

The Jurisprudential Review of the Third Testimony in *Azan* And *Iqamah*, Focusing on its Slogan Aspect

Mohammad Javad Daniyali

Assistant Professor and Faculty Member at University of Semnan

mjdaniali@semnan.ac.ir

Hassan Doost'mohammadi

Graduate Student and Faculty Member of the Department of Islamic Teachings at University of Semnan

d_doostmohammadi@semnan.ac.ir

Abstract

Third testimony in *Azan* and *Iqamah* due to its doctrinal and social aspects is of huge importance. This paper presents the historical background of the jurists' viewpoint on the third testimony in *Azan* and *Iqamah* and its evolution. Thereafter, by stating the reasons for the jurists' disagreement, the sloganistic aspect of the third testimony is emphasized. The third testimony is not a religious slogan rather it is conventional. The ruling of the conventional slogans varies depending on the religious titles they are subordinated to, contrary to the religious slogans that always lay under the binding principle of the veneration of the sacraments or under the prohibition of humiliating them. In addition to the recommendatory title of "confession to the guardianship", the prohibitory titles of legislation (*Tashrī*) and "leading into Ignorance", and the compulsory title of "Guiding the Ignorant" can also be considered regarding the third testimony. The achievement of this research is that confession to the guardianship is recommendable in every situation, especially following the testimony of the apostolate. The third testimony should be expressed in such a way that it does not imply that the third testimony is part of *Azan* or *Iqamah*.

Keywords

Third Testimony, Religious slogan, conventional slogan, legislation (*Tashrī*), leading into Ignorance, Guiding the Ignorant.



Objections on the Establishment and Utilization of Breastfeeding Banks and the Correspondent Responses from Shī'a and Sunnī Fiqh Perspective.

Seyyed Mohammad Mousavi

Researcher at RES' 4th level & Instructor at International Propagators Training in Seminary of Qom
mousavi20@yahoo.com

Abstract

Given the importance of breast milk for medical reasons and the difficulty of its constant availability, the idea of the establishment and use of breast milk in developed countries, and recently in the Islamic Republic of Iran, has been put into effect. The question of this research is whether the establishment and use of a breastfeeding bank are permissible in Shari'ah? A large number of Sunni jurists have negative stance while there is no significant conducted research on this subject by Shiite scholars. In this article, one of the most important objections of Sunnī fiqh on this subject is expressed. Thereafter, their criticism is expressed from the perspective of Shī'a and Sunnī schools of fiqh. This article concludes that establishing a breastfeeding bank and taking advantage of it is legitimate.

Keywords

Child Nutrition, Mothers' Milk Bank, Breast-Feeding, Breast-Feeding Conditions, Expansion of Proscription, *Ahlul-Bayt* Jurisprudence (Shī'a Fiqh), Sunnī Jurisprudence (Sunnī Fiqh).



Public enforcement of Islāmic penalties (*Hudūd*) in terms of jurisprudence and law

Ismaeil Aqa'babaei Bani

Faculty Member at Islamic Sciences and Culture Academy

aghababaei@isca.ac.ir

Abstract

The Qur'ānic verse (24: 2) indicates that the *Hadd* penalty for adultery should be executed publicly. However, there is a controversy over its generalization to other offenses. Given the doubling of public punishment, the principle of non-authority, and the lack of sufficient reason, it can be said that public enforcement of *Hadd* (PEoH) is devoted to adultery. Also, regarding adultery, the doctrine of the preferability of the presence of people during the execution of the penalty can be the basis of legislation. In addition, on the necessity of the presence of people, their presence has to be limited to the minimum. Promulgation and publicizing the execution of the penalty is not supported by any legal evidence. The New Iranian Islamic Penal Code, based on the necessity of narrow interpretation, is more consistent with the illegality of PEoH. The legislator, along with mentioning the publicity of the penalty enforcement in the previous provisions and neglecting it in the current Penal Code has intended to declare its opposition to the doctrine of PEoH.

Keywords

Execution of *Hadd*, Doubled Penalties, Shar'ī Penalties, Religious Penalties, Narrow Interpretation, Rights of Defendant.



The Role of the Infallible in Determining the Subjects of Rulings

Seyyed Mohammad'razi Asef'agah

Doctor of Professional Studies at Islamic Sciences and Culture Academy

m.asefagah@isca.ac.ir

Abstract

The tasks of the infallible have an important impact on the inference of the religious rulings. For example, the infallible's tasks have an impact on achieving the subject of a religious ruling. This research by going through each specific task and its function portray the role of the infallible's tasks in specifying the subjects. This article explains the types of effects the infallible's tasks put on the recognition of the subjects. Infallibles have diverse tasks. Some of them have a greater role in the specification of the subjects. The most important and general roles are: recognition of the subject itself; changing and transformation of the subject; development, and generalization of the subject; and identification of new examples. The tasks which affect the specification of the subject are: the task of adaptation, the task of deduction, and the task of interpretation. The task of interpretation is of more important in identifying the subject matter. The task of deduction is more important in identifying the development and generalization of the subject. The task of deduction specifies the extended subject through seeking the ratio legis. The task of adaption has the most roles in identifying the subject. The text pronounced from the task of adaptation does not represent a monopoly of examples. Thus the subject is not the example mentioned in the text. It may even be possible that a subject changes or finds new examples.

