

A Comparative Study of Comparison between Fariqateyn (Sects) and Elimination of Features

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Abstract

The analogy is one of the different topics between Shiites and Sunni. In a general classification, comparison exists into two groups:

1- منصوص العله which stipulates that there is an order in a reliable and comparable text and

2- مستتبط العله shows that if the final Judgment is valid, so it will be valid between Shiites and Sunni and if it is not valid, so it will be important for the Sunni sages.

Abolishing the text's property is one of the factors for generalizing the text. In this paper, some of its aspects will be studied.

Keywords: Analogy, Basis Emendation, منصوص العله, مستتبط العله, Maksur [marked with the vowel sound or point].

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Introduction

Comparison is one of the controversial issues and there are various points about it. In this paper, in addition to study the definition of comparison based on the ideas of Sunni and Shiites and its kinds regarding the Qur'an and hadiths, some of its aspects of the abolition of properties such as basis emendation, comparison by limiting and ignoring the features of laws, منصوص العله are studied. After this point, the views of Sunni and Shiites about this issue associated with the other ideas were presented and as a result, concludes were represented at the end.

Comparison

Literally meaning of comparison is measure and equality. The scholars said that an analogy is along with several meanings including:

1. **Morphological analogy:** It is the logical comparison; a rule that is being inferred from the Arabic words such as each "vav" before Maksur [marked with the vowel sound or point] will be changed to "yā".

2. **Reason of analogy:** In terms of logics, it refer to a term which is from 2 points or more than 2; in other words, the other one is the final result which is being gained such as the world is changing, every variable is created, so the universe is created (as cause and effect).

3. **Legal analogy:** It refers to a meaning as the logical scholars called it as Tamsil or allegory (*Tahanavi, Mohammad Ali, 1996. vol.: 2*). Abu Hanifa said that since the Prophet said a point, therefore, it is like this sample. So, their order is the same.

4. **Fundamental comparison:** It refers to the proof of the the validity of an order toward a matter and the cause of this order. For example, the legislator said that wine because of drunkenness is forbidden given that the order of beer has not been inserted in the canon. So it can be said that: Because of the drunkenness, wine is prohibited as well, it affects beer (*Maleki Esfahani, Mojtab, 2011, p.: 398*).

Since the analogy is used in different meanings, so we must study which of them was common in the era of Imams? This word during the period of Imam Sadeq and Imam Baqer was meant searching for the real causes of the provisions for legal validity. For this reason, some of the Sunni turned to analogy that its real meaning will be gained by studying the Hadiths such as Aban one because he said: السنه اذا قيست محق الدين

Translation: Religion will be ruined if tradition becomes prior (*Hore Ameli, Mohammad ibne Hassan, 1410 B.C., vol.: 19, p.: 268*).

The sages of Sunnis, based on the bad effects of such act, tried to explain this method and set different conditions for it as well, limited it to the cases of order or verdict understanding (for it generalization) (*Mir Khalili, Seyyed Ahmad, 2003, p.: 52*). Baqlani said: comparison refers to study a subject to the onther one for proving a verdict or rejecting it based on an issue such as order or a feature which joins them to each other as the great scholars such as Ghazali in المستصفي (*Ghazali, Abuhamed, 2: 45*), Moqadesi in روضه الناظر, Amedi in الاحكام, Vahbeh Zahili in اصول الفقه الاسلامي and Helli in معارج الاصول as well as the others attributed this definition to him (*Hakim Mohammad Taqi, 1979, p.: 304*). Some considered comparison or analogy as a reason or cause upon the recognition of an order (to prove a thing as a judgment regarding the other issue because of a same reason) (*Razi, Fakhreddin, 1412 B.C., 9: 2*). Some refers to it as a general rule: (in most cases, comparison is a general rule that is being recognized from a sum of the evidences) (*Ibrahimol Zalmi, Mostafa., 1396 B.C., 447*). Comparison in terms of logics is one of the triple types of reasoning (deduction, analogy and induction). Reasoning is an issue which directs the mind from a general point to the specific one. The value of logical comparison is documentable in the principles of jurisprudence and there is not any discussion on it. But the comparison in jurisprudence is called as an analogy in logics. Analogy refers to the awareness about the specific points and the principles of comparison are:

- The first principle refers to a thing as its legal order is clear; for example, الخمر حرام لانه مسكر or the prohibition of drinking wines.
- The second sub-issue refers to a thing as its legal order is not clear and the scholar tries to prove its legal order; for instance, drinking beer as a sub-secondary point as well as its reason for prohibiting its use and the feature which is in the primary and secondary orders. In such case, drunkenness is the common feature of wine and beer.
- The kind of a verdict or order which is fixed and the scholar or legislator wants to prove it for the secondary orders. In the above sample, Hormat [the state of being religiously forbidden] is a final order.

Some kinds of analogy are:

- 1- مصرح العلة or distinctive/manifest analogy
- 2- مستتبط العلة or hidden analogy and
- 3- Priority analogy.

Analogy literally means measuring but in the logics, it refers to an argument that is resulted from the different points (important or trivial ones) and leads into a final result. As well, in the field of jurisprudence, it refers to a logical analogy which leads into the rule's discovery from the similar results. Now the question is that what kind of analogy is valid? Allegory (legal analogy) is invalid, because the result is through similarity which is being removed by a counterexample (though in all other cases, it is true). For example, if temperature of objects increases, so, their mass will be increased. This hypothesis may be removed by a counter-example about water in 4 ° C (its volume by increasing the temperature decreases) is. The absolute induction to examine all trivial cases is valid but it is an incomplete induction because it might not be applied to one of the cases which have not been investigated. (As the above example). Logical analogy is a jurisprudential analogy as Abu Hanifeh said that Mohammad prophet mentioned this or that. First, such analogy refers to activity of our mind toward various orders from one verdict to the other ones based on some common points (*Mozaphar, Mohammad Reza, 1400 B.C., p.: 268*). But the fundamental analogy tries to prove an order from its main parts to the secondary ones in order to create a parallelism of reasons between them. Second, analogy cannot be a final Hojrat or reasoning except a similarity of the primary and secondary with each other but in the fundamental analogy, similarity is not sufficient and the existence of an order is important. For this reason, based on a common reason, considering common points is important. So, reasoning is credible when a reason is order's criterion and in the opposed situations, this is not a credible reasoning. In other words, analogy in the domain of logics fields of Shiite is not reasoning but in the other cases such as fundamental comparison, priority one as well as distinctive analogy is reasoning (*Ayazi, Seyyed Mohammad Ali, 2000, second edition, p.: 410*). In induction, the general order is being gained from the minor cases which is a vice versa of analogy because analogy is from general to specific. In such case, if all people study a subject, so it will be absolute induction such as asking the views of all students about their class and if a limited number of them present their views, it will be incomplete induction. Comparison exists in two groups:

- First منصوص العلة which is limited to an order within a valid text such as "everything in fluid form is illegal" and
- Second مستتبط العله when you cannot understand what is the reason of the legislators' words and our wisdom gets it through the other ways for instance, لا يقضى القاضي و هو غضبان (*Hore Ameli, Mohammad ibne Hassan, 1410 B.C., p.: 18:156*).

It shows that the main reason is the mind's misperception. So in such case, we cannot judge it like hungry, thirsty, fear, etc.

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