

EXAMINATION OF ISTESHAB PRINCIPLE OPPOSITION WITH THREESOME PRINCIPLES (ACQUITTAL, CAUTION AND AUTHORITY) BY LEAN ON SUFFICIENCY POSSESSOR IDEA

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Abstract: Bearing in mind that Isteshab principle is ranked as established principles and in proportion to other threesome principles, it locates at the top; therefore obviously in lieu of other operation principles, it acts like an indication and it has priority in opposition with acquittal principle, caution and authority with all kinds and fundamentalists have consensus in this case, but whatever in this problem makes difference and contention is the primacy quality of Isteshab principle which is perceptible in principle sources of some theories. Some fundamentalists considered primacy from respect of entrance; some from respect of government and some by separation of intellectual and quoted principles believing in government and entrance and some of them believing in to allocation. Therefore our try in this article is the examination of the primacy quality of Isteshab principle from fundamentalists' viewpoint and adaption with sufficiency processor idea and sharehin. The result of essay is that apparently primacy aspect of Isteshab in proportion to other practical principles whether intellectual or religiously correct is simply from respect of entrance; because by Isteshab principle, threesome principles subject deliberately is no longer contemplated.

Keywords: The Isteshab principle, the threesome principles, the government, entrance, opposition

Introduction

At first the comprehension of religious edicts is according to foursome resources: book, tradition, consensus and wisdom that Juris consult sometimes in his referring reach to religious edicts or not.

In other expression sometimes in certain or suspicion, validity to real sutra has been attained, so its duty is obvious. Namely it knows or has valid strong conjecture that what Islam

judicial wants from him.

But sometimes gets disappointed or unhappy and stays uncertainty or hesitant. What should he do? Do the lawyer and or wisdom or both allocated any duty or task in the field of inaccessibility to real duty or not? And if have allocated, what is it?

Between these practical principles, Isteshab principle has an important place and it is one of discussions that in the Isteshab principle, its result is important and discord, opposition and Isteshab ratio with other threesome principles are acquittal, caution and authority.

As described, the present article has some sections; first section refers to explanations and concepts in effective discussion result.

The second section surveys opposition between Isteshab with acquittal principle and the third section surveys the ratio between Isteshab with caution and authority and finally there is a conclusion from the article.

1. Conceptual Izah

Before embarking the main discussion, it is necessary to specify these concepts: Isteshab principle, government and entrance because cognition to them is effective in discussion result.

1.1 Isteshab principle

Isteshab word is the infinitive of Istefa'al portal and derivative of Sahb that means companionship, accompany and attendance (Ebn Manzoor, Lisan Arab, /1414/ Sahb provision), but in material term, for this word presented different explanations and we embark to some of them:

Helli scholar says: «ن ا ك ا م ي ل ع م ك ح ل ا ء ا ق ب ا و ه» "Isteshab means retention of edict on something". (Helli scholar, Maarej Alvosul, /208)

Isteshab means affirming an edict because of being fixity (Khansari, Masharegh alshomus fi sharh aldorus, /191). Bahayii hierarch says: Isteshab means fixing an edict that there was in the second time according to fixity in the first time (Bahayii hierarch, zobde alosul, /106).

Some others says: Isteshab means to the edict of lawyer on duty- bound to the obligation of knowledge to everything which has doubt on duration (Sadr, Al Maalem Aljadide Lelosul, /187).

1.2 Government and entrance

First time, government and entrance discussion lionized by Ansari hierarchy and he understood that sometimes one reason is preceding to other reason without being any special or general relation or this matter makes other reason totality disavow,

In these cases without any denial between two reasons and this offer not makes disproof or appearance possession.

2. The proportion of Isteshab principle to acquittal principle

Before embarking to interference between Isteshab principle and acquittal principle, it is necessary to survey in curt on acquittal principle because surveying on interference and its result is important. Acquittal principle results when we doubt to real duty because of sanctity or incumbency.

Acquittal principle has two kinds that one of them is juridical acquittal that is based on elimination cabala and another one is intellect acquittal that is based on eagle ghabh.

2.1 Believing in to entrance

Saheb Montaghi Alosul says that if intellect acquittal which its document is wisdom has interference with Isteshab. In this way Isteshab is not with opponent, because declaration of edict is exterior. So Isteshab subject loses eagle gabh norm.

