

## **Stability and Change in Worshiping Provisions**

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### **Abstract**

*One of the main topics about way of adaption of the Sharia's law to change of human life is that change happens in which arena of Islamic jurisprudence. If we know change specified to the transactions part, it means that we have assumed religious worship as the fixed part of the law. While the reality shows otherwise and several cases of change in the field of worship are available to enumerate in legal books. In this study, addition to the legal meaning of worship and assumptions for its stability, will also take a look to the mechanisms of these changes, in order to show that changing statements is also possible in arena of worship. Hence the religious title of an act cannot be as a factor for considering about its stability or variability. But what is important is compatibility or incompatibility of it with Islamic religion goals and interests of the community, which can be an important factor for the separation of variables from constants of law.*

**Keywords: Worship, Stability, Change, Constant, Devotion.**

## 1. Introduction

In modern times in the face of growing changes, this question has been raised on how Islamic jurisprudence, as a best man's controlling theory, is going to control today's broad and always evolving society with fixed and established rules of small primitive and advent society of Islam. These questions caused useful formations and valuable studies in field of jurisprudence and the time and place. But the more important question in this regard is that based on what criteria are constant and variable judgments distinguishable and recognizable? The necessity of responding to this question is because of that after accepting the base of issue and warning about stagnation in jurisprudence, there is this concern that constant principles be measured among variables and the most consistent religious issues to be considered as changeable laws or in the other hand changeable principles can be assumed wrongly as constant sentences. What has been written about the role of time and space in jurisprudence is mostly about Jurisprudence transactions, which in addition to division of principles into signature and installations and categorizing them into fixed and variable law, it has taken jurisprudence transactions as starting point for its discussion and have made religious laws out of the circle of this discussion, while this is not acceptable. Hence it is necessary to independently study changeability of provisions in worship, after reading out all theories and knowing that on which basis provisions are constant.

## 2. The semantics of the related word

### Worship

*In Islamic texts;* the term worship is associated with different meanings in Islamic texts. Some applications refer to literally meaning of worship, modesty and humility, although any humility is not worship. Such as humility of one person against another person but modesty and humility which has holiness is named worship (Motahhari, 2010). However, any "obedience" is not true example of worship. Permissibility of obedience along sanctity of worship of other than Allah is another example of this difference. Some of other uses refer to the customary meaning of worship, because in Muslims juristic they only know the praying, fasting and pilgrimage as worship.

*In jurisprudence and principles of jurisprudence;* with an overview on the division of fields of jurisprudence in the early and late works of religious jurisprudence, worship against transaction is the main part of all of them, although there is disagreement between the numbers of cases. Each of jurists have their own division, which some of them are mentioned in following. Halabi, Abu'l-salah after dividing religious jurisprudence into worship, prohibitions and commandments, in part of worship except for-called celebrity worship (prayer, fasting, Hajj, Zakat and Khums, Jihad) he has also added a number of topics of contracts and transactions (such as the vow and covenant and suggestions) and provisions related to funeral and pay the loan and property rights. He believes about worship that doing them is kindness and leaving them is ugly (Halabi). Ibn Baraj knows general provisions, which belongs to all people, as worship and names them as Praying, fasting, Hajj, Jihad and property rights (Ibn Baraj, 1985). The most popular categorized jurisprudential discourses is for Mohaghegh Helli, which has based his book; Sharaye al Islam; on four parts of worship, contracts, unilateral legal acts and decrees and he puts ten books in part of worship such as, Cleanliness, praying, Zakat, Khums, fasting, Secretions, Hajj, Umrah, jihad and enjoining good and forbidding wrong. Shahid Aval in his book, Ghavaed states that religious jurisprudence are whether related to spiritual and non-material aspects or related to aspects of physical life and to adjust it, the first part is called worship and the other is called transactions (Shahid Aval, 1979). Ameli also with reference to this classification of Mohagheghs writes: where the purpose of jurisprudence is only other world it forms worship such as praying, zakat, fasting, devotion, sacrificial, ransoming (Ameli, 1985). Mirzaye Naini says about meaning of worship in the jurisprudence: worship includes three meanings:

-The actions that seek divine pleasure and function properly, depends on the intention of complying. These actions are called worship in the specific meaning.

-The actions that seek divine pleasure but function properly does not depend on the intention of complying.

-Duties that are sentenced and are not dependent on any essay and include legal arguments, testimonies and heritage.

