

Evaluating the Evolution and Development (of Wisdom) in the Imamia Jurisprudence and Law and Its Application Among Imamia Shia Jurists From its Beginning up to The Tenth Century

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ABSTRACT

This study has reviewed the evolution and development of "wisdom" and different meanings which are provided in different periods of jurisprudence according to the rational reason by the applied approach, In this journey of juridical exploration during the juridical courses, some researchers disagreed the institutionalization of wisdom; they thought that "Texts" were enough in order to deal with the new life events and believed that the secure privacy of Sharia (law) should be protected; they did not considered the wisdom as the one which could judge and establish the law, and assumed inserting the wisdom to the juridical exploration equal to sending the "quote" out of its effectiveness. However, by the attitude to the evolution and development of this institution, the immortality of Sharia (law), the principle of changes, and multiple recommendations and emphases of quotation on the "inner characteristic of wisdom messaging", its institutionalization in the theoretical bases of inferring principles along with other evidences not only is not an opposite movement and contrary to the quotation, but also it is in line with the purposes and interests of Sharia (law) and is inspired by the texts and human nature.

KEYWORDS: Wisdom; jurisprudence; Periods of jurisprudence; rational reason; quotation

INTRODUCTION

In counting juridical resources and causes, Imamia thinkers and jurists have assumed the wisdom with the "Reasoning" along with the book, tradition, and consensus, and considered it as one of the four sources and causes of inferring orders. However, they have provided various meanings in the juridical exploration ways; sometimes they considered it as a tool, juridical law, and scientific principle, and in some cases considered it as the juridical analysis and inference. Despite the fact in the basic theories of inference principles, the role of "reasoning" has granted to the wisdom and the intellectual admiration and disapproval, they have not had the serious presence practically, and it seems that a manner has actually been chosen which has been like "telling the news" and "Ashari's behavior". However, some jurists have granted the role of sovereignty and independency relying on the original sources, and challenged the popular theories according to these principles. There have been provided various theories which some of them are antithetic about this "Part" and benefitting from it in the juridical exploration process of diverse and sometimes contradictory theories; some thinkers have considered it as the result of mu'tazilism which is affected by the Greek doctrine, and as the political efforts to encourage the Umayyad rulers in order to isolate the "text" and people who had tendency to the text, and even they considered the basic and fundamental rule of requirement in line with the Umayyad political goals in order to overshadow the infallible people's teachings. (Jafari Langroudi, 1381.: 2606)

The others have considered the factor which paves the way for wisdom in the four arguments causes with this method and style but with a motivation to follow the Sunni jurists' juridical exploration method, and assumed considering the wisdom along with the book and tradition as a different way for ignoring the Imams' (as) teachings. (Estar Abadi, 1429AD: 17) The other researchers rejected all the rational fields provided by this rational knowledge founders by developing doubting process in their idea and exploring the works by the philosophy thinkers who tended to the wisdom, as well as explaining their "purposes" (Ghazali, 1961 AD: 30) and considered it as the "Absurd" one (al-Ghazali 2002 AD: 60) and finally, by the severe criticism of the knowledge based on the wisdom, called their own exploration as the "Delusion Savior", and by the advocators' efforts the effect of those severe criticism maintained, but the majority of thinkers in the rational cases believe that not only its origin is out of the religious areas but also is in the texts and human's nature, who are created by the divine nature. (Feiz, 1382:158), (Mousavi Bojnourdi, 1379:329)

RESEARCH METHODOLOGY

It is the historical research; the subject of research need to be investigation deeply and examined by designing the Case Study; since the author has tracked the collected information base on the view of subject,

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providing a descriptive study has been the researcher's duty. It is the library study due to referring to the primary sources which are the juridical, systematic, and history of jurisprudence books; also it has used the documental method because it has needed the documents which are kept during the research. Therefore, in this research the documental method and writing receipts from the library documents are used; and it evaluates the method of its application and understanding by referring to the juridical, systematic, and historical books, and since the inferential method is used in these issues for the technical analysis, the Imamia Shia theory has been chosen in order to provide the theoretical analysis.

Research necessities

Although the sad story of "rational reason" in the periods of Imamia jurisprudence and rights has had special different effects, its researchers have provided the specific meanings, and some individuals constantly challenge it due to the specific plans and aims, it has developed except all hard invasions and in each period has been clearer than before. And according to it, some rules which were the certain parts in a period became isolated, in addition the practical regulations such as the work law, divorce law, Kaly - To - Kaly sale, forcing to write contracts in Arabic, making the Moaatat (Sale without contract) mandatory, and losses for not paying the debt... were enacted as the result of rational reason and it seems that in the future we will see the serious presence of wisdom in the juridical exploration fields and new theories will be provided by this reason.

It seems possible to make changes by the "Certain Ijtihad and opinion about the reason" and finding the reason. And probably the wisdom will play the special role in discovering the great expediencies of Sharia (Law) in order to provide the updated orders; therefore it is essential to investigate this subject.

