المجلة الجزائرية للدراسات الإنسانية
رت م د إ: EISSN: 2716-8506
رت م د: ISSN : 2716-7984
المجلد08/ العـدد: 01 (السنة2026)، ص ص: 110-135

Nawazil and Political Management According to Al-Wansharisi: A Jurisprudential Analysis

النوازل والإدارة السياسية عند الونشريسي:

تحليل فقهي

[1]Prof. Abdelkader Bouarfa
https://orcid.org/0000-0001-8631-872X
University of Oran2
Department of Philosophy (Algeria) and URSH
bouarfa.abdelkader@univ-oran2.dz

تاريخ الاستلام: 2026/04/26 تاريخ القبول: 2026/05/02 تاريخ النشر: 2026/06/30

Abstract:

In my thesis, I explore the concept of Nawazil and its significance in political management through the lens of Al-Wansharisi's jurisprudential analysis. I begin by defining Nawazil, which refers to unprecedented legal and political issues that require tailored responses within Islamic governance. The research highlights Al-Wansharisi as a pivotal jurist who articulates a framework emphasizing adaptability, justice, and consultation in addressing these challenges. I delve into the conditions for effective political management according to Al-Wansharisi, identifying key leadership qualities such as integrity and wisdom, alongside the foundational role of justice and shura (consultation) in governance. Furthermore, I examine the role of fatwas as tools for providing juristic solutions to contemporary challenges, underscoring their adaptability in changing societal contexts. Through historical case studies and a discussion of contemporary relevance, I argue that Al-Wansharisi's principles offer valuable insights for addressing modern governance issues while remaining rooted in Islamic jurisprudence.

Keywords: Nawazil, Political Management, Al-Wansharisi, Justice, Fatwas.

---

[1] - **Sender data**: Prof. Abdelkader Bouarfa. University of Oran2. bouarfa.abdelkader@univ-oran2.dz

ملخص: في أطروحتي، أستكشف مفهوم النوازل وأهميته في الإدارة السياسية عبر تحليل فقه الونشريسي. أبدأ بتعريف النوازل، الذي يشير إلى القضايا القانونية والسياسية غير المسبوقة التي تتطلب استجابات مصممة خصيصًا ضمن إطار الحكم الإسلامي. حيث يُبرز البحث الونشريسي كفقيه محوري يُرسي إطارًا يُؤكد على المرونة والعدل والتشاور في مواجهة هذه التحديات. أتعمق في شروط الإدارة السياسية الفعالة وفقًا للونشريسي، مُحددًا صفات قيادية أساسية كالأمانة والحكمة، إلى جانب الدور التأسيسي للعدل والشورى في الحكم. علاوة على ذلك، أدرس دور الفتاوى كأدوات لتقديم حلول فقهية للتحديات المعاصرة، مُؤكدًا على مرونتها في السياقات المجتمعية المتغيرة. وعبر دراسات حالات تاريخية ومناقشة لأهميتها المعاصرة، أُبين أن مبادئ الونشريسي تُقدم رؤى قيّمة لمعالجة قضايا الحكم الحديثة مع الحفاظ على جذورها في الفقه الإسلامي.

كلمات مفتاحية: النوازل، الإدارة السياسية، الونشريسي، العدل، الفتاوى.

**

*- Introduction to Nawazil and Its Significance in Political Management

The concept of Nawazil occupies a significant place in Islamic jurisprudence, serving as a dynamic mechanism for addressing unprecedented issues in governance and society. Rooted in the adaptability and comprehensiveness of Sharia principles, Nawazil reflects the capacity of Islamic jurisprudence to respond effectively to emerging challenges in political and legal landscapes. In this context, the contributions of Al-Wansharisi, a renowned jurist, stand as a cornerstone in the evolution of Nawazil and its application in political management. This introduction aims to provide a detailed overview of Nawazil's historical and jurisprudential relevance, explore its intrinsic link to political governance, and establish the thesis that Al-Wansharisi's framework for Nawazil offers invaluable insights into addressing both historical and contemporary governance challenges.

Prof. Abdelkader Bouarfa

Nawazil and Political Management According to Al-Wansharisi: A Jurisprudential Analysis

The term "Nawazil" finds its origins in the Arabic language, where it denotes "new occurrences" or "unforeseen events." In Islamic jurisprudence, Nawazil signifies unprecedented legal and political dilemmas that require tailored solutions within the framework of Sharia. Historically, Nawazil emerged as a response to the evolving socio-political realities faced by Muslim communities, particularly during periods of rapid change or crisis. For instance, the expansion of the Islamic empire during the 7th and 8th centuries necessitated the development of jurisprudential mechanisms capable of addressing issues such as land distribution, taxation, and the integration of non-Muslim populations into Islamic governance systems (D'amato, 2024).

The adaptability of Nawazil lies in its ability to bridge the gap between established jurisprudential principles and the dynamic realities of governance. Unlike static legal rulings, Nawazil operates as a flexible tool for resolving challenges that fall outside the scope of traditional jurisprudence.

