



Qom Islamic Azad University
Faculty of Humanities

**Specialized Quarterly
Studies for Jurisprudence and Philosophy
Year 2, Number 8, Winter (2011-2012)**

License-Owner: Qom Islamic Azad University
Managing Director: Mohammad Hossein Irandoust
Editor-in-Chief: Mohammad Mohammad Rezaie
License No: 90.24715 from Ministry of Culture and Islamic Guidance

Editorial Board:

Ahmadi, Seyyed Mohammad Mahdi

(Assistant Professor, Department of Feqh and Principles of Law, Islamic Azad University, Qom)

Irandoust, Mohammad Hossein

(Assistant Professor, Department of Philosophy, Islamic Azad University, Qom)

Khademi, Eynullah

(Associate Professor, Department of Philosophy, Shahid Rejaie University)

Roudgar, Mohammad Javad

(Assistant Professor, Department of Feqh and Principles of Law, Islamic Azad University, Qom)

Gorji, Ya'aqubali

(Assistant Professor, Department of Feqh, Jame'a Al-Mustafa Al-Alamiyya)

Gorjian, Mahdi

(Associate Professor, Department of Philosophy, University of Baqir Al-Ulum)

Mohammad Rezaie, Mohammad

(Associate Professor, Department of Philosophy, University of Tehran)

Moradkhani, Ahmad

(Assistant Professor, Department of Feqh and Principles of Law, Islamic Azad University, Qom)

Publisher: Qom Islamic Azad University

Acting Editor-in-Chief: Ahmad Moradkhani

Executive Director: Yaser Sharifi

Editor: Yaser Sharifi

English Editor: Ali Ebrahimi

Pagination: Zeinab Molavi

Office Address: Qom, Pardisan, Islamic Azad University

Tel: 025-32800281

Email: m.f.falsafi@qom-iau.ac.ir

Website: <http://aqojap.journal.qom-iau.ac.ir>

Contents

Investigating Juridical and Lawful Rule non-Retroactive in Murder Category	1
Ahmad Moradkhani, Seyyed Masih Hosseini, Seyyed Mohammad Mahdi Ahmadi, Alireza Asgari	
Civil Liability Resulting from Unjustified Anti-Health Care Staff Complaint.....	2
Seyyed Mahdi Mirdadashi	
Conditions for Creating Foster Relationship in the Eyes of Imamiyya and Hanafiyya.	3
Mohammad Sadeqi	
Elucidation of Existential and Ontological Dimensions of Understanding in the Eyes of Martin Heidegger	4
Mohammad Hossein Irandoust	
The Need for Qualification of Candidates by the Guardian Council	5
Seyyed Mohammad Shafi'ie Manzandarani	
Acid Attack and Its Penal Injunctions	6
Seyyed Hassan Abedian Kalkhoran, Mohammad Sarfi	

Investigating Juridical and Lawful Rule non-Retroactive in Murder Category

Ahmad Moradkhani*, Seyyed Masih Hosseini**, Seyyed Mohammad Mahdi Ahmadi***, Alireza Asgari****

(Received: 12 March, 2016; Accepted: 3 April, 2016)

Abstract

Category retroactively lack inclusion of the lawful rule and control, as is the death and the reflection is important. Practices and attitudes legislator of religious orders, he is not to apply rules which consequently leads to injustice in the criminal process to bring Contemplated in the context of judicial precedent 10/25/1365 Number 45. "Article 6 of the Islamic Penal Law October 1361 that the penalties and corrective measures By law put before the crime is established Withdrew from his commands legislation, including legislation relating to retaliation that have been at the forefront of Islam ... In 1370 criminal legislator in Article 11 of the Penal Code rule retroactively not only rules governing the " government and military regulations," he And consequently the rule was adopted in the Iranian Law is limited. Therefore, the legal rules of borders and murder, expense and exclusion criteria of the regulations was the system of government. Finally, it is accepted that the only punishment suspended under the rule of law are not retroactively. The present paper suggests that the death penalty is not out of the realm and inclusion rule retroactively known. This article aims to study the most important jurisprudence and legal arguments to justify the death penalty are not paid retroactively.

Keywords

Acquit principle, Criminology, Murder, Non-retroactive, Prevention.

* **Corresponding Author:** Assistant Professor, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran, **Email:** ah_moradkhani@yahoo.com

** PhD Student, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran

*** Assistant Professor, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran

**** Assistant Professor, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran

Civil Liability Resulting from Unjustified Anti-Health Care Staff Complaint

Seyyed Mahdi Mirdadashi*

(Received: 27 February, 2016; Accepted: 10 March, 2016)

Abstract

Out-of-place complaint filed against health care staff might lead to causing spiritual or material losses. If such complaint incurs financial damages, the person causing damages is bound to compensate for losses in accordance with general rules of civil liability. But in case anti-medical team unjustified complaints result in losses incurred from loss of prospective profits or spiritual loss, this question is raised that whether such latter losses can be compensated according to law and Islamic jurisprudence. If the response is positive, how and in what quality? In other words, is it possible to financially compensate for the losses emanating from loss of prospective profits or spiritual loss in accordance with law and Islamic jurisprudence? The author of this article seeks to find a response suitable for this central question. In this respect and based on the existing statistics, approximately sixty (60) percent of the complaints raised against medical community end up their exoneration; in fact, about two thirds of such complaints are filed unfoundedly. Now, the question is that what executive guarantees law can give for administering rights of the acquitted physician. Regretfully, under the current judicious processing, courts of medical crimes have designated no rights for reciprocal litigation of physician against the patient, no rights for physician to ask for compensation from him as well as demand of prestige rehabilitation.

