An Introduction to Jurisprudential Principles of Using Virtual Social Networks

Mohsen Jahangiri
Muhammad Sheybani
Sayyed Aliasgar Hosseini

Abstract

Virtual social networks are newly-fangled phenomena which influence the social and individual aspects of peoples' lives in the international level and will play an important role in the future. In one hand, the following reasons could lead to the prohibition of using social networks: the proofs for prohibition of using wicked books, prohibition of indecency dissemination, prohibition of corruption on the earth, Nafyi Sabil Rule (the infidels' mastery over Islamic society), and the rule of obligation for possible loss prevention. However, on the other hand, the followings could end in the permissibility of using social networks: rejecting the prohibition proofs by virtue of the proofs on the requirements for caring about other Muslims, the necessity for the rule of enjoining to do good and forbidding from the evil, and the rule for negating difficulty and hardship for Muslims. Carrying out an in-depth analysis of the proofs and studying jurisprudential sources on the usefulness of social networks or its harmfulness, the researchers concluded that both useful and harmful aspects could not lead to its absolute prohibition. Particularly, it is obligatory to those who can use such a capability property to use this opportunity to consolidate, propagate, and disseminate religious knowledge and Islamic Revolution values. However, if using social networks leads to misguidance, falsehood and indecency dissemination, corruption inculcation, and strengthening the enemies, it is prohibited to use them and it is on the Islamic state to observe and filter them meaningfully.

Key words: Social networks, virtual space, lawfulness, prohibition, jurisprudence.

Mortgage Condition in Contract of Guarantee

Gholamreza Yazdāni

Abstract

Sale contract is one of the most significant and most useful religious contracts in which the price of contract is set based on the currency. The price of money has no worth in credit while the prices in Gold and Silver have true values. Although such a creditable feature contains different merits, given sale contract is terminated or nullified, serious doubts and disagreements are raised the most important of which is setting the amount and method of paying back the price of the terminated or nullified contract. The main raised question is that in such a condition, should the customer pay back the exact money he has mentioned in the contract the moment of signing it or if another amount of money is paid back so that it can be called the money is paid back is acceptable, and it is required on behalf of the value of the currency is retained. Having explained the role of custom in stating the commitment to paying back the price of money given the contract is nullified or terminated, the researcher studies the feasibility of retaining the value of the paid currency from the custom's viewpoint. It is concluded that if the custom admits the change in the value of currency, the loss should be compensated which is confirmed by the jurisprudential and legal principles as well.

Key words: Depreciation of value currency, nominal value, purchasing money power, currency, the depreciation of price value.

A Jurisprudential and Legal Analysis of Custom Role in Stating Commitment to Pay beck the Price of Money in Case of the Sale Contract Termination

Sayid Hassan Vahdati Shobeyri
Akbar Mirzanejad Jooybari
Oveys Rezvanian
Muhammad Noorollahi

Abstract

The "Principle of Rule of Will" beside traditions such as "Al-mu'minun 'inda shorootihim" ends in the authenticity of every provisio unless the nullity or invalidating of conditions for some external reasons is proven. One of the conditions whose authenticity is doubtful is Mortgage condition in contract of guarantee, i.e, in such a provisio of guarantee, a condition of mortgage is specified for the warrantor or the warrantee. The condition of mortgage in the contract of guarantee is one of the new-fangled issues of jurisprudence and seems that the first jurisprudent who proposed this issue is Sayid Kadhim Tabatabayee Yazdi who authored Orwah. Since this issue was raised, there have been controversies over its authenticity or nullity. The present paper is to investigate the authenticity or nullity of such contracts using a descriptive-analytical research method based on library data collection. The researchers are of the opinion that the mortgage condition either for the warrantor or the warrantee is an authentic condition.

Key words: Guarantee, condition, mortgage, rule of will.

The Scientific-Research Fighhi and Usūli Research
Vol.4, No. 13
Winter 2019

(Non-)Cancellation of Lease Agreement in the case of the Parties' Death in Islamic Jurisprudential Schools of Thought

