

# SHIA CUSTOM AND THE CHALLENGE OF MODERN RATIONALIST PROCEDURES

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## Abstract

*Besides the custom, the way of thinking plays an important role in the jurisprudence and principles of Imamia, and the importance of this role is revealed in the field of jurisprudence, where many of its rulings confirm the practice and character of reason. The jurisprudence system and the principles of Shia jurisprudence consider only those matters that have the authority to discover a Sharia ruling whose content and authenticity have been proven, and in this system, a procedure that can successfully pass the two stages of content and legal approval is accepted by Shia jurisprudence. The basis of this system can be considered an authority-oriented system.*

*In this article, after a comprehensive definition of the building of rationality, the new problem that we have faced in the era of globalization is answered. And how can the modern procedures of rationalism be adapted in the current age with the foundation of rationality approved by the Shariah. In the way of answering this question, after examining the content according to the application of the Muslim principle and agreed upon by the usulists, the legalistic procedures or the building of rationality must have all the components of authenticity and not be subject to legal objections to be cited in jurisprudence. And according to the view of Usulists, non-rejection of Sharia does not need proof (i.e., it does not have a separate signature), but as long as the general prohibition of Sharia does not include the case of rationalists and modern rationalist practice, the non-rejection of Sharia is proven. Biy al-Gharar and other prohibitions are related to their specific cases.*

**Keywords:** Custom, Rationalist life, Modern rationalist procedures

## INTRODUCTION

Some of the jurisprudential documents which are the means of discovering rulings and are actually signs of the dynamics of jurisprudence. As; It is the custom and foundation of the wise and all kinds of ways. One of the pillars of the formation of these documents is the condition of the existence of reason and population, and in fact, if this pillar of validity (the concept of reason and population) is disturbed, their authenticity and credibility will also be challenged. Modernism (modernism and post-modernism) which has created the phenomenon of rational pluralism, how these procedures are adapted to the conditions of the validity of the foundation of rationality. and how their authenticity is evaluated. Despite the spread of these types of procedures, how can we prove that they are not prohibited by law.

These practices, which are an integral part of contemporary life, play a very important role in people's actions. Also, they assigned a strategic position in the path of jurisprudential and legal inferences. They are the birthplace of many rulings and laws, and they are also considered as one of the reasons for distinguishing the subjects of rulings, which has placed these documents in a special place among jurisprudence chapters.

## 1-CONCEPTUALIZATION

### 1-1- The customs and manners of wise people

In the definition of the types of these documents, such as the custom and the custom of the rational, in its simplest conceptual states, it can be defined as follows: the general way of the



people and population of the rational from every religion and nation, which is shown in conversations, transactions, and patterns of communicative and communal behavior. In its common definition, it is stated that it is a method and behavior that becomes secondary nature as a result of repetition and is established in the depth of the soul, and what is meant by patterns of communication behavior are the stable and institutionalized behaviors in custom.

### **1-2- rationalism**

Definition of rationalism (Rationalism)

Rationalism is derived from the root of the Latin word (ratio) which means reason and rationalism means rationalism [1]. Throughout the history of philosophy, there is discussion and investigation of the problem of reason and experience, because philosophers and thinkers have always tried to analyze the tools of human knowledge and determine their limits, to help solve fundamental problems. Like the issue of free will, soul and body, etc., any help regarding each of these issues requires examining the issue of reason and experience. For this reason, most of the historians of philosophy have placed the philosophers, especially the philosophers of the 17th and 18th centuries, in the two groups of the intellectual profession and the experimental profession. Descartes, Spinoza, and Leibniz are definitive examples of rationalism. Locke, Barclay, and Hume have been considered as clear examples of empiricism [2]. The distinctive feature of the originality of reason religion is that the people of this religion believe that humans, in addition to the sensory powers they have like other animals, have their power called reason, which is also responsible for identification. has it [3].

The originality of reason, which means relying on rational and logical principles in thought, behavior, and speech, when used in connection with the first thinkers of the 17th century, including Descartes, Spinoza, and Leibniz, means believing in reason as the only It is an authentic source of knowledge. These thinkers tried to prove the main truths of existence through proof and rational reasoning.

The owners of this theory (the originality of reason) believe that using certain methods is the only reason that we can achieve a certain knowledge in its complete meaning, such knowledge that it is not possible to be wrong or incorrect under any circumstances. Usually, the rational theories of religions are based on the idea that we cannot obtain any certain identification through sensory experience, but we must search for it in the realm of the mind and reason [4]. The religion of the originality of reason generally emphasizes the priority and sovereignty of reason, in the sense that in the discussion of the outside world, someone who believes in the principle that everything is reasonable and logical, that is, everything has a direction and a cause. and that direction and reason can be explained with reason and logic [3].

## **2- EVALUATION OF MODERN RATIONALIST PROCEDURES IN THE MODERN ERA**

### **2-1- The phenomenon of globalization and jurisprudential sources**

Despite the agreement on transformation and change in the new element in the fields of politics, culture, and global economy, a single definition of globalization has not been provided. This word (globalization) is one of the concepts of the floating signifier that is not referred to a specific sign, which causes problems and misunderstandings. To solve these problems, researchers have focused on its indicators and characteristics of its definition.