Wisdom before the long absence

Except the fact that there have been the Ijtihad and relying on the wisdom tendencies in the juridical inferences in this period, this reason has been overshadowed by the tradition, so the Shiites have been advised to express their ideas, and argue according to the principles and criteria by the certain guidelines provided by the Shia Imams (AS). (Ameli, Vol.18: 41) Modarresi Tabatabai said about the status of juridical exploration in this period: "According to the scientific, educational, and cultural aspects, some of the Imams (AS) companions listened and quoted the hadiths, and the others had theological and ideological activities, and both these groups were encouraged and admired by Imams (AS) despite the conflicts by the quotation-oriented companions. (Modarresi Tabatabai, 1410 AH: 32)

When the Prophet (PBUH) passed away and the revelation and the Prophetic tradition was stopped, first the jurists in the same era with the Companions referred to the Quran, and if they could not the response, referred to the Prophet's (PBUH) tradition (Sunnah) which included the obvious and clear principles, and if the order was not in the book and Sunnah, the "the righteous ones' orders" and "Idea" were mentioned as the remedies. (Pakatchi, 1371: 314) In the second Hijri century, two major factions, "the companions with opinions" and "companions with Hadith" had emerged, one of them thought that texts and hadiths are enough in response for the life events, and the other believed that the order of issues should be expressed by the help of reason and argument. In this regard, Mohammad Zeimaran said: "These sects were seeking to fill the gap caused by being away from sending the Quran, and the Prophet's (PBUH) demise, some researchers believed that the rational elements should be involved in resolving the incidents along with the book and Sunnah (tradition), but others did not considered these two sources enough for responding . (Zeimaran, 1375: 78)

As mentioned in this report and other historical quotations, Sunnis, unlike the Shiites, has taken advantages of methods such as the expressing ideas, comparison, approbation, etc., when sending the Quran was stopped, and the Prophet's (PBUH) passed away interruptions, in order to respond to the issues, but based on the verbal principles, intellectual reasoning, and available texts (Hadiths), the Shiite has considered the imamate (leadership) of twelve imams as a continuation for the Prophet's (PBUH) movement and considered them as the actual preachers and commentators for God's words, and the Prophet's (PBUH) successors, therefore they have not needed to apply the Sunnis' juridical exploration methods.

It is worth mentioning that the Shiite imams have advised the jurists by different ways to rational and logical thinking, and explicitly cleared their duties as expressing the general principles and rules; and devolved the minor orders inference and derivation to their own followers, and even defended their rationalist companions against the attacks narrow minded ones. (Modarresi Tabatabai, 1410: 31) At that time, the dominant intellectual sect was the theologians' method which the quotation-orientated could not tolerate , and it was usually followed by the charges and excommunication; on the other side, by supporting these thoughtful rationalists, the Shia imams referred Shiites to them and their books, and recommend the quoters and hadith quoters to respect them. (Ibid: 32) Despite the fact that in this period the comparison was introduced as the Sunnis' reasons in inferring the orders, the Shiites had disagreed with it severely, and had focused their own rational and logical analyses on the book and Sunnah (Law), and even refused the certain comparison of causes which was accepted later.

The wisdom in the long absence

As was mentioned before, based on the fundamental principles the Imams' (AS) Shiite words ,which were also called Sunnah (tradition), has continued the prophecy way; but if there has not been a case in the book and

Sunnah during the long absence and stopping the door of science, which mechanism can help to extract the order for problem? After the Prophet's (PBUH) demise, the Sunni sect determined their own way partly because of providing the theories (consensus, analogy, expressing the idea, approbation, etc.) and Shiites had driven a benefit from these theories because of the Imams presence before long absence, and thus they rejected the juridical exploration methods.

The real question was: what should we do? It seems that the seeds of a source, which was not like the "analogy", "expressing the idea" and "Approbation" and..., and in line with the "Two important things (saqlain)", was planted in the ready farm of Shiite jurisprudence which had the strong logical and discursive support; the feeling of needing it, encouraged the thinkers and juridical researchers to investigate in the book and Sunnah (tradition) and call it the "wisdom". So, what is its nature? And how are the limits of its effectiveness and success? It depends on its growth and development during the next period of jurisprudence.

The Shiite juridical researchers and thinkers investigated the juridical exploration based on the wisdom by the important strategies and effectiveness, in order not to be criticized by the Analogy Orientation and have the ending like the Fazl ibn Shazan and Ibn Junayd, and since the issues in various periods vary based on the quality and quantity, this source has a particular emanation and appearance according to the requirements of that period, and most of the issues which their rule are expressed based on this reason, such as divorce, marriage, and inheritance, are seen mostly in the transactions field, but the application of wisdom rarely happens in the Worship. (Shahabi, Vol. 1 1366: 498) Despite the fact that in next periods, they can reason the causes of "wisdom" deducting, and also consider the fundamental beliefs of studying God, the Prophet, and Imam confirmed just by this reason, it seems that this undisputed "positive" of thought field which its absence causes the unable "vicious circle" affect the juridical exploration bases, seems to be very weak during the juridical exploration. Despite the fact that this "Measuring Idol" had specific effects in each period, and the great tradition (Sunnah) and book resources had recommended and emphasized on its role and effectiveness, it did not gain the requisite place at the time of Ijtihad operation.

