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Abstracts

Explaining the Concept of Loan Interest and Usury, with Emphasis on Jurisprudential Analysis of "Extreme"

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Abstract

Based on the viewpoints of classics, Böhm-Bawerk, Fischer and many other theorists, the extreme interest is under the condition of the loan contract. In other words, there are three categories of "extreme", "conditional" and "loan contract" in the definition of interest. The same definition for the above-mentioned categories also applies to the loan usury. Extreme may be conditional, non-conditional and the conditional extreme can be physical and valuable and each of them has a category that has about 23 forms. The main question is "what is the meaning of conditional extreme in the loan contract and what is the criterion for the extreme to be as usury?" Does it include all the 23 items or not? The hypothesis of the study, proven by the method of "deducing Islamic economic theory", is that in financial issues, extreme means "financial attachment to property" or "the added property". Property is the goods or economic services that have a market and thus a price. Extreme in property means financial interest realized by value and physical extreme. The verses and narratives of the usury relate to "financial interest". Therefore, the criterion in extreme is the financial interest and the meaning of conditional in the loan contract is the obligation in the loan contract.

Keywords

Interest, usury, loan usury, the criterion of loan usury, types of extreme.



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Abstracts

The Impact of Non-Muslim Adulterer Expressing Being Muslim on Abolition of Hadd Punishment

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Abstract

The effect of the Non-Muslim adulterer expressing being Muslim after committing the hadd crime on the feasibility of abolition of hadd punishment in the form of absolute or the feasibility of its turning into ta'zir punishment (punishment for offenses at the discretion of the judge (Qadi) or ruler of the state), is one of the complex jurisprudential issues that Article 224 of the Islamic Penal Code of Islamic Republic of Iran has not dealt with. Many jurists have generally refrained from raising this important issue. However, some have also examined the issue, and there have been viewpoints for and against it. From the collection of arguments, it is clear that the expansion and mitigation of non-Muslim adulterer expressing being Muslim is due to the moral sanctity of the Islamic society. The non-Muslim person has violated the sanctity of Islam with his criminal behavior and has been sentenced to death; and when they become Muslims at the appropriate time, due to the sanctity of Islam, the hadd punishment for him will be abolished and he can be penalized at the discretion of the lawmaker. Therefore, by an analytical-critical examination of the documented arguments of these theories and considering other religious and intellectual arguments that have been typically neglected from the point of view of some jurists in this field in order to collect the most opposing and agreeing jurisprudential viewpoints, this study has come to the theory of murder hadd punishment with the feasibility of turning into ta'zir, only if Islam is expressed before the crime is proven in criminal courts, and has made it necessary to specify it in the Islamic Penal Code.

Keywords

Adulterer, non-Muslim, Islam, Hadd, abolition.



The Limits of Authorities of Valiyeh Faqih in General Awqaf (endowments)

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Abstract

The essential needs of society on the one hand and some endowments as not usable on the other hand, shows the necessity that there should be some plans that with the permission of the Waliyeh Faqih, the income of some endowments in certain cases can be utilized to meet the needs and in other purposes. This study, which is carried out by analytical and descriptive methods and with the help of ijtehad arguments, is based on the assumption that in addition to the arguments of absolute jurisprudence and government rulings, there are other reasons such as the need to form an Islamic government, the need to preserve the system and interests of Muslims, the principle of preference of the most important over the important, that form the principles of guardianship of Waliyeh Faqih over endowments. It is clear that the observance of the benefits of the endowment takers and the definite expediency of the Islamic society and Muslims determine the limits and general framework of his guardianship. Considering the obligation of the action based on the conditions set by the endowment giver and the violation of the characteristics of the endowment completely as being not permissible, it can be seen that in all cases, it is the rival assumption that has been ignored according to the principle of "the action of waqf must be taken based on what the endowment giver has determined".

Keywords

Wilayat Faqih, general endowments, the authorities of Islamic governor, expediency.



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Abstracts

An Examination of the Jurisprudential Theory of the Intrinsic Filth of a Person Born of Illicit Intercourse

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Abstract

According to some Imamiyah jurists, bastard (a child born of zina) is created with an impure nature. There are some narratives about this belief. These narratives have influenced the inference of bastard rulings from jurisprudential sources. Some jurists, in order to justify discriminatory rulings in the field of inheritance, judgment, martyrdom, authority, Friday prayer Imam and the congregation of the person born of adultery, along with other arguments, they also consider his intrinsic filth. This study seeks to criticize the theory of intrinsic filth of the bastard with an analytical-critical approach and an emphasis on the commonality of all human beings in the purity of nature. The paper tries to prove the view that all human beings, including bastards, are born with pure nature from the arguments of the Holy Qur'an, tradition and reason. This anthropological viewpoint on the bastard is effective in forming his system of rights and duties. Therefore, the predicted discriminations for a child born of an illicit intercourse need to be examined to the extent that they are related to the theory of intrinsic filth of the bastard.