These characteristic underscores the importance of Nawazil in ensuring the continued relevance of Islamic jurisprudence across diverse historical and social contexts. Furthermore, the process of addressing Nawazil often involves consultation (shura) and ijtihad (independent reasoning), emphasizing the participatory and intellectual dimensions of Islamic governance (Favale & Kretschmer, 2016).

Islamic jurisprudence (Fiqh) has always been intrinsically linked to reality. A jurisprudential ruling is often based on an incident that serves as the reason for

the revelation of a foundational text, whether it be a divine revelation, or a practical, verbal, or tacit prophetic tradition (Sunnah). This connection dictates the presence of divine wisdom in linking the fatwa (legal edict) to current and contemporary realities. Because the social fabric evolves from simple to complex, from nomadism to civilization, and from simple nature to politically and socially complex urban life, the role of jurisprudence must be to keep pace with the era and history. It must facilitate human affairs rather than complicate them, carrying the citizen's concerns in a way that relies on the jurisprudence of priorities (Fiqh al-Awlawiyyat), prioritizing interests and benefits while warding off harm and the causes of societal dissolution.

Through this introduction, jurisprudence acquires the dynamism of independent reasoning (Ijtihad) and production. Successive generations thus become more dynamic than their predecessors due to the changing realities and times. Every era differs from the one before it in its requirements, unprecedented cases (Nawazil), and the transformations that occur in human behavior and life activities. Consequently, the need always arises for fatwas and the treatment of the contemporary Nawazil.

Some jurists became famous for the "Jurisprudence of Nawazil" (Fiqh al-Nawazil) until it became one of the essential branches of jurisprudence for society and state politics. Ahmad al-Wansharisi excelled in the jurisprudence of Nawazil, both in practice and in compilation. In this study, we will attempt to address the Nawazil related to issues of political management in the fatwas and thought of al-Wansharisi.

1- Nawazil: The Concept and the Need

Prof. Abdelkader Bouarfa

Nawazil and Political Management According to Al-Wansharisi: A Jurisprudential Analysis

Most scholars agree that the concept of a "Nazilah" (singular of Nawazil) does not deviate from the meaning of an event that occurs without prior anticipation; that is, one that was not subject to prediction or expectation at all. In the linguistic definition, they say: Nawazil is the plural of Nazilah. Ibn Faris stated: "The letters Nun, Zay, and Lam form a valid root indicating the descent and occurrence of something." Ibn Manzur said: "Al-Nazilah: A severe hardship among the hardships of time that descends upon the people." (Ibn Manẓūr, *1993,* vol. 11, p. 659)

This is the same definition written by Al-Razi in his Mukhtar: "Al-Nazilah is a severe hardship among the hardships of time that descends upon the people." (Al-Rāzī,1989, vol. 1, p. 273.)

Thus, a Nazilah is understood as a severe occurrence among the hardships of time that descends upon a people unexpectedly. We exclude natural events like earthquakes and volcanoes because they are matters ordained by God. Al-Munawi defined it as an occurrence and a striking calamity, saying: "Al-Awarid is the plural of 'Aridah, which is an intervening trial, i.e., a Nazilah..." (al-Munāwī, 1410 AH, vol. 1, p. 529.)

Dealing with a Nazilah becomes confusing and astonishing due to the absence of a specific text addressing it. The Nazilah prompts a question about the ruling of Islamic law (Sharia) regarding it, based on analogy (Qiyas), preference (Tarjih), or consensus (Ijma'). At that point, scholars step forward to understand and analyze it in order to issue a jurisprudential ruling that suits it. Muslims have

often found themselves in great confusion regarding some Nawazil that befell them, where scholars could not arrive at a ruling, making disagreement and divergence the prevailing situation.

Terminological scholars define it in various ways. In the past, it referred to the severe hardships of time that befall people. In modern times, a Nazilah has been defined in several ways, including:

A - **Occurrences (Waqi'at)**: These are emerging and new issues. We deduce this from what was authored by scholars, such as Abd al-Qadir Efendi (d. 1085) and the title of his book "Waqi'at al-Muftin" (Occurrences of the Muftis), as well as the book "Al-Waqi'at" by the famous scholar Ibn Mas'ud.

B - An incident that requires a Sharia ruling.

An incident refers to a matter that happens to people and perplexes them, meaning something that occurs without prior precedent. This includes:

- New incidents occurring for the first time, such as paper money and organ transplantation. These require a fatwa, which is why scholars sometimes equated fatwas with Nawazil, meaning a matter that requires a fatwa. This term is famous in jurisprudential schools, as they call fatwa collections "Al-Nawazil," such as "Al-Nawazil al-Sughra" and "Al-Nawazil al-Kubra" by Al-Wazzani, and the book "Al-Nawazil" by Al-Alawi.
- New incidents whose ruling changes due to a change in the custom upon which they were based.
- Incidents formed by a combination of more than one older scenario.

