

Reviewing jurisprudential precept (hokm) of constructing the taller buildings than Ka`ba around it

Mahdi `Abdi
Reza `Andalibi

Abstract

Holy Ka`ba is the symbol of Islam; "Islam overcomes and is not overcome by any thing." This supremacy of Islam appears in the glory and magnificence of Ka'bah. Nevertheless, nowadays the high-rise buildings which are overlooking Ka'bah reduce its glory. According to a group of Shiite jurisprudents` opinion (fatwa), ordinance of constructing such buildings is reprehensible, while another group of them give an opinion that the Islamic rule is forbidden. In spite of many preventive traditions concerning construction of the taller buildings than Ka`ba in Sunni works, which some of these traditions are correct according to the very Sunni`s school, the Sunni jurisprudents apparently do not engage to state this issue at all. Reviewing the general and absolute evidence about the mentioned question and the preventive traditions with regard to making an overlooking building around Ka`ba leave no room for doubt that constructing such the buildings is reprehensible precept. However, the first ordinance about such buildings is reprehensible, but the necessity of complying with the reprehensible and recommended duties in the divine secure shrine concerning very Ka`ba which is the greater of the divine rites, will accompany by the more emphasis. The government claiming to be Islamic is under a heavier responsibility for this precept.

Keywords: Ka`ba, high - rise building, respecting the rites, and reprehensibility.



Prohibition of backbiting the opponent of the Imami Shiite

Mohammad Zarvandi Rahmani

Abstract

One of the human being`s contemporary main concerns is moral issues (both individual and social ethics); Many of the difficulties, disagreements and dislocations of human societies are arising from the lack of them.

One of the ethical issues is backbiting that contains lots of discussions. The pundits disagrees on the scope of prohibited backbiting. The famous Imami jurisprudents believe that backbiting a non - Imami shiite is permissible. This essay has firstly considered and criticized the seven evidence of the Shiites who are adherents of permission. It has secondly introduced the reasons of prohibition of backbiting the absolute Muslims both the different shia and suni sects except the Nasebis (the enemies of the prophet`s household) and the Ghalis (the exaggerators).

Keywords: backbiting, believer, opponent, Nasebi, Ghali, prohibition and permission.

۱۷۰



A contemplation about the reasons for illegality of Gazaf sale

Qasem Obaidavi

Raziyeh Amini

Ali Mohammadian

Abstract

The famous Imami Jurisprudents believe that a conjectural transaction makes a sale contract null and void while nowadays in a lots of cases , there is no possibility of accurate information about the subject-matter of the contracts. In a descriptive- analytical method and library way, this paper has considered and analyzed the amount of validity of such a claim. The results of this research show that the traditions which are referred by the Jurisprudents to nullity of Gazaf sale do not indicate their claim and they are more special than the mentioned claim. Moreover, it seems that in the supposition of question, the instruments of weighing a goods are not important, but the criterion is to be specified the subject matter of a contract in a way that does not cause any difference, and this significant issue can be determined by observation and customary confidence methods.

Keywords: gazaf sale, specifying object of sale, measured and weighted, conjecture and guess, and customary observation.

۱۷۱



ف

The Functional standards of the Innocent`s behavior for inferring the religious teachings

Mahdi Mardani Golestani

Ali Rad

Abstract

The Innocent`s behavior like his saying is one of the parts of the tradition and also is an important source for inferring the religious teachings. However, since the functional aspects of it are unknown, this narrative component has not been taken into consideration.

In an explorative - analytical method, the present paper has tried to find out and specify the effective criteria on the inference of the innocent`s act, and consequently, to prepare the ground of extending the inference to the Imam`s act. The achievements of this research show that the Functional standards of the Innocent`s behavior can be divided into two kinds: the explorative standards of the Infallible Imam`s behavior, and the deductive standards of the Infallible Imam`s behavior. These criteria can be regarded as the standards of validating the teachings derived from Imam`s act.

Keywords: tradition of act, conditions of inference, inference from the Innocent`s behavior, and exploring the Innocent`s behavior.

Methodology of analyzing the words in the jurisprudential inference process: An algorithm or step-by-step method of finding the words` meaning in an evidence

Abdolhamid Vaseti

Abstract

The subject matter of this study is to obtain a method of step-by-step for finding out words` meanings used in the jurisprudential evidence. In this research, according to the library method, after presenting foundations and presuppositions of the jurisprudential principles such as considering the validity of a terminologist`s saying about the meaning of a word, the probable harms of a literal analysis are firstly enumerated and then, 13 steps for a methodical and valid analysis of the meaning of a word are respectively represented.

The required lexical sources have been orderly introduced; the surrounding sources such as the sources of synonyms and opposites, differences of words, metaphorical meanings, terms, and soul of meaning are also shown, and in each section, an example of the jurisprudents` practice for analyzing a word is represented.

Keywords: Ijtihad (Islamic legal reasoning), stages of inference, terminology, algorithm of analyzing a word.