Keywords

Intrinsic filth, bastard, equality, justice, discrimination.



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The Role of Jurisprudence in Explaining the Methods of Rulings Enforcement

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Abstract

Based on the popular definition, jurisprudence is charge of explaining the rulings and their inference through valid reasons, but the practical experience of Islamic communities has proven that simply stating rulings and how to execute them by a non-jurist can put religious rulings in deadlock and closure or execute rulings in an opposite path of the rulings objectives and then lead to Islam weakening and its content distortion. This research seeks to prove the necessity of developing the subject of jurisprudence by using the methods of rulings, and to examine the implications of the sufficiency of expressing the rulings and entrusting the enforcement ways to non-jurists. The current study suggests that examining the ways of rulings enforcement, and criticizing and comparing them with the religious rules as well as the purpose of the Sharia are all in the account of jurisprudential issues, or as a new branch of jurisprudence. In addition to these, the study deals with the important role it plays.

This study, in addition to examination of the necessity of jurisprudence entering the methodology of rulings enforcement, finds the reasons that why jurists don't enter this field and brings up the negative consequences of this field and finally, in order to prove that jurisprudence tools are capable of evaluating the methods of rulings, using the jurisprudential principles, it deduces the following criteria for evaluating the methods of executing rulings and proposes them to the scientific community. 1. Feasibility 2. Agreeing with religious principles and jurisprudential rules 3. Adherence to the objectives of rulings.

Keywords

Jurisprudence, enforcement, method, value, rulings, objective.



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Abstracts

The Systematic Indexing of Information of Jurisprudence

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Abstract

Indexing of jurisprudence is one of the most challenging indexing that has been done so far on various sciences; i.e., all the features of jurisprudence, such as the breadth of books, the history of time, and the breadth of arguments, has all caused the indexing of jurisprudence to face a serious challenge. This paper, which has been conducted through library research method and is based on description and analysis, has stated the following conditions for the method of indexing jurisprudential sources:

1. Full adherence to the terminology of jurisprudence, both in choosing the original subject and in the quality of writing;
2. If you need to combine terms for indexing, the criterion for the combination is the unity of the subject and nothing else;
3. Avoid taking jurisprudential rulings in the index due to the expansion of jurisprudential rulings and difference between the rulings in a subject;
4. Referring to the author's name in the indexes to make it easier for thinkers to have access;
5. Avoiding the use of terms of other sciences in jurisprudential indexes.

In addition, a critical look has been made at the proposed design of the study "preferred reasons for thematic index ... jurisprudential issues", which the critiques are: 1. Weakness of the researcher's reason for the necessity of indexing of jurisprudence, although there is a stronger reason for its necessity. 2. The paper states indexing the subject of jurisprudential rulings or all subjects of jurisprudence is ambiguous. 3. The lack of comprehensiveness and restriction in retrieving and searching, which is the only benefit of indexing. 4. The conceptual error of the index "obligation of zakat on property in An'am Thalathah" and the like scientifically.

Keywords

Critique of the paper, jurisprudential topics, subject of jurisprudence, indexing of jurisprudential resources, thematic-combinational index.



An Examination and Critique of Theory of Compliance from Wahhabism Perspective

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Abstract

In criticizing imitation of the four religions, Wahhabism considers any imitation of the Muftis as illegal, and believes that the imitation is obeying the words of non-God and the Prophet, while it supports the theory of compliance. Wahhabis consider compliance as the pleasant Taqlid (imitation), imitation as adopting the words without arguments, and compliance as adopting the words with arguments. They have considered the issue of compliance within the different types of obligation of Mokalafs (one charged with a duty) and have proposed three types of obligations: "ijtihad, compliance and imitation". In their view, the compliance has a very wide circle and includes the majority of the people. The Wahhabis by talking about the issue of compliance, have narrowed the circle of ijtihad and imitation and have almost put away the imitation and they deal with that as an obligation. The current study, in addition to explaining the Wahhabism perspective on ijtihad and imitation, defines the theory of their compliance, and examines and criticizes the arguments of Wahhabism on this issue.

Keywords

Ijtihad, Taqlid, compliance, Wahhabism.