Two theories can be considered about the causes of this issue as follow:

- A) the theory which explains the Texts are enough and the laws and orders are perfect
- B) The theory of the Shiite political isolation and no need for wisdom.

The first theory which seems most of the jurists focused on it, expresses that all orders which the human will need until the doomsday, even (scratching the Arch) can be found in the news.

Despite the fact that the Hadith advocates (Akhharian) are so enthusiastic in this theory and their famous leader believed that " Of the essentials of Imamia doctrine is that all orders which the human will need until the doomsday, even scratching the Arch can be found in the news " (Estar Abadi, AH, 1429: 47)

But this theory is flawed, on one hand, there are varied circumstances of time which their issues will be changing along with them; not only this issue does not undermine the stability and immortality of religion, but also it is the secret of religion immortality which can be expressed based on the time and space element, and it relies on the elements such as the wisdom; And On the other hand, the evaluations of developed juridical and legal institutions such as "the practical principles" which include "the lack of text, outlined text, or opposing texts" are due to violation and lack of basis for mentioned theory; the so called Ijtihad is not enough governing the community, and the consideration of time and space as the effective factors in the dynamic jurisprudence, is the evidence which indicates that there should have been another strategy. Others, based on this theory, but with the approach general rules and regulations and the theory of "Being enough" believe that it is unacceptable, because other legal sects can claim like that.

The second theory is founded on this basis that there is no need to the wisdom due to the Shiite government inefficiency and since that the use and efficiency of wisdom is in the social and political cases, because according to the life changes, governing the community requires new mechanisms in order to response the events.

The Islamic Revolution of Iran, changing the laws such as the work, divorce laws, and establishing the organizations such as the Expediency Discernment Council are an outstanding evidences. Therefore, the Imamia jurists are seeking to find ways in order to fill the gaps, and they have attempted to institutionalize the wisdom based on the time and space requirements through the following steps:

1 - The transition period from exclusive sufficient to texts and hadiths, and entering the analytical and Ijtihad areas in the context of rationalism; the ancients (Qadimins) were the founders of this method, so these juridical researchers have been criticized severely during the jurisprudence history.

2 – The period of using the wisdom as a tool, Sheikh Mofid, and Seyed Morteza, and sheikh Tusi applied this method.

3 - The general rules and principles construction period, which most of the jurists interpreted the wisdom by these titles; the jurists such as Ibn Idris, Mohaghegh Helli, and Allameh Helli and.... can be mentioned.

4 - The period of institutionalizing the wisdom in the process of deduction by stabilizing organizations such as the natural admiration and disapproval, the rule of requiring. Despite the fact that most of Imamia jurists are the serious advocates of this case, they act unpersuasively in the juridical exploration; in addition the major method

of applying the wisdom means the juridical rules and practical principles which jurists such as Mohaghegh Ardebili had challenged it relying on the juridical theories. (Mohaghegh Ardebili 1409AH: 469)

The Ancient (Qadimins) sect

After the first Hadith quoters development and establishing the quoting communities by Sheikh Kalini and Sheikh Qodusi who were the juridical researchers at the field of Hadith-oriented researchers' (from the Qom and Ray) sect, and this sec was started from the long absence (329) by the Buyid dynasty supporting, the great masters in the Hadith-oriented sects had done valuable and considerable attempts in line with the evolution and development of Shiite jurisprudence and law. The text of hadiths was the Islamic jurisprudence and law in this period, and criticizing and evaluating was used less. (Feiz, 1371: 130) Despite the fact that in this period there were multiple hadiths (traditions) at the field of using reason and wisdom in the traditional books and even the book "Kafi" had assigned the first chapter of to the "wisdom", the wisdom was not considered as the orders deduction source or a power which God has granted to humans in order to recognize the good and evil, and gain the Sharia order, and in other words, the power which can understand the conditions and thereby help humans find the certain knowledge of Sharia order (Mir-Emadi: 265). By studying the quotations, it has been clear that the wisdom has the ability to recognize and understand the good and evil cases in its range, and is valid and reliable in that field, in addition it is valid and reliable in understanding the origin of life, the resurrection, the necessity of Prophets' mission, and other basic knowledges and doctrinal bases (Mir-Emadi, 1384: 269), but there are quotations about disapproving and preventing the idea expressing without taking the sources and criteria into consideration.

The first characteristic of Hadith-orientation sect is gathering the hadiths (traditions) based on the quotations within the framework of juridical and authentic books and without any analysis and evaluation. However, by moving the juridical sect of Qom and Ray to Baghdad in the fifth century, an evolution emerged in the juridical exploration and the scholar jurists adopted a new method, therefore the Ijtihad is formed.

