

Ibadi Juristic Reasoning Between Doctrinal Unity and Methodological Diversity: A Comparative Study of *Diwan al-Ashayikh* and *Al-Nil* – The Chapter on Fasting as a Case Study—

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Abstract:

This study undertakes a comparative examination of two of the most prominent authoritative jurisprudential references relied upon in Ibadi fatwa practice in the Islamic Maghrib, namely: *Diwan al-Ashayikh* (manuscript, Wadi Areg, 5th/11th century) and *Al-Nil* (published, Wadi Mzab, 13th/19th century). The comparison is conducted through an analysis of each work's methodological approach to presenting jurisprudential issues, and a study of the rulings contained in the chapter on fasting (*Kitāb al-Ṣawm*) as a case study.

The study finds that *Diwan* tends toward elaboration and comprehensive exposition in presenting various juristic opinions alongside the relied-upon view (*al-qawl al-mu'tamad*), frequent citation of concessions (*rukhaṣ*) with attribution to their proponents, and careful attention to jurisprudential sub-branches (*tafrī'*). In contrast, *Al-Nil* tends toward conciseness in presenting opinions, systematic organization, and specification of the most authentic opinion (*al-qawl al-aṣaḥḥ*) alongside reference to other views, with the formulation of comprehensive legal maxims (*qawā'id kulliyyah*). Despite this methodological divergence, the research reveals substantial agreement between the two works on major issues, including the pillars of fasting (*arkān al-ṣawm*), the conditions of its obligation (*shurūṭ al-wujūb*), and the rulings on the crescent sighting (*aḥkām al-hilāl*), whereas differences emerge in detailed matters such as the delay of the ritual bath (*ghusl*), lying, backbiting (*ghībah*), coercion (*ikrāh*), and the formulation of jurisprudential rules.

The study also documents issues that are unique to each work, underscoring that neither book renders the other dispensable. It concludes by recommending that both muftis and students of knowledge draw upon both sources, as they reflect the richness and diversity of Ibadi juristic reasoning in accordance with differing contexts and periods, while maintaining methodological unity in the foundational principle.

Keywords: Jurisprudential Ijtihād; Ibadi Fatwa Literature; Ibadi Jurisprudence; *Diwan al-Ashayikh*; *Al-Nil*.

1. Introduction

Jurisprudential writing in the Ibadi school of thought varies between comprehensive jurisprudential encyclopedias and short, focused texts. Many of these works have taken care to stipulate the applicable sayings that are the focus of the fatwa, distinguishing them from all other sayings and other aspects of jurisprudence.

The book “Diwan al-Sheikh” and the book “The Nile” are considered among the most prominent of these works, which represent two major cities of the Ibadi school of thought in the Islamic Maghreb, namely: “Wadi Areegh” and “Wadi Mazab” in Algeria. The book “Diwan al-Sheikh” includes the jurisprudential rulings relied upon in the fatwa in Wadi Areegh, and represents a summary of jurisprudential jurisprudence in that region, while the book “The Nile” includes the jurisprudential rulings applied in The fatwa in the Mzab Valley, which is in fact a summary and edit of the book “The Clarification”, which represented the jurisprudential reference for Ibadi scholars in North Africa at the time of its author, Sheikh Amer Al-Shamakhi, and after, especially in the Nafusa Mountains in Libya - the origin of its author - and other Ibadi regions. This characteristic makes the two books fertile material for comparative study that aims to reveal the unity of the jurisprudential approach of the Ibadi school of thought on the one hand, and the richness of The jurisprudence of its jurists on the other hand, according to different environments and times.

These two books are considered among the references approved by Ibadi jurists in the Islamic Maghreb throughout the different eras, and the scholars have stipulated the order of the jurisprudential references as follows: the book “The Clarification” (printed), which was approved in the Nafusa Mountains especially in its time, then “The Diwan of Abu Zakaria al-Janawani” (some of it is manuscript and the other is printed), then “The Diwan of Sheikhs” (manuscript)¹ ‘Then the book 'The Nile' (printed) in the modern era.

This study seeks to examine the extent of agreement and difference between “Diwan al-Sheikh” and “The Nile” in stipulating applicable sayings, by conducting a systematic and jurisprudential comparison between their contents.

The study took the “Book of Fasting” as a model for application and analysis, based on its central importance in worship, and the many jurisprudential issues, which enable conclusions to be drawn in this regard. This study aims to reveal the aspects of agreement and difference between these two Ibadi references on two levels:

The first: The methodological level, which is concerned with the method of presenting the jurisprudential material, the method of texting applicable sayings, and how to deal with the jurisprudential disagreement.

