



Research Paper

Typology of the use of customary components in the criticism of jurisprudential hadiths

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Abstract

A number of precious collections of traditions (hadiths) containing jurisprudential rulings have been damaged in their texts, causing to diminish or reduce their credibility. In the process of jurisprudential inference, it is necessary to organize criteria to evaluate the content of hadiths. The hypothesis of this research is that the element of custom ('urf) can be used as a criterion for criticizing jurisprudential hadiths. In order to prove this view, in a descriptive-analytical method using library sources, first, the concept of customary components, the reasons for their validity according to legal (Sharī'a) teachings and intellect ('aql), and the scope of using these components are explained and the mutual relation of Sharī'a teachings with customary components are discussed and clarified. Secondly, five of the accepted customary components are identified, as follows: the wises' bases, the wises' way, the practitioners' way, and the general habits and affairs. In addition to explaining the relation of each of these cases with the concept of custom, appropriate examples of hadiths are presented that can be considered weak by using custom components. The final evaluation is that in the process of jurisprudential inference based on hadiths, it will be necessary to refer to these components to validate the hadith.

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Extended Abstract

1- Introduction

A number of precious collections of traditions (hadiths) containing jurisprudential rulings have been damaged in their texts, causing to diminish or reduce their credibility. In the process of jurisprudential inference, it is necessary to organize criteria to evaluate the content of hadiths.

2- Method

to prove this view, in a descriptive-analytical method using library sources

3- Result

The confrontation of customary components with Shari'a teachings can also be distinguished in two ways. A number of incorrect customary practices resisted Islamic teachings and only by changing the form and title, they stabilized their appearance. Examples of these incorrect procedures can be found in the conversion of the title "loan usury" to "conditional gift of compensation", which is no different from usury in the cases of requiring the payment of the debt with an excess amount. Unfortunately, this wrong customary practice has existed since before Islam until now. Another example is the perpetuation of incorrect customary practices, the lack of proper Islamic clothing among a large number of nomadic and desert-dwelling women.

Another function for customary components in dealing with hadiths can also be imagined. Due to the existence of many damages in the collection of narrative heritage, some of these news will be invalid. In order to refine the collection of hadiths from these harms, it is necessary to use acceptable criteria. The authors of this research believe that a number of

customary components have the ability to play a role as a criterion of Hadith criticism. That is, through using the criteria approved by Shari'a and intellect, we can achieve rules that are based on customs. In other words, customary acceptable standards will have the ability to criticize hadiths whose content is not acceptable.

Finally, five of the accepted customary components are identified, as follows: the wises' bases, the wises' way, the practitioners' way, and the general habits and affairs.

The wises' bases are either derived from obvious things or based on rational arguments. Accordingly, the wises' procedure in praising and condemning is rational and it is not reasonable to oppose it. The preferred view is that there is no requirement to refer to the time of the legislator, for some topics are found in later periods and have the support of wise people for their verdict. For example, anything that is considered to be property can be sold. The way of the wise is the same wises' bases that has taken a practical aspect. With this definition, the relation between bases of the wise and the way of the wise is the relation of general and absolute specific, because the bases of the wise can lie both in their understandings and practical way of life. Considering the verbal and practical aspect of custom, custom can be considered more than the way of the wise. The true custom can be identified as the way of the wise.

4- Conclusion

The way of the practitioners of Shari'ah is the conduct and general behavior of the



Shari'ah period or times close to it. This public behavior is a sign of issuing a legal ruling that has not reached us. The way of the wise is born of rational nature and is not considered as a discoverer of the expression of Shari'a, while the way of the practitioners is the product of the expression of Shari'a, and it does not mean not to reject it. Since the actions of religious people can be examined from the two perspectives of being religious and being in the midst of custom, the way of practitioners has two directions as well. From the first aspect, this phenomenon will be considered as a type of the way (*sīrah*), and from the second aspect, it is a branch of a special custom that is prevalent only among a group and its source is legal rules. The difference between the way of the wise and the way of practitioners is that the former cannot be considered as the opinion of the Shari'ah, but the silence of the legislator should be added to it, while the latter, in itself, is the discoverer of the legal reason.

The chosen definition of habit in the term of knowledge of principles is the manner of behavior or speech is continuous in a particular person or group. The relation between custom and habit can be found based on the inherent characteristic of custom, i.e. its binding aspect. Social behaviors that are repetitive but not binding in people's opinion are included in habits. Public affairs in the field of Shari'a are matters that the members of the Islamic society need to know their rulings and issues due to their continuous confrontations with them throughout the life. Some Sunnis believe that if practitioners of religion oppose a hadith the content of which should be known to the general public, a criterion for the

invalidity of the hadith will be obtained here. Apart from the discussion of the quality of accepting or rejecting the news of Ahad (*singular hadith*) regarding public matters, what is meant by criticizing hadith with the benefit of public matters in this article is the cases in which religious people have openly criticized the hadith orally, which their actions are contrary to. Considering the actions of religious people, this criterion will be similar to the way of practitioners, but based on the fact that in this criterion, there are reports of the opposition of jurists, it will be a verbal criterion, not a certain criterion.

The final evaluation is that in the process of jurisprudential inference based on hadiths, it will be necessary to refer to these components to validate the hadith.

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6- Authors' contribution

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7- Conflict of Interest

Authors declared no conflict of interest



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