Another issue that has fueled the multiplicity of definitions is the perspective and way of looking at this phenomenon. Sometimes globalization is considered in two economic environments the field of international politics or in human cultures and civilizations. Of course, these three categories of economy, culture, and politics are not separate and separated things in the modern era, but they are interwoven and interdependent, and in fact, we can express these things technologically and ideologically.

Many researchers consider the title of globalization to be the same as globalization and do not believe in a distinction, so they consider it a type of scenario and a predetermined roadmap. However, this issue does not fall under the category of globalization and is only a natural and



involuntary thing. And determining the roadmap and pre-determined policies is dedicated to globalization, which is not considered in our discussion.

In the definition of "globalization", Martin Albrow [5] says: Globalization is a process based on which all the people of the world are connected in a single and comprehensive global society.

With these explanations, it can be stated that the phenomenon of globalization is not only a threat to religious teachings, but also an opportunity to unify common human instincts in order to create a world based on religious teachings.

The result of this category (globalization) is the two phenomena of technological and ideological change, which jurisprudence has not neglected their procedures and results in line with both, and has predicted external behavioral and behavioral programs based on its own teachings, and in fact, once again, the dynamic And it shows its stability in all times and conditions, in front of other procedures.

## **2-2- Islam's opinion about technology**

Before we know the perspective of Islam and Shia jurisprudence about this newly emerging phenomenon, we must explain the technology and technological procedures to get to know the essence of the problem in question.

Technology is the application of technical science to provide the goals of life and mastering the human environment to provide those goals[6].

The technological procedures are the expansion of mass communication technology, especially information technology.

Islam's view of these procedures is not single and one-handed, but the researchers and thinkers of the Islamic basin have different opinions and views regarding the analysis of this category, according to their dimensions and angles.

A group of researchers consider this phenomenon completely compatible with Islam and believe that jurisprudence accepts it. Because they believe that technology is a technical knowledge that they consider necessary to achieve economic, political, cultural, and social goals in line with the methods.

And some of those researchers have an opinion against the opinion of the first group and they believe that this phenomenon is the result of conflicting religious messages and teachings that are contradictory to those teachings of Islam, and technology can be the seed of the cultural and social bed of the West. To establish religious communities. Therefore, Islam cannot resign from these methods and procedures.

In a moderate opinion, while pointing to the cultural and value consequences of new technology, a group believes that these cultures and methods should not be given importance and attention on the pretext of their neutrality and color, but this technology has cultural and value consequences. It brings something special that can create a controversial challenge for the value system of Islam.

Therefore, in order to move in the direction of development and progress, Islam needs Western technology and technology, and this technology is often accompanied by moral values in relation to their ideas and beliefs, which originates from the colonial aspect and some of their moral vulgar views. These man-made beliefs and teachings cause a challenge and conflict with the divine teachings of Islam [7], which should be studied and investigated by Islamic researchers and the analysis version of these teachings should be presented to the world. The importance of the issue is so great that the cultural influence of technology is considered beyond the ideology of the West, and the reason is that the ability to spread in third world societies is faster than the opinion and beliefs and their scope of influence on people is wider.

Islamic jurisprudence and teachings benefit from a special dynamic with respect to the society, and in fact, this is an important feature that distinguishes it from other religions and religions, it cannot be passive and unresponsive to imported culture and values, and with Paying attention to the fact that technology has become an all-pervading world and an integral part of contemporary life, Islam cannot be a mere traditional phenomenon without ideas and innovations in such a way that it closes its doors and creates an island and a fence for itself. Therefore, while accepting and achieving



these technological procedures, it should present a strategic model and strategy management to the advanced world in relation to its leap toward the values of Islam.

### **2-3- Islam's opinion about ideological**

In the continuation of the discussion, we will discuss the second side of the coin and that is: the phenomenon of globalization brings another event to the third world and even all the countries of the universe, and in fact, the most important and sensitive event of this phenomenon is this one and that is the modern practices of ideology. Is. The nature of ideological procedures should be revealed to us so that we can be informed about them and seek Islam's opinion about it.

modern ideological practices; Since globalization, at least from a cultural point of view, teaches societies some values and ideals and clarifies their positions against current events and questions and guides their actions [8]. This type of fruit of globalization has more conflict with Islamic values and teachings than the technology of globalization. And in fact, the most optimistic enlightened people also believe in this conflict, because in a system that is based on the teachings of globalization, it must answer questions and questions that sometimes conflict with Islamic jurisprudence.

The science of life politics, which consists of decisions related to life, poses different questions and questions to Western thinkers. for example; What are these decisions? How to conceptualize them? Undoubtedly, the answer to the age of globalization to such questions may be different and sometimes conflicting with the Islamic jurisprudential answers. If we consider the phenomenon of globalization as globalization and the road map based on Western doctrine, its conflict, and confrontation with Islam and divine commands is not clear and does not need to be clarified, but if we consider this phenomenon as a natural process, it is an integral part of contemporary human life. again, they conflict with Islamic jurisprudence and religious teachings, but only Islam, considering the dynamic features and the up-to-date sources of inferring rulings, including the foundation of rationality and custom, is not only passive but can manage this natural process. globalization) and the guiding role of people in different societies the reason for this theory is the beliefs and beliefs of Islamic thinkers regarding the following components, the explanation of which is beyond the time and scope of this thesis and implies We mention them.