Isteshab is antecedent to acquittal and this antecedence is unanimous between fundamentalists and its reason is Isteshab reason autonomy on acquittal reason.

Saheb Montaghi Alosul says : that there isn't any doubt about Isteshab precedence to intellect acquittal and this is from respect of entrance and we assume that certainty ore stays in this way , therefore with that certainty, doubt subject looses in acquittal principle (reference: Sadr, al Maalem al jadide lelvosul ,/ 191)

As expressed before some other scholars have pointed out

that the relation between the opposition of Isteshab with other practical principles such as the principle of acquittal is just like the relation between Isteshab and evidences and evidences, preceding over Isteshab, need expertise but it should be noted about reasonable principles that as the subject of acquittal principle of conclusion's badness can be expressed and the basic subject of caution is lack of security and the basic matter of authority is surprising. Isteshab also elevates their subject and solves all the problems and maybe it's said that as their matter is elevated so the relation between Isteshab with narrating principles is just like their relation with reasonable principles, it should be considered. (Esfehani Sabzevari, Vasilat alusul ela haghagh alusul, 792/)

2.2 Believing in the government

The author of the book 'Mahkam fi sole alfeghh' considers 3 fundamentals for the preceding of the Isteshab over the religious principles like acquittal that there is doubt in their matters.

First, As Khorasani scholar has expressed the reasons of Isteshab is valid to religious principles and there is 2 aspects in his words. His first aspect is that after talking about the aspect of entrance of evidences reason over Isteshab in his book, he pointed out the breaking of certainty in case of evidence with evidence and not by means of doubt and verily the breaking of certainty is taken by certainty and also has expressed that the aspect of presenting Isteshab to other practical principles is like to the aspect of presenting evidences with Isteshab. So if somebody has doubt in this way, knowing to command is taken and if he has doubt to other matters, so that in this way just principle subject he has doubt to all other matters too. Second aspect is that false knowledge is a principle in some reasons and the eliminator is not taken from special character according to what Sufis have expressed but the eliminator is in a way that it belongs to its owners and is making definite itself, Isteshab being from definite principles and be original and was pointed out in the matter of interruption the matter, is its deputy and as the result is taken from. The author of the book 'Mohkam Usule Alfeghh' criticizes 2 aspects of all Mulla's aspects to be short they are in such a way: the criticism

of first aspect is what Mulla expressed about principle matter, being dubious in all aspects, if will to doubt remains absolutely, although being the second command it's definite. If will to Doubt causing authority and being about the lacking of knowledge until it was the practical duty being elevated by Isteshab and be non-definite too in religious principles but the allocation appearance of the doubt to certainty was like real one, verily it's certain in rational principles. Secondly, there is no difference between Isteshab matter and non-Isteshab matter but if their matter be about doubtful principles in all aspects so their matter is the same and Isteshab should be thought in a way that needs the supposition of evidences causing certainty and Isteshab's duty having the duty of active ones according to active principles such as acquittal and etc which in case the matter of Isteshab and evidence are eliminated but what is understood in comparison to what was expressed in another position doesn't command anything and it's not enough in eliminating the matter of Isteshab. Finally it should be said that it's not possible to compare the precedence of Isteshab over religious principles with the precedence of evidences over Isteshab. Because according to religion and its laws in the matter of evidences there should be no doubt so maybe this is claimed that the purpose of doubt here is in all aspects according to elevated principle. Second criticism if being complete in all aspects has no usefulness in its presenting but also being useful in a condition that just like non-definite principles such as acquittal principle and caution to news men guaranteeing the elimination of extent and having caution in the action and not needing deficiency but acts in the opposite way. Secondly it's difficult to prove the eliminator knowledge of principles matter be taken in an adjective way, as its opposition because of its need to the word of knowledge without analogy be clear.

