Analysis of Maslahat and Viewing of the Expediency Council's Place in Iran

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**ABSTRACT**

Maslahat is an Arabic word which is used in Islamic Jurisprudence. Or feghh, Maslahat is a rule in Islamic Jurisprudence which is used in many cases. Maslahat means profit and its meaning in Islamic Jurisprudence is similar to the meaning of this word. In Islamic Jurisprudence Maslahat means doing a work in the way that cause expediency and makes profit. The council of expediency in the system of the government of Islamic republic of Iran represents a unique institute. The mentioned institute has many works. I want to say that council of expediency has an important role for the government of Islamic republic of Iran. Because the rule of Maslahat is an important role in Islamic jurisprudence and as we all know Islamic rules have an important impact on the law of Islamic republic of Iran and the Iranian government apply the mentioned rules. In this study we wanted to analyze the rule of Maslahat and its impact on the decisions of the council of expediency in Iran.

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**INTRODUCTION**

As we all know the rules of the law- the rules which have a root and origin in the religious rules such as Islamic rules or other rules which are created by human in order to have a better society should be profitable for the human's society.

The mentioned item is more important, because the root and the origin of the rules which are acquired from religion such as is lam is God and we know that behind the God's orders is profit for the humans and the society.

Islamic scientists believe that the rule make prop hit [1].

In the book of feghh Al Reza we read that: the Holly God do not abandon any food of drink but they were God and harmful and do not permit to eat and drink anything Gut they were profitable.

According to the Imam Reza (peace be upon him) speech the root of the Islamic rules is profit for the human, so, the rule of Maslahat as a rule which its meaning is profit should 60 profitable for the human and society indeed.

In this article we want to info duce the mentioned rule and also describe about council of expediency in the government’s system of Islamic republic of Iran as an important part of the Iran's government which has some duties and tasks about rules and codes which should 60 replied in Iran. Then we analyze the impact and application of the rule of Maslahat on the council of expediency of Islamic republic of Iran.

2- Definition:
2-1- Definition of the word:
Maslahat means profit and interest [3], [4].
Firooz Abadi said: Maslahat means profit and expediency [5].
Pay Attention that the writers which we mentioned in the above, are written their 600 and notes in Arabic of Farsi and we translate the word maslahat to English according their notes.
Maslahat is against corruption or loss, so, maslahat is something which is good and profitable.
When we look better and pay more a attention we find out that Maslahat can be used in two forms.
Maslahat means good or profitable.
Maslahat is a task which makes profit.
2-2- Definition in Islamic jurisprudence As I mentioned earlier the definition of the Maslahat in Islamic jurisprudence, feghh, is similar to its meaning. I mean the rule of Maslahat in Islamic jurisprudence or maslahat itself means expediency or something which make profit.

For example Mohaghegh Ardabili said:
Maslahat is something which help human in doing his tasks, whatever task including tasks which are related to this world or the world after death.[6].

Abou hamed hazali said:
Maslahat is making profit and preventing loss. There is another rule in Islamic jurisprudence which I like to not here:

The rule "Lotf” I mean a rule in Islamic jurisprudence which want to say that God is kind and the root of the rules which are described by God is helping humans, so by combination of two mentioned rules. I mean, rule of Maslahat and also rule of lotf we can find out that:

The God is kind and wanted to help humans, so made some rules which are expedient, good and profitable for humans, the rule of Maslahat wanted to say that the rules should be expedient, good and profitable.

seyed Razi said:
Everything which is obliged for us is good for us, and anything which is banned for us is harmful and bad for us, although we do not know their reasons. [7].

Mirza Naini said:
the rules and the orders of God are absolutely profitable, be cause every work has profit or loss and this reason is the reason for permit or ordering or ban and preventing them.

3- Maslahat and Government:

In Islamic jurisprudence, in both shiaa and Ahle sonat, when ever, we talk about governing or managing we note to expediency and profit of the humans and society.

In order hand, the government should provide some rules which are profitable for the society. Maslahat is used in Islamic jurisprudence which is deal with the governing the society. In Islamic jurisprudence this Rind of feghh is called feghh Al-Hokoomat.

Feghh Al-Hokoomat are some codes and rules which deal with governing the society by Islamic government.

The order of government are the codes and rules which are made by government is called Hokme Hokoomati, means order of government. As I mentioned earlier, orders of the Islamic government should be expedient for the Islamic society.

Emam Khomeini said:
Orders and rules made by government should be profitable for the society, the difference between them and the rules made by God is:

The rules made by God is forever, for all time, but the rules which are made by government can be changed. The governors except prophet and Emams [12 holly people which are assign by God as the successors of prophet of Islam] should apply specialists to make expedient and profitable rules [8].

Governmental rules are those rules which are made by government in order to help the society to gain their needs, Governmental rules are made by government and Islamic jurist. People of the society should obey the governmental rules like rules of god. [9].

But we should pay attention that Islamic government or Islamic jurist, I mean specialist in Islamic jurisprudence should make rules according to the rules of Islamic jurisprudence which is called ‘shariat”. The Islamic government should apply the Islamic rules and make rules for the expediency of the society. [10].