The second: the applied level, which is concerned with the partial jurisprudential rulings related to the book of fasting, analyzing them, and explaining the areas of agreement and disagreement therein.

This study was completed after carrying out a comprehensive summary of the jurisprudential issues contained in each of the two books on the subject of fasting, while acknowledging the difficulty of following them in the Book of the Nile, as it is a brief compilation, and the book of the Diwan of Shaykhs, which is still in manuscript, and then comparing them analytically to answer the problem of this study.

2. The methodology adopted in the two books

Anyone who considers the way fasting issues are presented in both “Diwan Al-Sheikh” and “The Nile” discovers a clear discrepancy in the methodology followed, a discrepancy that reflects the purpose of writing each book.

1.2. “Diwan Al-Sheikh” curriculum

Before starting to present the methodology followed in the book of the Diwan, it is okay to present the names of the authors involved in writing this encyclopedia of jurisprudence in the fifth century (05 AH) in Wadi Righ in Algeria, and they are eight Ibadi jurists: Abu Sa’id Ikhlafan bin Ayyub al-Zanzafi al-Masnani, from the Nafusa of Amsnan, who wrote the book on Marriage and Issues of Maternal Maternal Affairs, Ismail bin al-Sheikh Yadir, the author of the Book of Prayer, and Sheikh Abu al-Abbas bin Muhammad al-Farasta’i. The author of the book on menstruation, other than the first two chapters, and Muhammad bin Salih, the author of the book of commandments, from Nafusa Amsnan, and Yusuf bin Musa al-Darjini, from Qantanar, and Yusuf bin Imran bin Abi Imran Musa bin Zakaria al-Mazzati, from Tajdit, and Abdullah bin Abi Salam al-Ramuli, from Areej, and Ibrahim bin Abi Ibrahim al-Dajmi².

Then I presented these books to Sheikh Abu Al-Rabi Suleiman bin Yakhlaf Al-Mazzati, Abu Al-Abbas Ahmad bin Muhammad bin Bakr, and Abu Muhammad Maksen bin Al-Khair.

“Diwan al-Sheikh” is characterized by a detailed nature of its rulings and issues, as it is dominated by simplicity and elaboration in dealing with jurisprudential issues, and the features of its approach are evident in the following elements:

2.1.1 Start with what is being said and then mention the other sayings :The Diwan follows a clear approach to presenting issues, as it usually begins by mentioning the applicable or approved statement in the doctrine, then goes on to mention other contradictory statements. The second statement is often described as a “license,” as in the issue of lying, backbiting, and gossip. It begins by stating that it invalidates fasting, then mentions the statement of the license for the validity of fasting despite the sin³.

He may also begin with the permissibility and then mention the more severe opinion, which indicates that the statement of permissibility is the one in effect, such as the question of whether pre-eclampsia nullifies the fast or not. He begins by saying, “There is no nullification,” and then mentions the other opinion, “by repeating it with expiation⁴ ‘This method indicates that the first statement is the approved one, and that subsequent statements are likely statements or exceptional permissions.

.2.1.2 Branching out on issues :The Diwan is concerned with mentioning subsidiary issues, which indicates a jurisprudential environment concerned with investigating branches and calamities. We find it detailing cases of testimony to the sighting of the crescent moon ⁵. And issues of fainting of all kinds ⁶ And the consequences of swallowing something that does not sustain itself, such as dirt, metals, tears, and mucus ⁷ And the issues of missing ablution during the day in Ramadan ⁸ Issues of travel and breaking the fast with their various conditions ⁹ He mentioned these branches as evidence that the Diwan was, or was prepared by its authors, to be a detailed reference for muftis.

2.1.3 Attributing statements to their authors: The Diwan worked on attributing some concessions to those who said them, such as “Abu Nuh” and “Amrous” on the issue of laxity in making up for fasts¹⁰ ‘And “Aban bin Waseem” on the issue of eating when one is awake from sleep on a cloudy day ‘¹¹ This feature confirms the documentary nature of the book, especially the licenses, which reflects an interest in the historical and documentary aspect of jurisprudence, in addition to editing jurisprudential rulings.

2.1.4 Mention of licenses frequently : One of the prominent features of the Diwan is the frequent mention of concessions in various issues. We find the phrase “and say the concession” repeated in many issues, such as the issues of swallowing tears, mucus, congestion, and fainting¹² ‘And wasting washing ‘¹³ And others, and this reflects the Bureau’s keenness to present an integrated picture of jurisprudential pluralism, and not limit itself to the approved statement alone.