Keywords

Civil liability, Compensation for losses, Spiritual losses.

* Assistant Professor, Department of Feqh and Principles of Law, Islamic Azad University, Qom, Iran
Email: mirdadashim@yahoo.com

Conditions for Creating Foster Relationship in the Eyes of Imamiyya and Hanafiyya

Mohammad Sadeqi*

(Received: 8 February, 2016; Accepted: 21 February, 2016)

Abstract

Fosterage is one of the ways to create relationship. The conditions for creating relationship in Imamiyya jurisprudence are that woman's breast milk is produced through legitimate pregnancy; the baby is directly breast-milked; the baby is breast-milked at least 24 hours or 15 consecutive times; the baby is milked two years before his birth and the amount of milk he is fed comes from one woman and one husband. The conditions for creating relationship in Hanafiyya jurisprudence are that the suckling woman has 9 years of age or more and the infant should not have more than two years of age. Milk must be liquid and taken in by baby through sucking breast or poured into his throat or his nose. The baby is breastfed during two years of age and assurance is made that he is fed within with no other food mixed.

Keywords

Breastfeeding, Conditions for fosterage, Foster relationship, Kinship.

* Assistant Professor, Private Law, Islamic Azad University, Qom, Iran
Email: msadeghi4817@yahoo.com

Elucidation of Existential and Ontological Dimensions of Understanding in the Eyes of Martin Heidegger

Mohammad Hossein Irandoust*

(Received: 4 March, 2016; Accepted: 18 March, 2016)

Abstract

Martin Heidegger, born in September 26, 1889, was the first to hoist the flag of “Philosophical Hermeneutics” in Hermeneutics in early 20th century. He made remarkable changes in hermeneutic knowledge trend and upgraded hermeneutics from epistemology to ontology. Hermeneutics is referred to as knowledge that deals with the “process of understanding” and examines how the various phenomena of existence including speech, behavior and writings are understood. However, Heidegger, instead of attempting to systematize way of understanding, turns to deal with the nature of understanding. By underlining the audience as the central point, he is opt to prove the point that something as “final understanding” or a component namely, “intent of author” is not at issue; rather, it is something that is engraved within the minds of commentator. Understanding of context by the audience takes roots in their time, society, culture and education in such a way that they cannot think about and understand something outside the cycle. Heidegger maintains that one can arrive at elucidation of existential conditions and ontological catch of understanding by analyzing the nature of understanding; in fact, according to him, understanding is one of the features of Dasein and he sees it as inseparably basic structure of existence in the universe; he says understanding solidifies and qualifies the human existence. Heidegger’s hermeneutics underscores the pragmatic aspect of understanding and considers existential dimensions and ontology for it. This article intends to find answer to the question: “What are the existential and ontological dimensions of understanding in his opinion?”

Keywords

Hermeneutics, Martin Heidegger, Nazism, Philosopher.

* Assistant Professor, Department of Philosophy, Islamic Azad University, Qom, Iran
Email: mohirandoost@gmail.com

The Need for Qualification of Candidates by the Guardian Council

Seyyed Mohammad Shafi'ie Manzandarani*

(Received: 9 February, 2016; Accepted: 9 March, 2016)

Abstract

The constitution at a glance are divided into two categories: "principles and the principles of non-review review" Reload principles, those principles that are applicable in a lesser degree of importance are reviewed. For example, the principles of legislative quality, the number of MPs, MPs and period ... Non-revised principles: those principles that are central to the main objectives of the Islamic Revolution, are unchangeable. Article one hundred and seventy-seven cases referred to it. Islamic state, republic, the principle of velayat-e faqih and the official religion of non-review. [Constitution of the Islamic Republic of Iran's constitution with the Constitutional spread]the relevant specialized agencies to certify the competency of candidates so it can direct vote of the people, the number of people needed to be chosen from among them.the relevant specialized agencies to certify the competency of candidates so it can direct vote of the people, the number of people needed to be chosen from among them.

Keywords

Constitution experts, System, The Council, The votes of the people.

* Assistant Professor, Department of Philosophy of Islamic Law, Islamic Azad University, Qom, Iran
Email: shafieimazandarani@yahoo.com

Acid Attack and Its Penal Injunctions

Seyyed Hassan Abedian Kalkhoran*, Mohammad Sarfi**

(Received: 2 February, 2016; Accepted: 21 March, 2016)

Abstract

“Acid attack” is a crime that may be committed with different motives and causes; the “acid attacker” commits such crime by intention and awareness of consequences followed and with motive of vengeance, honor, love, racketeering, security and personal differences and...and deprives the victim of gift of beauty, sight and....If somebody acid-attacks someone else deliberately or wilfully; he must be similarly retaliated (Qesas) in case “Qesas” is not possible quantitatively and qualitatively. If acid attacker embarks on such an act with an aim of frightening the community, he shall be decided by the court as “wrangler” besides, if “acid attacker” perpetrates such an act consciously or with an impetus to establish “corruption in community”, to disturb public order or to show that the Islamic community is insecure, he shall be known as “corrupter”.

Keywords

Acid, Acid Attack, Corrupter, Corruption, Retaliation (Qesas), Wrangler.

* **Corresponding Author:** Assistant Professor, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran, **Email:** sarfiamir@yahoo.com

** PhD Student, Assistant Professor, Department of Feqh and Principles of Islamic Law, Islamic Azad University, Qom, Iran