



Studying The Importance And Application Of The "Tradition" Viewpoint In The Islamic Law Based On The Viewpoint Of Imam Khomeini (RA) In The Book Of "Tahrir Ol-Wasilla"

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ABSTRACT

The view of the community in Islamic jurisprudence is one of the important foundations for the interpretation and enforcement of verdicts. To the extent that, without considering it, extraction and explanation of many of the sentences will not be possible. Among contemporary scholars, "Imam Khomeini (RA)" is one of the greatest and most famous scholars of Islam in the present era; and his important work, titled "Tahrir al-Wasilla", is the most important source of research and awareness of his views. In this article, while trying to refer to the place of the tradition in the teachings of Islam, the use and significance of the "tradition" in the book "Tahrir al-Wasilla" is to be considered.

Keyword:

Tradition, Imam Khomeini, Tahrir al-Wasilla, Islamic rulings.

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Introduction

Preface:

"Tradition" is one of the key issues that is used in the basics of extraction of judgments as well as in the identification of instances of sentences. In Islamic jurisprudence, the "tradition" is considered in two ways: one is that tradition and habit are one of the sources of legal rules, such as "in free states (in terms of religion, school, and dynamic ideology) the original source of all legal rules are the will of the public, which is sometimes the source of rights, directly and traditionally. And another aspect is the diagnostic aspect. For example, it serves as a benchmark for "recognizing the subjects of the judgments" as well as "interpreting the intentions of individuals in business" and ... arbitrary judgment". In the first case, in the science of "jurisprudence", which explains the basics of extraction of sentences is spoken[†]. And of course, it should be noted that the Shi'a scholars, consider tradition valuable as far as they are not opposed to religion and that they are somehow a representative of lawmaker[‡]. As for the other aspect that is about "judging the tradition", the lawmaker has accepted and validated it in certain cases. In the book of Tahrir al-Wasilla, as a jurisprudential book, in the expression of more than 90 sentences, the term "tradition" has been used, which indicates the position and importance of this issue. In this article, the use of "tradition" in these sentences has been studied and its fields are known. Therefore, according to the classification of sentences in common subjects, its application will be determined.

The literal and idiomatic definition of "tradition":

The literal definition of tradition means "tranquility and rest, a good deed from wisdom or religion, or temper and habit."[§] Also, the term "tradition" has derivatives such as "knowledge" and "mysticism", which means: "perception of something with the thought and attention in its effects."^{**} "The tradition has been used twice in the Holy Qur'an and "famous" has been used thirty nine times, and in all of these applications, it means: "well-known and good deeds that have become prevalent among the people of the community."

The "tradition" in the term is: "A continuous practical or verbal method that is known among all or most of people or groups."^{††} In order to consider something as tradition, it requires two pillars: 1. Material element: In this sense, that behavior or speech or feeling has become a tradition or custom among all people or a group of them as a result of repeating and long-standing occurrence. 2. The psychological pillar: in the sense that the people of the community have used it very much and it is considered obligatory by those who adhere to it.^{‡‡}

Applications of tradition in "Tahrir al-Wasilla"

1. To illustrate some examples of terms:

In Islam, in the expression of many sentences, the goals are expressed in general terms. And, even for achieving that goal, there are no extra details except some general moral and jurisprudential rules. And usually this goal is expressed as a general term. And the determination of the instances and means of achieving those goals, is the responsibility of the tradition. Therefore, this has led to the immortality and effectiveness of the teachings of Islam at all times^{§§}. For example, in Islam, "usurpation" is forbidden, but the usurpation methods are not specified in detail. Therefore, in the current era that usurpation is done in various ways: such as "electronic theft", "theft of personal information", "plagiarism" and ..., the Islamic verdict applies to all of these cases. While these cases did not exist during the time of the Prophet Muhammad and his divine successors (peace be upon them).

Therefore, in most cases, the term "tradition" has been used to determine the reference point for the identification of instances of a general word. Especially when multiple instances or new instances are created. And this is very common with regard to the focus of texts on the extraction of sentences. For example, the "bringing the witness is the duty of claimant", the identification of the claimant is with the tradition^{***}. And also, in the prohibition of trading for "foolish" people, it is a distinction to be made with the tradition, and in cases where we have a doubt of individual foolishness, we should refer to the tradition.^{†††} Also, in transactions with little children, if the transaction is in low-value property, which the tradition knows it rational, it is okay; otherwise, Islam opposes it^{****}. Also in the sentences of the following terms, according to the viewpoint of Imam Khomeini (Ra), the criterion for distinguishing the instances is the opinion of tradition: 1. "irregularity of the menstruation^{§§§}", 2. "disrespect for sacred names^{*****}", "gifts and endowments for relatives^{††††}", "a large difference in the price paid with the market price on sales,^{†††††}" "seizure without permission on the property of others,^{§§§§}" and many other things like that.