Morteza Rahimi

Abstract

The present descriptive-analytical research is to investigate the necessity and permissibility of signing a lease contract comparatively and to state the results of such contracts supposing that one of the parties dies. Although the majority of Islamic jurisprudential schools of thought are of the view that leasing is binding, they dispute over the issue of its (non-) cancellation if the lessee or the leaser dies. However, cancellation includes the contract's nullification. Such a disputation is the effect of some factors: first, the lease contract is similar to some permissible contracts such as loan contract and contract of reward in one hand, and on the other hand, it is like some other binding contracts such as sale and sharecropping. As some Sunni jurisprudential schools of thought believe that contract of reward is a kind of lease, they refer to the issue of Prophet's contract of reward to *Khaybar* people which was not renewed by the first and the second caliphs. They are of the view that given one of the parties of the contract dies, the lease contract is not rescinded. Secondly, all of the jurisprudential schools of thought maintain that nullification of binding lease contract is possible if some conditions are satisfied, but the dispute over the issue of the death of one of the parties of the contract for nullification of contract. Third, different interpretations of some Imamiyeh traditions imply that these traditions are the basis of decision if one of the parties of the contract dies to those two opposing parties of contract (non-) cancellation issue. However, it seems that lease contract is not rescinded if one of the parties of the contract dies, save in situations such as the leased property's endowment and so on and so forth.

Key words: leasing, lessee's death, leaser's death, (non-) cancellation.

A Ponder upon the Nature and Traditions of Presumption of Continuity from Mūhaqiq Ardabili's View point

Muhammad Sadri Arhami

Hossein Saberi

Hossein Naseri Moghadam

Abstract

Presumption of continuity (*Istishab*) is of paramount importance among practical principles of jurisprudence with respect to both the broad usage and the range of the discussions and details. Discovering Mūhaqiq Ardabili's Osūli opinions has played a key role in organizing the missing links of Osūli opinions in this era. To get to know the influence he had had on his post-era Osūli schools, it is clear that the two great Osūli scholars, the authors of Madārek and Maālim works, have been influenced by *Mūhaqiq Ardabili*. As *Mūhaqiq Ardabili* does not have any outstanding work on Osūl, his standpoints on the issue of presumption of continuity could be discovered from his jurisprudential writings. The present writing attempts to study this creative jurisprudent's viewpoint regarding to the authority of presumption of continuity from the perspective of his jurisprudential works. Contrary to the dominant opinions of Osūli scholars, after *Shaikh-e Ansāri, Akhund-e Khorāsani,* and *Mūhaqiq Ardabili* no details on the authority of presumption of continuity is accepted and they believe in the absolute authority of presumption of continuity, while *Mūhaqiq Ardabili* documents the authority of presumption of continuity to rationalistic reasoning and maintains that religious proofs could merely be made based on interpretive and advisory positions.

Key words: Presumption of continuity (*Istishab*), proofs, practical principles, *Mūhaqiq Ardabili*.

The Scientific-Research Fighhi and Usūli Research
Vol.4, No. 13
Winter 2019

An Analysis of the Rule of *Ijza* in Duress Deeds

Belal Shakeri

Muhammad Hassan Haeri

Abstract

Rule of *ijza* in duress deed of acts of devotion means that the person who is going to perform that deed lacks any pretext or barriers, is reluctant to do so. Likewise ,the parts of constraint or manifest deed is not examined or independently analyzed and is not proposed as an independent rule. However, having referred to the written Osūli and jurisprudential references and by studying and analyzing jurisprudents and Osūli scholars' viewpoints and fitwas and under the instances proposed for this rule, it is feasible to draw out an independent rule in this regards. According to the conducted investigations, five different viewpoints have been proposed in this regards. The researchers believe that according the Qur'anic and tradition proofs, it is proven that commanded deed being carried out reluctantly is separated from the factual act and given the duress is revocated, there is no obligation to compensate or to repeat that act of devotion. Thus, the parts of duress deed could be proposed as a rule in the principles of jurisprudence and fighh like the parts of an constraint of manifest act.

Key words: Ijza, duress, requested, facilitation, revocation of repetition and compensation.

Justārhā-ye Fiqhī va Uṣūlī

The Iranian Journal of Islamic Law, Jurisprudence and Methodology

(Fiqh & Usul-e-fiqh)

Vol.4, No. 13, Winter 2019

Concessionaire: Islamic Propagation Office of Qom Seminary
Khorāsān-e- Razavi Branch

Publisher: Boustāne Ketab Publishing Company

By the virtue of the license No. 8650 in 19 January 2016 from the Council for Granting Scientific Licenses to Seminary Journals, this journal is qualified for promoting to Scientific-
Journal of Fiqhi and Usūli Research is indexed in: Noormags.ir, ISC, Magiran, and journals.dte.ir Research rank.

Address: Islamic Propagation Office of Qom Seminary- Khorāsān-e- Razavi Branch, Khosravi to Shohadā Crossroads, On the Corner of Roshan Alley.
P.O. Box: 9134683187 ***Telefax***:+ 985132213325
E-mail: jostar.feghi@gmail.com ***Website***: jostar-figh.maalem.ir

ISSN: 7565-2476