Keywords

Tasks of Infallibles, Identification of the Subject, Inference, *Ijtihad*, Philosophy of Fiqh.



Testimony to Ownership Based Upon the Principle of Possession

Seyyed Ahmad Mir Hosseini Niri

Associate Professor and Faculty Member at the Faculty of Theology and Islamic Studies, Farabi Campus - University of Tehran

mirhosein@ut.ac.ir

Mohammad Adibi'mehr

Associate Professor and Faculty Member at the Faculty of Theology and Islamic Studies, Farabi Campus - University of Tehran (Corresponding Author)

madiby@ut.ac.ir

Seyyed Hadi Hashemi'majd

Ph.D. Candidate at the Faculty of Theology and Islamic Studies, Farabi Campus - University of Tehran

hashemimajd@ut.ac.ir

Abstract

In terms of jurisprudence and law, there is no debate about the implication of the Principle of Possession (POP) regarding ownership. The problem is that possession in itself does not entail certainty while it is essential in giving testimony before a court to be certain about the subject of testimony. The research question is whether, as a testimony, one can testify to a person's possession on the basis of POP? Jurists' diverse opinions, shortcomings of legislation, and need for judicial institutions to clarify the attendant ruling in financial claims necessitate revising of the pertained doctrine and evidence of POP. In this research, along with recounting jurisprudential solutions, analyzing, and criticizing them, the research question is studied from the two aspects of general evidence (primary rulings) and specific evidence (*Sunnah*). The general and specific evidence indicates that permissibility of giving testimony by virtue of POP is restricted to the non-financial claim in which the defendant is the possessor and the plaintiff is aware of it.

Keywords

Testimony to Ownership, Testimony as Evidence, the Principle of Possession, Apparent Possession, Substitution of Presumption by the Certainty.



فقه

Abstracts

The Need for Ontology of Fiqh to Manage Jurisprudential Information in Digital Space

Hossein Hassan'zadeh

Assistant Professor at Islamic Sciences and Culture Academy

h.hasanzadeh@isca.ac.ir

Abstract

The purpose of this research is to prove the necessity of creating an ontology of Fiqh for the management of jurisprudential information and superiority of ontology of Fiqh in comparison to the thesaurus in semantic web space. The achievement of this research is a comprehensive structure of Fiqh that does not entail the restrictions of the traditional structures of Fiqh and the structure based on the juristic thesaurus. Based on this new structure, jurisprudential information can be best managed and organized in semantic web space. Based on the new structure, the user's needs can also be accomplished properly. To achieve this goal, two methods of thesaurus and ontology is compared. The study's conclusion is that there is no possibility of sharing knowledge between human and the machine through the thesaurus, but the ontology of Fiqh provides this possibility. That is, the ontology of Fiqh increases the level of standardization of jurisprudential data to the extent that data can be readily processed and understood by the machine. In this way, the data becomes smarter than before.

Keywords

Fiqh, Ontology of Fiqh, Jurisprudence Structure, Jurisprudential Information Management.



Abstracts

Jurisprudential Adaptations of the Condition of "Being in Agreement With Grace" Upon the Implementation of the Principle of "Religious Clearance" (*al-Barā'a al-Shar'īyya*)

Mohammad Ali Khademi Kousha

Assistant Professor at the Research Center for Jurisprudence and Law, Islamic Sciences and Culture Academy

khademi@isca.ac.ir

Abstract

One of the conditions for the implementation of Religious Clearance (*al-Barā'a al-Shar'īyya*), which is accepted by most jurisprudents after Sheikh Ansari, is the congruity of the principle of Religious Clearance (PRC) with the Divine grace. By that, we mean that PRC requires the removal of hardship from the shoulders of the believers. Concealment of the requirements of the congruity of PRC with grace is the pitfall of the jurisprudential adaptation of PRC. Due to the lack of sufficient researches on this issue, the study of the jurisprudential adaptations of the condition of the implementation of PRC is necessary. This article, by studying the adaptations of the condition of being in agreement with grace, seeks to find a clear path of inference in employing grace and in solving Jurist's disagreements. This research has been carried out using the method of analysis and critique based on the criteria for the implementation of PRC and the role of grace. The main achievement of this study is finding strategic and content errors in the adaptation of the condition of being in agreement with the grace in the implementation of PRC. In most cases, PRC is not implementable, or there is an obstacle, regardless of the lack of grace. Even if PRC was not to be a type of rulings of grace, still it were not to be implementable.

Keywords

Rulings of Grace, Mercy, Essence of Clearance, Principle of Clearance, Religious Clearance.



فقه

Abstracts