2.1.5 Presenting evidence and effects : The Diwan does not limit itself to mentioning abstract rulings, but sometimes cites legal evidence, including what it mentioned regarding the legitimacy of fasting¹⁴ ‘And the hadiths and hadiths that encourage it ‘¹⁵ He also mentions some explanations for the disagreement, such as the difference in whether Ramadan is considered “one obligation or various obligations¹⁶.

2.2 Methodology of the book 'The Nile'

The book 'The Nile' is characterized by a brief, edifying nature. As a summary and paraphrase of the book 'Al-Idah' in various jurisprudential chapters, including the book on fasting, the author, Sheikh Abdul Aziz bin Al-Hajj Al-Thamini, aimed to bring the jurisprudential material of the book 'Al-Idah' (d. 08 AH) closer and edit it to the people of his time in the 13th century AH, and these are some of the features of his approach:

2.2.1 Briefness while preserving the rulings on multiple issue : Al-Nil prevails in brevity in presenting jurisprudential issues, as he presents the ruling directly without excessive elaboration or branching out. For example: While the Diwan devotes pages to issues of testimony to the crescent moon, Al-Nil presents them in a few lines, focusing on the basic rulings without prejudice to the rulings on those issues¹⁷.

2.2.2 Organization and logical classification at the beginning of the jurisprudential chapter: Al-Nil is characterized by an organized, systematic beginning at the beginning of the chapter on fasting, where it begins by dividing fasting in terms of ruling into obligatory and recommended, and in turn divides the obligation into three sections: a specific obligation (such as Ramadan), an obligation for a meaning (such as atonement), and an obligation for one’s obligation upon oneself (such as a vow), and then the discussion is separated from Ramadan fasting¹⁸ ‘Such entries are important for the reader of the book. It facilitates the general perception of those sections.

2.2.3 Stating the most correct opinion: The Nile Book is keen to stipulate the most correct or “most correct” opinion in the doctrine, as stated in the issue of abstaining from the very dawn¹⁹ ‘The issue is that if a traveler or sick person dies as a result of breaking their fast, they do not have to make up for it, and I consider this to be the correct opinion ‘²⁰ The issue of

atonement for an intentional person is that it is subject to choice ,²¹ This feature makes the book a reference for muftis and students of legal knowledge by facilitating access to the most correct opinion in the doctrine directly on many issues, while mentioning the most likely opinions due to the possibility that the jurist who gave the fatwa may need them for some of the people who ask questions.

2.2.4 Editing university college rules for some issues :There may be many jurisprudential examples that have the same ruling, and Al-Nail says to collect them in a rule that makes it easier for the reader to memorize and remember them and to recall the branches that are under them, such as the rule “intentionally spoiled what came from the stomach” which collects everything that came from the stomach and came from the mouth and then returned it to the stomach intentionally, such as tears, mucus, and saliva, thus resulting in destruction and error, while including a statement of permission²².

2.2.5 Stripping the sayings of their attribution to their owners : Al-Nil rarely mentions the names of the authors of the sayings or narrations. He formulates the jurisprudential material in an abstract, objective form, focusing on the jurisprudential content and not on attributing it to the notables. This is consistent with the nature of the “Abbreviations” books, which aim to present the doctrine in its final, most likely form. When he mentions the license in the issue of eating one who is awake from sleep on a cloudy day, he does not attribute it to “Aban bin Waseem” as the Diwan does²³.

2.3 Similarities between the two approaches

After presenting the basic features of each book's approach, some common points in the two approaches can be mentioned:

2.3.1 Reporting the jurisprudential difference within the sect: Both books resolve the disagreement on some jurisprudential issues within the Ibadi sect itself, although the method of presenting this disagreement differs. While the Diwan investigates it and enumerates the concessions, the Nile sometimes refers to it or hints by stipulating “the most correct” that there are other more likely opinions.

2.3.2 Commitment to mentioning what is applicable : Both books remain true to their primary goal, which is to provide mention of what is applicable in jurisprudential issues in the school of thought. In the Diwan, it is observed to start with the applicable saying and then mention the other sayings, and in the Nile, it is to start with the applicable or more correct saying at times, or by stating the more correct one after mentioning the sayings at other times, and this confirms that both books were practical references for fatwas and judiciary in their respective regions, as well as a reference for students of knowledge in order to control and memorize rulings.

3. The provisions agreed upon between the two books

A review of the issues of fasting mentioned in both books shows a great deal of agreement in the jurisprudential rulings, which confirms the unity of the principles upon which the jurisprudence of the Ibadi school of thought was built, despite the divergence of the regions in which the Ibadism was present, between Nafusa in Libya, Al-Jarid in Tunisia and

Djerba in Tunisia, Wadi Areej in Algeria, and M'zab in Algeria as well, and the multiplicity of works in these regions. Among the most prominent rulings agreed upon in the two books are:

3.1 Obligatory fasting requirements: The two books agree that the basic fasting obligations are: knowledge, intention, and abstaining from things that break the fast²⁴. They also agree that the conditions for the obligation of fasting during Ramadan are one of the four: sighting of the crescent, martyrdom, fame, or completing the thirty days of Sha'ban²⁵.