In the books of Islamic jurisprudence, in discussing the obligatory and resorting worshipis also is spoken about worship in its specific or general meaning. Worship in the specific meaning is actions that should be performed only because of nearing to God, which means their property depends on the intention of complying. And

worship in its general meaning is actions that do not depend on the intention of complying, it means if person does it on the purpose of nearness, it deserves oblation (Makarem Shirazi, 1993).

(B) Stability and change

Stability literally means the state of being stable and its synonyms are firmness, solidity, steadiness, secureness, strength and change literally means making difference, alternation, returning. Raghīb Isfahani defines change in two ways; outward changing without inner change and the other is transformation of something into something else (Raghīb Isfahani, 2005). There is two type of decree; changeable and constant. Constant means sentence was stated by the legislator and are revealed for all times and places but changeable decrees are not so and are stated for specific time and place. These decree, although is not the actually variable but it can be changed. There is no theory presented by experts about whom parts of Islamic jurisprudence are constant or change able, but the nature of changeability is accepted by jurists as a social reality.

### 3. History of Discussion

The probability of changing decrees is presented from the earliest centuries of jurisprudence systems, with this question that how tradition-bound can answer unlimited events and voting is the way to solve the problem (Ibn Qutayba). Jurists by dividing decrees in constant and changeable have provided the way to solve the challenge of adapting constant religion and evolution of societies. Traces of such are visible issues in the work of Abu Yusuf (d 0.182 BC). He, by comparing tax and zakat and forbid of the mixing property and pay tribute, emphasizes on this fact that the withdrawal is subjected to change according to circumstances of time and place but zakat and its way of use, which are stated in Quran, must be used just in those ways, unless the governor decides that all of it be given to a class of traders (Abu Yusuf, 1978). Based on this view of some religious obligations are receptive to change according to time and place. Then change the provisions according to the evolution of time and space has been raised between other Sunni scholars. For example Ibn Qayyim says, in addition to allocate independent chapter devoted to the issue of change orders in his book *I'laam ul Muwaqqi'een*, in other place that sentences are two categories; Some of them cannot change in any circumstances such as obligation duties and prohibitions and sanctions of religious and for the other category change is possible according to the circumstances, such as punishment, which can be changed on the basis of the interest in the quality and quantity. Shatebi believes that perhaps something is not proper on an exact time but it could be appropriate in another time. Today some such as Wahba Zuhayli in *Usul al-Fiqh al-Islami* and Yusuf al-Qaradawi in *The general characteristics of Islam* in addition to dividing sentences into two categories they have also studied the way of adaption to developments in contemporary Islamic jurisprudence. Sheykh Tusi pointed that religious worship are subject to interests and there is no improbability that the interest change and what was obligatory motive be and forbidden action (Shaykh Tusi, 1986). Shahid Aval is one of the jurists that has considered topic of changing decrees specifically and thinks changing decrees is due to changes in situation is allowable (Shahid Aval, 1979). Other jurists of Ja'fari jurisprudence is Mohaghegh Ardabili states that changing decrees is allowable according to time and place and gives the forbidden problem of decorating men with objects for women as an example and emphasizes that these cases varies in proportion to the time and place (Ardebili, 1982). After familiarizing Muslims with modern civilization of West raising developments, the problem of implementation of the provisions of law with such developments has been studied more seriously. Allameh Tabatabaei has defined constant decrees as decrees which are stated due to the requirements of uniform and constant nature of human and can be changed by difference between the way of life and the gradual progress of civilization and the creation and destruction of new and old methods (Tabatabaei, 1993). Shahid Sadr interprets meanings of constant and changeable decrees in terms of fixed and variable needs of people. He knows social life and social relations of man as the result of human needs and emphasizes on the rational need for existence of two sections in the provisions and explains that all Islamic rules are not fixed but basic parts of it are stable and The other part accepts changing and is flexible in the face of changing conditions of society (same). Explanation of stability and change in provisions based on fixed and variable human needs can also be seen in ideas of Shahid Motahhari. But the role of Imam Khomeini Introducing the theory of time and space on Ijtihad and that time and space are two crucial elements in Ijtihad is important and unmatched. Hence in recent years studies and extensive research were presented to explain this theory such as the collection of Imam Khomeini's Congress reviews to fundamentals of jurisprudence.

