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The Time Sharing, Nature and its Effects of the View of Jurisprudent

mohammad Mehdi Ahmadi*, Hamid Vahedi**

(Received: 4 April, 2016; Accepted: 9 May, 2016)

Abstract

A newly developed legal body is timesharing not a long since the emergence of which not a long period has elapsed. It has been prevailing in our country for a few years now. Subject matter of this thesis is the evaluation of this new legal body from the viewpoints of law and religious jurisprudence. The present research is an effort for the acquisition of as precise understanding and knowledge as possible on this new legal body by marking an elaboration into the fundamentals and nature of this new legal body identifying its various kinds, and its conformity to the specified contracts defined by Religious jurisprudence and case law and with unspecified contracts. According to studies, this conclusion is drawn overall, the studies showed that Different types of time-sharing With some specific contracts or accepted uncertainty in The law is applicable. Time-sharing is Shared ownership sale and Peace applicable. Also it can be made under the terms of a contract of non-specified contracts of course given the long history of mahayat in feghh of iran and more compatible with the legal culture and our region. Condominium sales on mahayat condition seemed better Time sharing credit can be awarded in the form settled.

Keywords

Association contract, Contract of sale, Lease contract, Temporary ownership (Timesharing).

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Rules for De-sexualizing Spouses in the Eyes of Imamiyya Jurisprudence

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Abstract

Sex Reassignment means one person changes sex from female to male or vice versa. As for worships of desexualized persons, one can generally say that the existing gender of the person is a measure for performance of obligations. Hence, if a person changes his sex to female, rules of females shall be borne on him and if a person changes her sex to male, rules of males shall be carried out on her. In case the sex-changed person has previously been married, the marriage is abolished as soon as sex is changed. Female-to-male Sex change triggers fall of her waiting periods and husband is bound to pay her marriage portion. If her sex is changed before intercourse, she shall be eligible to receive half of marriage portion; if her sex is changed after intercourse, she shall deserve receiving marriage portion in its entirety. If mother changes her sex, she shall never be guardian of her children; rather, with absence of father, grandfather is guardian of children and otherwise, religious ruler is in charge of guardianship of children. With sex change, right of custodianship of mother fails to drop because with gender change, femaleness rather than maternity is gone away.

Keywords

Custodianship, De-sexualization, Guardianship, Inheritance, Marriage, Marriage portion.

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Look into Trading of Human Body Limbs in the Eyes of Imamiyya

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Abstract

With the growth of medical knowledge and access to modern technology, there has appeared a ground for use of body organs. In the Islamic nations, legitimacy of such transfer is questioned due to origin of religious laws that: Is it authorized to sell and buy human body limbs? This question and response to it according to religious evidence and texts of Imamiyya jurisprudence pushed the writer of the article to look into it through analytic-descriptive approach. In this novel issue, a number of Imamiyya jurists by citing verses and narrations and unanimously agreeing on nullified trade of carrion and... have regarded its obligational rule forbidden and situational rule of such trading null and void. In contrast, the group approving lawfulness and accuracy of such trade, referring to generals and allusions of verses and narrations and by considering the existing rationally lawful benefit made from transplantation of body organs aiming to save human lives and relieve pains and sufferings and while remaining critical of the first opinion, underscored and consolidated theory of permission and accuracy of trading by applying all trade evidence to permitted and accurate purchase and sale of things having rational reasons and benefits.

Keywords

Accuracy, Lawful benefit, Null and void, Rational benefit, Trading of body organs.

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Legal Status of Principle of Originated Postponement

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Abstract

In case issue of unknown date is unlawful (haraam) and that of known date is lawful (halal), the question is that is the principle of originated postponement effective on the unlawful case or not? For example, a man marries a virgin girl without permission of father, forcibly and with supposed ignorance. Another man commits adultery on this girl but time of adultery is unknown; meaning that the unlawful act is unknown dated. Is principle of originated postponement effective here or not? If adultery is committed before marriage and the maiden is deflowered, according to noted opinion of jurists, the subject marriage is true without permission of father just as it is prescribed in vote precedent of the State Supreme Court No. 21 dated 1/29/1363. But if adultery is being committed after marriage, the mentioned marriage becomes ineffective because based on opinion of majority of contemporary jurists and article 1043 of civil law, it is ineffective without permission of father just as decision no. 7/2261 dated 12/23/1377 of General Bureau for Legalizing and Codifying of Judiciary Power Rules also confirms the same thing that is ineffectiveness of marriage. This article intends to explore that if issue of unknown date is an unlawful case and that of known date is lawful, is the principle of originated postponement effective on the unlawful case or not?

Keywords

Authorizing the previous state, Date, Known date, Originated postponement, Unknown.

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Mahr (Marriage Portion) in Shafe'ie Religion

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Abstract

Mahr is a financial dower which is owned by woman after marriage and man is bound to pay it to her. Mahr is also at issue in cases of intercourse in doubt, unsound matrimony and her financial ability ruin. Mahr specified as a matter of marriage conclusion is called “definite mahr” that may be the very determinate, the very universal, profit or action. The dower needs to be financial, to have legitimately rational benefit, to be pure, not to be usurped and unknown. Mahr unspecified on a contract; rather it is determined regarding condition of woman in respect of age, beauty, education, social and familial status as well as considering the exigencies of time and space is called suitable dower. Mahr may emanate from properly concluded marriage or intercourse through proper, unsound or doubtful matrimony. In the case of intercourse or death of one of the spouses, the whole mahr is fixated and never ceases to be validated. If intercourse is made in supposed matrimony (meaning that woman authorizes her father to marry her without mahr), suitable dower becomes fixated; if wife is divorced before intercourse, she shall not be liable for mahr but she has the right of concubinage; if one of them dies, suitable dower is fixed. Just as intercourse during proper marriage leads to stabilized mahr, so intercourse during unsound marriage and intercourse in doubt result in stabilized suitable dower.

Keywords

Definite dower, Shafe'ie, Suitable dower.

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Issue of “Simplicity of Existence” in Mulla Sadra’s Works

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Abstract

Public affairs discuss issues which do not come under category of specific beings. One of such issues is “Simplicity of Existence”. Mulla Sadra has brought up the issue in “Category One” of the book titled “Asfar” which is devoted to issues of public affairs. Peripatetic philosophers regard the reality of existence merely abstract and subjective that intellect achieves it in its analysis of ontological world of objects. But Mulla Sadra appreciates objective reality for reality of existence in his writings. It means that peripatetic theosophists relate issue of Simplicity of Existence merely to world of mind and Mulla Sadra, in addition to world of mind, extends it to world of essence as well. This article intends to descriptively provide a response to the question whether “Simplicity of Existence” exists in Mulla Sadra’s works with the concept of existence or reality of existence and what are the results? Consequently, simplicity pertains to reality of existence rather than its concept and the most important result is issue of individuation of existence and negation of essential judgments.

Keywords

Concept of existence, Mulla Sadra, Reality of existence, Simplicity of existence.

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