3.2 Provisions of the certificate confirming the crescent moon: This is by accepting the testimony of two just trustees.²⁶

3.3 Rulings on situations that occur to a person during Ramadan : The two books agree in many of the rulings related to situations that may occur to a person, such as he is obligated after he was not like that, for example, or he ate out of forgetfulness, and so on, with differences in some of the rulings that branch from them:

3.3.1 The boy reaches puberty : The Diwan and the Nile agreed that if a boy reaches puberty, he does not have the right to eat for the rest of his day .

As for making up for the missed months of the month, the Diwan stated that there is no need to make up for it, and Al-Nil mentioned the difference between those who oblige making up for it by considering Ramadan as one obligatory duty, and considered it to be the chosen opinion, with there being a statement that it is not obligatory for him to make up for it because he is only required to make up for what he realizes.

As for repeating the day on which he reached puberty if he ate on it, the Court stated that he must repeat it with a statement of permission, and the Nile did not refer to the issue²⁷.

3.3.2 Waking up of the insane: The Diwan and the Nile agreed that if an insane person wakes up during the day in Ramadan, he does not have the right to eat for the rest of his day, nor to make up for what he missed.

As for the Nile, it differentiates between two cases: the first is if it becomes diarrhea before Ramadan and does not recover until after it has passed, then he does not have to make up for it or feed it; Because he did not witness it, and in the second case, if he wakes up during part of the month, then he must fast what he has reached, and he must not make up what he has past, even though there is a statement obliging him to make up for it.

Meaning: The two books agree on the ruling for the second case. It is that if the insane person regains consciousness during part of the month, then he must fast what he has regained, and not make up what he has past, and the Nile added a statement by obliging him to make up for it.

As for repeating the day on which he overstayed if he ate on it, the Court stated that he must repeat it with a statement of permission, and the Nile did not refer to the issue²⁸.

3.3.3 .The polytheist's conversion to Islam: The Diwan and the Nile agreed that if the polytheist converts to Islam during the day in Ramadan, he must abstain from abstaining for the rest of his day, and as for making up what has passed during the month, the Nile mentioned the obligation of making up for it in the chosen opinion; Considering Ramadan as

one obligatory duty, although there is a statement that it is not obligatory to make up for it; Because he only had to do what he realized.

While the Diwan mentioned the disagreement between repeating only the day on which he converted to Islam, or making up for the past month²⁹.

3.3.4 Fainting: They agreed to bring back the one who fainted during the night of Ramadan, and Al-Nile considered it to be the more prudent opinion, with the Diwan mentioning a license not to repeat, and Al-Nil mentioned other opinions: that fainting is not invalid, i.e., not repeating, and a statement of distinction between one who fainted for most or the least of the day.

Al-Nil pointed out that the reason for the disagreement in the doctrine regarding fainting is that it is like insanity and there is no making up for it, or is it like forgetfulness and sleep so making up for it is necessary³⁰.

3.3.5 Forgetting: They agree that eating or drinking out of forgetfulness does not invalidate the fast and does not require repeating it, according to the approved opinion, noting that there is a contradictory opinion regarding repeating it³¹ ‘As for intercourse, they agree that if it is by forgetfulness, there is nothing wrong with the one who did it, and the Diwan is unique in mentioning the saying of repeating the same in intercourse³².

3.4 Rulings on things that break the fast: They agree in many things that break the fast and their rulings:

3.4.1 Swallowing what is not sustenance : They agree that there is a disagreement regarding the ruling on swallowing dirt, stone, salt, metals, etc., with the judiciary giving preference, and the Nile considered it to be the correct one. As for the Diwan, it mentioned the permission not to destroy anything by eating anything that cannot be sustained or nourished³³.

3.4.2 Swallowing tears and mucus : They agree on the ruling of demolition for the intentional perpetrator, mentioning the license. Al-Nil also mentioned the rule in the matter of “deliberately spoiling something that enters the stomach,” meaning tears, mucus, and saliva if it emerges from the mouth, and it entails destruction and error, despite the presence of the statement of permission, and he stipulated not to apply medicine to what leads to the throat and advised against saying that it is permissible³⁴.

3.4.3 Congestion with food or drink: The Court considers it to break the fast with the license, while the Nile did not stipulate congestion, and was satisfied with considering that everything that enters the stomach from any outlet is invalid, without mentioning the license³⁵.

