

## EVALUATING THE RELATIONSHIP BETWEEN HERMENEUTICS AND APPEARANCE VALIDITY IN PRINCIPLES OF JURISPRUDENCE

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### ABSTRACT

Hermeneutic and discussion of validity and quality of Quran(Book) and tradition's Jurisprudential understanding are two very important debates that have been from reviewed and investigated numerous aspects And the results are basis of other topics and different attitudes in the field of social sciences and humanities. Therefore the significance and necessity of explaining the relationship between these two issues are determined. The approximate relation of topics of words. In knowledge of jurisprudence which is the main source of principles, rules and quality of Jurisprudential understanding, is the major issue of this study. This research with a comparative look among the appearance validity and hermeneutics, tries to investigate the hermeneutic and semantic position in field of jurisprudential understanding and its relation with origins of jurisprudence. However the Hermeneutics' origins in west are different from those in origins of jurisprudence.

**KEYWORDS:** Hermeneutic, Validity, Appearance, Appearance Validity, Jurisprudence's Principals

Hermeneutic has been emerged in its manifestation (seventeenth century) as a science and an independent branch of human knowledge in appearance of science and art of texts' interpretations. In late nineteenth and twentieth century, it was added to the scopes and extent of the topics .in such a way that terms "interpretation" and "Art of texts interpretation "can never indicates efforts which is done by name of hermeneutics in our time. Some authors claim that the topic of the appearances which is raised in principles of jurisprudence can be exactly that new hermeneutic. Because in recognition of appearances, each concept which is come to the mind is the true one and the author's purpose is not to be considered. Of course, about the words' debates, in jurisprudence principles and semantics and intention in hermeneutic, there could be common grounds and principals in which hermeneutics means, Old hermeneutics and attached to the correct reading of the text and It would take another channel. Now that the time to investigate this issue that ,do generally in appearances and particularly in Quran and traditions 's appearance ,different recognition from a word and appearance of speaker's word investigate regardless of his intention which is the new hermeneutic in jurisprudence principles or not ?

First of all, it's essential to start the kinds of issues emergence by expressing general concepts and types of hermeneutic. Then going to investigate the discussion of appearance validity in jurisprudence principals which has been allocated many topics to itself

and in continue ,we will consider relation or lack of relation of new hermeneutic and appearance in jurisprudence principles to evaluate.

### LEXICAL AND IDIOMATIC MEANING OF HERMENEUTIC

Hermeneutic is a Greek word which means "art of interpretation" or "text interpretation"(Sobhani, 2002).This word drives from the verb "Hermeneuicen" means Interpretation and absolutely its related to the word "Hermes" one of the ancient Greece Goddesses (that was responsible to delivering gods message to humans and also to interpret them as Mirchalyadeh refers in his "Encyclopedia of Religion". As it comes from religions, "Hermes was the reason of the heavens way, mouthpiece and messenger of the gods"( Bokhari, 2000).

### Hermeneutic in word

Several definitions are provided for hermeneutic, but in Paul Ricoeur view point, as one of the significant Contemporary hermeneutic, hermeneutic sciences is considered as interpretation system.Analysts can bring the hidden meaning to the surface in theory of the rules governing the text interpretation by using these interpretational systems and in another meaning; they can get from hidden meaning to the apparent meaning and decode passwords.

## SUBJECT OF HERMENEUTIC SCIENCE

Subject of the hermeneutic science can be known as "Understanding, due to its relation with the interpretation of signs" that it can be defined as: hermeneutic science is a science that study the understanding theory and will investigate the nature, objectives, causes, barriers and terms of recognition associated with signs' interpretation .Today, hermeneutic has a key role in various branches of cognition such as philosophy, theology, literary criticism and social science.(Hosein zadeh ,2000)

### Types of hermeneutic

Hermeneutics has two basic steps and consequently the two universal terms. General term that originated in ancient hermeneutics and specific term dates back to the late 18th century.

#### Old Hermeneutic

In its general and ancient term any discussion relating to the interpretation that introduce the rules and principals towards discovery of author's goal to achieve the text's final meaning or ignores the existence of these thing is considered in field of hermeneutic discussions. an old hermeneutic has believed to the main and final meaning of the text .Accordingly, any text is written by man has the meaning which was the author's mind objective and though the discovery of the author's intentions is difficult, it's not impossible.