With these explanations it should be said that Isteshab governs the practical principles such as acquittal. As greatest religious men believes that this proportion is not enough to principles and express that the appearance of Isteshab substances is supplementary to indicate the reason of forbidding and discovering of doubt. Because the reason of Isteshab is not a crusading one but

also it's not the part of forbidding survival too. Therefore there is no aspect for the Isteshab of government and it should be said that Isteshab is valid to the practical principles such as the principle of acquittal. (Hakim- Almohkam fi Usule alfeghh.168-173/5)

Sheikh Ansari believes that Isteshab precedes acquittal but also expresses that whatever needs consideration precedes over others. The precedence of Isteshab is for entrance or government or allocation. Because the relation between acquittal and public Isteshab is in all aspects and not limited just to public or private aspects therefore, the possibility of allocation is rejected. So this possibility is rejected and just 2 other possibilities remain. The principle of acquittal has two aspects: in one aspect its evidence is reason, being the matter of lacking reason and is reason acquittal and the other aspect is that its evidence being narrating, having the matter of lacking knowledge and also being equal to the reason command. Isteshab is valid to acquittal reason because it is religious narrating and the matter of acquittal reason is the lacking of narrating and when something is narrated the non-narrated thing elevates. But it should be said that this speech is double being real or unreal and the narrating of Isteshab is from the second prescriptions but in proportion to religious acquittal having the reason of narrations the way of their talking is in 2 ways: the way of talking of some narrations being the narration of elimination having the same way of commanding like reason and because these narrations are the same as reason, Isteshab is valid to them and elevates the subject of these narration being the lacking of narrating. But another group of narrations are absolute ones but forbidden that in this case Isteshab either is valid for these religious acquittal reasons or governs them, some group agree with its governing over reasons. The first reason is that generally the news of acquittal has a special purpose such as forbidding's being valid and also the meaning of everything be absolute is that everything is dubious to be forbidden or allowed and etc. it's proposed that if something is forbidden but in now there is certainty to use it, it's better not to use and then avoid it completely. So about the Isteshab being the purpose and talking about the forbidding of something, there is no place and opportunity for absolute things and means that

by the presence of Isteshab there is no position for acquittal. The second reason is that the present time is after a general ebullition having 2 people: one is before 3rd departure and the other one is after 3rd departure with whim, According to religion if somebody be from before these 3rd departures is accused to being respected and unclean and this law of religion and such a person force many of people after ebullition to respect and unclean. So another one belong to the period after these departures known as unclean and at last the purpose of action being forbidden is acquired. So there is neither place for doubt nor place for acquittal and at last should be known valid. In the 3rd reason that the news is for acquittal and there is apparent forbidden being just like Isteshabi forbidden and having it after the 3rd departure with whim finally the purpose is acquired and no place for forbidding and acquittal meaning it's valid. Sheikh Ansari by expressing the reason of Isteshab's being valid to acquittal also pointed outs that Isteshab governs acquittal, we understand from his words that government is acquired in both increasing or decreasing way. According to the news and reasons of acquittal trying to obey all the avoidances completely, but Isteshab advices to ignore doubts and suppose your certainty is remained, try to keep it alive. The avoidances of Isteshab is an apparent one therefore there is no place for doubt and always government tries to show the news of acquittal to be dubious. As Isteshab never brings certainty but according to its reasons taking it down, just annihilates doubt by discount and not by consciousness. So we expect that where points to something as absolute, no position is for acquittal and this means government. Also it should be said that there is no difference with the government of Isteshab over the principle of acquittal between command doubt and the matter of doubt. (Ansari, Favaed alusul, 387-8-91)

In the opposition between Isteshab and acquittal principle believe that Isteshab precedes over acquittal and in this case here is no disagreement between scholars and also they verified that Isteshab precedes over acquittal because the basic matter of acquittal is traced letter means everything we have no knowledge about it, the reason of Isteshab is the same reason of don't break their certainty with doubt. By considering this reason and letter,

we propose and understand that the reason of Isteshab annihilates doubt and certainty remains. So by Isteshab's being present the reason of acquittal elevates and therefore the reason of Isteshab both governs the reason of acquittal and denies it too. (Sadr, Lessons in the knowledge of principles, /134/1)

Secondly, separation between the reasons of principle in respect of has no apparent aspect therefore by experiments it should be said that if the substances of Isteshab reason like the substances of other discounted-doubtful practical principles to be real, there is no representing aspect to others and if the substances of the reason of action being according to over all conditions causes the presenting of the action of what is taken from certainty, it can be said that Isteshab precedes over others but not precedes over government criterion having precedence over Isteshab in case of evidences and not also over substances and because of lacking aggression to the reason of Isteshab because it denies taken doubt in reasons not really and not discountantly but it should be said that other criterions and purpose of government from respect observer to judgment. Because judgment is in Isteshab and is observer to judgment in some other practical principles that just causes precedence.