C- **Phenomenon**: This is linked to the behavior of a human group and is associated with urbanization. It is the product of politics and human sociology, such as migration, smoking, addiction, etc. It is considered part of the

jurisprudence of contemporary and emerging issues, referring to matters disputed in the present time.

From the above, it can be said that a Nazilah is: "the knowledge of incidents that require a Sharia ruling." This knowledge is neither simple nor easy. It requires the Mufti and the ruler to have an awareness of the situation and circumstances, and knowledge of civilization and the requirements of the era. Ibn al-Qayyim—may God have mercy on him—said in I'lam al-Muwaqqi'in: "The eleventh benefit: If a Nazilah befalls the judge or the Mufti, he either knows the truth about it, or strongly believes he does to the extent that he has exhausted his effort in seeking and knowing it, or he does not. If he does not know the truth about it and does not strongly believe he does, it is not permissible for him to issue a fatwa or judge based on what he does not know."

The science concerned with Nawazil is referred to by several contemporary terms:

- Fiqh al-Nawazil (Jurisprudence of Precedents/New Cases).
- Fiqh al-Waqi' (Jurisprudence of Reality): Concerned with the life a person lives.
- Fiqh al-Maqasid (Jurisprudence of Objectives): The higher objectives of Sharia generate Nawazil, as the rulings of Nawazil are deduced from and justified by Sharia objectives.

- Fiqh al-Awlawiyyat (Jurisprudence of Priorities): Means that the Nazilah, whether for the individual or society, is more deserving of research, investigation, and the extraction of a ruling than others; it is a priority in this aspect.

- Fiqh al-Muwazanat (Jurisprudence of Balances): Meaning that one of the most prominent means of clarifying the jurisprudence of a Nazilah is comparing it with what resembles or approaches it.

From this, it can be said that the Fiqh of Nawazil is the treatment of complex contemporary problems related to the social and political phenomena of society. Political matters and their products are considered the greatest breeding ground for Nawazil due to their connection to livelihood, movement, awareness, and reasoning. Therefore, the Fiqh of Nawazil has come to represent cognitive awareness as a counterpart to political awareness.

2- Conditions of Political Management

Al-Wansharisi's approach to political management stems from the premise that the Imamate and Wilayah (leadership and governance) are positions of high status, noble purpose, grave responsibility, and difficult execution, and that Sharia urged their realization due to their connection to people's interests. He expressed this by saying: "It is obligatory to revere this noble position and recognize its status in the orthodox religion; for it, messengers were sent, and for it, the heavens and the earth were established. (Al-Wansharīsī, n. d, p. 39.)

Assuming the caliphate and governance requires that the person undertaking political management be qualified for that difficult task, because

Islam is a comprehensive religion, and its strongest bonds are governance in transactions and authorities, and prayer in acts of worship. If the shepherd is corrupt, the flock becomes corrupt, and Nawazil and calamities descend upon the nation without anyone to find a solution for them. To save the nation from a tragic fate, it is more beneficial for the ruler to be distinguished by the following conditions: "The conditions of the Imamate are knowledge, justice, wisdom, and sound judgment that lead to the objective, and choosing whoever is most beneficial for the people and most upright for the public good." (Al-Wansharīsī, n. d, p. 23.)

Issues of Wilayah and Imamate are tied to people's lives. What is known of the religion by necessity poses no difficulty in handling. However, the Nawazil in sovereign matters require reflection and Ijtihad (independent reasoning), especially since Al-Wansharisi's era was characterized by turmoil, strife, and the assigning of affairs to those who neither excelled at them nor deserved them at all. The governance of the foolish is considered the greatest Nazilah that afflicted Muslims in that particular era, prompting Al-Wansharisi to try and handle it jurisprudentially by adding new conditions so that the fatwa regarding the ruler's conditions aligns with reality. Al-Wansharisi says: "As for his conditions, without which [the Wilayah] cannot be completed, contracted, or sustained, there are ten: Islam, puberty, sanity, being male, freedom, justice, knowledge, being one [single leader], soundness of the senses of hearing and sight from deafness and blindness, and soundness of the tongue from muteness. The first seven are

conditions for the validity of the Wilayah, and the [last] three are likewise, but their absence necessitates removal. As for the conditions of perfection, he must not have been subjected to a prescribed punishment (Hadd) for slander, theft, or fornication, nor be impugned by a Wilayah of Li'an (sworn allegation of adultery) or fornication, and he should be wealthy and not heavily in debt." (Al-Wansharīsī, n. d, pp. 42,43)

