

IBN NUJAYM'S "AL-ASHBAH WA-N-NAZA'IR": REASONS FOR ITS COMPOSITION, STRUCTURE AND PLACE IN HANAFI LEGAL MAXIM SCHOLARSHIP

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Abstract. *The article analyses "al-Ashbah wa-n-naza'ir" by Zayn al-Din ibn Nujaym (d. 970/1563) within the history of Hanafi scholarship on legal maxims. It examines the reasons for the work's composition, its seven-part structure, the author's distinction between a maxim (qa'ida) and a particular rule (dabita), and its relation to the works of Ibn al-Subki and al-Suyuti. The publication history of the work, the commentaries written on it and its role as a source for the "Majallat al-ahkam al-'adliyya" are also discussed. The study substantiates its status as the work that bridged a long gap in Hanafi legal theory.*

Keywords: *Ibn Nujaym, "al-Ashbah wa-n-naza'ir", legal maxims, Hanafi school, particular rule, "Majalla", al-Hamawi, Ibn Abidin.*

INTRODUCTION

The field of legal maxims (al-qawa'id al-fiqhiyya) is one of the most theoretical and, at the same time, one of the most practical branches of Islamic law. Maxims gather hundreds of particular cases (furu'), scattered across different chapters, under a single general ruling, and in this way they guide the jurist when a new question arises. Although in the Hanafi school this line of scholarship began with the names of Abu Tahir al-Dabbas and Imam al-Karkhi, for several subsequent centuries no serious new work was produced in the field (al-Nadawi, 1993).

The work that filled this gap was "al-Ashbah wa-n-naza'ir" by Zayn al-Din ibn Ibrahim ibn Muhammad, known as Ibn Nujaym (d. 970/1563). Although in terms of style the author followed the works of Ibn al-Subki and al-Suyuti in the Shafi'i school, he composed his own book in accordance with the furu' and usul of the Hanafi school (Ibn Nujaym, 2011). In this way he bridged an important gap that had lasted in the school from the seventh/thirteenth to the tenth/sixteenth century and raised the field of legal maxims to a new stage.

The significance of the work increased still further in the following centuries, since it served as one of the direct sources for the “Majallat al-ahkam al-‘adliyya”, compiled in the Ottoman period (Majallat al-ahkam al-‘adliyya, 1876). The aim of the present article is to determine the reasons for the composition of the work, its internal structure and its place in Hanafi scholarship on legal maxims.

MAIN PART

The principal source of the research is the critically edited text of “al-Ashbah wa-n-naza’ir” published in Beirut, to which the commentaries of al-Hamawi and Ibn Abidin were added as supplementary sources. The structure of the work was described section by section and compared with the author’s own explanations in the introduction; information on its publication history was established on the basis of bibliographical sources. The study employs descriptive, textual-analytical and comparative-historical methods (Boymirov, 2026).

The author states openly the reason for composing his work. According to him, the scholars of Hanafi law had written a great many abridged and extended texts, commentaries and books of fatwas, and had selected the opinions on which fatwas are based in the school, yet no single integrated book had been produced that would encompass both the legal maxims and the ashbah wa-naza’ir together with the material of jam‘ and furuq. While working on “al-Bahr al-ra’iq”, his commentary on “Kanz al-daqa’iq”, and while sorting out the chapter on invalid sale, Ibn Nujaym wrote a short work entitled “al-Fawa’id al-Zayniyya fi fiqh al-Hanafiiyya”, which contained some five hundred maxims together with their exceptions. Later, in order to overcome the scattered character of this material, he decided to gather it under seven headings, and in this way “al-Ashbah” came into being. The sources record that this was the author’s last book, and that when it was completed he fell ill and died of that illness (Ibn Nujaym, 2011).

The work consists of seven sections. The first is “al-Qawa’id”, in which the seven universal maxims recognised in Hanafi law are expounded. As the first maxim the author adduces the principle that reward depends upon intention, showing in which acts intention is a condition and in which it is not, and how intention relates to acts of worship, to transactions and to disputed questions; he divides acts into their otherworldly and their worldly aspects. In explaining the second maxim, that matters are judged according to their purpose, he gives the lexical and technical meanings of intention

and stresses that intention is necessary in order to distinguish an act of worship from a habitual act: abstaining from food or sitting in a mosque brings reward if it is done with the purpose of worship, but is considered an ordinary habit if it is done for shade or rest. In the same place the conditions of intention are enumerated – Islam, discernment, knowledge of the thing intended, and the absence of any extraneous matter between the intention and the act (Ibn Nujaym, 2011).