At the beginning of long absence, Ibn Abi Aghil Omani and Ibn Junayd Baghdadi who are known as the Qadimin (Ancients) (Ibn Fahd Helli, 1407 AH: 3) reformed the Shiite jurisprudence and add the view and idea in it, therefore Ibn Abi Aghil Omani is known as the founder of logical jurisprudence (Davani, Vol. 3: 106). For the orders deduction, Ibn Junayd referred to the "logical reasons" which was common at that time considered as a venture action (Janati, 1374: 20). He could recognize "the wisdom" as the basic tool for orders elicitation, therefore two centuries later, the courageous rationalist jurist in the sixth century - Ibn Idris - quoted his thoughts respectfully, and after him the Shiite prominent lawyers admired his reasons. (Modarresi Tabatabai 1410: 42)

Qadimin (Ancients) have been influential in several aspects of juridical exploration during the institutionalization of "wisdom" which was contrary to the text-oriented method; first, both of them were famous theologians of their era, hence this rational-quoting knowledge has the significant effect on strengthening the theoretical bases, reviewing, and refining their juridical exploration methods.

Probably as the result of that, they revived the logical method of presence era by the particular dexterity, after it was isolated by the hadith quoters. Second, Ibn Abi Aghil did not confirm the invalid religious traditions (Hadiths) which were called unit news. (Modarresi Tabatabai, 1410: 41)

After Qadimins (Ancients), the rationalism theorists in the Baghdad sect continued their way, and Sheikh Mofid, Seyed Morteza, and Sheikh Tusi entered in this field and each one at their time attempted to stabilize and consolidate the rationalism, although their method appeared as the intermediate sect; in other words their method was neither like the text-orientation ones who used the "hadith" and text as the criterion and nor like the ones who used the "wisdom", and perhaps they were used as the jurist's reason and the application of wisdom in understanding the Sharia texts in the transition period between adhering to the news and quotation.

In this period the "wisdom" had a special place; before them, except the Qadimins (Ancients), the juridical exploration was based on the hadith quotation, but in this period the "principles" was recognized as a rational methodology for inferring; it found its place, so was used as the rational scientific tool for the "Jurisprudence" in order not having problems and faults in the scientific juridical operation. The "Biography of juridical principles" was written by Sheikh Mofid, the "Justification for Sharia principles" by Seyed Morteza, and "Several principles" by Sheikh Tusi.

Turning to the rationalism of "Principles of jurisprudence" was considered as the rational tendency to organize the juridical exploration at that time, and indicated that the news and hadith traditional method did not response the "events", but it should be reviewed and evaluated by the norms and logic of law and jurisprudence (juridical principles), and this was one of the major causes of Hadith advocators' (Akhbarian) confliction and opposition with the rationalists and especially with the "methodology"; in this regard Mohammad Estar Abadi, the leader of Hadith advocators (Akhbarian), said:

"Ibn Junayd and Ibn Abi Aghil Omani were the first ones who neglected the imams Companions' (AS) way and relied on the rational thoughts which were common among the Sunnis..., and because Sheikh Mofid was optimistic about those thinkers' texts, his method became widespread among the companions." (Estar Abadi, 1429: 19) Sheikh Mofid considered the wisdom as a way to recognize the authority of Holy Quran and the

reasons the news (Sheikh Mofid, 1414 AH: 28) and considered it dedicated to Quran along with the Sunnah (tradition) and Quran (Sheikh Mofid, 1414 AH. 38). It became obvious by his explanation that he did not consider the stable Sunnah (tradition) as the unit news, because he thought that the unit news neither would lead to the knowledge nor the action (ibid: 38)

In addition, he believed to the rejecting the Quran by Quran, Sunnah by Sunnah, book by Sunnah, and Sunnah by book, according to the rational reason and relying on the quotation. (Ibid: 44) In his opinion, the wisdom was not an independent source with the Sunnah and Quran, but it was a "tool" to gain the meaning of verses and hadith. In the book "First message in the absence time", Sheikh Mofid called the rational orders "The necessity of returning the usurped property", "Physical Owing", and "Permissible Authenticity" orders which were all the applicable rational orders (Kadivar, 1377: 21). Despite the fact that in the verbal dialogues he assumed the special validity and effort for wisdom, in the juridical exploration he had obviously mentioned the rational reason just in a few lectures. (Kadivar, ibid: 35). He opposed the reason of quoting for rejecting the wisdom, and said: "If we find a hadith contrary to the wisdom orders, we express it, according to the wisdom order to corrupt it". (Sheikh Mofid, 1993AD: 125)