۱۴۳



فقه

چکیده مقالات به زبان انگلیسی

Utilizing the Shari`ah`s (Islamic legal) purposes for determining a more significant issue

Mirza Mohammad Vaezi
Sayyed Mohammad Taqi Qabuli
Mohammad Taqi Fakhlaei

Abstract

The Shari`ah`s purposes are one of the blessed and newfangled discussions that the various functions are stated for them. In addition to the effect of these aims on correcting the Ijtihadi (legal reasoning) approach and aspect, making appearance and disappearance of it, whether the these aims and purposes of the shari`ah are to be regarded as the legal evidence or not, several practices have been created. Of course, most of the jurisprudents have doubtfully looked at this issue.

This paper has considered the Shari`ah`s purposes according to an another trapdoor, and from an angle of predominance in the conflicted ordinances section. After explaining the background of the Shari`ah`s purposes, this article tries to specify the more significant aims and their linear relationship, and similarly to consider the situation of conflictions among some of Islamic ordinances in accordance with the light of utilizing Islamic legal aims as a definite or probable predominant. Some tangible and functional results are acquired by this study too.

Keywords: the Shari`ah`s purposes, determining the more important issue, predominant of confliction section, arrangement of predominant issues.



Contents

| | |
|--|------------|
| Utilizing the Shari`ah`s (Islamic legal) purposes for determining a more significant issue | 174 |
| Mirza Mohammad Vaezi Sayyed Mohammad Taqi Qabuli Mohammad Taqi Fakhlaei | |
| Methodology of analyzing the words in the jurisprudential inference process: An algorithm or step-by-step method of finding the words` meaning in an evidence | 173 |
| Abdolhamid Vaseti | |
| The Functional standards of the Innocent`s behavior for inferring the religious teachings | 172 |
| Mahdi Mardani Golestani Ali Rad | |
| A contemplation about the reasons for illegality of Gazaf sale..... | 171 |
| Qasem Obaidavi Raziyeh Amini Ali Mohammadian | |
| Prohibition of backbiting the opponent of the Imami Shiite..... | 170 |
| Mohammad Zarvandi Rahmani | |
| Reviewing jurisprudential precept (hokm) of constructing the taller buildings than Ka`ba around it | 169 |
| Mahdi `Abdi Reza `Andalibi | |



Editorial Board (In Alphabetical Order)

Abdorreza Eizadpanah (Board of Trustees Member of Islamic Propagation Office)
Seyyed Ahmad Hosseini (Member of Society of Seminary Teachers of Qom,
and professor of advanced levels at Qom Seminary)
Yaqoubali Borji (Associate Professor, Al-Mustafa International University)
Muhammad Zarvandi Rahmani (Assistant Professor, Al-Mustafa International University)
Seyyed Abbas Salehi (Assistant Professor, Islamic Science and Culture Academy)
Seifollah Sarrami (Associate Professor, Islamic Science and Culture Academy)
Ahmad Moballeqi (the head of Islamic researching center of Islamic Consultative Assembly and
representative of Lorestan Province at Assembly of Experts for the Leadership)
Seyyed Ziya Mortazavi (Associate Professor, Islamic Science and Culture Academy)
Muhammad Sadieq Mazinani (Fourth Level Researcher at Qom Seminary)
Muhammad Hassan Najafi (Assistant Professor, Islamic Science and Culture Academy)

Editor: Yahya Sarrami

English translator: Mohammadreza Zafari

Arabic translator: Mohammad Hossein Hekmat

Referring to the enactment 131 issued by The Council for Awarding Scientific Permissions and Grants of the Seminaries Supreme Council held on 5/3/1394, The Quarterly Journal of A New Probe in Fiqh has granted Scientific-Research rank since Volume 75. It is noticeable that by virtue of single-clause bill enacted by the session 625 of the Supreme Council of the Cultural Revolution held on 21/3/1387, enactments of the Supreme Council of the Qom Seminary possesses official credit in regard of awarding scientific grant to the scientific journals, and begets legal privileges at the universities and seminaries.

Disclaimer:

The Editorial Board reserves the right to modify articles.

The views and opinions expressed in this article are those of the authors and do not necessarily reflect the official policy or position of the Editorial Board.

The Quarterly Journal of «A New Probe in Fiqh» is cited in the Islamic World Science Citation Center (ISC), State Journals Database (www.magiran.com), Noor Specialized Magazines (www.noormags.ir), and The Magazines Portal of the Islamic Propagation Office (www.daft-armags.ir).

Address: Fiqh Journal Office, Islamic Science and Culture Academy, Moallem St., Shohada Sq., Qom, Islamic Republic of Iran,

P.O.Box: 37185-599

Office Phone: +98-25-37742158

Fax: +98-25-37742159

Circulation Phone: +98-25-37116666

Email: Jf@isca.ac.ir

Web: Jf.isca.ac.ir

Publication Manager: Seyyed Hossein Moosavi

Price: 5000 Tomans.



فقه
کوش نور

A New Probe in Fiqh

Half-yearly Scientific-Research Journal

Volume 88, Issue 2, autumn & winter 1395



Publisher: Islamic Propagation Office, Qom Seminary

Islamic Science and Culture Academy

Director-in-Charge: Abdorreza Eizadpanah

Editor-in-Chief: Seifollah Sarrami

Journal's expert: Alireza Fajri

Executive manager: Seyyed Mahmood Karimi