A- The ability and richness of Islamic culture compared to other cultures

B- Salvation of mankind in globalization

Islamic thinkers believe; Justice, which is one of the indicators of human happiness and salvation, if it becomes universal, will surely bring prosperity and human happiness. Because happiness is not unique, real happiness is achieved when its results are created in all human societies, because a huge part of human salvation depends on relationships with other societies, so that justice and salvation appear in all areas of the world, human salvation. The emergence of the savior and justice of the universe reaches its peak in this context.

### **2-4- Globalization and golden opportunities for Islam**

Jurisprudential sources, the foundations of rationality, and modern rationalistic customs and procedures

Islamic jurisprudence sources see challenges and confrontations against this phenomenon, and these conflicts are more apparent for two reasons, "the foundation of common sense and custom".

One of these conflicts is how to evaluate modern rationalist events that are the result of globalization technology. While these practices have become the custom of the present age and have become intertwined with the lives of Muslims. The communication method of the information network that has arisen in the age of information explosion is one of these procedures.

But in the ideological field, this conflict can be seen seriously and importantly, where the procedures born of the modernity of globalization presented a theory based on the plurality of practical reason (ethics) or even beyond that, the relativity of practical reason. They have expressed their opinions. While in the two reasons of building reason and custom, practical reason is one of the most important elements of their constitutions. And this conflict in ideology should be answered with these procedures. Therefore, in this research, we evaluate the conflict in two



technological and ideological fields with jurisprudential sources (rational and customary) separately in two chapters.

### **2-5-modern rationalism and technological procedures**

The phenomenon of globalization in its technological dimension causes the creation of communication tools between people in society. And for this reason, it presents a series of procedures to society, which use them in some necessary cases and is considered an integral part of their life. The methods of communication, guidance and preaching, propagation of religion and religious teachings, etc. are of this type.

In line with the use and application of this tool, which is considered a kind of custom and procedure of rationalism. Other customs and practices that conflict with the principles of religion and ethics arise and confuse the religious people in recognizing the correct and approved practices of Shariah from the rejected customs and practices.

Presenting the method approved by Shariah in the evaluation of rationalistic procedures according to the principles and foundations of rationality and custom plays an important and practical role in solving these challenges and confusion.

### **2-6- rationalistic procedures of coincidence and non-coincidence procedure**

Before presenting a solution to this problem, we would like to point out some points and introductions. Rational buildings are divided into two types in terms of their origin, and this case shows that the scope and examples of rational buildings are different from each other. And they have different works.

A- Sometimes these procedures are based on human nature. And despite the racial, cultural, and ideological differences and differences, it is the case that in the field of practice and application, all humans follow the same procedure and method, and in fact, this type of procedure has been specified and approved. Among them, we can act on appearances [9], accept single news [10], and the need for the ignorant to refer to the world [11] and procedures based on companionship [12]. and procedures that are based on instincts and mental concentration [13].

In terms of the fact that these types of procedures are natural and are considered patterns of communication behavior and there is no difference in practice regarding their validity, they are always and everywhere.

B- But in some cases, some procedures are not caused by common human instincts, but are observed in the daily life of rational people and are used as their behavioral criteria.

Of course, the motivation and stimulus for creating these procedures are different and many, but to use them in this research, we can mention a few of them.

1- In terms of "love of essence", man considers the existence of society to be his preservation, and, he considers it as a condition of life and survival of the essence, and to preserve the social system, he likes any procedure and current and considers it to be his case. and every act and behavior that harms and harms this system, it will be abandoned and it will take a stand against its occurrence.

Of course, this way of thinking about maintaining the social system originates from his experience and intellect, and based on these two factors, he approves some practices and considers others corrupt and wasteful of human nature. Among the preferred procedures, we can mention the owner-occupier (rule of law), the principle of correctness in transactions and contracts, and adherence to the terms of the contract. And also the procedures that target the social and family system. Such as division and disobedience to the head of the system and the family, are among these distasteful and rejected procedures.

2- At a lower level than maintaining the system, man also pays attention to his social and individual interests, and based on their rights and exploitation, he applies methods and procedures to his behavior, even though these procedures are reserved for the group. have a special race or class. And he dislikes any procedure that keeps him away from his personal and social interests. Among these procedures, the acceptance of intellectual rights in society, which includes copyright, copyright, patent and works of art.

3- Some other rational procedures based on the principles of welfare and facilitating the affairs of individual and social human life have emerged, and rational people have acted with that motivation





based on these procedures and have regulated their social and individual relationships. Although these procedures in terms of validity and importance, it has a lower degree than the two types of procedures mentioned. However, the existence of these types of procedures is considered to regulate and smooth the movement of human life. In such a way that leaving them aside, which people have attached to their actions and consider it as an integral part of their lives, causes slowness and difficulty for the people.

For example, the act of the wise is the basis of transactions of studies by the wise, and the existence of Shameh in the disputes of insignificant weight in the sale and acceptance in the non-egregious embezzlement are such procedures.

### 3- EVALUATION OF MODERN RATIONALISTIC PROCEDURES

After stating this introduction, we will evaluate and implement modern rationalistic procedures in society and present a general principle and law to distinguish between correct and incorrect procedures in the form of the conclusion of the chapter. Procedures can be examined in two content and validity environments.

#### 3-1- Examining the correct and acceptable content of modern rationalist procedures

While looking at the mentioned introduction, the motivation and factors for the formation of the correct routines among the members of society are limited and agreeable to all jurists and rationalists. And in fact, they are considered the components of the correctness of a procedure.