3.4.4 Swallowing water that was put in the mouth unintentionally: They agreed to mention the disagreement regarding the water for ablution or washing into sayings: saying: There is no substitute if the water in the mouth is for an afterlife, such as ablution or washing for ritual impurity, saying: There is no substitute in ablution and washing for voluntary prayers, but the obligatory one does not, and the Diwan added another saying, which is repeating the obligatory ablution for the first time, and the Nile added another saying as well, which is the substitute if the ablution and washing was done before the time for prayer begins.

However, if the water in the mouth was for purposes other than matters of worship, such as due to immersion, then they agreed to include the statement of repeating, and the Diwan excluded that the immersion was to save the soul, so there is no repeating³⁶. (168 :ح / و)

3.4.5 What cannot be avoided: Both of them believe that there is no harm for the fasting person to do anything that enters his throat unintentionally, such as dust, flour, flies, or smoke. The owner of the Nile advises those who perform work that contains dust to protect themselves with a mask and the like. The Nile added that if blood enters his stomach from a wound in his mouth or nose, he is unable to retain it, so it is not annulled or reinstated³⁷.

3.5 The Sunnahs and Etiquettes of Fasting: The two books share the desirability of a number of Sunnahs and Etiquettes, noting that the Nile is limited to some of them³⁸:

- It is desirable to hasten the breaking of the fast and delay the suhoor, while mentioning the evidence.

- It is desirable to pray at breakfast.

- It is recommended to start with whatever food and drink is available.

- The desirability of fasting certain days of the year, although there is a difference in determining them. The Diwan stated that it is desirable to fast twelve days, while mentioning that it is fifteen days and others that it is twenty days. The days that they agreed to mention: 27 Rajab, 25 Dhul-Qi'dah, days 1, 3, 7, 9 Dhul-Hijjah, 06 days of Shawwal. The Diwan added in a statement: 15 Shaban, 03 Dhu al-Hijjah, 1 Muharram. While the Nile added the days: 10 Muharram, the month of Rajab, 01 to 09 Dhu al-Hijjah, and the 13, 14, and 15 of each month.

3.6 Provisions of judgment, atonement, and wills:

3.6.1 Making up for Ramadan: They agree that making up for it must be sequential, just as performing it was sequential, even if the days of breaking the fast are separate from Ramadan³⁹.

3.6.2 Pregnant and breastfeeding women: They are permitted to break the fast for fear of the child, and they are required to make up for it. The Nile added feeding, while the Diwan did not mention it⁴⁰.

3.6.3 The will to fast: They agree that if someone dies and is obligated to fast, his heirs may fast on his behalf or feed him if he bequeaths it, while also mentioning another saying, which is that no one should fast on behalf of anyone. The Diwan has detailed the issue of the will to fast, even devoting two special chapters to it⁴¹.

3.6.4 The fasting of women and men in the will: The two books agree on the order of the heirs in their fasting on behalf of the dead, so that the menstruating women begin to fast, then the men, and their fasting is continuous, which is what the Nile approved, with a statement of permission⁴².

These are some of the issues in which agreement was noted between what was stated in the two books, which confirms the unity of the jurisprudential approach of the authors as well as of the jurists in the two regions.

4. Issues in which there is disagreement between the two books

The difference between the two books emerges in many issues, whether in terms of the ruling itself, or in terms of the arrangement of effects on it, or in terms of the formulation of the jurisprudential rule, and these differences can be classified as follows:

4.1 Differences in the origin of the ruling or its effects:

4.1.1 Forced sexual intercourse: Compensation is required in the case of coercion to eat or drink. As for forced sexual intercourse, the Diwan and the Nile stipulate that the fast of one who has intercourse is broken by force, and the Diwan also stipulates the license, which is permissible, as it is the same as eating in the ruling⁴³.

4.1.2 Missing ablution: The Diwan details the issue of missing ablution due to impurity and mentions the well-known saying: It is the demolition of what has passed, and he mentions concessions in that, including if one is in a state of impurity to delay washing until the time of the first prayer, and if one is in a state of impurity after the noon prayer, then the concession is made until the afternoon prayer, and if one is in a state of impurity after the afternoon prayer, then it is permitted until sunset, then there is a concession in it, and a statement of concession to the sunset prayer. As for the Nile, he arranges breaking the fast on the one who missed the washing in an absolute manner, without mentioning the permission to delay⁴⁴.

This issue shows the scope of the many concessions mentioned by the authors of the Diwan, in a way that does not make the ruling one in the doctrine on this issue, as might be understood from the Nile.