#### 4. Stability and assumptions of worship

In the historical view to matter of law and time, it was founded that division of jurisprudence into two categories of constant and changeable was accepted by a lot of past and present jurists. With an overview on the thoughts expressed in this regard, most researchers and experts in the field have considered worship as the main part of Sharia and these thoughts can be classified into some groups (To see ideas Categories and owners; Saberi H, fixed and variable domain of difficulties and assumptions, Journal of Islamic Studies, 2000, pp. 82 onwards):

Theories, which are formed based on organizing the authorized change decrees. Jurist, from the beginning have removed the worship sentences from their discussions. Makarem Shirazi knows worship as constant and unchangeable part that mind cannot understand their interest and profit (Makarem Shirazi, ). Mohammad javad Mughniyeh also states that constants of religion are faith, worship and issues of inheritance, marriage and divorce and defines worship as detention action that apart from the legislator has no external effect and no objective existence (Mughniyeh, 1989).

Theories based on distinction between worship and other field that sum of these views is divided in several ways: The distinction between worship and devotion, emphasizing that in worship, obedience to God dominates. Note that in the assumptions listed the clear example of the constant part of the jurisprudence is worship. For example, martyr Motahari and martyr Sadr and his works by listing constant and variable needs, have known worship as suppliers for constant needs of humans (Motahari,2010). Given that the qualifying criteria of reason to the provisions of the worship is facing difficulties, on this basis also the good applicable of constant provisions can be nothing but worship. This fact that worship is one of the constants of jurisprudence is rooted in relation between worship and thralldom. That in the principles of Sunni jurisprudence, the rule is because of thralldom or because of causality, there are different opinions. And even contradiction between verbal ideas and practical provisions of law between different religions can be seen. For example, some religious such as Hanbali that in knowledge in the field of Islamic theology does not like theory of causality about divine act, in the field of jurisprudence convert to causality (Saberi, 2008). And a total of three views are available to enumerate, giving a thralldom view to all decrees, giving causality reason to all decrees and giving details between worship and transactions. In Ja'fari jurisprudence also the issue of thralldom of jurisprudence is accepted. As they have said that the rule in all obligatory is thralldom ( Hamedani). They have also mentioned in other place that there is no way for wisdom in jurisprudence. In addition to this a brief list of states in the devotion in specific chapters of worship is also enumerated. Such as Purity and impurity sentences (Najafi, 1988; Mohaghegh Ardebili, 1982), provisions of menses (Sheykh Shooshtari), following the actions of the prayers of the congregation (Najafi, 1988), obligation to leave the word in a sermon Friday prayers (Tabatabaei, 1993), recommendation washing hands before ablution (Shahid Thani, 1992), the necessity of lack of separation between male worshipers (Behbahani, 2003). Also there is another rule that means having equal decrees for different topics and having different decrees for equal topics, although there doubts about the accuracy of this rule but given such assumptions in the fields of worship as well as other arguments that know the lack of knowledge about philosophy of worship as requirement for perfection of devotion in worship (Taleghani, 1983), this look that the reasons behind this worship is unknown to us and worship is a daily obligation, will be Strengthened.

#### 5. Variability of worship and religious orders

Despite the constant simplistic view to worship, but we can find some example of change in decrees, which are stated in following:

*Change in the subject of jurisprudence*; another case of changing jurisprudences due to changes in the conditions of the time is to modify the subjects of jurisprudences and the jurisprudence would be changed followed by the change of subject. To change the subject is possible in some ways: change in the nature of the subject, developing and restrictions of the subject, the transformation of ratios and additions on the issue, change in constraints and attributes of the subject and changing the name or title of that (Borji, 1995; Akhtari, 1995) some of the religious laws can also be outlined in this regard:

A) Change in the nature of the subject: this type of change is considered as transmutation and as means of cleaning unclean objects, like as convert of a dog in the salt marsh to the salt and that's because of converting the

subject to the new issue (Khoei, 1997). Another example can be chemical decomposition in the laboratory like blood analysis to the various products which are not in fact blood even namely.

B) Developing the subject of jurisprudence: in case of worship, it can be noted to the issue of Zakat and its related nine cases that all narrations indicating the status of zakat to a desert horse by Ali (Tusi, 1986) and many narratives suggesting the obligation of zakat on all things that can be measured (same, 1986; Kalini, 1986), and also Imam Sadiq's notion in not putting the Zakat on rice because lack of fertile rice land in Medina (Tusi, 1986) all indicating the example of the development of the subject in terms of specific condition of time or location. Although somebodies concern it as the recommendation considering the whole traditions and narrations of lack of obligation in other cases than nine cases (Ameli, 1985), but some scholars believe that the principle of obligating zakat and its usage cases that are stipulated in the Qur'an are fixed decision and all of such traditions are used and because, sources of wealth as well as costs and debts change in terms of time and place, what is in Zakat is inevitably changeable according to time and place (Montazeri, 1988). Regardless of this difference of opinions, noteworthy case is the development of the subject of worships in the particular circumstances of time and place.