All necessary (natural) and unnecessary (unnatural) procedures must be subject to a certain approach and motivations that are approved by jurists and intellectuals before they are accepted in terms of content.

A- Rational procedures and structures that are based on common human nature and nature, and all people agree on the correctness of this practice.

B- Behaviors and procedures that guarantee the preservation of the common interests of society, so that if these procedures are suspended or destroyed, the risk of chaos and disruption in the social system will be created. The order of Amir al-Mu'minin (a.s.) to Malik Ashtar in paying special attention to these procedures in his command area is of this type [14].

C- Procedures that are created based on personal and social interests, and in fact, their existence protects those interests.

D- Facilitation of affairs creates behaviors that people get used to. So leaving them aside causes hardship and embarrassment in their daily life.

These acceptable cases, which have formed the correctness of the content of the procedures, have been considered and confirmed rationally and religiously throughout human history.

#### 3-2-Components of invalid and incorrect procedures

According to the correct criteria of a procedure, the wrong criteria cause the content of the procedures to be questioned and objections are discovered and the action based on them is declared invalid and rejected. These components can be calculated as follows.

A- Hedonism, some procedures are sometimes created by a small group of people based on a false ideology unrelated to nature; The wisdom, experience, and collective thought of the wise are done with the elites of human societies and they have not benefited from the minimum motivations of the mentioned correct behaviors such as habit, imitation, emotions, feelings, and moods.

These procedures are based only on carnal pleasures and animal hedonism and are actually against human nature. So that to study carnal pleasure, all-natural, divine, and human desires have been put aside to achieve maximum and immoral benefit.

Free sexual relations, contrary to human dignity, which are common in human societies and, unfortunately, in Islamic countries, and sometimes in the form of new rationalistic procedures, are among these procedures and behaviors.

B- Sometimes the people of the society set their main goal as welfare and seeking absolute comfort, and in this regard, they spread a series of procedures in the society, the goal and fruit of which is to achieve absolute comfort. And along this path, noble and human goals are dimmed and sometimes ignored.



These procedures, which are derived from the modern rationalism movement, make the system and center of society and family a barren place and behaviors that are based on absolute and unnecessary convenience.

Everything that takes a person away from the high goals and the divine road map for his happiness is content that is against the value and God-seeking nature of man. Courtship customs and marriage preparations with unconventional and unnecessary expenses are among the wrong and widespread practices in society.

C- In some cases, the procedures for obtaining and maintaining personal and social benefits go beyond their usual limits and turn towards extremes. To obtain them, the real interests of the society and its people are trampled and they prevent the rightful people from getting their rights. Behaviors that violate the traffic law and hoarding essential and basic goods in the hard life of the people of the society are among the characteristics of these procedures.

D- A series of procedures appear that with the least reflection on their contents and contents, every wise and wise person understands their ugliness and distaste, that is, by referring to their conscience and divine nature, the invalidity of these procedures can be proven. Their subjection to the method of sensual airs can be easily identified.

Listening to melodious music, participating in mixed-sex meetings (parties), and not respecting non-confidential boundaries in the field of administrative cooperation, etc., include these types of procedures.

E- Some ways are not clearly understood and their corruption is not realized with a little reflection, but they need expertise and scrutinizing accuracy until their corruption is discovered by the society. Such as replacing relationships with norms in social affairs, abuse of government power and position, bribery, lying by politicians, non-compliance with moral principles by politicians and properties, the prevalence of absenteeism and administrative corruption, etc. are part of invalid and unacceptable practices.

F- Sometimes irrational methods are found in society, but in most cases (not always) the majority of people avoid those procedures, and almost never the practical consensus of the people and the intellectuals of the society on these procedures has been observed.

Heinous acts of homosexuals, buying and selling of people's existential interests, etc. are among these procedures.


G- A series of actions and procedures of the politics of the men and agents of the Islamic government can be seen, which are against the rule of negation and cause foreigners to dominate Muslims and co-religionists. To be

Behaviors and speeches that are heard from some official platforms and cause the enemies of Islam to destroy and weaken the foundations of the Islamic system based on these speeches, and writings that weaken the elders and intellectuals of Islam, including procedures are

As a result, the procedures are of two types in terms of content, accepted and rejected. And each of them can be divided into several categories and classes according to the materials and corruptions hid in them. that in the examination and evaluation of modern procedures resulting from rationalism, before proving the validity or non-authenticity of those procedures, the content of those procedures should be examined. If they are included in the category of acceptable procedures - in terms of content - the authenticity or lack of authenticity of those procedures - which is a general matter - will be discussed.

**Table 1- Comparison of procedures with acceptable and rejected content**

<b>Invalid and incorrect procedures</b>	<b>Correct and acceptable procedures</b>
Procedures that are taken to their ugliness with the least consideration of conscience.	Procedures that are based on nature.
Procedures that only focus on absolute comfort and well-being.	Procedures that guarantee the protection of public interests.
Procedures that most people in the society avoid.	Procedures that are a condition for the survival of personal and social interests.
Procedures that cause hardship and	The procedures that are created in order to



embarrassment in people's daily lives.	facilitate the affairs in the society.
Procedures that are based on hedonism.	Procedures that contain the principle of human dignity.
Procedures that ignore the rules and behavioral principles of jurisprudence, such as the negation of a mustache.	Procedures in accordance with the principles and rules of jurisprudence

#### 4-EVALUATING THE VALIDITY OF RATIONALIST PROCEDURES AND THE THEORY OF THE SIGNATURE OF CUSTOM AND THE BUILDING OF THE RATIONAL

In the previous material, in relation to the analysis of views related to the validity of custom and the foundation of rationality, four theories were stated and the reasons presented in this chapter were analyzed.

