

PAYING ATTENTION TO THE EXCLUSION OF LEGISLATOR AND ITS IMPACT ON THE UNDERSTANDING OF HADITH

Zahra Mazloomi Fard¹

Mohammad Reza Shahrood²

Abstract: Just as effective criteria and interpretations are required in the science of commentary to develop understanding of the Word of Allah, there are need principles and rules for understanding the Hadith. It is noteworthy that the earlier scholars of hadith sciences, although referring to the principles and rules of understanding hadith in the course of their research, did not make an independent compilation as a specific knowledge of the application of criteria for better understanding of hadith. However, in recent decades, scholars have dedicated valuable writings to the world of knowledge on independent scholarship in the jurisprudence of Hadith. In this article, based on the method of understanding the hadith by Shahid Thani, the great Islamic scholar and hadith scholar, who used Hadith in Islamic science and his method of

inference in alRouzah al-Bahiah the rule “attention to the exclusion of legislator”, is scrutinized. The result is that the full obedience of all the Innocents words is not obligatory and if the legislator Imam has not mentioned a discussion and used other titles such as “Expert convention” at that time, it should not be generalized to all times and places.

Keywords: Shahid Thani, Understanding hadith, Legislator involvement area, al-Rouzah al-Bahiah.

1. Introduction

Since the proper understanding of the Innocent sayings, deeds in terms of interpretations of the Qur'anic verses and understanding of the legislator's verdict is important in the Islamic sciences, the former scholars refer to al-hadith jurisprudence as a science seeking

¹ PhD Candidate, Department of Quran and Hadith, Islamic Azad University, North Tehran Branch, Tehran, Iran, E-mail: Mazloomifard@gmail.com.

² Associate Professor, Department of Quran and Hadith, Faculty of Theology, University of Tehran, Tehran, Iran, *Corresponding Author: E-mail: mhshahroodi@ut.ac.ir.

to understand the true and profound meaning and inference of the hadith. They have applied methods and rules in their commentaries and narratives on narrative collections that have noted its rules and problems in the works of the Principal, Rhetoric and other related sciences. Sometimes they have used the rules of hadith jurisprudence in the texts with the content of explaining hadiths and they explained the intention of the innocent like Saduq in Ma'ani al-Akhbar and Tabrasi in Meshkat al-Anvar; however, they had no work on independent knowledge on the jurisprudence on Hadith. Contemporary scholars have scrutinized many of the rules that had not been mentioned in the works of scholars who have used hadith in Islamic science, and ordered in an orderly manner in their contents and in the name of Hadith apprehension and explained them. Ali Akbar Ghaffari, Dr. Abdollahadi Masoudi and Dr. Majid Moareef are among those who have made significant strides in this field, but the question is whether the understanding of hadiths and traditions can be understood solely from the principles and ways of understanding the Hadiths in the Hadith apprehension

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books or are there other rules and regulations?

2. The Position of Understanding the Hadith

Since the Koran denounces blind obedience even to divine revelations, and in many verses it indicates guidance and understanding, as AL-FURQAN (73) says: " And they who, when reminded of the communications of their Lord, do not fall down thereat deaf and blind", Understanding the hadith is also essential to understanding the Shari'a. Since it has a special place, there is need for sound scientific methods for the correct understanding of the hadith, which is called "Hadith apprehension". In other words, all the efforts made in the field of explaining, interpreting and resolving the divisions of the traditions and explaining and removing the obscurity that obstructs their proper understanding is a part of the background of this study. However, first of all, it is essential that during the issuance of the hadith by the Innocent, in addition to the existence of numerous proof that help to understand the hadith, and the companions referred to Imam for a better

understanding and they emphasized the correct understanding of their words, as Imam Ali (pbuh) said about accuracy in understanding the narrations rather than the attempt to express them “They understood religion with learning and practice, not only through listening and narrating because the narrators are abundant in knowledge, and the practitioners are few” (Sharif Razi 1994, sermon 239, 358). Of course, at that time, the term *Deraya Hadith* meant Hadith apprehension; however by departing from the time of the infallibles and the importance in examining the narrative document, its narrative practices and the ways of tolerating the hadith were considered part of the *Deraya Hadith* and it was annexed to *Mustallah al-hadith*. In the modern era, Agha Bozorg Tehrani distinguishes between *Deraya Hadith* and hadith apprehension in terms of subject and considers the subject of *Deraya Hadith* as referring to the hadith document and that of hadith apprehension as the text of hadith (Suleimani 6, 61). Hadith apprehension in the sense discussed in this article is associated with the modern era and its context is in *Deraya Hadith*. It is now developed and become an