When studying the political reality of his time, we know with certainty that the reason for stipulating conditions beyond those of the early eras (the seven conditions) was due to the Nawazil of the era, where fools, adulterers, and thieves took the reins of provinces, emirates, and the police. This resulted in numerous injustices and conflicts. Life became so constricted for people in their lands and cities that they preferred migrating to the lands of disbelief and war over remaining in the lands of Islam. Al-Wansharisi himself was likely afflicted by this Nazilah under Zayyanid rule, which caused him to flee to the city of Fez seeking safety. Yahya Bouaziz says, "These political disturbances and poor economic conditions had a disastrous consequence on cultural life. Some scholars migrated to the East and West, others tied their fate to certain princes, while some withdrew, preferring an ascetic life and escaping the impurities of life. Cultural life lost a great scholar, Ahmad bin Yahya al-Wansharisi, who migrated to Fez for political reasons." (Bouaziz, 2007, p. 32)

3- Issuing Fatwas and Political Management

Political management cannot be properly established except in harmony with the people of Ifta (fatwa issuers). It is the fatwa that rectifies politics and establishes its course and direction, especially since the rulers of the era mostly lacked the conditions of governance.

It is noted that scholars in the early eras used to flee from the role of issuing fatwas out of fear of it, despite the presence of rulers better than those in subsequent eras. Then the situation reversed, and pseudo-scholars scrambled for it, making governance increasingly corrupt due to the lack of cognitive awareness that accompanies political awareness: "Scholars in the early days of Islam would flee from sultans. Then came the people of the second era, and their souls aspired for worldly things; they would not go to them, but if the sultans called them, they answered, with few exceptions. Then came those after them who would go to them uninvited, and most of them, if called, would answer." (Al-Wansharīsī, 1981, vol. 1, p. 376)

The phenomenon of politicizing religion in the history of the Islamic state is neither strange nor far-fetched. Governors and sultans attempted to harness the people of fatwa and knowledge for their own benefit. They considered this a political requirement and legitimized it for their own motives and needs, since the subjects obeyed the jurist more than the sultan. Many of them did not hesitate to accept the profession of political subservience; they sided with the sultan against the human being, and harnessed their knowledge to serve him, thereby losing both truth and religion: "Politics, alongside the traditionalist view of religion, worked to crush any attempt to revive rationalism and freedom of thought in the Islamic world in later eras. Clerics, or most of them, became a pillar for tyrants and tyranny, issuing fatwas excommunicating those who disagreed with their opinions or opposed their policies." (Al-ʿAzab,1979, p. 121)

The phenomenon of harnessing fatwa scholars in favor of rulers brings about dire consequences that reflect on both the country and the people. The most dangerous of these is the loss of rights and duties, the oppression of the people of truth, and the support of perpetrators of injustice, causing calamity to descend upon the nation. Afflictions appear that were not present among their ancestors, and pseudo-scholars cannot find a solution to these Nawazil due to their lack of knowledge and scarce understanding. Thus, politics breaks down and society becomes clouded: "Facts were inverted in it, and the bow became a drinking vessel by promoting the ignorant over the scholars, and in appointing to Sharia positions such as the judiciary, fatwa, testimony, documentation, preaching, Hisbah (market inspection), trust in the markets, supervision of endowments, orphans' wealth, and absences by inheritance and prestige those who are not fit for them, and there is no power nor strength except with God... This calamity with which the servants were afflicted came only from the princes and scholars, for by their righteousness the people are righteous, and by their corruption they are corrupted." (Al-Wansharīsī, 1981, vol. 2, p. 491)

The role of the Mufti is no less important than that of the politician. If jurisprudence stipulated conditions for the ruler, it also stipulated conditions for the Mufti. The conditions for the Mufti are sometimes stricter than those for the governor and ruler, because a political mistake is possible since it is a position of management, but a mistake in a fatwa is severe because it is related to religion. How dangerous is a fatwa issued by an ignorant person covering up the sin of a corrupt politician. Therefore, Al-Wansharisi tried to emphasize the importance of laying down rules for the position of Ifta with conditions: "Justice, courage, soundness of senses and limbs from a deficiency that prevents the investigation

of movement, the conditions of spiritual chivalry (Futuwwah)... and knowledge leading to Ijtihad in Nawazil and soundness of opinion." (Al-Wansharīsī, n.d, p. 22)

As a result of his knowledge of jurisprudence and the Nawazil of his time, Al-Wansharisi attempted to define the main rules of Ifta to rationalize politics and ward off the harms resulting from the rule of those who do not meet the conditions of governance. This is what most honest jurists have done throughout the history of the Islamic state: "Jurists throughout the ages have sought to formulate the important rules upon which governance is based, define the functions and qualifications of rulers, and develop solutions to the various problems that arose from the development of the Islamic state." (Aṭiyya, 2000, p. 169)

We believe in the necessity for political management to respond to cognitive management, such that the former relies on the latter for its existence. Only then does the door to Ijtihad open, the jurisprudential mind becomes productive, and dealing with the contemporary developments and Nawazil becomes the goal of both scholars and politicians. Society then becomes integrated and in harmony with its past and present: "Thus, when we succeed in making the necessities of our time a part of the objectives of our Sharia, we will have worked not only to open the door of Ijtihad regarding the events of our renewed and developing era, but we will also have begun working to root the

very foundations of our Sharia in a way that guarantees its vital response to any change that occurs or anything new that emerges." (Abed al-Jabri,1996, p. 193)

4- Political Nawazil and Sultanic Matters

Political jurisprudence emerged as a necessary demand fulfilling the tolerant objectives of Sharia, given the changes and alterations in the forms of governance and justice that afflicted the nation. Political management became complex due to the complexity of social urbanization itself, and as a result of the mixing of ethnicities within the Islamic nation, it became necessary to understand the occurring developments and realities.

