

Investigation and Analysis of the Obligation of Retaliation, Blood Money, and Atonement in Abortion from the Point of View of the Late Ayatollah Khomeini (RA)

Saeed Ahmadi Fard, (PhD in Jurisprudence and Principles, Director and Lecturer of Al-Mahdi Ramsar Seminary)

Somayeh Mahdih, (level ۴ student of comparative interpretation of Masumieh Institute of Higher Education)

Abstract

The issue of abortion is one of the topics that have many minor precepts and the opinions of jurists are different on this matter. In the discussion of the permissibility or non permissibility of abortion, the matter always revolves between the two subjects of the rights of the mother and the rights of the fetus, and the efforts are based on keeping the rights of one, along with the preservation of the rights of the other. Among the jurists who have special opinions in this field is the late Ayatollah Khomeini (RA). In the case of the intentional abortion of an alive fetus, they have ruled that "retribution is not required". Regarding the monetary compensation of an aborted fetus, paying attention to the stages before and after the insertion of the soul, and considering the five stages of the fetus growth, the amounts are ۲۰, ۴۰, ۶۰, ۸۰, and ۱۰۰ dinars. and for the stage after the insertion of the soul, he stipulates ۱۰۰۰ dinars for boys and ۵۰۰ dinars for girls. And the hadiths in which the payment of gharah is determined as the blood money for an aborted fetus are rejected due to "contradiction with the sunnis" and "lack of attention to this hadith by the Shiia scholars" and "conflict with the authentic text". Regarding the obligation of atonement for abortion, he states that if the abortion is before the insertion of the soul, there is no atonement, and if it is after the insertion of the soul, it is not unlikely that we issue a fatwa on the non-obligation of atonement.

Keywords: retribution for life in abortion, abortion blood money, atonement for abortion, abortion and Ayatollah Khomeini.

Typology of Distress and Constriction about Abortion and Support Strategies for Pregnant Mothers with Distress

Maryam Sadat Qibla, (Student of Level ۴ at Imam Hossein Yazd Institute of Higher Education)

Hassan Islampour, (assistant professor of Shahid Mahalati University of Qom)

Abstract

The phenomenon of abortion and its licenses in various conditions that affect the fetus and the mother are always challenging issues in Islamic societies. The current study, referring to the principle of Negation of Distress and Constriction as one of the secondary rules of jurisprudence, seeks to explain the examples of distress and constriction that provide permission for legal abortion. The article is written in a descriptive-analytical way and its sources include jurisprudence, medicine and health. The results of the research are that if the mother's life is in danger or the fetus has a serious defect that causes personal, current or perceived hardship, before the soul is attached into the fetus's body, abortion is permitted; But after the attachment of the soul, if there is a definite risk of death for the mother, it is permissible, and otherwise, abortion is not permissible. The article is based on the approach of "attracting sympathy and support" to pregnant women who, for various reasons, have difficulties during their pregnancy, but do not have permission to have an abortion.

Keywords: Distress and Constriction, fetus, abortion, combined solution, Protection.

Ornaments and External Adornments in Verse ۳۱ of Surah Noor from the Point of View of Shiite and Sunni Commentators

Khadija Arab, (the Student of Level ۴ at Fatima Al-Zahra Institute of Higher Education, Khorasgan)

Mohsen Khoshfar, (Assistant Professor of the Department of Hadith Sciences, Al-Mustafa University of Qom)

Abstract

Self-decoration and the desire to beautify oneself is one of the innate desires in human nature, and its manifestation is in youth. Since there is a benefit for humans, especially women, in the matter of adornment, the Holy Shariah, has considered it desirable, and it has issued positive and negative orders in this regard. In the negative aspect, it has changed the precept of recommendation to unlawfulness and does not allow the women to reveal the adornment. Verse ۳۱ of Surah Noor is one of the verses, whose correct interpretation provides a correct understanding of the amount of clothing a woman wears. This verse first prohibits women from revealing their adornment with the phrase "and not to display their charms", but then with the words "beyond what is [acceptably] visible", it excludes the adornment that is visible. In expressing the meaning of charms and external adornment, the Shiite and Sunni exegetes have presented different opinions. The purpose of this article is to analyze the interpretations of the different exegetes and the Hadith and examine their differences with the analytical, descriptive and comparative method and to show the correct meaning of adornment and external adornment from the point of view of these commentators. And in this regard, it will be shown that the external adornment of a woman, which is excluded in verse ۳۱ of Surah Noor, is both the physical adornment of a woman, such as her face, palms, and according to some narrations, her sole, and also her added adornments, such as an eyeliner, bangle and rings. .. it is possible that all of them are exempted from the mandatory ruling of covering. And other adornments that are internal, including the woman's body adornment and her added adornment, which are not visible, should be covered against the eyes of the non-mahram.