#### New Hermeneutic

With this type of "interpretation compliance with the text" began in Rambakh writing and continued with Johann Martin Claude (1759 AD), which considered the "author's intention" as Hermeneutic basis, three important transformation occurred. These three changes have been mentioned by names of Schleiermacher's classic hermeneutics1834, August Beck (1867 AD), Wilhelm Dilthey (1911 AD) and a new hermeneutics of Heidegger (1979) and Gadamer (1990) and finally ,Hirsch's neoclassical hermeneutic. New hermeneutic has two branches, these two have common principles. The first branch has been started in old context of hermeneutic with Schleiermacher's view point and was linked to the neoclassical flow. The intention of the author or the author's own mind is restored and achieve in this type of hermeneutics. Hirsch considers the text' validity as something meaningful and accurate, thus, an

understanding of the text or word is described to an accuracy and the rests will be invalid.

Second branch: in this branch people basically don't believe in final and original meaning for the text. They believe that the possibility of reconstructing the author's intention, goal and mind is impossible. As, the audience and commentator have always been on the fence for tradition and are in their time horizons. On the other hand speaker and listener are captured by their own mentality, judgments and assumptions. So meaning of the text is what the commentator or audience has understood. Thus all understandings are considered as values as well and cannot chose one over the other as correct on wrong. Gadamer located the second view of the text's understanding in camp. Popper's hermeneutics is considered in the same branch as well, with the difference that Popper's hermeneutical idea; priority of an understanding in the other is meaningful. Today, this point of view is called new hermeneutic. A view that sees the death of the author, and his mind and whatever respondent and commentator are understood is correct .this part can be considered in philosophical or epistemological pluralism that makes many aftermaths. It is said that the most radical approach, is the pluralism in which all heavenly and non-heavenly religions and also atheist schools guarantee the human's happiness (khosrowpanah, 2002) but new hermeneutic with the claim of author's death has lots of dangers.

## APPEARANCES ULTIMATUM

### Definition of ultimatum

Ultimatum in word mean something that has efficiency to arguing on things by that but in terms, this is something which is proving its own but in a way that don't gain the absolute .in ultimatum some excuses must be take place for person .So that it can be argued, based on his understanding (Abtahi, 2002).in relation with appearances two topic and discussion is proposed.

- A) Discuss about the emergence principals that what is the meaning of X word?
- B) Debates on ultimatum: after proving literal emergence in meaning, is that word is ultimatum in that meaning or not.(Valayi ,2002)

### Definition of appreance

Among the possible meanings of a word, the meaning of will come to mind quickly is the appears of

that word. In front of appears, there is the word of "NAS" which is defined like this: it is useful term depending on the situation, doesn't have any other possibility other than what it seems to be understood. Most clerics believe that is the implications of the rise of the proof, but validity of emergence are not based on complete proof. Since emergence is the doubtful implying. Martyr Morteza Motahari (Rahmah of God) says: validity of appearances has been basically improved. There is no doubt that, Shi'a Muslims have raised this argument to this argument of Akhbareen groups.(Motahari, vol 2, 1999).

## CATEGORIES OF EMERGENCE

### Imaginable emergence

Implying the speak's simple substances based on lexical and customary meaning that immediately comes to mind is called Imaginable Emergence or situational emergence. This step of apparent understanding will be achieved for audience from beginning of speakers to talk or face with a text and finishing the word or finishing the text's sentence. Root of this whether knowledge understanding of audience is in his inner familiarity and word situation because of overuse of the word in meaning. This step of understanding is not related to the speaker's will or owner of the text too the meaning of the words and even if to be unconscious or asleep tell some words, this step is derived for the listener.(Salmanpour, 2004).Book of Manahej indicates that enact of the term forging is for meaning and therefore could not be included in determining the situation since it's not forging (Mousavi Khomeini, 1994).but in book of Tahriralvosoul, the enact separation is accepted in determination (Mazaheri, 1984).

### Applicable emergence or applicable verification indicate

After completion of word or sentence in the text, the words imply in meaning which is customary agreement and people dealing with language, pay attention to that during induction and finishing the speaking .this step of the understanding is a pause to speaker's sentences and doesn't make any interruption among the speaking. The speaker can change the implying of the words from imaginable emergence to the new emergence by adding some statements to his previous talks before finishing the topic. in this step the audience will find that the customary meaning was the purpose of the speaker and he wanted to use them in meaning, but do

these meaning show the main goal of the speakers or not is related to the third meaning (Salman pour, 2004). It can be said that achieving the confirmation emergence based on the existence of the following items.