Another reason that can be stated in rejecting the unacceptable theories of the author of the research is that; If those views are valid and approved and trusted, we will face a dead end and passivity in these jurisprudential sources. Because if we consider the foundation of rationality (bamaho banai aklaa) and custom (bamaho custom) to be intrinsically authentic, it becomes necessary that the researcher's hand is tied in recognizing correct procedures from incorrect ones in the modern age of rationalism. Thus, in this period and age of contradictions, we face the problem of deadlock and indecision. Therefore, based on this point of view, the validity of custom and the foundation of intellectuals has been questioned and discredited in the current age. Because in this period, a series of customs emerged that sometimes conflict with each other.

Accepting the other point of view in the validity of custom and the foundation of rationality, i.e. believing that it is a discovery of the ruling of reason, also leads us to wonder and bewilderment because it creates several questions and ambiguities in front of the researcher, which require reasoning to clarify them. Among these questions, what is meant by reason? And which type of intelligence does it include?

In the period of the modern era, due to the emergence of different ideologies and the issuance of numerous theories regarding reason [15], we face the plurality of reason. And it faces problems. And maybe failure to answer these questions will lead to a deviation towards the sinister phenomenon of secularism and change the purpose and direction of this type of jurisprudence sources that contain different materials.

#### 4-3- The theory of the signature of custom and intellectual construction on the part of the Shariah

This theory can answer the questions and new rationalistic procedures. If we prove that these procedures are subject to the signature of the Shariah and the Shariah has not rejected them, which will be formed if the validity and authenticity of the procedures are proven. To explain this theory, one question must be answered: how can the Imam's favorable position be obtained for modern rationalistic procedures? And if we can answer the question, the boundaries and territory of the legal signature will also be obtained.

In the examination of the procedures, we find that the jurists in accepting these sources (customary and rational) are only talking about the old rational way and they are not interested in the new rational procedures and ways, while the rational have achieved a high intellectual ability in the development of societies. For example, the legal procedures of copyright and publishing rights are not considered and they are not adhered to. These problems arise when the jurists consider the custom and the foundation of aqua based on their inherent validity, and if we consider the foundation as the point of view of the signature of the Shari'ah, there is no place left for these forms, and these forms cannot be proposed.

According to this theory, supporters believe that Sharia signed the new procedures of rationalism as special procedures, but in terms of rational ways - with the same way of life - and Sharia did not intend to legislate by signing these ways. The work has been assigned to their centers. The essence of the summary signature of the Shariah considers everything that is approved by the sira as valid



unless the content of the sira was contrary to the opinion of the shari'a. (It is explained in the previous sentence.)

#### **4-5-How to argue and agree to the legal signature**

Contemporary Companions of the Imams (AS) have two statuses. First, they are among the intellectuals and the rules of the rational apply to them, and secondly, they are legalists and they apply the rules of the Sharia, even though they are not related to the rational. Like (jahr) in Friday prayer. In the second case, there is no discussion about the way of the intellectuals, but their characteristic in this regard is related to the way of the jurists. However, in the first context of Companions of the Innocents, which has been based on rationality and has a deep influence on people and causes an unconscious state in people, here it is necessary to prove the consent of the Shariah.

To prove this issue, we state two introductions and conditions.

A- If the Shariah is against the way, he definitely forbids following it

This introduction could be proved for several reasons and it is considered as a reliable proof to establish the hypothesis. If the first introduction is rejected, it will cause a violation of the intention and a failure to carry out the mission properly on the part of Masoum. And this violation is logically impossible. The innocent zebras (pbuh) are the messengers of the divine religion and their duty is to explain the halal and haram of that Sharia. However, with their silence and concealment, it causes deficiency in divine commands. This danger becomes apparent when the absence of orders and instructions of the innocent causes the wrongdoing of the obligees. For example, in the method of the wise, the need to refer to the experts for technical matters and to the mujtahid for religious matters is one of the absolutes of that method, and the Shariah has not prohibited it either. And if the silence of the innocent is due to their lack of knowledge about this procedure, perhaps this procedure is wrong, so that there is no difference between religious people and experts when referring people for religious issues. become popular.

Sometimes silence is more telling than speech and when the innocent is silent in front of a common rational behavior. And this silence is an indication of approval of that behavior.

B- If he has prohibited the law, but we have not heard about it. Since we have not received any news, therefore, there is no prevention [16], so Shariah agrees with its content.

Innocent prohibition has different degrees, sometimes the prohibition is imposed on a certain act that was issued by a person and we have not received news about that behavior because not all news and events need to reach us. And sometimes, deterring the general behavior that has become a habit and common among the members of the society, and this habit of the people spreads to future generations as well. It is possible that the innocent silence and lack of deterrence on the specific act of a specific person cannot be accepted as acceptance. That verb is understood by the silencer. But silence against the practice of inclusive society is considered approval. Because if a wrong and improper procedure penetrates society, it should be stated repeatedly and repeatedly that it is wrong, and it should be prohibited through action so that it gradually disappears from society.