Seyed Morteza believed that according to what was mentioned in the book "Justification (al-Zariyat)", the wisdom had the same effectiveness and application with what his teacher was taught. It means that it plays a tool role (Seyed Morteza, 1405, Vol.1: 676). Based on the "Order implies the necessity", he applies the rational reason (Ibid: 55); he considered the good and evil reasonable (Seyed Morteza, Vol.1, 1405: 177), and the religious laws as the result of the interests, corruptions, and favors. (Seyed Morteza, Vol.1, 1405: 88) He frequently used the rational rules including the "Mandating what is unendurable" and "Favor" in his juridical exploration. [Seyed Morteza, 1411, Al-kalam (word), 100], (Justification (al-Zariyat), Vol.2: 189) According to his rationalistic method, said: "Forcing people with no previous clear sign or reason is an ugly deed". (Ibid, Vol. 2: 189) and based on the acceptance of rational order of "Permission (Abaha)" (ibid: 35), he believed that order with no reason should be rejected. (Seyed Morteza, Vol. 2, 1405: 102) He considered that the wisdom was in line with the reason (ibid, Vol. 1: 318) and thought that the wisdom allocated the general cases (ibid: 277).

Sheikh Tusi, like his teacher Seyed Morteza, believed that the general cases could be allocated by the wisdom (Sheikh Tusi, Vol. 1, Bit: 336); he believed that the wisdom was in line with the triple reasons of legal order (Sheikh Tusi, Vol. Bit: 434), and considered the orders as the result of expediency and corruption, and the audible reason is so important for the wisdom (ibid: 762)

Sheikh Tusi believed that the clear evidences referred to the "wisdom". (Ibid: 762), in addition, he used the wisdom by the meaning like the "Prohibition", "Permission (Abaha)" and "stop", (Sheikh Tusi, Vol. 1, Bit: 143), perhaps, in his opinion, the wisdom could be used as a tool or clearer, also it was in line with some cases and the juridical basis for others.

After the Sheikh Tusi demise and even after one century, the juridical researchers followed his approach and ideas because he had founded a great sect, or due to other causes, and the process dominating the juridical exploration was rebuilt by the "Ibn Hamza" and "Ibn Idris' thoughts, thus the former (Ibn Hamza) criticized and evaluated Sheikh's principled views in the book "Rich tendency (Ghania Al-nozu)" and the later (Ibn Idris) in the book "As-Saraer (secrets)". (Sadr, Vol.1, 1379: 80)

Ibn Idris in his book [Saraer (secrets)] itemized the juridical reasons and said: if we could not reach the legal order by those three reasons, we should refer to the rational reason and its order. (Ibn Idris, Vol.1, 1411: 46) Despite the fact that this courageous jurist considered the "rational reason" so important, rarely used it in his juridical book in which it had the (juridical regulation) (Saraer, Vol. 3, pp. 133, 198; Vol. 2, pp. 462 and 572) or considered the "practical principles". (Saraer, Vol. 1: 377) It seems that based on some principles, he considered the "wisdom" in line with the triple reasons and as the source and reference, but he expressed a mentioned meaning in the juridical exploration which probably was incompatible with the basis; because the "Juridical rules" are the general orders which can be used in different fields of jurisprudence (Makarem Shirazi, Vol. 1, 1411 AH: 6) and the "Practical principles" are used practically to eliminate doubt and consternation only when the responsible person is disappointed with achieving the real order. (Mozaffar, Vol. 2, Bit: 11) These examples are incompatible with the wisdom when being source, reason, and reference are considered, but because the "Juridical rules" and "Practical principles" are the rational attempts in order to respond to the current orders, it has been interpreted as the wisdom.

Hence, it can be seen in the evolution and development of Imamia juridical exploration that Sheikh Tusi had a conclusion similar to the additional philosophies by defining the function of reason of wisdom; as a result, he assumed the "reason identifying" function for wisdom in the cases including the orders, causes, and means. (Sheikh Tusi, Vol. 2, Bit: 47) He considered the legal orders as the favors compared with the rational orders (Shahabi, 1366: 243), and divided the knowledge to the achievable and necessary, therefore some thinkers believe that it has been based on these views that Shiite thinkers in the next periods founded the important rule of "The necessity between wisdom and quotation". (Feiz, 1371: 43) and perhaps because the evaluation of the "wisdom" in the theological and philosophical fields had been taken into consideration, it had not been studied independently in the methodology and jurisprudence. However, after Ibn Idris's theory in which presented four

evidences and considered the wisdom in line with them, methodologist considered the "reason" by the juridical view, and the subject of discussion and evaluation, therefore, Mohaghegh Helli expressed clearly that the wisdom was the reason (Mohaghegh Helli, 1364: 5). In addition, after him Allameh Helli attempted to validate the institutionalization of "the reason of wisdom" by his verbal method (Allameh Helli, Bitā: 6). In the book "Al-tahzib (Refinement)" he clearly admitted the ability of wisdom in understanding the impermissible and permissible actions and word, and believed that rational good and evil were the criteria for necessity and respect and made the wisdom able to understand the good and evil. (Allameh Helli, Bitā: 6) After the Allameh Helli demised the "wisdom" was always introduced along with triple evidences, but jurists provided various meanings about its credibility and role in discovering the order; and this hidden factor and measuring idol was always seen in a particular style and way, probably it was because the anti-rationalism sect by " Hadith advocates (Akhbarian)" was emerged.