4.1.3 Lying and backbiting: The Diwan mentions the well-known saying in the doctrine that lying and backbiting invalidate fasting, and another saying that it is a license with the consequence of sin, while Al-Nil corrects the saying that fasting is invalidated by the one who commits a major sin, without mentioning the other sayings⁴⁵.

4.1.4 Tasting: The Diwan considers tasting food or drink objectionable to the fasting person, while tasting is not considered objectionable to the fasting person and is permissible with caution⁴⁶. This is a difference in the mandatory ruling between disliked versus permissible, unless we consider permissibility with caution as tantamount to dislike.

4.1.5 The knot: The Nile mentioned the disagreement regarding the ascendant from the chest and the one descending from the head, and it is three opinions: destruction, concession, and the chosen opinion breaking the fast with the ascendant, not the descendant, while the Diwan mentioned destruction in the case of the ascendant coming from the head with license, and that there is no destruction in the ascendant with the license, which is contrary to the chosen opinion stipulated in The Nile⁴⁷.

4.1.6 A woman's fasting without her husband's permission: The Diwan mentions this issue in some detail: She should not ask his permission for a voluntary fast, and she should ask his permission for a voluntary fast with a statement of permission, and if a virgin marries while she is under her father's rule, then she should not ask her husband's permission to fast, like a married woman in this case, whether her husband brings her or not. As for Nile, he did not mention this detail, and this issue is an example of issues that were detailed in one book rather than another, which confirms the assumption that all books in the field are reliable⁴⁸.

4.2 Formulating rules and editing disputes:

4.2.1 Swallowing what does not sustain itself: The Nile formulates the issue in a general and comprehensive rule: “Intentionally spoiling what comes from the stomach.” Then he applies this rule to tears, mucus, and saliva if it emerges from the mouth, while the Diwan addresses each issue separately: swallowing tears, swallowing mucus, swallowing knots from the head, and swallowing knots from the chest⁴⁹ ‘This difference reflects a difference in approach: the Nile tends to be theorized and restricted; It is the “abbreviations” approach, while the Diwan tends towards application and branching.

4.2.2 Division of things that break the fast: Al-Nil is distinguished by establishing a theoretical division of the person who breaks the fast without an excuse in Ramadan into three cases: intentionally, negligently, and suspiciously, and explains the consequences of each case of repentance, atonement, making up for it, and compensation⁵⁰ ‘This theoretical division is not included in the Diwan in this formulation, although the jurisprudential details mentioned in the Diwan can be included within these sections, and this division benefits the reader because it depicts the issue abstractly.

4.2.3 Issues of judgment and atonement:

4.2.3.1 Atonement for intentionally breaking the fast: Al-Nil stipulates a choice between the three qualities (freeing a slave, fasting for two consecutive months, or feeding sixty poor people) in the expiation for intentionally breaking the fast, and states that this is the most correct opinion, while the Diwan did not mention this issue in the form of choice or order, and merely mentioned “heavy expiation” and mentioned the disagreement as to whether it is a heavy expiation for each day or one heavy expiation for the entire month⁵¹.

4.2.3.2 Making up for it after the start of another Ramadan: Al-Nile separates the issue of someone who missed making up for Ramadan until the next Ramadan began, so he stipulates that he must feed a poor person for every day he missed making up for it out of fear that he will perish before he makes up for it. Then he fasts the second, and then makes up for those days. If the second Ramadan enters and he does not make up for it or feed, then he has to make up for it only after fasting the second Ramadan. This detail means that the reason for feeding in this case is not as a matter of punishment, but rather because of fear of Destruction before the judiciary, which is an issue that was not mentioned in the Diwan in this detail⁵².

4.2.4 A foreigner’s fasting on behalf of the dead and feeding him: The Diwan and the Nile agree that a foreigner (other than an heir) does not fast on behalf of a dead person, with a statement of permission, and the same applies to the permission in fasting for an heir of heirs, but rather he must provide food.

As for feeding from a foreigner, the Court stated that it is not permissible to feed him as well, and he should not take money from the person named, while mentioning a statement that it is permissible to feed him from the Caliph (regent) and a statement that it is permissible for a foreigner as well⁵³.

5. Issues mentioned in one book but not the other

Although most of the issues were mentioned in both books, the study recorded that some issues were mentioned in one of the two books, “Debts” and “The Nile,” but not the other.

5.1 Issues mentioned in the Nile but not mentioned in the Diwan:

A comparison between the two books reveals that there are issues that are unique to each one and not the other. Here we mention some of the issues that are unique to the Book of the Nile:

-If a man sees the crescent of Ramadan alone, he must fast. There is disagreement about fasting based on his testimony only, but it is more correct to fast according to his testimony. Likewise, if he sees the crescent of Shawwal, he may break the fast, but it is not proven to the people except with the testimony of two witnesses⁵⁴.