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independent science. However, the formation of this independent science has been the result of effort and compilation of detailed explanations for them by the pillars of the science of hadith. To speak of the pioneers of this knowledge, first, the fundamental role of Imam Ali (as) and other innocents (AS) cannot be overlooked. After them, there are great scholars such as Barqi, Koleini and al-Kafi who compiled the Hadith family under the headings of implying the purpose and presented the conflicting news solution in the preface. Sheikh Saduq in *Man La Yahzaraho al-Faqih* has attempted to describe hadiths and difficult words as well as resolve conflict (Masoudi, 3). Sheikh Saduq’s efforts in commenting some news such as *Sahv-ol-Nabi* is remarkable. Seyed Morteza in explaining effective literary discussions in understanding Shiite verses and narratives and defending Shiite beliefs and compiling the first major book, *Al-Zariah Ela Osoul al-Shari'a*, established the foundations for understanding Hadith. Sheikh al-Tusi, in the book *Tahzib al-Ahkam*, explained some of the difficult traditions and in the preface of *Al-Estebzar Fima Ikhtalafa men al-Akhbar* explains the preference of one

narrative over another (Masoudi, 32). After a period of relative decline, Allameh Majlesi wrote detailed commentaries on earlier Hadith books as well as on the Hadith books of Bihar al-Anwar and many other books (Agha Bozorg Tehrani, 94 and 98). Faiz Kashani with Alwafi and editing, explaining and refining Arba books took a great step in explaining and understanding of hadith (Faiz Kashani 1:7) and so on. In contemporary times, Allameh Amini in the valuable book of al-Ghadir and Allameh Tabataba'i in the interpretation of al-Mizan have offered many valid arguments based on the rules of understanding and criticism of hadith. Imam Khomeinin has also left valuable works by carefully considering and presenting numerous and varied points and interpretations in hadith and in jurisprudence and principles. Contemporary hadith scholars Ali Akbar Ghaffari, Abdolhadi Massoudi, Jafar Sobhani, Mohammad Taghi Jafari, Mohammadi Ray Shahri and others took significant steps in understanding the tradition of Hadith such as transmitting narrations to the Qur'an and successive traditions, understanding the role of singularities of the Hadith and its

combinations by collecting presumption, ways of finding the hadith entry, precision in the type of hadith impression, the necessity of forming a hadith family, how to retrieve corresponding hadiths and paying attention to the conflicting hadiths and utilizing human knowledge in understanding the hadith. They even went beyond and addressed the subject of obstacles to understanding, including subjective assumptions, simplifications, selective approaches, ignorance of the tone and many of the mentioned rules. Of course, in addition to the above written rules, there are some rules and regulations in the understanding of hadith used by earlier scholars in their books, manuscripts, and practices, but they are not mentioned explicitly. Here, it is decided to analyze and explain a case of unpopular rules used by scholars, especially Shahid Thani to understand the hadith, for rational and transmissible reasons.

3. Shahid Thani and the Rules of Understanding Hadith

Among the great Shiite scholars, Shahid Thani, Zayn al-Din bin Ali bin Ahmad Amali holds a high rank.

Like Shahid Awwal, Shahid Thani is well known in the Islamic sciences and in the defense of the Imamieh School that both of them have been martyred in this regard.

The al-Bedayyah fi Elma al-Derayah, following the pioneers, first discussed the terms and types of hadith and then proceed to express how to interpret the hadith and in this case it is among the Hadith science books. Therefore, it is not helpful in hadith apprehension and understanding. Therefore, to understand the importance of understanding the traditions and how to deal with and apply the hadiths and using them in jurisprudential rulings and issues the books of Shahid such as Al-Rozahah al-Bihia are addressed. The rules he used when using narrations to achieve the rule are found that sometime the scholars found them by contemplating in the related books of hadith and presented in hadith apprehension. Sometimes while searching, some rules of understanding hadith are achieved that despite being used by the jurisprudence in their books, they are not considered in any hadith apprehension book explicitly. For example "paying attention to the general

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rules in understanding specific traditions" can be helpful in understanding some of the traditions.

4. Paying Attention to the Fields of Including the Jurisprudents

One of the debates among the jurisprudents is about the obedience of all the narrations. In other words, they are about the fields of entry of the jurisprudents. It means whether all the hadiths of the Ahl-al-Beyt as "jurisprudence" rules that seek to establish or discuss rules or in some reasons, their entry is not jurisprudential. The importance of answering this question is that if the fields of legislator entry are jurisprudential, the answer and expression of the Imam in the traditions should be applied for all times and places. However, if in some cases, it is concluded that the legislator entry are not jurisprudential, and it is to answer a question, it is concluded that his answer is custom of that time and geographical boundary, and it is not possible to interpret it in other ways.

It should be noted that the task of the jurist in the field of inference is generally divided into two parts:

A: The inference of religious law, whether statutory or assignable

B: Explaining the issues expressed by the Legislator

Now, if there is no definition by the jurisprudent in the field of explanation of a particular subject, the jurist cannot naturally attribute a definition to the jurisprudent but instead relates such cases into the common law. As Mohaghegh Ardebili said: when there is no comment on the part of the jurisprudent on an issue, there is no doubt that custom can be referenced, but if it opposes the comment of the jurisprudent, it loses its credibility. However, the authority of custom is summarized in the following four matters: 1- To discover the status of a statutory or assignability, which is used on two terms. Firstly, it does not oppose the legal text, such as the incorporation of un-related men and women in the celebrations and weddings, although this has become customary; secondly, it has been a customary matter in the Innocent time, and it has been heard or observed in but there is no comment. 2- To explain some of the common concepts such as when renting or buying, what is included in the property being bought or rented?