4- Council of expediency:

Despite the fact that the name of council of expediency is related to some certain reasons, particularly related to the legislation of Iran, the mentioned council empowered to take care of a number of non legislative tasks.

Because of the unique structure and governmental system of the Islamic republic of Iran in the world, a legal review of the place, duties, tasks and the scope of tasks and also power of council of expediency in Iran is important.

We find out the mentioned importance when we find that the mentioned council deal with legislation.

In order to describe the tasks and duties of expediency council in Iran, we should knew that most important duty of it, is solving challenges made between the parliament of Iran and ’shoray-e-Negahban’. Shoray-e-Negahban means council of supervision.

The mentioned organ, is a organ which supervise on the codes and rules and law make by Iranian parliament. Sometimes some challenge made between the two organs of legislation. Council of expediency in order to solve the problem will:

1- Confirm the rules made by parliament of Iran us the expediency of the Iranian society or,
2- Confirm the view of the council of supervision as the expediency of the Iranian society, or,  
3- Refuse the view and rules made by parliament and council of supervision and itself make a view as third view and introduce it as the expediency of the Islamic republic of Iran.  

According to above council of expediency can choose one of the above to solve the challenge. 

It is necessary to describe article 110 of the Iran's statute code first: 
The mentioned article deals with the task and duties of the council of expediency in Iran and say that the mentioned council do some its tasks and duties by consulting with leader of the Islamic republic of Iran make fundamental policy of the Islamic republic of Iran. 

Fundamental policy of the Islamic republic of Iran's system are those polices which deal with fundamental decisions for three branches of the Iran's system of government the mentioned decisions will affect the military, cultural and policy of Iran in a great range. 

So, we can say that fundamental policy of the governmental system is related to parliament and legislator organs, jurisdiction branch and policies which are related and deal with programs for five years of the country. if we want to become familiar with the place of expediency council on the government of Iran, we should know that it is an arbitrary organ for solving the challenge between parliament and council of supervision. 

Parliament of Iran makes codes and rules, then council of supervision confirm or refuse them. if the council of supervision refuse the codes and rules which are made by parliament and the parliament is insist on these codes and rules, the case will refer to council of expediency. 

Pay attention that we should distinguish between policy making and decision making, because as I noted earlier, policy making deals with the aim and the role of the organization of the government but decision making is related to choose of a choice to solve a problem. [11]. 

If we want to become familiar with fundamental policy of the governments system, we should know that they are general policy which deals with the country. 

We can see fundamental policy in every country, but there is an importunes difference between Iran and other countries of the world in this case, and that difference is related to the origin of the recognition of the fundamental and general policy, I mean in other countries government itself make fundamental policy but in Iran, the leader of the Islamic republic of Iran by consulting make fundamental and general policy of the country and council of expediency recognize these policy as expediency (Maslahat) of the country. Other issue which I like to note here is that fundamental policy may not be executive but can show the executive programs. 

Fundamental policy affect three branches of the Iran's government, which is related to social, cultural and scientific matters an issues, internal and international cases, economic matters and the matters which duel with space and also issues which and related to administrative and defense and commercial matters. So general and fundamental policies are related to important matters. 

Expediency council recognize the expediency of the society in the case in which the problem arise between the parliament and council of supervision and introduce its view on that case as the expediency of the government's system. That is why the name of that organ is council of expediency. 

5- Some issues related to expediency council:  
5-1- expediency as second parliament: 

As we know in some countries, there is a second parliament which take part in legislation, second parliament should use more specialist people. 

Usually second parliament is more important and deal with expediency of the society of the country. Second parliament can confirm or refuse the rules which are made by the first parliament. 

Council of expediency has a role such as second parliament. 

Pay attention that according to the article 170 of the Iran's statute, the leader of the Islamic republic of Iran can permit the organs to do his task, so by the mentioned permission the expediency council can recognize the expediency of the country and solve the challenge between parliament and council of supervision. It seems that the leader of Iran can supervise the task made by council of expediency. 

5-2- Council of Expediency and Expediency of the Country: 

Another task of the expediency is solving the problems of the country. As we know problems arise in every country, so we need an organ to solve them. In Iran council of expediency is an ideal organ to solve problems. Some times the legislative organs of the country faced with a conflict between to expediency, one is more important and other is less important. In that case, council of expediency should recognize the most expedient and profitable issue for the country. 

Council of expediency makes some decisions by using specialist which find the expediency of the country and also knew the Islamic rules, well.
Conclusion:
Maslahat as an Islamic rule deals with expediency. Expediency is very important for the human's society, so every country should find its expediency.

In Iran council of expediency has the mentioned role and by recognition the expediency of the country solve the problems of the system and solve the challenges between parliament and council of supervision in legislation.

The rule of expediency is very important and is used in the decisions and policy making of the country.

Because the aim of the rules made by expediency council of is reaching to expediency, the mentioned rules are remain as long as the necessity and expediency for the country remain, after the necessity and expediency failed, those rules which are confirm can be null and void. The reason for this matter is obvious, because when the reason failed the matter will failed.

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