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Criminal Liability of Legal Persons in Cyber Theft

Ahmad Moradkhani*, Seyyed Mohsen Razavi Asl**

(Received: 5 February, 2016; Accepted: 15 March, 2016)

Abstract

Besides its vital and important functions, cyberspace is a place where opportunists are engaged in activities. Cyber theft is included among crimes committed by such persons in cyberspace; it is defined as stealing data of others. Although the crime fails to differ from the traditional theft substantially, circumstantially and componentially, differentiated space of crime commission makes these two types of theft distinctive from each other. Those committing cyber thefts, like other crimes, can be both real and legal persons. Criminal liability of legal person enacted in 1392 (2013) Islamic Punishment Law has been explicitly approved; the crime has been also examined in articles 19-23 of Internet Crimes Law and it is observed that punishments prescribed for legal person in this law are far stronger than those for the real person in cyber and computer thefts.

Keywords

Computer Crimes, Criminal Liability, Cyber Theft, Laws at Issue, Legal Person.

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Origin of Waiting Period in Divorce of the Missing Absentee

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Abstract

Article 1029 of Civil Law deals with divorce petitioned by woman and it is pertinent to the missing absentee. In this respect, different issues can be raised but the article writer intends to respond to the question that “when does the four-year waiting period begin”? Is it when petition is filed or the husband becomes absent? The importance of the response to this question arises where article 1029 remains absolute in this regard, which gives rise to ambiguity and various interpretations of judges when they are opt to make judicial decisions.

Keywords

Divorce, Missing, Absent, Origin of Waiting Period.

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The Study of Avicennian Analogy of Being in Context of Al-Mobahethat

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Abstract

The present article intends to explain the principles and components of analogy of existence with the interpretation of Avicenna. Theory of analogy of being has been elucidated in Al-Mobahethat, but such elucidation is not seen in his other books. The subject book contains seven debates of Avicenna with his apprentices based on which the book is compiled. It includes questions and answers between him and some of his disciples. He based the ninth issue of the first debate on such a manner that it can completely channel philosophy of Avicenna and that of Mulla Sadra in philosophical school of Isfahan. The term “analogy” has a single origin in philosophy and logic. Muslim philosophers posed philosophical sense of analogy when different distinctions of creatures had been raised. Unlike logical analogy, this type of analogy does not fall within the field of mere verbal utterances and implications; rather, it means how two objects are really distinctive while they share some things. Based on the well-known notion, theory of analogy of being observes this philosophical principle that existence, in all creatures, typically fails to be different, but the discrepancies of existence turn back to the same existence. In other words, existential discrepancy is dependent upon intensity and weakness of being.

Keywords

Al-Mobahethat, Analogy of Being, Avicenna, Avicennian Analogy of Being, Being.

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The Relationship Between Mental Presence With Physical And Spiritual Resurrection According to Mulla Sadra

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Abstract

The resurrection of the soul and its importance has long been of interest to scholars. Especially Mulla Sadra was considered to this subject according to Existence which is given a new aspect to this philosophy. Along with reception of mental Existence and Objective Existence, he was offered the existents in the philosophy that created the human soul and is ineffective and foreign origin. Although scholars have seriously discussed the idea before him, But Mulla Sadra was addressed with attitude and system approach with emphasis on creative self in nature to this problem. Problem of mental existence in Mulla Sadra has different functions that one of the most serious of which, linking it to the issue of the Resurrection. Mental existence in Mulla Sadra has different functions that One of the most important of which, linking it to the Resurrection. He was Attributed the realizing of physical and spiritual resurrection with acceptance of the function in the world. according to spirit action, physical and spiritual pleasures and pains in the life hereafter body and soul takes place in the realm of imagination and creativity. Mulla Sadra insists citing the enormous power of imagination to believe that everyone accept the quality of divine power in his imagination believe that intent can real shape in out. Wise mentioned, after expression of soul state in the other world, he was described the effects of scientific and practical perfection in the power of soul and expressed that blissful souls in hereafter with assistance of imagination was origin of delicious face and the croul soul was the origin of grievous face. Although Mulla Sadra without the expression of mental issues can be convinced to soul creativity but his outstanding work using a mechanism called the immateriality of imagination and importantly, distinctive principles expressed in the bodily resurrection help to prove the existence of a mental resurrection. What makes his work distinctive from other philosophers such as Bu Ali immateriality of imagination means to promote acceptance of imperfection to perfection is not peeling face and exit face of the matter.

Keywords

Creativity, Imagination, Mental Existence, Resurrection.

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The Relationship between Rule of Tasbib (Direct Cause) and Rule of Itlaf (Indirect Cause)

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Abstract

Rule of Tasbib is among the effective jurisprudential rules in guarantee. Based on this rule, if someone causes someone else to suffer damages, he shall be guarantor in case damages are attributed to him. This rule is documented with narrations and consensus, the first of which plays a major role in demonstrating the rule. Rule of Tasbib is closely linked to that of Itlaf. According to rule of Itlaf, if someone directly or by procurator causes someone else to experience losses, he shall guarantee the loss. Besides, in the case of causer and procurator together, procurator shall guarantee the loss unless cause stands stronger than procurator; in this case, causer is liable for losses based on Tasbib rule. Different views have been raised whether Itlaf and Tasbib are two rules or two kinds of one rule; in either case, there are distinctions between the two; including: fault is not considered a requisite in guarantee of Itlaf but attribution is a requisite; in Tasbib, fault is a requisite in addition to being attributed. Hence, in lawsuits filed under Tasbib, the loser shall prove the loss plus fault. Also, in Itlaf, positive action always causes damages and inaction can never be an application of Itlaf while in Tasbib, not only positive action leads to losses on another person, but also inaction can result in losses.

Keywords

Causer, Guarantee, Itlaf, Procurator, Tasbib.

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Alimony in the Eyes of Hanafiyya

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Abstract

Alimony stands for procuring personal expenses such as food, clothes, housing and the like. Alimony comes up to be associated with married life and close relationship. In married life, it means obligation for paying alimony of wife on the part of husband and in kinship, it means obligation to pay alimony to relatives of kindred from relations by mother on the part of relatives of kindred. The Book, Sunna, consensus and judicial reasoning by analogy have been cited for obligation to pay alimony to wife. From the Book: Baqara: 233 "وعلى" "المولود له رزقهن و كسوتهن بالمعروف" that means the husband is obligated to pay alimony to wife. "و لهن عليكم رزقهن و كسوتهن بالمعروف" has been cited as Sunna quoted from the Messenger (s). From the Prophet's time hitherto, scholars and religious jurists generally agree on the husband's obligation to pay alimony to his wife and upon request of wife, judge decides on payment of alimony to her. The husband has an obligation to pay alimony to his wife if true marriage has occurred provided the wife is in the house available to the husband (Ehtebas). The wife's alimony includes food, clothes and housing. It is obligatory for the husband to provide food for the wife and it is measured as to their state of life. Conditions have been set for the husband's obligation of alimony that are: True matrimony, woman's ability for intercourse, her obedience, woman's non-apostasy, illegalizing kinship marriage on the part of woman and woman's non-waiting period for her dead husband. Besides, rulings of alimony like abandoned payment of alimony to wife, alimony drop, waiting period alimony, absentee person's wife alimony, frustration of husband for payment of alimony, future payment of alimony and differences of both wife and husband have on alimony are the issues discussed.

Keywords

Alimony, Husband, Near Relatives, Obedience, Wife.

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