The matter of Imamate and Wilayah also fell into weakness and deterioration due to the presence of incompetent princes and governors who reached power through usurpation and seizure. This reflected on the social and economic reality. Al-Wansharisi's *Al-Mi'yar* is a true image and a reflecting mirror of the era: "The book *Al-Mi'yar al-Mu'rib* contains a massive collection of Nawazil and jurisprudential fatwas characterized by their distance from the theoretical aspect, truthfully and clearly expressing the reality of daily life in Moroccan society during the Islamic era. It is noticeable that the incidents experienced by the people of the Islamic Maghreb took on a local flavor, which pushed jurists, judges, and fatwa issuers to exercise Ijtihad to extract appropriate Sharia rulings and fatwas." (Abū Muṣṭafā. K, 1997, p. 8)

We will address the political issues through the following points:

1- Ministries

Al-Wansharisi's era was a bad example of princes and sultans, as those who completely lacked the qualities of a ruler ascended to power. Faced with this major political Nazilah and great calamity, the scholars of the time tried to find a

way out so that the interests of the country and the people would not be disrupted. The suspension of the position of Imamate and Wilayah due to the lack of qualified individuals led the jurisprudential mind to create positions within the authority that would minimize the danger of political idleness. If a ruler as required by Sharia was nonexistent, and power was seized by someone not entitled to it at all, it was more beneficial to propose political positions that would enable the state to conduct its affairs without relying entirely on a sultan who was a burden to his people. We note in the writings on Wilayat that Al-Wansharisi envisions two necessary ministerial positions: "As for the mandate of the ministry, it is divided into two types: a ministry of delegation (Tafwid) and a ministry of execution (Tanfidh). The first is one to whom matters are delegated... and the executive minister is the one who executes what the Imam has managed; he is an intermediary between the Imam and the subjects." (Al-Wansharīsī, n. d, pp. 129,130)

The purpose of the first minister (delegation) is to resolve grievances and disputes without returning to the Imam. This is a jurisprudential stratagem giving the minister legitimate authority to act in the presence of a weak, incapable, distracted, or corrupt Imam. To understand this purpose, let us note the differences between the delegated minister and the executive minister:

1- The minister of delegation has the right, between the two ministries, to look into grievances, whereas the executive minister does not.

2- The minister of delegation has the right to appoint governors without seeking the Caliph's opinion, which is not the case for the executive minister.

3- The minister of delegation is permitted to independently dispatch armies and manage wars, which the executive minister cannot do.

4- The minister of delegation is permitted to manage the funds of the public treasury (Bayt al-Mal) in terms of both expenditure and collection, whereas the executive minister is not.

Through the tasks assigned to the minister of delegation, we notice that he equals the sultan in political management. The reason for this jurisprudential workaround fundamentally goes back to an attempt to bypass the Nazilah of weak rulers and sultans who afflicted the Islamic nation in that era, making the position of the ministry of delegation a focal point of hope as a temporary solution.

2- The Police

Al-Faruq (Umar ibn al-Khattab), may God be pleased with him, established the police apparatus for oversight and to assist him in controlling injustices, markets, regulating urban affairs, and other city matters. The police became closer to the citizen than other state apparatuses; therefore, jurists paid utmost attention to it. Ibn al-Amin al-Qurtubi said: "Its commander was established for two things: One is assisting the rulers among those in charge of grievances and the administrative bureaus in imprisoning those they order to be imprisoned and releasing those they order released... The second is looking into felonies and applying prescribed punishments (Hudud) upon those who deserve them." (Al-Wansharīsī, n. d, p. 130)

This function was followed by many issues and developments, mostly relating to prescribed punishments and their application, prison administration, and emerging matters that did not exist among predecessors. The police function was originally intended to handle some Nawazil that harmed markets and inns, as well as widespread theft and criminality.

Thus, it was necessary to regulate markets to suppress phenomena of commercial corruption such as monopoly, fraud, cheating in weights and measures, and tax evasion. The purpose of studying these Nawazil was to push those in authority to directly intervene to control markets and inns by updating the Hisbah system, selecting the Muhtasib, regulating taxes, storehouses, pricing basic goods, and carrying out imprisonment, exile, and discretionary punishment (Ta'zir) for those whose crimes warranted it.