- 1- Taking that the speaker was in the position of expressing a message.
- 2- Taking that the speaker had very serious will to expressing a message
- 3- Taking that the speaker was completely aware of the meaning and was his intention
- 4- Taking that there were no symmetry indicates the contrary of speaker's purpose and his word's appearance

Final approval emergence or serious approval implying after those two above steps, the speaker can get the third implying which leads to achieving his goal and it's so close to the speaker's goal or the meaning of the self-instruction that its transmission is the main motivation of the words. In this step words imply that the meaning and customary words are the speaker's goal and it will connect the communication between listener or reader or goal of the speaker or writer. The link leads to audience speech or deed reactions .here is the place that we reach to the final approval emergence and the speaker's goal and intention will reveal .some other mentioned the fourth type by name of observed, and unstable approved emergence in a way that, when the speaker is talking, before ending his speech, his word had the meaning emergence but this emergence is unstable because if get silent to the following o that words, the emergence will be stable and if bring another sentence ,the new emergence will appear .(Gholizdeh, 2000).

## SUBJECT OF ULTIMATUM

The topic is related to the emergence base on conformational implying because the meaning of the ultimatum is proving the speaker's intention and goal by the emergence of the words and the main result from this issue is: conformational implying and conformational emergence ,but imaginable implying doesn't discover anything to be an ultimatum in that thing proving (Sadr, 1999).But the late Mohammad Muzaffar believe that ,mentioned parts for emergence (confirmationary and imaginable)doesn't have reasonable justification .he believe that emergence has just one aspect which is text implying and it's an approve of speaker and author's purpose (secondary concessive emergence),from his viewpoint ,what is define as the text's imaginary

emergence, in fact is not emergence and implying, but it's just the meaning remembering and doesn't imply the speaker's intention. He said that the subject of the emergence ultimatum is just the emergence which is derived from speaker and author's goal. (Muzaffar, 2009).

### Reasons of appearances ultimatum

About the Legislator judgment to the emergence validity it can be argued to one of two Sires. The first is that we adhere to Sire of "Rationality" it means that rational foundation is based on the issue that use emergence as an adequate tool for identification of speaker's purposes and applied the works that can be seen as developmental intentions or legislation for speaker's purpose. We can see in rational legislation that the Lord says to his fowler that "dispense water" rational sire here is that to trust in the lord's word's emergence in the issue that does the lord will necessity or recommendation. The effect of using emergence here refers to the Legislation purpose, it means that the lord validates the customary necessity or recommendation and base on its Strength, this sire provide public rational motivation for action to emerge even in religious matters to the assumption that Motesah are considered to his rational desires. In such situation, silence and lack of explorer's deterrence is part of the Legislator's signature. Second type is that get help from Companions of Imams and scholars because there is no doubt that their attitude in position of deduction, established based on actual act of Quran's appearance and tradition (Sadr, 1999). Arguments on the validity of appearances have been expressed through the rational attitudes based on not providing new methods in this process in most of the great books. In Principles of Jurisprudence the late Muzaffar, the main reason is the appearance validity through practical attitudes and that the basis of wise people and show that the speaker trust in his own word's appearance to send the exact meaning and he is not forced to bring a statement to send his meaning obviously (Zera'at, 2012). But Mr Mohaghegh Qomi claimed this that appearance validity is belong to people who wants to understand and it doesn't have validity for others in other times and he argued to some narratives that say prove what is said above and indicate that these appearance is related to Moshafehin and its validity just refers to its particular audiences. (Khoyi, 2009). A lot of studies and researches have been done related to the issue that Mohaghegh Qomi brings details for validity of appearance, that their investigation here will make us far from our main purpose but the best criticism is indicated

