

Searching Women in the Saudi Criminal Law

Dr. Abdur-Rahmaan bin Muhaidib Al-Muhaidib

Abstract

The present paper tackles a very important subject related to searching of women under the Saudi criminal law through the following points:

1. The Shareefah rulings contribute to delineating procedural rules and principles related to searching suspects in criminal cases.

2. The Islamic jurisprudence has not discussed in detail all parts of criminal procedures related to the searching of women in the present time. However, certain aspects related to women have been discussed by different parts of jurisprudence.

3. Searching any person is originally a transgression against his privacy but necessity makes it permissible.

4. Saudi laws largely focus on the prohibition of divulging women's privacies.

5. Saudi rulers have always directed officials and staff to respect the privacies of women in accordance with the rules and principles of the Islamic Shareefah.

6. The timing of searching of personal property should be taken into consideration.

7. The Saudi criminal Law of Procedure has not specified the concept of the criminal investigator who has the authority of searching women.

8. GCC criminal laws as well as Arab

criminal laws give females due respect in case of searching or investigation.

9. International laws give some persons special immunity like diplomats and their dependents.

The author recommends the following:

1. Legal researchers should give emphasis to procedural issues related to the searching of women because they are not less important than juristic issues.

2. The executive regulations of criminal laws should clarify the concept of the criminal investigator.

3. The executive regulations of criminal laws should elaborate on the issue of searching as a procedure of evidence or investigation.

4. The executive regulations of criminal laws should state the cases of involvement if the suspect is a female.

5. The executive regulations of the criminal laws should state the difference between the controls to get access and search personal properties and the ones that govern access to excepted properties.

6. Efforts exerted to highlight the care Saudi laws give to women in different cases especially when searching them as suspects. The media and other means of information should be efficiently used for this purpose.

Divorced Woman's Mutiah

Dr. Najlaaf bint Hamad Al-Mubaarak

Abstract

1. The payment (mutiah) made to the divorced woman is one aspect of the care the Islamic Shareeah gives to women.

2. The mutiah is the usage for a part of time.

3. Divorce is the dissolution of marriage.

4. Technically speaking, the divorced woman's mutiah is the money paid by the husband to his divorced wife in return for the harm she incurs as a resulting of the dissolution of marriage for a reason she is not responsible for.

5. The prophet's sayings on the mutiah are four: one in the two Saheehs, one in Saheeh Al-Bukhaaree, one in Sunah Ibn Maajah but classified as weak and one in Sunan Al-Baihaqee which is good.

6. The narrations on the mutiah are eight, four are authentic, two are good and two are weak.

7. The paper discusses the ranks of hadeeth transmitters.

8. Scholars are in agreement that the mutiah for the divorced woman is legitimate but they differ as to being mandatory or not.

9. The mutiah for the divorced woman is meant to compensate her for the dissolution of marriage.

10. Divorced women with regard to dowry and consummation of marriage are four types.

11. Scholars differ as to the ruling on the mutiah for the divorced woman.

12. The amount of mutiah is left to the opinion of the judge; it differs by time, place and the conditions of the husband.

13. Scholars are in agreement that the mutiah for the divorced woman drops if the dissolution of marriage is caused by the wife.

Failure to Rescuing a Patient in Jurisprudence and Law

Dr. Haalah bint Muhammad Jastanniyah

Abstract

This paper discusses a very sensitive topic that touches on the lives of people who are in need of help at times of adversity. The following points are discussed in this paper:

1. Jurists unanimously agree that it is a duty on the part of everyone to rescue any person who is subject to any danger.
2. The right of humans to life should be protected. Jurists consider label anyone who fails to rescue someone from danger as sinful.
3. The laws applicable in Saudi Arabia tackle the issue of rescuing patients in a modern manner that comply with the principles of the Islamic Sharee'ah.
4. Several laws fail to tackle the question of rescuing patients. Decision makers should review these laws and amend them in a manner that comply with the principles and justice of Islam.
5. Blood donation should be voluntary and free of charge; the person who refrains from donating his blood to save the life of another person is sinful.
6. No compensation should be paid for blood donation with certain exceptions as approved by the Academy of Islamic Jurisprudence.