First, Sheikh Ansari argued that the reason of Isteshab causes the generalization of obvious past precedence in adding to the doubt's time and therefore if there is opportunity, no needs to doubt and also the reason of Isteshab causes generalization and persistence then if the governor judgment according to religious acquittal, in other words both the reason of Isteshab and religious acquittal indicate that everything is absolute until something denies it and always its denying correct, so there should be opportunity and the thing remains in its doubt. So the Isteshab substances deny whatever that other principle needs and this is called government.

There is one critic in this opinion: the denotation of substances reason being from the will of achieving means that what we doesn't know is forbidden by religion or not, it's free and the substance of this matter is doubt being in the past prescriptions and be similar to what other things that are forbidden completely. So what we don't know their religious command is release and if

it's said it is acquittal of the thing we have no knowledge about its apparent command, so no case is remained and it's said this command is addition to the reason of religious acquittal and not the governor, as expressing is in Isteshab. Because doubt is in all aspects until to be in the form of apparent command. So if we understood it by means of acquittal, no other case remains for it.

Second, Isteshab is sufficient and not-discounted principles being doubtful are in all aspects and its purpose is knowledge even though be in the form of aspect and title and in this case if the doubtful command be as the breaking of certainty to doubt therefore it's not understood because the past being obvious is for Isteshab so there is no case. The critic is that the taken in the reason of Isteshab is doubt then how there is difference between Isteshab and what is taken from other matters? Therefore Isteshab is doubtful in all aspects, its purpose is certainty even though it had precedent. So what has doubt in its and respect, though its precedent should be respected but is appropriate to the guiltlessness and solve principle, then it's not doubtful in all aspects. Therefore Isteshab is not for two other principles in order to have the competence to solve another matter so not appears and there is denial between these two matters.

Third, also the scholar Naeini expresses that according to one of the sides if there is false in istehsab, there is doubt and on this basis it is real that the other side is canceled in the canonization knowledge. So doubt, the matter of other practical principles, elevates. There's a critic in this opinion. We see that Isteshab for breaking being impossible unless it was of evidences. Say doubt is not reasonable in the Isteshab being for doubt, unless because of its existence it should be destroyed being an impossible matter.

Fourth, some other scholars believe that if purpose is knowledge, the derived of purpose is in the reasons of practical principles unless the aim be the derived of pure reasoning but as just clerics express therefore Isteshab is valid to the reasons of principles. There are some critics in this aspect for example if knowledge is understood to the will of reasoning, it's against to appearance unless there is an absent replacement in its position. Some other scholars attributed this word to the expert Mohaghegh

e Araghi believing with expertise that the reasons of Isteshab are observing the gavel and his proof is real. But it should be noted that in spite of these critics and falseness was in the existence of Isteshab to certainty, his words is true. Therefore the reasons of Isteshab govern the reasons of not-discounted principles so the message of Isteshab is that it's remained always and doesn't pay attention to the doubt. In other words by the existence of this doubt, there should be certainty so the matter of other practical principles elevate with the currency of Isteshab and it's all the government and not something else, but if the false is similar or make something better or worse than before or something else, there was no aspect in presenting of Isteshab. Also the author of the book 'maghalate alusul' knows the relationship between Isteshab and religious acquittal as the aspect of government. Some other scholars have stated that the relation between Isteshab with acquittal in commanded and subjective doubts is in the case of government criterion. (Tabrizi, 581/)

2.3. Other theories

The writer of the book Derasat Fi Elm Alusul (lessens in the theories of islamic jurisprudence) have said that originally Isteshab * is prior to the principle of innocence extract of Hadith of Raf, the cause of this is; as the Isteshab is prior than the principle of the **presumption** and its primacy is as the govern, Isteshab however, as circumstantial evidence, is the **presumption** as the rest **presumptions**, then as part of the **presumption**, but it is not actually among **presumptions**. Isteshab is prior on the legal innocent as the ruling or govern priority, and also in the case of rational innocent and it also is for the legal innocence true too; arguing that innocence is Vared on rational Istshab; in other words, once the Istisahab is applied ,the presumption of innocence enshrined rational unlikely to be achieved on the Isteshab issue; for both kind of the innocence that is legal or logical precedence, it has Vorod (A Figh expersion), but to the religious rule of the innocence Govern or rational innocence is true.1(Khoyi ,Darasat fi Elmo Alusul251/4)