3- The Phenomenon of Usurping Power

During Al-Wansharisi's time, the phenomenon of usurping power and seizing it by force grew. This caused politics to become turbulent due to instability and the rise of those incompetents in political management. Jurists attempted to treat the Nazilah of usurpation through fatwas and by educating people about its harms and negative consequences, especially since the Islamic state had become surrounded by enemies, particularly the Spanish. Due to the magnitude of seizing power by force, the jurisprudential mind ruled the following: "Competence-based appointment (Istikfa) is what is contracted by

choice, and usurpation (Istila') is what is contracted by necessity." (Al-Wansharīsī, n. d, p. 131)

These Nawazil and seditions had a terrible impact on the political and social reality. Therefore, the Mufti tried to resort to reconciliation between governors and officeholders to curb the desire for usurpation and domination. Al-Wansharisi summarized the political Nawazil in *Al-Mi'yar* according to the following: usurpation of power, reconciliation among governors, fighting destructive ideas, employing mosques for the state's benefit, political corruption, and the spread of bribery, nepotism, and regionalism. (See *Al-Mi'yār*, vol. 8, p. 351; and vol. 10, pp. 122, 124, 184.)

4- The Phenomenon of Civil Disobedience

Civil disobedience and rebellion are linked to the sultan's weakness and instability. The era was the stage for many rebellion and disobedience movements, which negatively impacted the subjects with destruction, especially pilgrims, bedouins, and villagers. Among the most famous incidents of civil disobedience and rebellion against state law was what the Arab Riyyah of Bani Amir Suwayd did in the Central Maghreb (Al-Wansharīsī, 1981, V6, p. 153-156); instead of eradicating them, the Zayyanid rulers resorted to appeasement and honoring them, despite their killing of pilgrims, taking women captive, and usurping wealth... Also, the Nazilah that occurred during the era of Yahya bin Abi Yahya al-Wattasi by the Khult Arabs who burned crops and destroyed buildings... (Al-Wansharīsī, 1981, V8, p. 232)

5- Social Nawazil

Al-Wansharisi addressed issues related to marriage by studying some phenomena prevalent in the provinces and emirates, dedicating the third volume to them. (Al-Wansharīsī, 1981, vol. 3, pp. 160, 248, 299, 305.)

He mentions what was happening in Gafsa, Tunisia, regarding the Nazilah of matchmaking associated with marriage; the Nazilah of the female trustee (Amina) acting in the capacity of research and investigation; and the Nazilah of marriage by proxy. (Al-Wansharīsī, 1981, Vol. 3, pp. 121, 198)

The spoke of a fatwa permitting mosque imams to marry off prostitutes without a judge to ward off corruption and reduce sedition within the province, provided they had no guardian and were from other regions. This fatwa indicates moral decay and societal corruption, and also points to the social problems resulting from the phenomenon of mixed marriages that brought sedition to the emirate. (Al-Wansharīsī, 1981, Vol. 3, pp. 84, 148.)

As a result of the country's instability, poverty and hunger befell the people. Sponsorship and care vanished, necessitating a fatwa on the urgency of addressing this Nazilah through social welfare due to poverty, destitution, and need, by employing the revenues of endowments (Ahbas and Awqaf) to resolve the phenomenon of social poverty and pay the wages of imams and mosque caretakers. (Al-Wansharīsī, 1981, Vol. 3, p. 5 & Vol. 3, p. 201)

6- Economic Nawazil

Poor political management reflected on the economy, leading to increased disputes over property issues, irrigation, and commercial exchanges.

He issued a fatwa on an alternating irrigation system so farmers and cultivators could water their crops with justice and equality (Al-Wansharīsī, 1981, Vol. 3, p.10) . He also issued a fatwa on a barter system to facilitate sales, the movement of goods, cash revenues, and what should be accepted in exchange.

As a result of conflicts over land ownership, he issued a fatwa dividing agricultural land into dead land (uncultivated) and land designated by decree as a fief for someone who provided a service to the sultan without a deed of ownership, alongside the function that attracts state taxes.

We note that he elaborated on loans with profit-sharing (Murabaha) and how to regulate them, then the phenomenon of debt and the transfer system (Hawala), the mortgage system, deposits... auctions, and the brokering of goods. All these are manifestations reflecting the Nawazil that were occurring and how they were dealt with directly so people could continue their lives without injustice or hardship.

7- International Nawazil

Given the changes that occurred in Andalusia and the Maghreb, new requirements and developments emerged, such as the issues of Ahl al-Dhimma (non-Muslim subjects) regarding rights and duties. However, the largest and most dangerous Nazilah related to the phenomenon of apostasy from Islam, especially by those displaced from Andalusia, who apostatized from Islam in order to return to Andalusia due to economic hardship and their inability to live in the Greater Maghreb. Al-Wansharisi issued a fatwa strictly forbidding apostasy, even going so far as to rebuke anyone who wished to return after migrating, through his famous treatise *Asna al-Matajir* (The Most Luminous of Trades). Some scholars asked him about a Nazilah that had afflicted the land of

the Maghreb: "Your answer, sir, may God be pleased with you and let the Muslims benefit from your life, regarding a Nazilah: A group of these Andalusians who migrated from Andalusia and left behind homes, lands, gardens, vineyards, and other types of assets, and additionally spent much ready money, and exited from under the rule of the disbelieving nation... regretted their migration after settling in the Abode of Islam, became discontented, and claimed that they found circumstances tight for them, and that they did not find in the Abode of Islam... gentleness, ease, or amenity... They openly disparaged the Abode of Islam and its state, and cursed the one who was the cause of this migration for them." (Al-Wansharīsī, 1958, pp. 148–149)