However, a was emerged in the eleventh and twelfth centuries; it opposed severely with applying the "wisdom" in the juridical exploration, and did not considered the wisdom as a criterion and reason, so its theory made the fatal effect on the developing body and the development Imamia juridical and legal system. Its domination in the juridical and legal fields was eliminated by the efforts done by deep-minded jurists and rationalists' such as Vahid Behbahani, and the rationalism continued its own natural way. Allameh Helli, entered the Ijtihad , based on its Shiite meaning, into the field of Shiite juridical principles and could defend the text-orientated thinkers' criticisms and attacks which were all about following the "the idea and deduction"; in addition, relying on his own theory, he entered the jurisprudence and Shiite principles into the field which could respond to the new issues, hence he defined the Ijtihad as the "Removing the expanded case, and the jurist's effort, and gaining the knowledge about the legal order"; (Allameh Helli, 1404: 283) before that, the Ijtihad were defined as the "efforts in discovering the legal orders from the law sources" (Allameh Helli, Maarej al-Osul, Bitā: 180); the Hadith advocates (Akhbarian) did not accept this view to Ijtihad, so it was not considered as the reason, then was banned. (Estar Abadi, 1429: 90)

By evaluating the development and evolution of Shiite jurisprudence and law methodology it can be seen that: since the beginning of Sharia era, the authority (proof) and cause (reason) of wisdom always have been the serious issues to study. The Holy Quran has the most recommendations and emphases about the wisdom, thought, and deep knowledge, etc. which are granted to humans as a point in order to gain the happiness; the traditions have called it as the "inner proof" and "inner messenger"; and Muslim theologians and philosophers have argued about its credibility and authority, and the agreement between wisdom and religion by multiple method.

The Prophet Muhammad (PBUH) frequently recommended benefiting from the intellect wisdom in understanding and deduction the orders. His hadith, which was quoted by the Shia and Sunni, at the time of sending Maaz bin Jabal to Yemen (Sheikh Tusi, Vol. 2, Bitā: 285), (Abu Dawoud, Vol.6, Bitā: 62), and Ibn Masoud's Hadith (Sheikh Tusi, Vol. 1, Bitā: 100), all implies the importance and effectiveness of wisdom in understanding and deduction.

As noted before, despite the fact that the founder of second Hadith advocates (Akhbarian) (Estar Abadi) tried with all his power to eliminate the rational reason from the text-oriented field of juridical exploration, and his sect was dominating the Shiite juridical schools for nearly two centuries, it did not work, and this hidden factor "wisdom", which was behind the scene, appeared with especial effects by a great rationalist; after that the Shiite rationalism methodologists defended it by the speeches, granted it the Reason aspect, evaluated it along with three reasons, and argued about the need of juridical thought for the rational reason and authority. (Ansari, Bitā: 19) Mohaghegh Qomi was the first methodologist who introduced the rational reason in more details, and defended the validity and effectiveness; after him Mohaghegh Kazemi and Sheikh Muhammad Taghi researched in this field with different ways in more details. (Feiz, 1382: 296)

In addition to establishing and defining the rational reason in the principles of inference, they proved important establishing according to the wisdom and by the traditional supporting. The rules including the Permission (Abaha), the ugliness of Punishment without Statement, and legality of crime are its examples. (Sheikh Mofid, 1993: 62), (Seyed Morteza, Vol. 2, 1405: 625)

The way of applying wisdom in the juridical exploration

Before the Ibn Idris time, the rational reason was used more in the knowledge foundations of deducting principles and important rules such the "audible orders are the favors compared with the rational orders ", " Permission (Abaha)", and "the ugliness of Punishment without Statement" and so on; however by the practical application, though rarely, he granted this method to the future generations, so they would be probably able to apply this reason at the proper time for enacting the new orders in their time. He is considered as the head an era which after a hundred years of stagnation and after the demise of Sheikh Tusi, the great researchers such as Mohaghegh Helli, Allameh Helli, Fakhr al- Mohagheghin, Shahidin and continued the way and developed, completed, and upgraded the great Imamia legal and juridical sect with a special method; Although Ibn Idris was of Sheikh Tusi's descendants, continued his way into the high-risk path of reviewing and criticizing Sheikh Tusi's juridical exploration by his full knowledge and tolerance towards the invectives. In addition, by

considering this one-hundred-year period as the imitation period, he used the wisdom as one of the reason of inference in order to enter the new era of juridical exploration. (Ibn Idris, 1411 AH: 44)