In the continuation of proving this introduction, we can also rely on the evidence of innocence and the hadiths of Rifa [17], veiling (an agent without history), the absolute object (an agent without date), and... Let us know their side. However, these evidence do not have complete implications and are not agreed upon by jurists

#### **4-6- Methods of obtaining the legal signature**

The holders of this opinion believe that the validity and validity of the custom depends on the agreement and signature of the Shariah, and they believe that only when the custom is valid and based on reason, it is worthy of reference if it is signed by the Shariah. The methods that the followers of this idea provide to obtain the legal signature are:

1. Non-repudiation: The validity and validity of the custom and rationality do not require the clear signature of the Shariah; rather, as soon as it is proven that there was no rebuttal, even though it was possible, it reveals his consent; What is the fact that if the custom and intellectual structure common among people was not accepted, it was up to him to prevent it.



2. Failure to prove the prohibition: the failure to prove the prohibition of the legal person reveals his signature and consent, and it is sufficient for proof and validity of custom and intellectual foundation; What is the fact that Shariah itself is considered to be of custom and reason, but rather the head of them, and in the profession, it is one with custom. Therefore, in case of incompatibility and non-unity of his profession with custom, it is up to him to recognize the difference and duality of his profession with custom to be lawful.
3. Silence: several scholars who follow the idea of signature, by relying on reason and the emergence of the present, consider the silence of the sharia to be sufficient for discovering his signature and consent, and as proof of the signature, validity, and proof of the custom and intellectual building.

#### **4-7- Usulites agree on the discovery of the consent of the legal person due to his non-deterrence**

To prove the discovery of the consent of the Shariah, the scholars of Usul relied on some reasons, and they consider the non-refusal of the Shariah as proof of his consent to the action of those who are obligated to a procedure. In this section, we discuss their opinions and reasons.

##### **1- Opinion of Hazrat Imam Khomeini (RA)**

Imam Khomeini considers the idea of signature to be acceptable, regarding the validity of custom and intellectual construction, and he believes that only when the custom and intellectual construction is valid if it is signed by the Shariah, and the rational customs and traditions whose signature is proven It has not been done, they are invalid[18].

Imam Khomeini (may Allah be pleased with him) believes that the Shariah prohibition on practice should not necessarily be confirmed. Rather, verifying their non-repudiation is a sufficient procedure.

His Holiness believes that the Great Prophet (PBUH) and the Infallible Prophets (PBUH) were aware of the situation of the apocalyptic society during their lifetime and observed the procedures of that time with their own eyes. And because of this knowledge and awareness of that time and the events related to it, they have expressed many narrations and sayings, and to save and free the members of the society from its troubles and problems, they have presented many prescriptions and solutions that are appropriate for that society. Since if these procedures and rational structures and common customs were not accepted and satisfied by them in the future times until the end of the earthly (first) world, they would stop it and inform society about their prohibition. When there is no such prohibition, we realize that it is not a prohibition. If there was a prohibition, they should have informed us of the content of the texts of books and assemblies. We were warned about those procedures. And this kind of non-rejection of the Shari'ah is discovered regarding the procedures and structures of the rational [19].

##### **2- Naini researcher's opinion**

In his writings, Mirzaei Nayini does not consider the non-refusal to be explicit and in a clear and complete text, but it is sufficient if it has not been proven - in fact, it has not been verified - and considers it to be a sign of legal signature. And to confirm his opinion, he gives his evidence with similar verses. Al-Usul al-Uma for comparative fiqh, Tsadid al-Usul and lessons in al-Umamiyah jurisprudence principles declare non-rejection by silence and the absence of explicit prohibition, and in fact, they consider revocation as two types of text on prohibition and lack of explicit text on prohibition [20].

##### **3- Ayatollah Boroujerdi's opinion**

Ayatollah Boroujerdi, in his margin on the late Akhund Khorasan i's Kefayyah al-Asul, in the section of Akhund's argument on the authority of single news from the book, refers to the verse of Ajn, and in his margin, he believes that non-rejection by the Shariah is a rank and stage of confirmation and approval. And if there is no proof on his part, this non-rejection and prohibition are considered a type of consent and approval [21].

##### **4- The opinion of the late Akhund Khorasani**



The late Akhund Khorasani admits in his precious book that the discovery and unproven ness of the prohibition of Sharia is the discovery of his signature and confirmation. And this amount of confirmation is enough for the validity and authenticity of the procedures of the wise because the Shariah has the ruling of the wise, but it is chief and great of the wise. In the profession, the custom is one with them, and if there was a practice that was incompatible and unacceptable, he would surely consider it his duty to prevent the members of the society from acting on that practice [13].

#### 5- The opinion of the late Isfahani

They believe that the members of the society, based on the nature of innate love that is hidden in themselves, believe that society is a good thing and one should try to preserve it because its survival is the guarantee of the human being. are based on this principle. And these intellectuals, to preserve the system, prevent any customs and practices that prevent it from being preserved, or that are corrupt and damage its body. In addition to being Shariah, the Shariah is also among the wise, and if he observes that a practice with its corruption originates in this community due to the divine nature, and creates a disturbance, he will warn people from acting on it. Because prevention and prohibition have not been achieved, therefore there is no prevention [22].

#### 6- The opinion of the late Hakim

The late Hakim believes that regarding the non-verification of the Shariah's ruling, the need for the approval and signature of the Shariah according to the rational and customary procedures, considering that the Shariah may have a method other than the rational and customary procedures in mind, and these procedures were unacceptable in his opinion. However, if it is signed and confirmed by the Shariah according to rational procedures, or if there is no rejection, it is proof for the people and the decision is made [23].