Al-Wansharisi answered him with a long treatise in which he rebuked the migrant who insults the Abode of Islam and wishes to return to the lands of the Spaniards, noting that Islamic Sharia rejects this: "The answer to what you asked: Migration from the land of disbelief to the land of Islam is an obligation until the Day of Resurrection..." (Al-Wansharīsī, 1958, p. 151)

He also addressed the phenomenon of building churches in Islamic lands, permitting construction, building, and the right to ownership based on the right to worship, but he stipulated the minimization of some Christian customs, such as church bells, and forbidding proselytizing.

- **Conclusion**

The jurisprudence of Nawazil is the domain of human reason, and its scope in life is broader than the scope of the definitive and the speculative. This means

that the Fiqh of Nawazil confirms that Islam opened the door of Ijtihad in civil and social issues, and did not restrict people completely. ("You are more knowledgeable about your worldly affairs.")

The Fiqh of Nawazil involves both rulers and scholars. The former because the ruler in Islam is required to have knowledge of Sharia, and the latter is dictated by the reality reflecting the existence of rulers who do not know Sharia. The policy of Abu Bakr al-Siddiq in facing events and Nawazil was carried out by gathering the Companions known for their good management and judgment, in order to resolve the Nawazil and emerging issues confronting the nation that were not known during the time of the Messenger (PBUH).

Umar ibn al-Khattab followed the same approach in addressing general Nawazil. This was confirmed by Imam Abu Ubaydah in the book "Al-Qada'" (The Judiciary) when he said: "Umar used to do that—meaning exactly as Abu Bakr did. If he failed to find it in the Book and the Sunnah, he would ask: Did Abu Bakr pass a judgment on it? If Abu Bakr had a judgment on it, he would judge by it; otherwise, he would gather the people and consult them, and if their opinion settled on something, he judged by it."

Today, we are in dire need of Al-Wansharisi's experience, especially since some of the Nawazil he touched upon in his work *Al-Mi'yar* resemble some of what we see today in the country, such as the Nazilah of proselytizing, apostasy, and converting homes into churches without permits.

As well as the phenomenon of foreign labor that has arrived in Algeria, putting honor at risk-which is one of the five higher objectives of Islamic Sharia. Is it permissible to leave the daughters of Muslims vulnerable to fornication and prostitution?? Or must we deal with this Nazilah with the spirit of the times? We

have a good precedent in Al-Wansharisi when he addressed the issue of prostitution with practical solutions.

Is it not more beneficial to allow these Chinese and other communities to bring in prostitutes from their home countries inside their residential compounds instead of unloading their sexual desires onto the daughters of Muslims? Or we will one day see children in the Algerian streets bearing Asian features, and by doing so, we would have undermined one of the pillars of Islam, which is the preservation of lineage from being lost.

We urge the scholars of the era to reactivate the jurisprudence of Nawazil, and to train jurists and scholars capable of keeping pace with the era and understanding its requirements, and rationalizing political management in a way that aligns with cognitive management.

**

References

1. Agdouche, M, & Benbouziane, A. (2023). The Nawazilia Blog in the Middle Maghreb during the Zayani Era and the Contributions of the Jurists Judges to it '' The Al-Durar Al-Maknouna of Al-Mazouni as a model ''. المحترف , V 10 (2), 777 ,(2)10-792. https://asjp.cerist.dz/en/article/225985Anecdote.
2. Attia, M., & Attia, O. (2024). Manifestations of Cultural and Intellectual Movement in Ottoman Algeria during the 10th-11th AH (16th-17th CE): *Historical studies*. V 12 / 1. pp: 43- 60.
3. Awang, M. B., Mustaffa, A., Yusob, M. L. M., Md. Yusuf, N., Kadir, N. A. A., & Ismail Nawang, N. (2019). The Understanding of Facts in Judicial Process: An Analysis from The Islamic Perspectives . International

Journal of Law, Government and Communication,4(15), 71-83.DOI:10.35631/ijlgc.415008.