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Or, for example, it is referred to custom in music at any time.³ To identify instances that are subject to the rulings but the Shari'a has made the custom responsible for them like home, mine, land, etc. 4- To act on a particular custom of a region which can be the presumption case to solve many verbal and actual conflicts such as disputes over selling meat without mentioning its type, it is possible to refer to the custom of that area. Alternatively, for example, items in some areas that are weighted or counted in some areas, where the custom of that area should be considered (Sobhani Tabrizi, 2008, 150-153) and here some cases of referencing the custom are mentioned from the perspective of Shahid Thani.

Example 1: In Wasiat, , the subject of what is inside the legacy says: In the will of the sword, in addition to its blade, the sheath and ornaments attached to the sword also enter inside the will; however, in terms of word, the will to sword only includes its blade. However, according to the custom, the sheath and ornament of the sword are also part of the sword and enter into the legacy, even though not mentioned explicitly because

the word sword in addition to its blade denotes the sheath and ornaments.

Here, Shahid Thani does not refer to the narrator's as a reason for the interpretation of sword, but rather uses the narrative as evidence and testimony (Tarhini Ameli, 2006, 6: 59) not as an expression of the truth of the law and Shahid Thani refers to custom to understand the term because the custom is a case of presumption used to solve many ambiguities in the mind (Sobhani Tabrizi, 2009: 153). He has also used custom whenever it is necessary and in fact mentioned Imam (as) as a custom expert rather than the legislator or the one who should be obeyed.

Example 2: In Tejaran under discussion on the “one who wants to buy an object of sale” he says if the object of sale enters the commerce, the general rule is that (Shahid Thani, 1: 337). To determine the extent of what is considered as object of sale, the common or specific custom must be observed and the holy law shall be considered in all transactions.

Example 3: In Din, there are two views on the debtor whose debt has been proven and must be released:

1- Jurists like Sheikh Tusi who say that the debtor after being released is not obliged to work for two reasons to be able to pay off his debt, first because of the verse 280 of Sura al-Baqarah (And if (the debtor) is in straitness, then let there be postponement until (he is in) ease) and refers to the interpreter's deadline until he finds an opportunity and did not mention doing any business to pay for his debts.

2- The second is because of the principle of freedom from suspicion that when there is doubt in the responsibility, it is abolished and here the responsibility is doing business that is abolished.

3- Jurists such as Shahidin and Allameh who have made doing business obligatory for the debtor after the release for two reasons, first due to the narrative of a dwelling on the debtor, from the Amir al-Mu'minen Ali (AS). He would hand the debtor to the creditors and said: Hire him or whatever you want him to work for you as much as he has to pay to you. Secondly, because of the reasoning of Shahid Thani who believes: paying debt becomes obligatory upon the creditor's demand and if the debtor is unable to pay the debt but is able to do a

job, receiving Zakah It is forbidden to him.

Therefore, it will be out of the above verse (280 Surat al-Baqarah) and the debate will be on the business necessity for the released debtor. Accordingly, another narrative says: Amir al-Mu'minin (AS) would hand the debtor to the creditors and said: Hire him or whatever you want him to work for you much as he has to pay to you. And Shahid Thani based on the same narration considered business as obligatory for the debtor (Shahid Thani, 1: 364), he considered his employment in carrier that comply with his dignity. Therefore, paying attention to custom, where the legislator does not enter, has been one of the trusted criteria of Shahid Thani. Therefore, the obligatory principle of employing the debtor is one of the fields of entry of the legislator the rule of which is stated and according to the traditions, the quality of employing the debtor is subject to the custom and the legislator does not enter it.

5. Conclusion

Due to the importance of understanding the hadith and the need for proper scientific methods for a complete

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understanding of the traditions, in the absence of clear rules and lack of attention to the required principles, it is possible to deviate from the path of Prophet (peace be upon him) and his successor imams. Therefore, the early to recent Islamic scholars have somehow tried to systematize the sciences of hadith and have employed some ways understand hadith in a better manner. However, some contemporary scholars with careful and thorough study of the hadith related books have achieved a number of rules and principles that explain them briefly in their books. Some of the rules that are derived from religious scriptures by Shahid Thani without explicitly mentioning the rule used by them including: "Paying attention to the fields of non-entry of the Legislator", which is one of the commonly asked questions by jurists whether all narrations should be regarded as a ruling by the Legislator or can it be said that in some cases the Innocent Imams applied the custom. Because if all areas of Legislator entry are customary, the Innocent's speech is applicable to that specific time and place and there is no need to generalize it to all places and times. Since if the text is not

presented by the legislator, the jurist cannot provide a definition, such cases are referred to the custom or an expert.

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