in book of Kefayat-al osol. Totally, Ekhbariha don't accept any appearance validity without any details and descriptions and maybe this is the main reason that made fundamentalists to investigate the topic of appearance validity more detailed and critical. The most reason that Ekhbarihabring, is the argument the verses and narratives. These believe that Being obliged to appearances in which there is no definite relation to them, is exactly that interpretation that they will not accept it and in contrast with the validity of all scholar of Osoul, it argued about the lack of appearance validity. Towards the brief review of the evidence, we can say: in relying on the verses in their claims, they will be criticize they homologous appearance to the synonym, so know the two sentence's rules as one. While the synonym of the particular is synopsis and appearance is not synonym and assume that appearance is derived from synonym what is prevented is these ration of synonyms and emphasize on their intent to create intrigue and this is not allowed even in appearance. Related to the narratives which they rely on, the answer is that, firstly its evidence is poor and secondly, their implementation has problem, because these are opponent narratives that came with the successive narratives to prove the appearance validity. As this issue has been explained as much as it was required we should investigate the main problem. Is the speaker's porous and intention dispread in appearance in which the validity principals has been proved and doesn't have exact meaning like new hermeneutic and is that the main basin of interpreter and audience or not? and this will reveals further necessity that: some of the fundamentalists believe that although implying is the emergence of the ultimatum, the validity emergence is not on the basis of exact ultimatum because implying is the doubtful emergence and some believe that emergences are not parts of guess and doubt but they are parts of sciences, not as the rigorous philosophical science but also in rational costumary science, since custom has the relation with emergences as same as science. (Salehi, 2001) now based on the assumption that say appearance are parts of doubts, this concept will come to the mind that the goal of the speaker will not discover and as its understand from its name, it's a doubt that everyone can have it about something and doubt of no word has priority to another one and they are all equal in value and that exactly the new hermeneutic theory that indicate the speaker's goal is not achievable that so-called death of the author.

## **FUNDAMENTAL DEFAULT OF APPEARANCES VALIDITY AND THEIR ULTIMATUM AND LACK OF THESE ITEMS IN HERMENEUTIC**

The existence of a real self-governance: one of the main basic and fundamental defaults of Jurists in validity of emergence is the meaning of self-governance or speaker's purpose from the text or word. Hidden meaning and purpose of God in the Quran and traditions and the possibility of its understanding was a consensus among Muslims and none of the genuine Islamic scholars didn't say anything in contrast with and some of the theological, interpretive, normative and juridical quarrels, returns to the differences in how they achieved. But new hermeneutic ignores mentioned default in all written texts specially in old texts.

### **Significant credibility and validity**

Fundamentalists believe that this is a consist principals. Among the ancients of before Eleventh century AD, the validity's meaningful was granted that was not to prove the validity of ultimatum and if there was argue on ultimatum in eleventh century, all were based on credibility and ultimatum. It should be noted that all branches of modern hermeneutics have been denied the validity.

### **The ability to control presuppositions**

In modern hermeneutics, the discussion is related to the essential effect of assumptions and expectations and text understands. According to Gadamer, interpreter mind at first is not clear and empty, but it's a set of early prejudices and assumptions. Interpreter interprets the considered text in a way that can be adaptable with this world. Fundamentalists do not ignore the effect of default unknowingly in history of Quran and tradition's understanding but they believe that there is a possibility of controlling presuppositions and mind expectations and many of scholars have been successful in this sense.

### **The possibility of restructuring the issuance of the horizon and context and cultural context, and discovering issued emergence**

To prove the validity of emergence, another default is necessary and its understanding and discovering the verses in time of issuing the words.

## **Rebuild the space of word's issuing and the cultural texture and contact of innocent and revelation of the verses**

Jurist must be able to rebuild the space of word's issuing and the cultural texture and contact of innocent and revelation of the verses, this assumption is one of the most important introductions of emergence validity and religious aspect of juristic understandings, while modern hermeneutic knows achieving to authentic and original horizon for speaker's words impossible. Researchers and jurist have been done three main action for achieving to this issue. First, they pay attention to general and common rules of emergence understanding in all languages. Second, they started to examine the history of anthropology and sociology and history of warrant in issuance of the horizon and in third step, they will investigate the speech in light of the time and place of receipt of horizon and time of the audience.

## **SOLUTIONS AND OFFERING WAYS OF SEPARATING APPREANCE UNDERSTANDING FROM MODERN HERMENEUTICS**

1. Words determination: whenever men find that X is determined for x word, so, the appearance is on that meaning.
2. Generic or specific symmetry: a symmetry which is defined based on will of x meaning from x word.
3. It can be determined by Immediacy" lack of stripping authenticity and ignorance "and emergence of "Etrad"  
Professor Abdullahi stated that scholars have been cited to Immediacy in the position of proving emergence independently (Abdullahi, 2005).
4. They can discover the appearance by referring to the principals.