C) Transformation of ratios and additions on the issue: two clear examples: one is cleansing hair and nails of an infidel by believing in Islam (Khoei, 1997) and jurisprudence on the purity of human blood after entering the body of an animal whose blood does not gush, although it is scientifically the same human blood (same, 1997) and one different example in the jurisprudence in the purity of animal insulin that is taken from pigs' gland entering into humans body.

D) Change in constraints and attributes of the subject: Such constraints are two types, some of them will change the jurisprudence by their removal (Sheikh Ansari, 1995) including a sentence to the lack of necessity and sufficiency of sacrifice in Mina and the need to do so at the sufficient time and circumstances in out of Mina, because the necessity of sacrifice focuses on consuming the meat of that and in the current situation, these meats have not been consumed due to the large number of pilgrims and they are buried or burned and when the subject is canceled, the condition would be canceled too (Makarem Shirazi, 1997). In other words, they believe that sacrificing the animal in Mina and its consumption has had desired unity and is in form of having conditions and restrictions that excluding the subject cancels out the conditions and restriction. As well in discussing traveler's prayer, criteria of a journey is a path that allocates one day of time to pass and this was equivalent to eight parasang as one day in the past by the approach of some bodies, but in our time and regarding modern equipment, it cannot be said passenger to someone who has passed eight parasang, but what is the criterion is one day and night on a trip (Abedini, 2002). This means passengers as a subject are known with this constraint that the distance between origin and destination takes one day and this constraint is excluded in most cases, thus the sentence of traveler's prayer is different in our time.

E) Changing the name or title of subject: there may be an issue in the past having meaningful title and in new conditions gets other principle or title. The main criterion in forging further provisions are including inability of mukallaf to obey prior provisions or not to comply with the provisions that their origin and meaning are different. Secondary titles that are origin of counterfeiting secondary provisions include: compulsion, loss, hardship, reluctant, priority, concealment, bet, promises, vows, obedience to parents, stipulating something while the required contract (Kalantari, 1999). Based on a perspective, appearance of secondary titles causes changes in the criteria for judgments in initial jurisprudences resulting in the change of that jurisprudence (Naini, 1997) and based on another view, complainant of secondary titles doesn't lead to alter primary provisions and change of the decree (Khomeini, 1991, to see the two views, Kalantari, 1999). Thus, the complainant of any of the secondary titles, following the basic decrees may not be possible and in other words, the subject of the second sentence is disability to follow the prior sentence and such a case is also conceivable to religious laws that can be pointed to these cases:

A) The boundary of Tawaf: there are several points of view on the Tawaf area. In comparison of view of past and contemporary, this difference can be seen that the early jurists that have complained are mostly believe in the obligatory of Tawaf in the area between MAGHAM and HOME (Tusi, 2008; Ibn Hamzeh, 1987; Mohaghegh Helli, 1987; Helli, 1989) and the term of an emergency permit has only been raised by Ibn Junaid (quoted: Shahid Aval, 1979). But contemporary scholars have considered the rule of emergency exit from the boundary of Tawaf after the issue (See: Khomeini, 1991; Fazel Lankarani, 2003) and even it has been also raised the term of authenticity outside of this area to the extent that Tawaf is applied by some contemporaries (Rouhani, 1998; Makarem Shirazi, 1993).

Although accepting change of jurisprudence by emergency reflects the impact of secondary titles on religious issues, but perhaps, it can be said that difference in views of contemporary and early scholars is due to understanding of the different conditions and characteristics of the pilgrimage with the past era.

C) Autopsies: autopsies means separating members of the human dead body or to cleave a body to train students, medical research, the discovery of unknown causes of disease, crime detection and more. Damage to the body of the deceased, as the crime on his body is not permitted according to early jurists (Alamolhoda, 1994; Helli, 1989) because of being as instances of desecration to Muslim dead and mutilation and autopsies of the Muslim dead body is not permissible also in opinion of contemporaries (For example, see: Khomeini, 1989; Khoei, 1/426; Golpaygani, 1982). Despite such sentences by jurists, the autopsies of the Muslim dead body is allowed in cases such as autopsies with the purpose of education, to rescue alive by ripping the dead bodies, and to detect diseases.