The second section is entitled “al-Fawa'id”; it begins with purification and ends with the law of inheritance, and in it a maxim is mentioned for each subject and examples are given. At the beginning of this section the author explains the difference between a maxim (qa'ida) and a particular rule (dabita): a maxim brings together various subjects of law in one place, whereas a particular rule collects only the questions belonging to one specific chapter. This distinction was later accepted as a stable technical term in the literature on legal maxims. The third section, “al-Jam' wa-l-farq”, covers questions that are outwardly similar but different in their ruling, or, conversely, that differ in form yet are connected to a single ruling. The fourth section, “al-Alghaz”, was written in order to develop the skill of unravelling complex meanings, to teach by arousing interest and to make it possible to view a question from different points of view; the author states that he selected the finest examples from Ibn al-Shihna's work in this field and presented them in abridged form (Ibn Nujaym, 2011).

The fifth section, “al-Hiyal”, is devoted to legal stratagems; in it the author adduces examples from such subjects as prayer, fasting and zakat, and seeks to show that a stratagem is a way of avoiding what is forbidden. The sixth section, “al-Furuq”, sets out the distinctions in questions of prayer, fasting, zakat, the hajj, marriage, divorce and manumission. The seventh section is entitled “Hikayat wa mursalat”; its first part contains interesting events that took place between Abu Hanifa and his students, together with the imam's answers to their legal questions, while its second part contains Abu Hanifa's testament to Imam Abu Yusuf. The fact that in the introductory part of the book all the headings and the subjects they cover are given in the form of a detailed table of contents makes the work considerably easier to use (Ibn Nujaym, 2011).

Ibn Nujaym's style rests on concise and substantial sentences. In expounding a question he makes use of the question-and-answer form, frequently cites the views of earlier scholars and in many cases also pronounces his own judgement upon them, recommending that a particular view be acted upon or rejecting it. The author gives no

independent place to the maxims of legal theory (*usul*), referring to them only in those chapters where necessity arises; this shows that his aim was to compose maxims while keeping the *furu'* in the principal position (Ibn Nujaym, 2011).

The subsequent fate of the work confirms its standing in the scholarly environment. It was first published in 1825 in Calcutta in India, and was subsequently reprinted repeatedly in Istanbul in 1872, 1904 and 1968, and in Egypt in 1880. Among the commentaries written on the work, al-Hamawi's "Ghamz 'uyun al-basa'ir" (al-Hamawi, 1985) and the studies of Ibn Abidin (Ibn Abidin, 2003) occupy a special place. Most important of all, however, is the fact that "al-Ashbah" served as a source in the compilation of the "Majallat al-ahkam al-'adliyya": in this Ottoman codification the reduction of maxims to the form of statutory articles rested directly on the system created by Ibn Nujaym (Majallat al-ahkam al-'adliyya, 1876). In this respect the work is assessed as the connecting link between classical fiqh and modern legal codification.

CONCLUSION

"al-Ashbah wa-n-naza'ir" is the work that bridged a gap of more than three centuries in Hanafi scholarship on legal maxims, and the history of its creation arose from the need to arrange more than five hundred maxims and exceptions collected in the course of the author's work on another book. Its seven-part structure united maxims, the benefits drawn from the *furu'*, *jam'* and *farq*, *alghaz*, *hiyal*, *furuq* and narratives under a single cover, and thereby gave the genre an integrated form. The distinction the author drew between a maxim and a particular rule became a stable technical term in the subsequent literature, while his method of keeping the *furu'* in the principal position made the work convenient for the practising jurist. The publication history of the work and the commentaries written on it show that it was long used as a teaching and scholarly source in various regions of the Muslim world, while its role as a source for the "Majallat al-ahkam al-'adliyya" makes it a direct link between classical fiqh and modern codification. Today a full scholarly translation and annotated edition of the work remains a pressing task for Uzbek Islamic studies.

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