine the man (al-Wansharisi, 1981, p. 313).

d. Absence of the Legal Guardian (Father):

The presence of the father within the family constitutes a fundamental pillar for stability and progress, given his profound influence on the family as a whole and on children in particular. This is primarily due to the father's guiding role in raising and educating children and preparing them to face the hardships of life. He also plays the central role in providing security, stability, clothing, and all necessities of living. Such responsibilities often led him to travel in pursuit of livelihood, seeking tranquility and well-being for his family and children. However, prolonged travel and absence frequently resulted in the emergence of problems within the household, which often drove the wife to lodge a complaint with the judge, using her husband's extended absence as grounds for requesting divorce and permission to remarry in order to protect herself and her dependents.

On one occasion, a question was raised concerning a woman whose husband had traveled to the eastern lands and whose absence had been prolonged without returning home. He had left behind a young child whose care and provision fell entirely upon the mother. The woman fulfilled her duties and sought emancipation, questioning whether the husband was obliged to provide her with monthly maintenance, or whether she was bound by an oath like a wife or not. The respondent replied:

"This man neglected his right by neglecting the mother of his child, thereby causing her harm. Enjoyment does not continue except through fulfilling obligations toward her. If this is lacking, she gains authority over herself to consider what

serves her interest—whether emancipation or marriage, if suitable—and she should choose the lesser of the two harms. If she is not suitable for marriage but is capable of serving herself without hardship, that is preferable, as no incident has arisen to remove her benefit. Preventing her after this period, given her master's neglect and his distant absence, is weak; nevertheless, acting is better than abandoning the matter, given the possibility involved" (al-Wansharisi, 1981, pp. 285-286).

Thus, this legal case demonstrates that a man's prolonged absence from his wife leads to family problems that may result in a request for divorce, on the grounds of neglect toward her and her children, in addition to her right to remarry after the period set for his return has elapsed, in order to ensure the continuation of life and stability and to find a provider for herself and her dependents.

e. Mismanagement:

By mismanagement is meant a man's failure to uphold justice and fairness in administering and organizing family affairs. This includes conduct and treatment, as some women complained of their husbands' poor treatment of them, especially when compared to his parents or siblings. It also encompasses the provision of living necessities, such as food and drink. There is the miser who withholds from his household, and there is the man who indulges excessively in his own needs, thereby failing to regulate his family's life from one week to the next.

Mismanagement and lack of justice also appear in cases of polygamy, when a man favors one wife over another. This favoritism may stem from the number of children, differences in treatment between wives, or emotional inclination and varying degrees of affection and love. One of the legal cases recorded in *al-Mi'yār* refers to a complaint submitted by a woman against her husband. Kamal Abu Mustafa points to the extent of the harm caused by the lack of justice between wives (Abu Mustafa, 1997, pp. 23-24). This is illustrated by a case in

which a man had two wives and inclined toward one over the other. Before his death, he left her an inheritance consisting mainly of half a house for her and her children, while the livestock and land were left to his sons. This resulted in resentment among the children and the outbreak of conflict and disputes between siblings (al-Wansharisi, 1981, p. 127).

Poor management by the guardian, or his negligence toward his children, may lead to the emergence of irresponsible offspring preoccupied with the endless distractions of life. Justice between wives, on the other hand, is the foundation of righteousness, as it nurtures a generation in which no distinction exists among siblings except by their mothers, and sometimes they appear as though they were the children of one man and one woman. Conversely, injustice between wives leads to disputes and conflicts that may escalate into endless strife.

f. Sectarian Differences:

Religious devotion and righteousness contribute to the success and stability of families. When spouses share the same religious sect, it enhances understanding, cohesion, and the alignment of ideas, fostering family harmony through discussion and communication. Conversely, a difference in sect can be a source of problems, as it entails divergent principles and orientations. One of the conditions for marriage in the Islamic Maghreb was sectarian compatibility, to prevent divorce or disputes.

For example, a Sunni man's beliefs and principles differ from those of a Shia man, and vice versa. One case records a Sunni woman who married a man of a different sect without realizing it until after the marriage. This prompted her to request divorce or to have him convert to the Sunni sect. Fearing the family might disintegrate, she counted on him gradually adopting her sect and following her religious orientation. However, over time it became clear that he did not change and remained in his original sect, which necessitated intervention by

judges and religious authorities. One legal case in *al-Mi'yār* states that a Sunni woman married an outsider ignorantly; when she discovered the difference, she requested separation. The man refused to change his sect. The ruling was: "If he does not repent and change, they should be separated, because he may lead her astray and corrupt her religion. Even if he were someone who openly disbelieves in her sect, this would be evident. Precautions must be taken regarding marital relations, for he is not permitted to be with anyone. Regarding the excommunication of the Qadariyyah, there are two opinions: according to the view of their disbelief, one should not lead prayers behind them, whether Friday or otherwise, which Abu Hafis supports, differing from the fatwa of al-Siyuri. This does not justify annulment. The first opinion is stronger, following the view of Asbagh concerning a blatant sinner" (al-Wansharisi, 1981, p. 376).

Thus, this case shows that a Sunni woman or man should only marry someone of the same sect to ensure their own righteousness and family continuity. A Sunni woman cannot remain married to a man of a different sect or beliefs; even if he temporarily adopts her sect, separation is required because he could return to his original beliefs at any time.

g. Accusations Against the Woman:

Al-Wansharisi's legal cases also mention situations where a man marries a virgin but, after consummation, claims she was previously married and spreads the news immediately. One question asked: "If someone married a virgin and then claimed she was not, should the matter be examined by other women, and should her reputation be considered

From this legal case, it becomes clear that if the man is truthful, he must return the woman's belongings and pay her dower to her guardians. If the woman concealed her situation, the husband's obligations and dower should be returned to him, minus a quarter. If the man lied and the claim was false, the prescribed punishment applies to

him, and he must restore justice to the woman, clearing her before her family or returning her with her consent, without coercion or pressure.

In addition to these accusations, a man is forbidden from forcing a woman into sexual relations or attacking her upon marriage in a way that causes harm. One case reports: a man attacked his wife before consummation—what should be done? The answer was:

“If it was done without the permission of her family, he has acted wrongly but incurs no penalty. If he has not paid her any of the dower (*Mahr*), it must be paid and she may refuse him. If he has paid her, she remains with him, provided she is physically capable of intercourse” (al-Wansharisi, 1981, p. 127).

Thus, a man must exercise gentleness in his dealings with his wife to achieve mutual consent and reconciliation. The family is fundamentally based on understanding, love, and affection. Men should avoid violence in their relationship with their wives to prevent third-party intervention in disputes and to ensure proper management and harmony within the household.

Conclusion

Al-Wansharisi's *nawāzil* are among the most important jurisprudential sources relied upon by historical studies to examine the reality of Moroccan society. They addressed family relationships, such as marriage and the conditions of matrimony, from the engagement to the marriage contract. The *nawāzil* include jurisprudential cases and issues concerning marriage, mixed marriages, and the rights of the wife over her husband and vice versa. Regarding disputes, al-Wansharisi discussed the main causes of family problems, such as visits to one's relatives, a husband's suspicion regarding his wife's virginity, and other matters that intensified conflicts between families and expanded the circle of disputes

to include extended families and even tribes.

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