## **ORAL ERTEKAZ (FULCRUM)**

Principle of non-symmetry: People, who are involved with language, have agreement on principle of non-symmetry and they stated that purpose of words is what their appearance will show and all must obey that.

Sheikh Ansari is also known that as an inevitable issue and believes that in such cases that there is the probability of symmetry, as the words can find emergence in real meaning it's needed initially, the originality of lack of non-symmetry will be read. (Mazandarani, 2007).it

means we will carry the anti appearance of the word when symmetry can imply on the opposite meaning of the appearance. (Khoiyi1998). As is obvious, though in appearance, meaning is not like definite, scholars suggest some ways and they are obliged to obey to prevent the issue of several understanding from one word .it means there are some rules about appearance in this science that individuals must adhere to the rules and do the inference based on them and here is the place that makes it clear that in this science the problem is not just to prove the appearance validity and people can use several understating from one word but there are some conditions and rules that all are established to keep and prove the authors and speaker's intention specially in religious text in which rules extracting and inference has been done and it is something very important. It should be noted that if we are seeking something to approve lack of homology of appearance validity with the "modern hermeneutic principles, so this will lead to the death of the author and free understand of the text, as we have other semantic and interpretation topics and several interoperating methods both in Principles of Jurisprudence science and the science of interpretation and we do not have any prejudice towards ideas of Western thought but as far as Western ideas don't be in contrary to Islamic principles, will have communicate and exchange ideas and knowledge and also we don't have Illogical and blindly defend against academic debates. Some claimed that you say the hermeneutic doesn't match with apparent validity and the meaning can be find from the speaker's will .this will lead to Rigor in jurisprudence and will decrease its dynamic ,while matching general principles of jurisprudence with Mohadeseh issues from jurisprudential sources is the main agent to dynamic jurisprudence. Some other claimed that cases can be found in Imam Khomeini's works that indicates his believe to existence of hermeneutic in Principles of Jurisprudence and as what he stated in appearance validity and debate about terms of Science of principles, we will find that he like other believed that the final meaning of the text is what Legislator indicates from these words. in fact Imam knows the text' final meaning as same as what is the author's intention .although its required to attention to some point such as characteristics of speaker, time of text expression, place and general purpose of the text in determination of author's intention. This case is similar to Dilthey that is the hermeneutics followers. But the differences should be considered that, maybe with investigation and study of the author's text, we can get to the new understanding that the authors

didn't get it yet .But Imam Khomeini did not agree that, because in his idea, the scope that author and speaker are paying attention is a exactly the scope of the text's meaning .Finally, we have an overview of the new hermeneutic claims:

1. The purpose of the text' interpretation is not to understand the author's intention; the author is one of the readers of the text
2. Understanding the text is not a monolog. The interpreter is not a passive listener to get the text message, but understanding the text, is an event the result of dialogue and dialogue with the text interpreter. Role of interpreter and his mind is an active role.
3. Understanding the text and is the outcome of combining the commentator's semantic horizon with text's semantic one.
4. Text interpretation process is endless and inexhaustible process .the text has the ability of various reading.
5. Objective understanding from text is not possible; the purpose form objective understanding is the match perception of the text .due to the distance between interpreter and text and intervention of Interpreter means in practice of perception, it's not possible to find the understanding free of interpreter's mentality intervention from text
6. Among the many interpretations is obtained from text, there is no criterion for judging and it's not possible to validate interpretation and declare others invalid. So kind of relativism is formalized about understanding texts (Hassanzadeh, 2000).

## CONCLUSION

Validity of appearance in principals doesn't mean that any kind of interpretation and undressing form text is allowed, but there are some rules to understand the text as well which should be obeyed .for sure hermentouic and appearance have some rules in common and the main difference e between them is the importance of author's intention and goal that in appearance the author's intention is one of the most important features while in hermeneutic there is no attention to the author's intentions. Finally, by take a look at the Basis of hermeneutics, it is clear that, if it was supposed to consider these items in Principles of Jurisprudence, especially in appearance validity, the following items will be obtained:

1. Validating the arbitrary interpretation.

2. Validating all perverted categories.
3. Promoting relativism or anthropologists.
4. Lack of access to accurate and objective understanding of religious texts.
5. Lack of Fixed and final understanding from text.
6. Ignoring the author and final goal of the text and many other outcomes must should be beware of them.

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