#### 7- The late Sadr's opinion

To prove this issue, they state two premises and conditions and based on these two premises, they prove the non-certification of shari'a. They say:

1- If the Shariah was against away and procedure, he would forbid following it. Otherwise, he would be acting against his mission because the mission of Shariah is to explain the correct behavior of the obligees.

2- If it has been prohibited by law, but we have not heard about it. Since we have not received any news, therefore, there is no warning, so Shariah agrees with its content. Because if a ruling is incomplete and suspicious; It has resulted in acquittal, not to mention the lack of judgment and prohibition. In this case, the consent and approval of the Shariah is discovered [24].

In Shia jurisprudence, there are three types of views regarding the topics and concepts of rulings: one view is based on intellectual and philosophical accuracy, the other view is based on the accuracy of custom, and the third view is the tolerance of custom. The first point of view, i.e. intellectual and philosophical precision, is not proof, because it results in hardship and hardship for the obligees, and in fact, our ruling is unbearable. and it causes the corruptors to be induced and many materials to die. For example, it can be said that if a cloth becomes impure due to blood, and we draw water to purify it, but after drawing water, a faint red color is observed, and it makes us doubt whether the cloth is clean or impure. In response to this question, if we consider the philosophical point of view to be the ruling one, we must consider the impurity of the fabric because philosophy says that it is impossible to separate the width from the object, and this color has a mass, and since the mass remains on the fabric, then the impurity remains. In the view of customary tolerance, there is carelessness and lack of attention towards that impurity, and that carelessness cannot achieve the purity of the cloth. However, looking at the accuracy of custom, we can consider the correct subject of the ruling to be purity and purity, because custom does not consider the red color to be blood and says that the blood is lost and only its color remains, so the cloth is clean. Therefore, custom plays an important role in speeding up and facilitating the execution of rulings.

Another issue is whether the building of rationality and custom should be connected to the infallible time or if it is not necessary to connect to the infallible time. In examining the opinions of

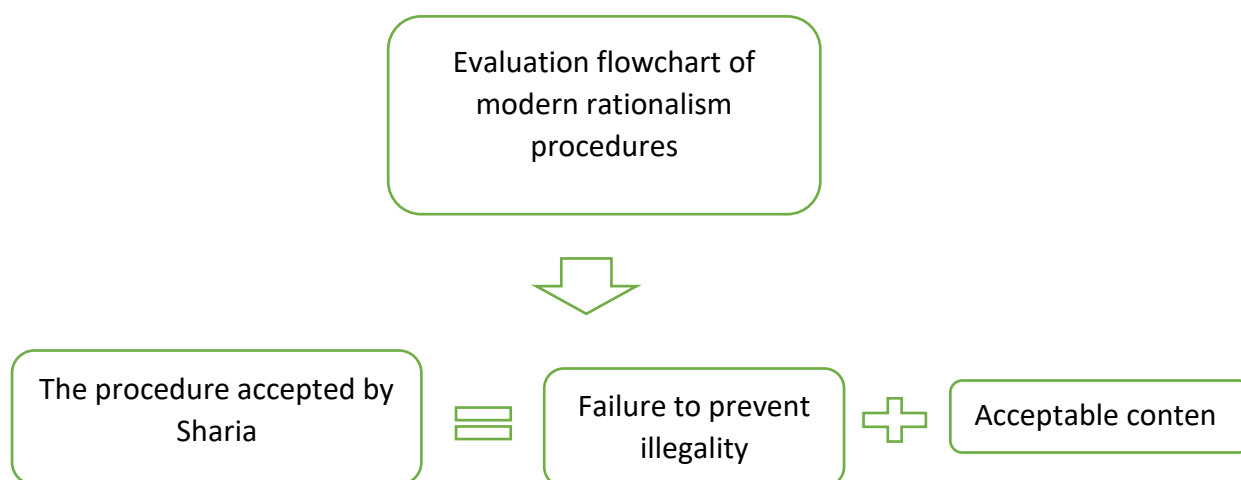
usulists, we came to the conclusion that there is no need for the simultaneity of rational procedures with infallible time because some are in favor of regressive assimilation. The meaning of regressive istishab is that normal istishab means that the certainty is preceded by doubt and the previous certainty is approved and confirmed. In regressive guidance, doubt prevails over certainty, and the foundation is placed on the existing certainty. Here, there is certainty that people act based on rational procedures, but are these procedures innocent in the time and era and have they been practiced by the members of the society or not? We have doubts. Here, according to this kind of accompaniment, they prove its adherence and simultaneity in the age of the innocent. In any case, the thinkers of the principles obtain the consent of the Shariah based on the non-repudiation of the discoverer and consider it necessary to act based on such procedures because it is a certainty and proof for all the obligees.

### Conclusion

Before presenting the results, we will address the main question of this chapter, how to compare and evaluate the new Afl practices of the new era with religious teachings and Shia jurisprudence? These practices, which are the result of the category of globalization, have either emerged from the channel of technology or are the result of ideology. In both cases, the society has embraced Islam and in fact, it is considered an integral part of that society. Here, the review of this procedure is considered important and necessary

In the reviews, the content of the procedure is first examined, whether the present procedure was based on the agreed motives or not. If a procedure does not have an acceptable motivation, it is rejected at this stage and cannot be corrected. And if it has the desired content, we go to the second stage. And whether this procedure has the discovery of legal approval. According to Mukhtar's point of view about the validity of customary law and intellectual foundations (signature), a procedure that is signed by a legal authority has authority and validity.