1-- «The is no mistake in the mental process, and in rational practical principles and Isteshab is prior on these principles .And by applying Isteshab the rational innocence will be removed and about the rational caution that is generally and the issue of rational authority and doubt in Beyn Almahzorin period and Isteshab is prior than legal principles to remove and the legal caution in the authority it is by governing and the presumptions are prior sometimes to Isteshab and Isteshab is among the presumptions and it is prior to the legal principles .

Khoyi also have expressed this theory in his book “Hadayeh” he states the prior to beginning conflict between Isteshab with practical principles deals with the relationship between the presumption and practical principles. That for it there is such a conclusive evidence on whether all of the rational or religious perspectives and the primacy of the worshipping presumption on rational principles of inclusion and respect the principles of the rule in Sharia terms rather than as assignment or specialty, and with these simple words, it speaks about the priority of innocence and Isteshab takes precedence over the presumption of legal innocence Isteshab. And the primacy or priority of the rule of the religious Isteshab and the innocence and the innocence of the logical innocence with the argument to Mostahab which States that the jurisdiction is preferred Isteshab and don’t stay on the subject of presumed innocence. (Khoyi, Alhadaya Fi Usul). The Isteshab also is prior to other all legal and rational principles and it is primacy of the rational principles of wisdom too because it is subjected by virtue of the Isteshab. So about the rational innocence that is don’t state will be fixed by the statement of **legislator**? So subject of intellect and rational verdict, and religious principles are included in the primacy of the Isteshab. And the relation is as same as the relation of presumption with the innocence that it is preceded on the primacy of the govern) Mesbaho al Usul, khoyi, 3/253) .Imam Khomeini in his book “Isteshab” explains that Isteshab is governing legal innocence, it is because Isteshab is fixed and without doubt .Thus it is certainty; so doubt cant diminish it. it appears that the govern is remain but the result of it is true ,the innocence subject is not known , which is in the Hadith of Raf and

it's because don't have any reason and not because removed or a lack of knowledge. And if the provisions of the reasons for abolition of the doubt and lack of doubt is indifferent, thus it's governing; It is also true for something that the lack of knowledge but doubt if the reasons for non-infringement provisions is therefore no ruling for it. Because wish to the lack of hojah is contrast to Hojah. That it is actually the lack of research on hojah. That wish, because of presumed innocence, we don't know that it is something that is not located on the vertical hojat; therefore, finally, this principle is not actually on the rise.

2.4. Expounders and Kefayeh perspective

Akhond Khorasani stating that the principle of innocence has two branches, one legal innocence that is according to Raf Hadith and the second innocence is intellectual or rational innocence which the principle of Isteshab is prior on both of them, but it is relatively different for the principle of legal innocence. It is doubt and lack of awareness, because the flow is essentially the same as the apparent judgment of the Isteshab it turns out and when other non-science is not science and it is rather than just a problem here, which is the same as it was in discussion with Isteshab presumption forms and because if our innocence principle take precedence on the other things rather than stay.

1- The priory of Isteshab on legal principles is in govern aspect

So the discussion is that what is the causes that the reason of Isteshab is prior. That the Akhond Khorasani states in response to it that it does not have any limitation on the Isteshab, the innocence that is threaded exit while the innocence that is the assignment on Isteshab cause or on specificity or on the way around that either of them are invalid, but the relation between Isteshab and the intellectual or rational principles including the innocence as intellectual is truly true, and the non-logical expression is provided by the principle of the Elimination of Isteshab and destroy and the wisdom. It says that punishment is hard and Isteshab says that the subject is so non-

elevated expression with the expression. (Khorasani, *alusulo al kefaya* /430)1. This expressed that Akhond, such as other faqihs (A faqih is an expert in Islamic Law) assume that Isteshab is prior over any presumed innocence but he, unlike some of the faqihs thinks this priority is true, due to this that by arrival of the Isteshab there is not anything for innocence .and it will exit from the subject.