Although, before Ibn Idris, Sheikh Sadid al-Din Hamessi had taken valuable steps in order to introduce the rational reason, like Seyed Morteza he believed to "permit to the things (Abaha)" before law was involved; (AliPour, 1382: 121) in addition, the jurists like Ibn Zohreh were the founders of a sect in which Ibn Idris, at the head of others, introduced bravely the wisdom in the field of jurisprudence, and presented his book "Saraer (secrets)" to the jurists and lawyers; he had often repeated these sentences in that book in order to express the order of different issues "No one is contrary to what had in the consensus, there is no evidence for wisdom and no book, and not Sunnah (Law), but the rational reason is as the judgment for what we do" (Ibn Idris, 1411: 484), but he applied the wisdom in the meaning of juridical rule. (Ibn Idris, *ibid*, 529)

He considered the traditional reasons as well as the wisdom in the legitimacy of Temporary Marriage (*ibid*: 530); Mohaghegh Helli (676 AH.) also played the major role in the development of rationalism and methodology of jurisprudence in the Imamia jurisprudence, (Gorji, 1375: 223) and introduced formally the reasons of jurisprudence as: book, Sunnah (tradition), consensus, and wisdom. (Mohaghegh Helli, 1438: 89) In addition, he used it at a proper time to act, applied his own style, and confirmed the general allocation by the rational reason. (Mohaghegh Helli, 1438: 90). Despite the fact that he divided the rational reason to the intellectual concepts and independent cases which concepts were unrelated to the rational reason, he expressed that intellectual independent cases would be able to provide the rejecting or necessary order by understanding the good and evil. (Mohaghegh Helli, 1363: 45)

Like Ibn Idris, at the proper time and at the field of juridical exploration, he benefited from the wisdom after mentioning the traditional reasons in proving the temporary marriage, and said after preparations: "There is no problem if the wisdom orders to the temporary marriage in order to prevent the celibacy and corruption. (Mohaghegh Helli Motabar, Vol. 1, 1363: 29)

Allameh Helli (726) who was the Mohaghegh Helli and Khawaja Nasir al-Din al-Tusi's student, considered the reasons limited to four reasons like his uncle and teacher, Mohaghegh Helli, and said: "by the intellectual reason, the authority of Istishab (keeping the previous order), the major exculpation, and the stable caution are proved. (Feiz, 1382: 296) But in his opinion, the intellectual reason is interpreted as the Istishab (keeping the previous order), the major exculpation, and so on. He said in the judgment and Ijtihad status: "Have a knowledge in nine things: the Book, Sunnah (tradition), Consensus, and disagreement, and rational reasons- of Istishab (keeping the previous order), and the major exculpation - and.... (Allameh Helli, Vol. 1, 1413: 155)

And about the (Hedad) he was shocked about the Ibn Idris's theory about the necessity of Hedad and said: "We think about the exculpation ... It is unexpected that Ibn Idris did not consider a necessary duty of wisdom and he rejected the Hedad duty ". (Allameh Helli, Vol. 7: 497) in addition, he applied the juridical rule of wisdom as well as applying it as the practical principles in various conditions. (Allameh Helli, Vol. 5, 1415: 228) About paying the unintentional Blood money by the not-stupid adult, after quoting the Imamia lawyer's words, he believed that the Sheikh Mofid's theory added wisdom to quotation; he criticized Ibn Idris Sheikh and said about Sheikh Mofid's view which was contrary to the consensus:

"It is not an impossible theory in which Sheikh Mofid said about when the not-stupid adult goes to see the murderer, because he has added the wisdom to quotation; a consensus confirms the not-stupid adult but the wisdom thinks about punishing the murderer; Sheikh Mofid has applied both these reason with his sharp-sighted mind and thought. Consensus has considered the not-stupid adult responsible in the unintentional murder, so accepted this fact that the adult goes to see the murderer, because it makes sense "(Allameh Helli, 1415: 279), and it seems that in this subject the wisdom means the personal rule of punishment.

The first martyr (Shahid) was one of the famous and influential jurists in the rationalism field of Imamia juridical exploration. (786 - AH.) He made innovations in the content and shape of jurisprudence, and created a revolution in Shiite jurisprudence by writing the books [al-Bayan (Statement), al-zekri (mention), al-lamae].

He considered the wisdom and quotation as the evidence and reason which confirm "ordering to the honor but forbidding dishonor: "ordering to the honor but forbidding dishonor are the necessary actions and the wisdom and quotation are its evidence and reason" (First Martyr, vol.1, 1411: 47); and probably the meaning of the rational which supported the quoting reason was the elimination of loss and evil and attracting the interest and expediency. In terms of judge's conditions, he considered the "rational reason" necessary, but did not mention anything about the purpose of rational reason, maybe it was because of mentioning the Mohaghegh Helli's theory in the introduction of book (al-Zekri). He expressed his views about the wisdom by the examples about the wisdom in this expression, they were as follow: The natural understanding about good and evil, the obligatory introduction, Exculpation rule, Istishab (keeping the previous order), ordering with honor but forbidding dishonor, and the concepts and Permission (Abaha) principles).