Figure 1- How to evaluate modern procedures



Another question was answered in how to get the consent of the Shariah due to the lack of access to Asr al-Masoom, and that is, how can we get the consent and approval of the Shariah regarding a new procedure? While accessing it is either impossible or requires a lot of careful consideration, which creates a challenge and complexity for the researcher. In examining the opinions of usulists, we concluded that, despite their differences, usul thinkers agreed that there is no need to strive in detail to obtain the consent of the Shariah, but that the fact that they did not give a prohibition is a sign of discovering the consent of the Shariah. are this principle helps us in examining the new procedure? As a result, if we come across a new procedure resulting from rationalism and want to evaluate it, after examining its content, we look for the non-rejection and prohibition of that procedure by the Shari'ah, and after despairing of achieving it, the verdict is in favor of the Shari'a regarding this procedure. We run

If it is said; When the non-rejection of the Shariah is achieved, there is no need to examine the content anymore, and in fact, education is the result. In response, we must state that sometimes a

procedure includes acceptable content, but due to the necessity of the time or place, that procedure has been prohibited by Shariah.

#### REFERENCE:

- [1] G.H.R. Parkinson, (translated by Mohammad Ali Abdulahi) *Intellect and experience according to Spinoza*, first edition (Qom: Bostan Ketab Publications, 2011), p. 11
- [2] Richard Popkin, Avrom Stroll, (translated by Seyyed Jalaluddin Mojtabei) *Generalities of Philosophy*, 2nd edition, (Tehran: Tehran University Press, 2015), p. 288
- [3] Folkieh, Paul, (translated by Yahai Mahdavi), *Ma Badal al-Tabiyeh*, first edition, (Tehran: Tehran University Press, 1991), p. 189
- [4] Seyed Hasan Mousavi, *Mentehi-ul-Asul*, Tehran, Baisarti bookstore
- [5] Sajjadi Seyyed Abdul Qayyum, *an introduction to Islam and globalization*; Bostan Institute Qom 1383-p. 18
- [6] Suleiman, Iranzadeh, *globalization and strategic changes in management and organization* (Tabriz, Public Administration Education)
- [7] Ebrahim Abu Rabi, *Pegah Museum Weekly*, August 15, 2001, Islamic Propaganda Office of Qom Seminary
- [8] Morteza Motahari, *Human Social Evolution*, Qom, Sadra Publications, p. 115
- [9] Montazeri, Hossein Ali, *Nahayeh al-Asul (The Principles of Ayatollah Borujerdi)* Qom, Nasharqods, 1375, p. 473
- [10] Zia al-Din Iraqi, *Nahayeh al-Afkar*, Tehran, Islamic publishing house, 1417, 3/138
- [11] Seyed Hasan, Mousavi Bojanvardi, *Mentehi al-Asul*, Basirtari bookstore, Bija, Bi to 125/2
- [12] Muhammad Bin Hasan Hur Amili, *Al-Shia's Tools*, Beirut, Foundation of Al-Bayt, peace be upon him, for the revival of heritage, Vol. 11, Chapter 56, Chapters of Jihad al-Nafs, p. 295
- [13] Kazemi Khorasani, *The Benefits of Principles*, Tehran, Ministry of Islamic Culture, 1407, 3/
- [14] Suleiman, Iranzadeh, *globalization and strategic changes in management and organization* (Tabriz, Public Administration Education)
- [15] Larijani, Mohammad Javad, *From Modernism to Transmodernism*, *Majles and Research*, Number 5, Year 1, December 1993
- [16] Salehi Mazandarani, *Sharh Kefayeh al-Asul* 6/19, 32 and 34
- [17] Mohammad bin Yaqub Kilini; *Al-Kafi*, Tehran, Ilmia Islamic Bookstore, 1989, *The Book of Faith and Disbelief*, Chapter Marfa'an al-Ulamah, Chapter 2, Volume 2, p. 463.
- [18] Ruhollah Khomeini, *Anwar Al-Hadaye*, 1/250, Tehran, 1979
- [19] Ruhollah Khomeini's *Ijtihad and Taqlid* 120-130, Tehran, Institute for Editing and Publishing Imam Khomeini's Works
- [20] Mostafa Khomeini, *Tahrirat fi al-Asul*, 4 Tehran, Imam Khomeini Editing and Publishing Institute, 1418, 4/382
- [21] Hossein Boroujerdi, *Al-Hashiya Ali Al-Kafayah*, Qom, Ansarian, 1413 AH 2/134
- [22] Mohammad Hossein Esfahani, 320/2 *Nahayeh Al-Darayeh*, Beirut, Al-Bayt Al-Ahiya Al-Tarath Institute
- [23] Hakim, Muhammad Taqi, *Al-Usul al-Uma Lafiqh al-Maqarn Bija*, Al-Majjam Al-Alami Lahl al-Bayt (AS) 1418 AH, p. 198
- [24] Mahmoud Hashemi, *Researches in the Science of Islamic Law*, Lectures by Mohammad Baqer Sadr, Qom Institute of Islamic Jurisprudence Encyclopedia 1405.