The writer of *Montahi Al Deraye* states that there are not any problem leading to some conflict and contrasting between Isteshab with other principles and this conflict to the principle of Isteshab in terms of their import has more explanation and is true. Isteshab on the principles including the innocence that is the subject of Isteshab the in the same way that he doubted the real point in issue is the survival of the traditional principles and the other suspect to be hadith and is an absolute meaning well so Isteshab will be scientific and some other principles of Isteshab dedicated it to them because the lack of limitation, allocation is round and Isteshab with intellectual, including principles of presumed innocence is also true. The intellectual innocence issue that explain the same lack of expression with which the subject is the subject of the Isteshab it can be fix hojat. The innocence and the subject of it is duties. (Jazayeri, Moravej , *Montahi Daaye* /7/779 777), their idea is such as Akhond's idea ,they are the same.

About the primacy of Isteshab on the intellectual innocence, there is no doubt, as soon as possible of wisdom is not duty. That this presenting of Hojat does not contrasting obligation because the Tnjiz as soon as isn't possible in this case, namely its by reason and hojat and the Isteshab is both hojah (proof) and reason, But about the conflict with the rational innocence must also be said that, reason for provisions of that such hadith meet the legal innocence in cases where the obligations are a non-obvious, by wisdom of the the Ummah it will be solved and we have to say that the meaning of to be solved is, don't realize the ignorance of the sentence, so word in this issue is the word in rational innocence but in this subject it must be said about the content of reason of legal innocence what appears is the authority in establishing, so if we say that content of reason of guidance is to the wisdom

judge and not to establishment judge yet it is in spite of the appearance of it . But if we say that content of reasons of innocence is eliminating obligations under the ways of them, That is the news of not the hoax monjaz however to be no doubt in it , that the legal innocence, is inconsistent with the Isteshab , but with the evidence of other ways, and the presumption , but also in spite of its form and shapes and research. as research in the context of legal innocence that are the same as simultaneous obligations that they are unknown and they are eliminated of Ummah and Finally we should say that the content of the reason is the lack of hoax Caution on unknown obligations. This means that it does not conflict with the presenting of hojat (proof) and the proof is an obligation that the Isteshab is reason and proof too. Thus, just having reason to fix obligations it exits them from unknown surface. (Tabatabai Boroujerdi Hodjati, in the margin of Kfayeh principle, / 3/451-450) he also state the conflict of Isteshab aspects with the innocence is true.

2.5. The results of inconsistent of Isteshab with the presumption of innocence

Comments that were about conflict between Isteshab with the principle of presumption of innocence from both said, it was obtained that Isteshab is prior or on the both presumption of innocence, the innocence of traditional and rational innocence, on this issue, there is no debate, all conservatives consensus on priority of it. But what was the difference in osuliion(who concern principles) opinion was quality of primacy that we will discuss it and Akhond opinion in detail but , the writer's reviews and studies obtains which primacy of Isteshab over the presumption of innocence, whether in rational or narrative terms are true and they are not the governance and not the rule will be admitted . Explaining that with Isteshab to the presumption of innocence don't remain any things. because Isteshab is a conviction , and it is certain that it is in the proof (hajat) form and doubt after it has reinstated the previous conviction while there is no presumption of innocence in that case and an it is dubious and absolute issue then with reason and other proof ,there is no room for doubt And this

generalization is relatively between Isteshab and presumptions that presumptions is over the Isteshab with the same philosophy on the subject of presumption reasons over Isteshab i doubt that it is repeated. The result is: isitshab is over the presumption of innocence.

3. The relation of Isteshab and caution and authority principles

Before reviewing the relation between these two aspects, it is necessary that briefly, we explain the position of caution and authority. The precautionary principle or the principle of employment is one of practical principle and it is discussed where one person is in doubt about the duty that lawgiver sets. Actually it is a general knowledge about certainty and doubt which in that we should stick to the principle of employment, Ayatollah Khoyi (RA) states that caution is the acting on deeds that by bringing it we can come over obligations (Khoi, Misbah Alusul or Principles, / 3/435). Sheikh Ansari, broadly discusses this issue in the chapter of practical principles to the authority principle. He states that the application of this principle is when the real sentence of one thing is dubious and before the doubt, there will not be any certainty and at the same time caution also may not be possible. Authority principle is possible in some period, first it is when there is doubt (Beyno Almahzorin) that there is doubt between the legal and musts and illegal deeds and when a person should choose between two obligations of Islam (Tazahom) that it's better to have authority. By these explanations lets discuss about main issue that is the relation between Isteshab principle and authority principle. At first let's look at osulion perspective and Akhond idea about it and then we state our idea about it. Reviewing the osulion ideas we can understand that some of them accept Vorod (to make prior some obligation to another) some accept govern and some accept the separation.