4. Belkhir, H. (2021). The Concept of Jurisprudence in Algerian Law. *Proceedings of the 24th International RAIS Conference*. Scientia Moralitas Research Institute. pp: 42-48 . DOI: 10.5281/zenodo.5701669.
5. Bennaceur, Y. L. (2026). Jurisprudential and Administrative Governance of Educational Endowments: A Study of Social Impact Through the Nawāzil of'Al-Mi'yār al-Mu'rib'by al-Wansharīsī. Annales de l'université d'Alger.
6. D'amato, A. (1984). *Jurisprudence: a descriptive and normative analysis of law*. Martinus Nijhoff Publishers.
7. Dahmani, B., & Djoudi, M. (2025). Preserving the architecture of the Ksour of the M'zab Valley through Islamic urban jurisprudence (Fiqh El-Imran) and its sustainability. مجلة أبحاث, 10(2), 616–634. https://asjp.cerist.dz/en/article/281872
8. Fatma, A. (2024). The role of scholars of the State of Algeria in achieving the quality of stability of economic, social and cultural life -Mazouna as a model. *STUDIES IN EDUCATION SCIENCES*, *5* (4), e 12492. pp: 1-19. https://doi.org/10.54019/sesv5n4-006
9. Favale, M., Kretschmer, M. and Torremans, P.C. (2016), Is there an EU Copyright Jurisprudence? An Empirical Analysis of the Workings of the European Court of Justice. The Modern Law Review, 79: 31-75. https://doi.org/10.1111/1468-2230.12166
10. Güney, N. (2024). Maqāsid al-Sharī'a in Islamic Finance: A Critical Analysis of Modern Discourses. *Religions*, *15*(1), 114. pp: 1.15 https://doi.org/10.3390/rel15010114
11. Kadaoui, Ahmed El (2025) "Observance of Economic Values in Andalusian Nawazil Heritage and its Impact on Rationalizing Commercial Conduct: Deriving General Foundations and their Applications in Branches and Specific Cases," Journal of King Abdulaziz University: Islamic Economics: Vol. 38: Iss. 3 https://doi.org/10.64064/1658-4244.1006
12. Kane, O. (2016). *Beyond Timbuktu: An Intellectual History of Muslim West Africa*. USA: HARVARD UNIVERSITY PRESS.
13. Suud Sarim Karimullah, & Arif Sugitanata. (2023). The Hanafi School of Islamic Jurisprudence Literature: A Historical Account. *Journal of Islamic History and Manuscript*, *2*(1), 1–20. https://doi.org/10.24090/jihm.v2i1.7788.

14. Klaina, M. (2024). Nawazil Jurisprudence As a Source on the Islamic World: The Case of Al-Ajwibah Al-Kubra By: Abdelkader Al-Fassi. *HISTORICAL: Journal of History and Social Sciences*. V3 N3.
15. Lacey, N. (2010). Analytical jurisprudence versus descriptive sociology revisited. *Legal theory and the social sciences*. Routledge.
16. Ladjal, T. (2017). The Christian presence in North Africa under Almoravids Rule (1040–1147 CE): Coexistence or eradication? *Cogent Arts & Humanities*, *4*(1). pp: 1-17. https://doi.org/10.1080/23311983.2017.1334374
17. Lane, L. (2018). The Horizontal Effect of International Human Rights Law in Practice: A Comparative Analysis of the General Comments and Jurisprudence of Selected United Nations Human Rights Treaty Monitoring Bodies. European Journal of Comparative Law and Governance, 5(1), 5-88. https://doi.org/10.1163/22134514-00501001
18. Fay .M .A (2001). *Autobiography and the Construction of Identity and Community in the Middle East*. Palgrave Macmillan.
19. Nutting, E. (2018). Making a Living in Silk: Women's Work in Islamic and Christian Granada, Spain, 1400–1571. *Journal of Women's History*. Volume 30, Number 1. pp. 12-34. Doi:10.1353/jowh.2018.0001
20. Pasquale, F., & Cashwell, G. (2018). Prediction, persuasion, and the jurisprudence of behaviourism. *University of Toronto Law Journal*. V 68 N/ s1. P: 63-81.
21. Qasmi, M. (2017). The Orientation and Approach of Indian Ulama in Resolving Contemporary Issues Through Islamic Jurisprudence in Modern India. Islamic Studies,Indian Muslims, p: 1.22.
22. Islamic law and jurisprudence *Justice and Fraternity in Contemporary India Creating a*.
23. Rafique, M., Abdullah, A., & Fatoni, M. (2023). Analysis of Ḥiyal (Legal Stratagems) Cases in Islamic Financial Law. *Russian Law Journal*. Vol. 11 No. 2. P. 299- 308 . https://doi.org/10.52783/rlj.v11i2.666
24. Saeedi, M., Saeedi, A., & Hosseini, S. (2023). The Nature and Functions of Urban Jurisprudence as a Branch of Islamic Civilization Sciences. *of the Socio-Political Thought of Islam*. V4 N 1, p:63-81.

25. Tobia, Kevin, Experimental Jurisprudence (February 1, 2021). 89 University of Chicago Law Review 735 (2022), Available at SSRN: http://dx.doi.org/10.2139/ssrn.3680107.
26. Wacks, R. (2021). *Understanding jurisprudence: An introduction to legal theory*. Oxford University Press.