

Women and pilgrimage of shrines in Islamic jurisprudence

Mahdi Dargahi

Abstract

Pilgrimage of graves by women is a subject that its legitimacy and illegality is not such obvious according to Islamic legal Schools, because a comprehensive and systematic research was not applied. Therefore, asking about the Islamic legal ordinance of this such pilgrimage is required to review and study. The generalities and absolutes of the Grate Prophet's tradition and his wife and his honorable daughter's behavior about continuing the pilgrimage of the graves are of the evidence that legitimize the women's Pilgrimage of graves; even they make it a recommended precept and the evidence that seem to deny it, state the requisites of a forbidden act which sometimes occur in the mentioned pilgrimage. This research was carried out based on the aim of knowing all of the Muslim jurists' words and viewpoints, limits and jurisdictions of their sources, and explaining the women's duties in the pilgrimage of the shrines. In the shadow of describing and analyzing the jurisprudential propositions of the Islamic schools and collecting data by the library method, obtaining this purpose became possible. The research is resulted that the women's pilgrimage of the shrines be recommended , of course, provided that their behavior does not accompany with a forbidden act.

Keywords: women, pilgrimage of shrines, adornment, blocking the means and Islamic jurisprudence.



Extending the evidence of prohibiting the lie to the family and the relatives, and the precept of a false promise to the spouse

Mostafa Hamadani

Abstract

The lie is always blameworthy, and prior to the Devine religions, the reason and conscience have regarded it as reprehensible; but because of overcoming the virtue on some falsehoods, they are excluded by the traditions. One of these exceptions is telling the lie to the spouse and in the other words, the family. By using the analytical - narrative method, this research has studied the mentioned jurisprudential question and researched its six aspects. According to the research result of the six aspects, so much is certain that the husband's false promise to his wife is permissible, and the narrative evidence proves that this permission is only limited to a special case *i.e.* securing the expenses beyond the wife's right or the husband's ability and for the purpose of attracting the wife's consent and continuing the family familiarity and friendship, and therefore, it is not absolutely extended to the other aspects of relationship among the couples or a wife's lying to her husband or between the parents and their children or among the fully legal responsible persons, unless ,because of necessity or securing some interests and rejecting part of corruptions which are related to the all the Muslims including the family communications, the falsehood is permissible and necessary. Similarly, the permission of a lie to a temporary wife is not applicable, but in any way, such a lie in the form of dissimulation is not obligatory and also is not recommended.

Key words: falsehood, false promise, and lie to the spouse, the child and the relatives.



Jurisprudential explaining and reviewing the surveillance on the security - intelligence activities

Mortaza Soleimani

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Abstract

Islamic Republic of Iran which has introduced a model of Islamic system and formed an Intelligence Service, has been usually faced by these two questions: according to Imami Jurisprudence, what are the limits of a snoop on the persons' privacy and what is the precept of Imami Law? By using a descriptive-analytical method and based on the narrative revealed foundations and rational - discursive ones, this research examines the subject. For this purpose, the prohibition and non permission of snooping the individuals' privacy and the Islamic government were to be considered and researched. Regarding the surveillance of the individuals' privacy, it can be said that the prohibition of snoop is absolutely understood from all the legal evidence. If we say that the evidence of prohibiting the surveillance is absolute and include all of the inspections and searches, it should be acted in accordance with the contradiction rules and obtained the more important and competent one and be made it prior to the other when there are some conflicts between the surveillance and the other different titles and situations. But if we make the subject of the prohibited surveillance limited to damaging the persons' reputation and the depraved aims, the rightful and useful purposes are necessarily outside of the mentioned prohibited subject. Based on the rational and narrative sources, surveillance against the Islamic government is forbidden.

Key words: surveillance, prohibition, privacy, forbidden, security - intelligence service.



Impact of knowing the cause of delivering precepts on the legal reasoning (Ijtihad)

Saeid Ziyaifar

Abstract

As cited by some of the Muslim Jurists (Faqih) and Legists ('Usuli), one of the affective elements on the Ijtihad is the knowing the cause of revealing the verses and issuing the narrations. In this article, it has been tried to explain the meaning of knowing the cause of delivering the ordinances, put forward a brief report of its history and necessity, and state and review its related possibilities and viewpoints.

The Faqih and 'Usuli have divided the phrases, according to their implied meanings, into three categories: obvious, apparent and obscure. In accordance with the writer's opinion, the mentioned awareness has effected on the apparent and obscure meanings, and provided some evidence in favor of this view point and answered the problems which are raised in this area; but there is no valid evidence that the obvious texts are effected by that awareness, unless it is probable that a text is not clear in an aspect, and the reference to the context of delivering can negate the illusion and claim of clearness of a text.

Key words: effect, legal reasoning, interpretation of a text, clearness, apparent and vague.



Criticizing the evidence opposed to guarantee in harmful measures of a state`s personnel

Sayyed Ziya` Mortazavi

Abstract

The Proof of the liability on losses that the organizations and their personnel inflict on the individuals, is based on some general and specific rules, but this evidence was not specifically considered in the jurisprudential sources, while this subject should be regarded as a general principle and rule governing on the relationship between the state and the people, and hence, it dismissed the state and its personnel from its absolute sovereignty stance and changed it as a responsible sovereign. In addition to the principle of proving the liability, as it is asserted by the constitutions and laws of the countries including Islamic Republic of Iran that we have shown it in a comprehensive research, the state is undertaking the personnel`s responsibility of the harmful measures. But besides, in this issue, the necessity of studying the rules of negating the guarantee and some general considerations such as compatibility and incompatibility of proving the guaranty with the government`s stand and the principle of the sovereignty, there are some special cases that they may be regarded as the evidence of lack of guarantee against these such losses. This research has shown that those general rules and considerations do not stop proving the guaranty and liability of the state. What is asserted in this article, is reviewing and considering three specific evidence which can be regarded as opposed to the evidence of proving the liability and consequently, as a cause of the lack of the government`s guarantee and its liability; according to our approach, this evidence is not considered in the existing jurisprudential sources at all.

key words: compensation, government`s guaranty, civil liability of a state, administration of the Islamic prescribed penalty (Hodud) and blood money (Diya).

Ayatollah Boroujerdi`s approach to the government foundation

Sayyed Sajjad Izdahi

Abstract

Despite the renown of Ayatollah Boroujerdi`s attitude to the Faqih`s vast governmental powers in the age of occultation, the narrower and more limited powers than what are attributed to Sheikh Ansari and confined to social necessities, have been ascribed to Ayatollah Boroujerdi.

While criticizing the mentioned outlook, the author believes that according to a right methodology for understanding the Ayatollah Boroujerdi`s viewpoint, we can find that his Excellency has granted a large number of powers to a Faqih (Muslim jurisprudent) in the era of occultation. Consequently, this research has used the method of understanding the text as a way of criticism and considered understanding a text with attention to some titles such as method of discussion, author`s bases, context and time, disciples` understanding and recitation, same and different phrases and a comprehensive attitude to a text, and ascribed the famous doctrine to Ayatollah Brujerdi.

Key words: criticism, Ayatollah Brujerdi, guardianship of jurist, powers, government and methodology.



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