Answering an important question: This question may be raised that: religious terms may have been changed in terms of meaning and concepts regarding the long term from their speaker^{*****}. And yet it is not clear that their speaker has also the same vision of the future people, and it is basically not clear that the posterity is also the target audience of the sentences. So how could you act according to the speeches whose meanings and audience are unclear?! The answer to this question is discussed in detail in the books on the basis of the judgments.

*Comparative study of Ghorar in trade in the Law of Islam and Iran and the International Convention of Sale 49

†See :Osool of Fiqh ;p .513 .

‡ debate in science of Osool, v.9, p.192

§ Journal of wisdom, a look at jurisprudence and Islamic rights, requirements and damages .p.68

** Mofradat of words of Quran, p:560

††Journal of wisdom, a look at jurisprudence and Islamic rights, requirements and damages .p .68

‡‡ Comparative study of Ghorar in trade in the Law of Islam and Iran and the International Convention of Sale ,pp .47.

§§ For more information, refer to the Journal of Quarterly and Law ,No .3 , article :immortality of Sharia and its criteria ,pp .131-130

*** Tahrir al Wasilla, translation, v.4, p.91

††† The same, v.3, p.27

†††† The same, v.3, p.22

§§§ The same, v.1, p.83

**** The same, v.1, p.153

††††† The same, v.3, p.127

†††††† The same, v.2, p.297

§§§§ The same, v.1, p.64

***** The goal is the Prophet of Islam and his successors who lived about 1400 years ago

†††† Here, in brief, one can say: Firstly, the religious scholars who are responsible for extracting and explaining the rulings of authentic sources, one of their duties is that they are obliged to explain the terms of the word with the help of dictionary books. Therefore, acting due to the judgments is after the acquisition of meaning and their purpose††††. Secondly, according to the verses of the holy Qur'an, which considers the Qur'an as a book to guide all humanity§§§§ and addresses all human beings***** , and also from the totality of narratives, we find that the sentences are considered for all people and at all times and places, and all people are their audiences†††††.

2. the importance of the viewpoint of the tradition, and its role in the behavior of people in society:

In many of the judgments, religion has the special instructions for any behavior or word that has a positive or negative meaning or effect in the common sense of the community. And Imam Khomeini (RA) wrote some of them in the book "Al-Wasilla". Some of them are: 1. "Seizing on the property of others without permission". The type of capture and its extent are determined according to the rules of the tradition†††††. 2. According to Islam, the husband is obligated to provide his wife with her dignity. And the criterion for recognizing woman's dignity is the tradition of society. Therefore, if the tradition perceives material conditions to be contrary to the dignity of the woman, the husband will be guilty if he has not tried his best§§§§§. 3. The use of large rivers and aqueducts, if we do not know their owner, we should act based on the behavior and act of tradition*****. 4. One of the prohibitions in Islam is abusiveness, and in some cases it has a heavy punishment. But it's the task of tradition that determines whether one's speech is profane or not††††††. And a lot of other cases are mentioned in the book††††††.

Conclusion: In the view of religion, the tradition has many applications in order to explain and recognize the instances of sentences. There are, of course, conditions for the knowing one's behavior as a tradition, such as: repetition and tradition and necessity of it according to the society. One of the most important sources for studying the uses of the tradition is the book of Tahrir Al-Wasilla, which is written by the renowned contemporary jurisprudent, Imam Khomeini. And the use of the word "tradition" for more than 90 times in this book, shows the importance of it. The two most important uses of this term in this book are the recognition of general jurisprudential terms, as well as the determination of the rules of the tradition, in the prohibition or obligatory of a behavior or speech.

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†††† Osool al Fiqh, v.1, p. 53 & 54

†††† al-Favaed in explaining al-Faraed (new nature), v.1, p.180

§§§§ Holy Quran, al Baqara, verse 185

*****In the holy Quran, God says: " People adore one who has created you." Baqara, verse 21

††††† For more information refer to: Kfayyat ol Osool, p.229

†††††Tahrir al Wasilla, translation, v.1, p:41

§§§§§ The same. 3, p. 562

***** The same, v.1, p 43

†††††† The same, v.4, p.25

††††††For more information you can refer to Tahrir al Wasilla: v 4, p 327, and v.2, p 481, and v 4, p 253 and v.4, p 227