The authors presents the following recommendations:

1. Officials in the Ministry of Health should follow up updates concerning refraining from rescuing patients by all means and forms.
2. Officials should give due attention to first aid and teach it to male and female children.
3. Saudi Arabia undergoes qualitative and quantitative developments in various fields including medicine which requires enacting such laws for noble objectives.
4. Campaigns should be launched to encourage blood donation by all means possible through audio-visual means as the need for blood is very urgent.

Prohibition of Exceptions

Dr. Adil bin Abdullah Al-Luhaidaan

Abstract

The present paper discusses an important subject related to transactions among people. The most important points tackled by this paper are the following:

1. The Holy Qur'án and the Prophetís Sunnah should be given preference to any other opinion.

2. The prohibition of exceptions is meant to realize interests and block corruption and harm.

3. The prohibition of exceptions is meant to realize equality between contracting parties and preserving their rights.

4. Exceptions are prohibited if they are unknown but permissible if known as agreed among scholars.

5. Exceptions may touch on description, type, number, time, measure or weight.

6. Intents should be given consideration in contracts; words should be tied with meanings.

7. Actual practice has a major role in determining the intentions of contracting

parties and limiting general terms contained in contracts.

8. Conditional sale is called by scholars as the sale with exception.

The author presents some recommendations which he hopes to be applied in reality. These include the following:

1. Society members should be made aware about the terms and lawful and unlawful terms and conditions of contracts including unlawful sales which may have new forms.

2. Intensive academic studies should be conducted based on the Holy Qur'án and the Prophetís Sunnah that cover novel cases in commercial transactions including exceptions.

3. Legal consultants should be provided at courts to provide judges with comprehensive legal studies related to Shareefah provisions on different cases.

4. People should be made aware that the Holy Qur'án and the Prophetís Sunnah are comprehensive and provide justice and interests of individuals and communities.

3. Educational courses should be held for would-be husbands and wives in order to make them aware of their duties and rights towards each other. Awareness and education are important in preventing or limiting

family violence.

4. The husband should take note of the conditions which his wife encounters before considering her alienation as disobedience and before beginning any actions against her.

Rulings on Disciplining of Wives in Islamic Jurisprudence

Dr. Abdullah bin Sulaimaan Al-Ajlaan

Abstract

The present paper tackles an issue that relates to the life of every Muslim family. The following points discuss the relationship between the husband and the wife:

1. Islam has given the matrimonial relationship great attention within the limits that may not be exceeded as much as possible.

2. Islam has dignified women, protected their rights in their matrimonial lives and guaranteed for them freedom under the controls of the Sharee'ah.

3. In Islam, beating one's wife is only meant to discipline her under specific legal measures and controls. It comes as the last measure after exhausting all other measures.

4. The beating of the wife is a mean rather than an end; it is a kind of warning rather than a punishment.

5. Official statistics indicate that violence against women in the West has risen times over the cases found in Muslim countries.

6. Family violence against women is prohibited in all forms and types; it is a crime that one is held accountable for in this life and the life to come.

7. The accusations leveled by the enemies of Islam regarding disciplining of wives are part of the enmity and hatred they express against Islam.

8. The disciplining of the wife is legiti-

mate under the Holy Qur'an and the Prophet's Sunnah if she fails to meet her obligations towards her husband.

9. The preponderant opinion of scholars is that the wife should be disciplined if she abandons her duties towards her Lord because this is part of forbidding iniquity.

10. The order *ibeat them* is based on permission rather than obligation according to the unanimous opinion of scholars.

11. The husband may not be held accountable criminally or civilly for the harm resulting from disciplining of his wife unless he had not fulfilled the conditions of disciplining.

12. Beating one's wife for no legitimate reason is prohibited even if it is mild because it is part of aggression and injustice.

The author sheds light on the most important recommendations of the paper as follows:

1. Care should be given to this subject through researches, symposia and conferences to identify the problem and find proper solutions for family violence and marital differences.

2. The media should play a role in family awareness and guidance through intensive programmes in order to spread awareness about family violence and its adverse effects on the individual and society.