3.1. Believers of Vorod (to make prior some obligation to another)

The caution principle applies when doing a deed or leaving it causes punishment however by Isteshab principle, this will perish. so the Isteshab principle remove caution principle, so we can say that Isteshab principle make prior to practical principles and caution principle. and the relation of Isteshab and authority principle is when the possibility is equal and this means that legal and illegal deeds be possible therefor legislator apply the Isteshab and the equality of them removed so, Isteshab is prior on authority. (Sobhani, Alvasit Fi ulomo Alfiq). Some state that when Isteshab is in contrast with caution and authority principle, the Isteshab is prior to them. Like when Isteshab and caution are true in an issue, the Isteshab is prior than caution principle. Because though caution principle make Feraq but Isteshab practically make it true the doubt by legislator, which Isteshab is govern caution or is Vorod for it. (Heidari, Osul Al Istinbat Fi Osul Al Fiqh va Tarikhche Be Oslobe Al Jadide). He doesn't make important the priority quality but he knows what is in practice is the primacy of Isteshab on authority and caution principles, and the quality isn't important whether it is govern or Vorod.

The writer of Mesbah Al Osul states that:

It's said that there is not any problem with the priority of Isteshab over authority and caution principles in rational or narrative perspectives which this priority is in Vorod because by Isteshab the caution and authority will be solved, but about legal authority and action we must say that is like Isteshab and **presumption, that the priority of Isteshab on legal authority and caution is in governing** (Khoyi, Mesbah Alusul, /3/253-254). **Others states that Isteshab like innocence is prior on caution, because in the caution and doubt in innocence is possible by the prevention of harm, that this is removed by presenting Isteshab about the harm because by bringing the legal Hojat by one person, we exit from doubt and Khoyi assumes that Isteshab is legal Hojat. And about authority we must state that it is what we said about caution, by thought judgments authority is at first being uncertain but then by Isteshab it changes to authority. Finally it should be said that the relation**

between Isteshab and legal caution and authority is in Vorod, because their conflict by legal obligations will be solved. (Rohani, Montaghi Al Usul).

3.2. Believers of governing

Ayatollah Hakim states that:

Isteshab is prior than other practical principles such as authority and caution and its priority is in governing because it is one of the clear principles so the this priority is because the caution innocence and authority principles are among the unclear(doubtful) principles but Isteshab is certain therefore in Isteshab knowing of deed is to legal presumption . (Hakim, usul Al Ame Lel Fiq Al Mogharen/450)

The Writer of Zobde Al Usul also state that Isteshab is prior to caution and authority principles, both rational and narrative kind of them. And the cause of its priority is that Isteshab is one of clear principles and is prior than unclear (dubious) principles .And the cause of it is the governing of Isteshab on these practical principles ,like Isteshab governing on innocence (see Zobde Al Usul , Rohani /4/174)1

Allameh Mozafar states about the contrast between Isteshab and other practical principles, there is no problem that Isteshab is prior than other principals whether rational or legal , but what is the problem is that is how its priority to other principles : its priorty is about Vorod or governc or other aspects, in osulion perspective, Isteshab priority over rational principle is about Vorod .this is by the Isteshab that principles are removed , because the issue of rational innocence is not to state ,and with the statement of Islam legislator that person who must do obligation to stay at the pervious state . And by don't state it , this will be solved and removed and also the rational cautions principle is the possibility of punishment that by Isteshab its legal and the possibility of punishment will be removed .and the authority is also about a kind of doubt in Beyn Mazorin period , by Isteshab this also will be removed . But Isteshab don't have Vorod (it's a Fiq expression) on the legal principles, but the govern is, because the legal innocence is no to state one principle and by applying Isteshab the lack of

knowledge is possible and therefore it isn't Vorod here and it's govern here.

