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## Abetting in Manslaughter in View of Penal Fiq'h and Statute Law

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(Received: 29 May, 2016; Accepted: 10 June, 2016)

### Abstract

Shari'a of Islam has always favored various goals as remuneration, some of which have been cited in the holy Quran and some others of which are in narrations. With a reference made to jurisprudential votes, it becomes obvious that partnering a murderous act by keeping and supervising necessitates religious punishment. Now, according to article 127 of civil law that first lays down word of religion and word of law next for determining punishment of murder accomplice, the same procedure shall be followed although it seems that referring punishment to religion stands against legal principle of crime and "punishment". In case, partnering a murder covers none of the above topics, based on article 127 of civil law, if someone commits crime, is convicted and is retaliated, his partner is sentenced to retributive jail of second or third grade. And in case retaliation is not done, partner is punished one or two grades lower than punishment of the perpetrator. Of course, as for the latter case, note 2 and paragraph c of article 127 of civil law on one hand and note of article 612 of the law on the other hand contradict with one another and jurists disagree with each other in this respect as well. However, by citing paragraph b and beginning of article 10 of civil law, note of article 612 of civil law is being rescinded to make punishment of the following law more favorable.

### Keywords

Abetting, Keeper, Manslaughter, Supervisor.

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## A Consideration Given to Disruptive Menstruation Times

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### Abstract

Ulema disagree with one other on whether, for example, a woman on her period times suffers from three consecutive days of period bleeding, stops period for two days and experiences another two days of bleeding later, is purified from period according to rules of menstruation and she should continue her routine tasks? In this case, most jurists say these times are called menstruation times. The author of the article believes that their inattention to Ertikazat (Agreements on what is Common and Untold) and rational reasoning in this regard has resulted in such approach. The author by elucidating Ertikazat and rational reasoning in this respect has drawn this conclusion that woman is purified from period in these times and she must keep doing her routine tasks as she is not menstruated.

### Keywords

Ertikaz (Agreement on what is Common and Untold), Period Bleeding, Menstruation, Disruptive Period times

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## Polygamy in the Eyes of Feraqayn

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### Abstract

Polygamy is included among the rules and has been recognized by Islamic legal system. The ruling has been predicted for supporting the women having no husband. Quantitative limitations in polygamy and other conditions indicate an expedient and realistic approach for its forgery. Hence, since long Sunni and Imamiyya jurists looked into it by citing verses, narrations and general agreement and have elucidated its legitimacy; in the meantime, it has been disagreed as well. Also, jurists of Feraqayn (sects) by referring to verses recognize condition of justice and financial ability as justified conditions in order to make polygamy happen. Therefore, the article writers elucidating evidence for legitimacy of polygamy in Feraqayn as well as evidence given by those against it deal with condition of justice and affordability as the most fundamental conditions of legitimate polygamy.

### Keywords

Evidence of legitimacy, Feraqayn (Sects), Imamiyya, Polygamy, Sunnis.

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## Ordinances of Mahr in Hanafi Religion

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### Abstract

In this article, issues such as Shighar marriage, mahr by delegation, changes of mahr, right of wife's confinement, conditional mahr, social equality of both spouses, differential mahr, overt and covert mahr, minor domination over wife and dowry are duly dealt with. Shighar wedlock means that a man marries his daughter to another man's son; in return, the latter man's daughter shall be married to the former man's son; decision made on Shighar wedlock is valid in the opinion of Hanafi religion. Mahr by delegation means that marriage is concluded without mahr or wife's father is authorized to conclude mahr-free wedlock. On dealing with changes of mahr, issues such as capture of mahr, extravagance of mahr, waste of mahr, reduction of mahr, increase or decrease of definite mahr in rate shall be discussed. The situations enumerated below are at issue about differences spouses have over mahr: differences of spouses over intercourse, differences over suitable dower (differences over life of both spouses, post-intercourse or privacy during divorce, differences over life of both during divorce, before intercourse or privacy, differences over death of one of the spouses, death of both and differences of their inheritors), mutual agreement of both spouses over suitable dower and differences over the amount, differences over substance or description or kind of definite mahr, differences of spouses over cash payment and non-payment of mahr, differences over gift or property obtained by wife from husband to be considered as mahr.

### Keywords

Differences over mahr, Mahr by delegation, Right of confinement, Shighar wedlock, Social equality of both spouses.

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## **Wife's Right of Imprisonment for Supposed Third Person Guarantee of Marriage Portion**

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### **Abstract**

We know that "Matrimony" is a typical contract conclusion in which basic conditions of accuracy (issue laid out in article 190 of civil law) and general rules of transactions shall be observed; one of the general rules of transactions is right of imprisonment (issue stipulated in article 377 of civil law). But there is no doubt that general rules of transactions are applied to matrimony so long as they are compatible with primary nature of matrimony. Although authors and professors have seriously discussed the possible recognition of right of imprisonment in matrimony, civil law has brought these conceptual issues to an end by following views of Imamiyya jurists and by devoting two articles of 1085 and 1086 to wife's right of imprisonment for receiving marriage portion. Of course, two conditions need to be set to establish wife's right of imprisonment that are: Timely due marriage portion; non-intercourse; Article 1085 lays down condition for timely due marriage portion and article 1086 prescribes condition for non-intercourse. We do not intend to deal with the part that sees over generals; rather, we are opt to respond to this question, where husband's father or third person is in charge of paying mahr, whether wife has the right of imprisonment before receiving marriage portion from guarantor or the right of imprisonment is reserved when husband is committed for its payment rather than a third party?

### **Keywords**

Right of imprisonment, Guarantee, Marriage portion.

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## A Study of Rule of Talqiyat

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### Abstract

One of the jurisprudential rules is Talqiyat (unconditional transfer) meaning that something changed, Awaz, (what else comes in and becomes instead) or something sold or whatever is supposed to be transferred is free and nobody owns a right. This article responds to questions whether Talqiyat is among jurisprudential rules or jurisprudential issues or a principled rule. Is it a separate rule or a principle? Is it included in the terms for Awaz or barriers? This article tries to analytically and descriptively finalize the questions by referring to books, indexes, jurisprudential books and a roundup of views of jurists. What seems apparent is that Talqiyat is a jurisprudential rule as well as a principle that becomes effective on lots of jurisprudential matters; when a contract is signed, it has to be considered within the barriers section and if it is excluded, contract becomes inaccurate. The rule is inferred from the narrations and there is no given narration for it.

### Keywords

Domination, Owner, Right, Seizure, Sold.

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