Keywords: comparative interpretation, Noor verse ۳۱, women's adornment, external adornment, foreign commentators.

A Divorce Based on Distress and Constriction: the Husband's Revoke or the Wife's Revoke?

Maryam Ramzaniyan, (Student of Level ۴ at Mojtaheda Amin Institute of Higher Education)

Efat Ramzaniyan, (Ph.D. student of Philosophy and Theology, Islamic Azad University of Najaf Abad)

Masoud Rai, (Full Professor of Islamic Azad University of Najaf Abad)

Abstract

One of the dynamic aspects of Shia jurisprudence is its jurisprudential Principles such as the rule of "Negation of Distress and Constriction" which has a special application in the family; Among other things, in the light of this principle, the wife can request a divorce by proving the difficulty and embarrassment of living with her husband. The views of jurists, about the revocability or irrevocability of this divorce and the ambiguities surrounding the nature of the revoke, have forced the writer to re-read this issue. Proving the nature of revoke in such a divorce is the main goal of this article. The researcher's theory in this article is that the revoke is the wife's right and that it is unjustified to give this right to the husband. One of the findings of the work, which was carried out in a descriptive-analytical way, is that it is not possible for a man to return to the marriage contract with the existence of hardship and distress; Because the principle of "Negation of Distress and Constriction" which is the neutralizing ruling on the monopoly of divorce by the man, governs the right of the revoke. Because revoke is one of the functions of the principle of divorce; So it should not be in the hands of men. Because if the hardship is personal and the person wants to refer to a man, this is a kind of challenge.

Keywords: jurisprudence, judicial divorce, Distress and Constriction, marriage, revoke.

Jurisprudential Feasibility of the Effect of Limiting the Scope of Enjoyment of a Virgin in Temporary Marriage in the Removal of the Guardian's Permission

Amina Nobakht, (Student of level ۴ at Esmatiye Seminary Institute of Higher Education in Semnan)

Maryam Aghaei Bejestani, (Associate Professor of Islamic Azad University, Semnan branch)

Abstract

In most jurisprudential debates, the permission of the guardian for the marriage of a virgin mature girl has been raised without distinguishing between permanent and temporary marriage. By referring to the hadiths, which is the main reason for the disagreement of the jurists, it becomes clear that these hadiths are divided into five categories, and from their totality, it can be understood that the best verdict is the belief in dual permission. That is, the father has the authority to permit, but he must marry her with the consent of the daughter; It means that none of them have independence in concluding the marriage contract, but the contract is based on the permission of both. The question that is raised in this context is whether limiting the enjoyment scope of a virgin girl will have an effect on the removal of the permission of the guardian. Some believe that if the temporary marriage is not for the purpose of sexual intercourse and removing virginity, the guardian's permission is not valid and the daughter can independently enter into such a marriage, and the guardian's permission will be revoked on the condition of limiting enjoyment. At first, this theory may seem correct; Therefore, considering the popularity of temporary marriage in society and the importance of dealing with this issue, this article analyzed its feasibility with the descriptive-analytical method and by examining the reasons and documents, it came to the conclusion that those who believe in this theory have relied on traditions which are either weak in terms of documentation or incomplete in terms of signification; Therefore, this theory is not correct and the permission will not be removed in this assumption either.

Keywords: temporary marriage, marriage, family rights, parental permission, virginity.

A Jurisprudential and Legal Study of Husband's Imprisonment Due to Financial Debts to His Wife

Samia Amir Hosseini,(student of level ۴ at Fatima Al-Zahra Institute of Higher Education, Khorasgan)

Abdul Rasool Ahmadian,(assistant professor of Bagheral Uloom University of Qom)

Abstract

From the point of view of Islam and, accordingly, in the laws of the country, the legal guarantee of livelihood ensures the preservation and safety of social relations in the family. One of the results of the joint life of couples, which has been the focus of lawyers and other scholars of humanities not only in the past centuries but also in recent years, is the issue of alimony and dowry, which is a category of women's financial rights. The financial debt of a husband to his wife has several rulings in jurisprudence and law. In jurisprudence, some of them are discussed and jurists have different opinions about them. Debt payment is obligatory in the case of financial capability of the husband and imprisoning him for not paying the dowry in case of failure to prove his incapability does not have any legal base.

Ignoring the jurisprudential and legal issues of dowry and alimony in case of the wife's demand leads to the imprisonment of the husband, and the lack of education and correct information has caused many wives demanding dowry to put pressure on the indigent spouses even though they know about their poverty, and sometimes they have resorted to imprisonment. What is being discussed is the need to review the jurisprudential and legal proofs of the court rulings for the debtors (husbands) in its different stages, an analysis of the imprisonment, and a critique of the current procedures.

Keywords: jurisprudential foundations, legal foundations, husband's imprisonment, financial debt, wife.