Ibn Fahd Helli (841 AH) considered the confirmation of rational reason as one of the conditions of unit news authority, (Ibn Fahd Helli, Vol. 1, 1407: 232) and mentioned the rational reason for the superiority of after Azan prayer; maybe here the meaning of the rational reason is giving the debt on time (*ibid*: 299), despite the fact that he did not consider the wisdom competent during the worships. (*Ibid*: 215) However, he considered the

"wisdom" as one of the necessary reasons of intention. Maybe the wisdom understands the good and evil of things. He confirmed Sheikh Mofid and expressed his reasons about the issue of paying the blood money by the adult in the unintentional murder perhaps the perception of objects is inherently good and odd. (Ibn Fahd Helli, Vol.5, 1407: 408)

Mohaghegh Helli (940 AH) wrote the juridical book, *Jame al-Maghased* (comprehensive Purposes); in the book, *al-Rasael* (Messages), he introduced the wisdom as one of the reasons for proving Imam Ali's (AS) Imamate (Leadership); (Mohaghegh Korki, *ibid*: 61). In addition, he believed that the condition was permissible in the Pledge Contract, but he determined "not opposing the wisdom" as one of the conditions for the Pledge Contract with exact time. (Mohaghegh Korki, *ibid*: 192) Not opposing the rational conditions is the purpose for that case, maybe it was not non-rational condition. He believed that the methods to achieve the orders of the events in the book, consensus Sunnah (tradition), and rational reasons are intellectual. He introduced the logical implication, compatible or opposing concepts, the original exculpation, *Istishab* (keeping the previous order) and unifying the ways of two issues, and violation of order from the logical one to dormant one which was not a deduction, as the purposes for rational reason, and considered the deduction limited to ordering based on the reason (*Mansus al-Elah*). (Mohaghegh Korki, 1409, 40)

Among the jurists, Mohaghegh Ardebili (993 AH) applied a new method for juridical exploration; he had a special effort for the quotation, but applied the wisdom, and easy and permitted (*Sahla* and *Samha*) principle a lot in his important work, "The collection of benefits and proof". The characteristic of his work, is relying on analytical and precise thinking and *Ijtihad* without considering the predecessors' ideas and views" (Modaresi Tabatabai, 1410: 56), but he did not simply accept the consensus theories, and did not consider being well-known as the acceptance criterion of theory, so he rejected the absolute prohibition of women's judgment. (Mohaghegh Ardebili, 12, 1409: 15)

He introduced "Halving the woman's blood money" by a new method, so people thought that he had special opinion about it. (Mohaghegh Ardebili, *ibid* 12, 1409: 15) He believed that depriving them of their ground seemed opposed the external meaning of Quran. (Mohaghegh Ardebili, Vol.14, 1409: 322) In addition, he thought that the Wine (Grape juice) is a taboo but not "Unclean and untouchable", and expressed that its reason is because of quotation and wisdom. (Mohaghegh Ardebili, Vol. 2, 1409: 49)

Although, in multiple cases he applied the rational reason in order to prove his theory, in most cases he used the juridical rules. (*Majma al-Fayeda*, Vol. 2: 474; Vol.3: 69, 357, 353; Vol. 1: 233; Vol. 1: 133; Vol. 4: 247, Vol. 5: 231, and)

According to the Aban ibn Taghlib's story about halving the woman's blood money, it seems that the independent wisdom is his purpose. The story is that, the Shiite jurists considered women and men equal in the blood money, the body Organs nemesis and injuries in order to reach the one-third blood money, and when they achieved the one-third, it could change to the half. The quotation and story provided by "Aban" is an example in this regard and most of the famous Shiite jurists have accepted this story, however, other quotations are also mentioned. Mohaghegh Ardebili evaluated this quotation according to the document, reason, and meaning by his own special rational method. (Mohaghegh Ardebili, Vol. 14, 1409: 469) In addition, he said: This order is inconsistent with rational and traditionary rules. (*Ibid*, 1409: 471).

Conclusion

Despite the fact that Imamia jurists often believe in the authentication of wisdom in explaining the principles of deduction, they have not tried enough and equal to other logical reasons. In addition, throughout the jurisprudence, from Purity to blood money subjects, they have considered them cautiously, and applied the juridical rules and practical principles by so-called wisdom; among them, Mohaghegh Ardebili considered the wisdom and reason, in the mentioned meanings, more than others. It was unexpected and shocking when this field researcher found that despite the fact that most of the jurists have accepted that the wisdom has the ability to understand the good and evil, and the Imamia juridical and legal sect has considered it as a fact, there is no law which is enacted based on it and no rule is legislated. Perhaps, it is the reason through which they considered the wisdom as the potential reason. The question is: when this "power" will be changed to the "action"; it will have thought and method-eliminating and future-making answers; and it seems that this is the reason why different periods of Islamic jurisprudence and law have chosen different meanings of wisdom.

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