- Arranging what it is permissible for a person who is forced to eat of forbidden foods (pork, blood, dead animals) to save himself, and mentioning the sayings about it without correcting or giving preference⁵⁵.

- Days on which fasting is prohibited.⁵⁶

- Rulings on seclusion, considering fasting as a condition for it.⁵⁷

5.2 Issues mentioned in the Diwan but not mentioned in the Nile:

These are some of the issues that the book Diwan al-Sheikh is unique in mentioning, but not the book The Nile:

-Accepting the testimony of women with men, with details in the number: He mentioned a saying in the famous saying that the testimony of two female secretaries with men is accepted in the status of one man, and a saying: A woman is in the status of a man, and a saying: It is permissible to testify of women alone in the popular opinion, with two women being counted in the status of one man; So there will be six women, and the famous saying: Three women is like three men⁵⁸ .

-Taking the testimony of the one faithful woman about sunset for breaking the fast .⁵⁹

- Accurate details on issues of coercion of various types.⁶⁰

- The ruling on feeding non-Muslims during the day in Ramadan and selling food to them, such as Jews and polytheist slaves.⁶¹

These are some of the issues that were mentioned in one of the two books but not the other, which indicates the need for muftis and students of knowledge to benefit from both books, and this is what Tfayesh took; It is noted that he frequently quotes from the book of the Diwan in several places in his commentary on the book of the Nile⁶².

Conclusion

This comparative study between 'Diwan al-Sheikh' and 'The Nile', which are considered among the books containing what is based on the fatwa in the doctrine in two different regions of the Ibadi presence in the Islamic Maghreb, reveals the richness of Ibadi jurisprudence and the diversity of approaches to writing in it. The two books represent two different approaches in presenting the jurisprudential material and editing it, as well as in approving the jurisprudential rulings, as well as in presenting the various jurisprudential sayings in the doctrine.

The topic of fasting was chosen from these two books for study. To reach the extent of agreement and difference in the jurisprudential material presented, and in the methodology of its presentation, these are the most prominent results of this study :

-On the methodological level: The Diwan is characterized by simplification and investigation of the various jurisprudences in the doctrine, and mentioning the concessions and attributing some of them to their owners, while the Nile is characterized by brevity and organization, mentioning weighting, and stipulating what is more correct. On the other hand, the two books combine, however, in mentioning the differences that exist in the doctrine on one issue, and in committing to mentioning what is applicable or referring to it in many cases.

-As for the level of jurisprudential rulings, there is great and broad agreement on the major issues in the subject of fasting, such as its pillars and conditions, the rulings on bearing witness to the new moon, the excuses that make it permissible to break the fast, and the sunnahs and etiquettes of fasting, from which we conclude that there is no significant disagreement on the major issues in the chapter on fasting in the Ibadi school of thought, despite the difference in the place of writing of each of the two books, and the different places in which their authors relied on each of them, while the jurisprudential disagreement was recognized in the detailed issues.

The authors of the two books agreed not to limit themselves to mentioning the person who was given a fatwa in every issue, but rather they cited the existing disagreement while stating the applicable or correct opinion in many cases. It is no secret to anyone that highlighting and approving this disagreement is of benefit to the seeker of knowledge, the scholar, and the mufti in order to employ it in some of the cases that are questioned out of necessity, such as some cases of missing the ritual ablution, lying, backbiting, and coercion.

-Each of these two books did not cover all the issues in the field of fasting. Rather, there were issues mentioned in each book that were unique to the other, and this is what makes the seeker of knowledge and the mufti benefit from both of them and not limit themselves to one without the other, even if both of them are among the books on which the fatwa is based.

-Perhaps the jurisprudential disagreement that exists in the rulings on some issues, represented by the statements that were adopted in each of the two books, is due to the difference in the environment in which each book was written, and to the jurists present in each region (Wadi Righ and Wadi Mazab), knowing that the Book of the Nile (13th century AH), although it was later in its writing than the book of the Diwan (55th century AH), is considered an abbreviation of the Book of Clarification that was written before that. (Q08 AH).

-The need for the mufti in the Ibadi doctrine to benefit from both books. For the reasons mentioned above, this is what made Al-Qutb Tfayesh cite statements from the book Al-Diwan, and he may cite texts with wording from them in his book "Explanation of the Nile.

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¹ See: Al-Shamakhi, Al-Sir, 02/199 - Al-Baradi, Taqueed Kutub Our Companions (Appendix to Kitab Al-Mujaz), 02/290.

² See: Sir Al-Losiani, paragraphs No.: Th. 37/20 - Th. 37/21.