*Contention*; When two sentences (in law) both worked, on one person, and the person cannot do them or afford them, it is called contention (Feyz, 1985) and the thing that acts as an obstacle from actualization both sentences together, is nothing except Incapacity of that person (Meshkini Ardebili, 1995). The rules of Islam, until they are not executed cannot cause such problems but when they are executed contention may happen, and in this situation by stopping one rule we can let the more important rule to be executed. As Imam Khomeini states, preservation of system is much important action even more important than praying (Khomeini, 1991). In case of contention between preservation of Islamic system or pray, system in more important.

*Governmental rules and changing decrees*; in the topic of governmental rules, the most important thing, which is the base of all discussions, is benefit of Islam, society and system. Governor, in the position of ruling, according to benefit, sometimes pays attention to personal interests and in some cases pays attention to the common good, and this is the base of governing (Saber, 2005). About the topic of governmental rules this question can be asked whether it is restricted to transitions or it includes all rules of Fiqh. And according to definitions or what is stated from jurists we can understand that there is no such restrictions. In following we mention some examples:

Story about the Hajj and getting hands out of the garment of Ihram, to demonstrate the power of Muslims in Umrah Alqza', which was not done after that (Ameli, 1985).

Prohibition of saving the sacrificial meat more than three days in Mena by prophet (Kalini, 1986).

Necessity of paying Zakat in case of request of Jurist

Temporary closure of Hajj, Government can prevent from Hajj, if it is against benefits of Islamic system or society

*Different versions of jurisprudence relative to evidence*; since the jurisprudence and the inference of rulings are conducted by the jurists, view of two Faqih at legal sources can vary. For example, aspects of the meaning of the term could be understood in words, which was not understood may be because of the limitation of human knowledge, or lack of reflection on the verses or the lack of scientific power of Muslims in intellectual, philosophical, spiritual issues and social and cultural effects of certain mentalities and In the current era can be understood. As the martyr Sadr states word and theology appearances, will change over the years as a result of affecting verbal, intellectual and social factors. Sometimes the outward meaning of one sentence at the time of its production can vary with its literal meaning in another time (Sadr, 1979). This issue can be important in the jurisprudence decrees, which are mentioned in following:

*Different understanding of traditions*; before Allameh Helli, the most decrees of Jafari's jurisprudence, According to some traditions considered a pit water, such as scrip water, as the time of dealing with uncleanness as unclean. And for purifying they should draw a certain amount of water pit (Alamolhoda, 1994; Tusi, 2008; Ibn Boraj, 1985) but Allame Helli and jurisprudence after him, consider pit water as Kathir water, because it is connected to the source of underground water ( Helli, 1989).

Prayer and fasting sentence for passengers; some based on different interpretation of Quran verses about prayer break travel (Surah An-Nisa, 101) have generally rejected the problem of shortening the pray of traveler in all situation and cases. They believe that what this verse emphasizes at is reducing the quality of pray not shortening it. And this look is probably presenting different perceptions of law and its impact on religious laws jurisprudence.

## 6. Conclusion

The main and base issue of changing decrees because of change in time and decade is recognition of and constant and variable provisions and classification of jurisprudence based on them. Although some researchers have absolutely put all forms of worship within constant provisions but according to a few points this generalization is suspected.

1. An overview on calcification of jurisprudence in different times represents disagreed of jurists in problem of naming some acts as worship. Worship has a general meaning and that is doing something just because of attracting the interest of heaven, not worldly benefits and their function properly, depends on the intention of complying, and includes physical acts of worship, the prayer pilgrimage to Mecca, Secretions and financial worship such as Khums and Zakat and Waqf. Therefore, jihad and enjoining good and forbidding wrong and Azhyihe and provisions of purity and impurity also include in this part and some jurists have titled some other titles such promise and vow and swear and charity.

2. Review of legal verdicts of jurists in worship, represents different cases in jurisprudence, which was mentioned in the text.

3. Although the issue of changing decrees is mixed with devotion and lack of complete understanding of all benefits of sentences, it is faced with problems such as un-changeability of some of worships such as Praying, fasting, Hajj and un-comparability of the necessity of telling the Arabic words in worship with not necessity of telling the Arabic words in transactions. But in some of these worship can also changes in detail, under the influence of circumstances be seen, which was mentioned partially in this article.

4. The process of changing some of decrees can be done under different scales. This issue does not affect the original subject.

5. The main criterion to separate constant and changeable sentences is not whether they are worship or transaction, but the criterion is harmony or disharmony with purpose of religion such as providing justice or benefits of Islamic System, although their intentions are fixed but the way of providing them in different times can differ.

6. From this description, it will be shown that, although changing decrees seem an impossible action at the first look but with a careful analysis of the meaning of worship it will be easy to accept.

Jurisprudence

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