3.3. Other perspectives

The writer of Favaedo Al Usul states that:

Isteshab has Vorod (its prior) over the rational principles and is in govern (Hokomat) for the legal principles. Because Isteshab is among clear (Mohraze) principles that we should do it .and therefore Isteshab for rational principles really has priority and it is removing (Rafe) for the legal principles by govern and Hokomah. (Fovaedo Al Usul , Nyinini /4/680).The relation of Isteshab and other practical principles like authority and caution principle is like the relation of Isteshab and narrative presumptions. That it is appeared to be specify but the relation of Isteshab and cautions and authority is like this, that by Isteshab this two case will be removed and about the issue of doubt we can say that Isteshab will removed or solve it generally. Finally he states that the relation of narrative principles like authority and caution and Isteshab that will remove the issues and he finally states that think on that. (Isfehni Sabzevari, Vasile Al Vosol Ela Haqayeq Al Usul/791-792). The writer of Tasdid Al Usul declares that in the relation between Isteshab and rational caution, it is clear that thought don't choose caution when a valid principle sentence to innocence of obligations .then caution is when that we know one of things is Nejasat. But if we be certain that one of them is Teharat and in the other one there be doubt to Nejasat, in this condition that Isteshab applies to Nejasat and Taharat, Isteshab don't let to thought to sentence to caution , as same as this statement is for authority . But it should be considered that when a special reason is for necessity of caution also about possession and blood caution it hinder the application of the Isteshab, and it's like hindering of innocence principle and in fact it's a special reason for Isteshab and innocence and it's not covered. (Tasdid Al Usul, Ghomi).

3.4. The qualified and commentator's perspective

Akhond Khorasani states about the relationship between Isteshab and authority .when one sided Isteshab is applied we

side and there is no talk about rational authority .And the rational authority is Beyn Mahzorin period and in it one side is prior to the other side when Isteshab is in one side, we prefer that side, so there is no doubt that Isteshab is prior than authority of rational principles of caution an authority (Akhond Khorasani,Kefaye Al Usul 430). The writer of Montahi Aldaraye states that Isteshab is prior to legal authority and caution and its priory is in Vorod like the legal innocence. It is also true that Isteshab is prior to rational principles like caution and authority, that the rational caution is the doubt in beliers by caution principle that thought declare that for caution of believer it will be get while by Isteshab it will be solved and remove .In the authority condition it is like equality of that two possibility and it will be removed by Isteshab. As they complete the circuit between necessity and dignity is something that can be in Isteshab. Because by Isteshab it get out of the equality of two possibility that is cause of authority for example when we are in doubt about starting of Shaval and end of Ramadan month , here Isteshab is applied and authority is obviated .(Montahi Aldaraye , Jazaeri , Moravej /7/777-780)

3.5. The result of contrasting of authority and caution

It should be said that the quality of the priority of the principle of caution and Isteshab and authority with all of its doubts is the same argument as all that was said about the principle of presumed innocence. By this commentary that the principle of caution and authority like innocence are in doubt and they are without pervious occurrences and they are unclear principles and in contrast of Isteshab that is a clear principle are removed, that is to be adequate of authority and caution for Isteshab.

4. Conclusion

The results of this study can be listed briefly bellow:

1. Isteshab is among those principles that some scholar declare it as a principle and some others see it as presumption. That this express that Isteshab in degree and rank is in primacy rather than the three principles, in other words thought Isteshab is one of practical principles of

Islam but it is different from other three principles. That is the Hojat of that because it is possible to have pervious cases in it and it is not absolute doubt, while other principles are in absolute doubt.

2. Presumption is in higher position rather than practical principles and in contrasting to them presumptions are prior and some scholars know their priority in Vorod and some in govern. In line with this some Islamic scholar knows the priority of Isteshab over other practical principles is as same as the priority of Isteshab and presumption. That it is right because Isteshab inn four practical principles is like a presumption.
3. The contrast of Isteshab and three principle in society aspect is the relation of public and in private that all Osulin believe to priority of Isteshab and there is no argument about this case, but what is the subject of argument is the quality of its priory that there are different statement about it, in govern aspect and in Vorod aspect, some scholars divide practical principles to narrative and rational that by studying of the different sources that the priority is in Vorod regarding this reason that by Isteshab the practical principles will be removed and solved, as same as the relation between presumption and Isteshab that with presumption the subject of Isteshab will be solved or removed.

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