³ See: A group of authors, Diwan al-Ashyyākh: 187

⁴ Ibid, 187

⁵ Ibid, 182-184

⁶ Ibid, 185

⁷ Ibid., 186

⁸ Ibid, 189-195

⁹ Ibid, 200-205

¹⁰ Ibid, 208

¹¹ Ibid, 207

¹² Ibid, 186

¹³ Ibid, 189

¹⁴ Ibid, 181

¹⁵ Ibid, 266

¹⁶ Ibid, 186

¹⁷ See: A group of authors, Diwan Al-Sheikh: 182-184 - Al-Thamini, Al-Nile: 01/165, 166.

¹⁸ See: Al-Thamini, Al-Nil: 01/165.

¹⁹ See: Al-Thamini, Al-Nil: 01/167.

²⁰ See: Al-Thamini, Al-Nil: 01/171.

²¹ See: Al-Thamini, Al-Nil: 01/174.

²² See: Al-Thamini, Al-Nil: 01/168.

²³ See: A group of authors, Diwan Al-Sheikh: 207 - Al-Thamini, Al-Nile: 01/167.

²⁴ See: Al-Diwan: 181 - Al-Nile: 01/165.

²⁵ See: Al-Diwan: 181 - Al-Nile: 01/165.

²⁶ See: Al-Diwan: 182 - Al-Nile: 01/165-166.

²⁷ See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/173.

- ²⁸ See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/173.
²⁹ See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/173.
³⁰ See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/173.
³¹ See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/176.
³² See: A group of authors, Diwan Al-Sheikh, 185 - Al-Thamini, Al-Nil: 01/165.
³³ See: A group of authors, Diwan Al-Sheikh, 186 - Al-Thamini, Al-Nil: 01/174.
³⁴ See: A group of authors, Diwan Al-Sheikh, 186 - Al-Thamini, Al-Nil: 01/168.
³⁵ See: A group of authors, Diwan Al-Sheikh, 187 - Al-Thamini, Al-Nil: 01/167.
³⁶ See: A group of authors, Diwan Al-Sheikh, 186, 187 - Al-Thamini, Al-Nil: 01/16.
³⁷ See: A group of authors, Diwan Al-Sheikh, 187 - Al-Thamini, Al-Nil: 01/176.
³⁸ See: A group of authors, Diwan Al-Sheikh, 206 - Al-Thamini, Al-Nil: 01/177.
³⁹ See: A group of authors, Diwan Al-Sheikh, 208 - Al-Thamini, Al-Nil: 01/172.
⁴⁰ See: A group of authors, Diwan Al-Sheikh, 200 - Al-Thamini, Al-Nil: 01/173.
⁴¹ See: A group of authors, Diwan Al-Sheikh, 214-217 - Al-Thamini, Al-Nil: 01/172.
⁴² See: A group of authors, Diwan Al-Sheikh, 216 - Al-Thamini, Al-Nil: 01/172.
⁴³ See: A group of authors, Diwan Al-Sheikh, 185-199 - Al-Thamini, Al-Nil: 01/176.
⁴⁴ See: A group of authors, Diwan Al-Sheikh, 191 - Al-Thamini, Al-Nil: 01/168.
⁴⁵ See: A group of authors, Diwan Al-Sheikh, 187 - Al-Thamini, Al-Nil: 01/168.
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⁴⁸ See: A group of authors, Diwan Al-Sheikh, 219-224 - Al-Thamini, Al-Nil: 01/168.
⁴⁹ See: A group of authors, Diwan Al-Sheikh, 186 - Al-Thamini, Al-Nil: 01/168.
⁵⁰ See: Al-Thamini, Al-Nil: 01/174.
⁵¹ See: A group of authors, Diwan Al-Ashaykh, 185, 186 - Al-Thamini, Al-Nil: 01/174.
⁵² See: Al-Thamini, Al-Nil: 01/171.
⁵³ See: A group of authors, Diwan Al-Ashaykh, 215 - Al-Thamini, Al-Nil: 01/172..
⁵⁴ See: Al-Thamini, Al-Nil: 01/165.
⁵⁵ See: Al-Thamini, Al-Nil: 01/171.
⁵⁶ See: Al-Thamini, Al-Nil: 01/177.
⁵⁷ See: Al-Thamini, Al-Nil: 01/177-179.
⁵⁸ See: Al-Diwan: 184.
⁵⁹ See: Al-Diwan: 205.
⁶⁰ See: Al-Diwan: 185.
⁶¹ See: Al-Diwan: 198-199.
⁶² See, for example: Tfayyesh, Sharh al-Nil, 03/317, 330, 338.