

If the claimant tells the defendant that he releases him from taking this oath, his right drops with regard to the present lawsuit only.

If the claimant provides a witness on cases involving property or the like and refuses to take the oath and the defendant takes the oath but later on the claimant states that he is ready to take the oath with the witness, he is denied this request.

If the claimant provides a witness and refuses to take the oath with the witness and his opponent takes the oath and then the claimant provides another witness, the evidence becomes complete and is heard.

It is permissible for the defendant to provide evidence after refusing to take the oath and the claimant takes the oath and receives the subject of his claim.

It is permissible for the defendant to provide evidence after denying the evidence to the defences against the claimant's lawsuit.

It is permissible for the claimant to provide evidence after refusing to do so and dropping his lawsuit.

Zakat on Business Commodities

Sheikh Abdullah bin Sulaimaan Al-Manee

Abstract

The author states that some people who pretend to be educated have drifted away from the norms of life and conduct agreed by humanity and declared that zakat is not mandatory on business commodities.

After presenting the opinions of scholars on this issue, the author concludes the following:

Zakat is mandatory on business commodities as expressed by the Qur'anic statement: "Of their goods, take alms, that so you might purify and sanctify them." (*At-Tawbah*: 203) Allah Almighty also says, "Spend from the good things We have bestowed on you." The Prophet (peace and blessings be upon him) said to Mu'aadh upon dispatching him as Governor to Yemen: "... Tell them that Allah has enjoined on them some alms to be taken from the rich and given to the poor." Business commodities are part of the earnings that one should pay zakat from. According to the juristic maxim: "Zakat is mandatory on every growing property either by action or force." Business commodities are the closest property to growth. Scholars of Qur'anic exegesis, *hadeeth* and jurisprudence unanimously agree to this point. Only the Dhaahirites believe that zakat is not mandatory on business commodities. The proof they provide in support of their opinion has been discussed and refuted.

Establishing Evidence after Taking the Oath, Forms and Rulings Comparative Study

Dr. Sa'd bin Umar Al-Kharaashee

Abstract

The judgment is the product of hearing the lawsuit and the defences of the defendant by the judge including proofs and rebuttals. The state of substantiation is the most important stage of the litigation process. Through it the judge will form a firm conviction of the proofs and defences filed before him after which he declares his judgment before the litigants on the case under consideration.

The oath is one of the important means of substantiation although it is different in nature from other methods of substantiation like testimony and written documents. However, sometimes the litigant might lack evidence and hence resorts to accept the oath of the other litigant. Hence, the oath is the proof provided by the one who has no other proof.

The author concludes the following:

The oath is considered by the judiciary.

According to jurists, the oath is meant to end the dispute but it does not relieve the liability of the one who took it.

The two litigants have the right to request each other to take the oath by their free will.

The preponderant opinion of the majority of scholars that establishing evidence after taking the oath is acceptable.

Almost all laws of substantiation in Arab countries agree that requesting the oath by either litigant means waiving any other means of evidence for the case under consideration.

It is permissible to establish evidence after taking the oath even though the claimant might state that he has had no evidence or proof.

If the claimant states

that his evidence is absent and requested his litigant to take the oath but the said evidence appears, the judge should hear it and judge according to it.

It is permissible to establish the evidence after taking the oath if the claimant states that he has evidence and that he requests taking the oath by the defendant. Even though the defendant might accept taking the oath in this case, it does not seem to me that the defendant be labeled as lying or punished for taking the oath.

If the claimant states that he does not wish to submit the evidence after taking the oath by the other litigant, it suffices for the defendant to take the oath. However, if the claimant changes his mind and wishes to submit the evidence after this, I am of the opinion that he cannot do so after dropping his right.

paid.

Jurists differ as to the zakat on the leased property including leased fallow lands in two opinions; the first contends that zakat is mandatory and the second states that it is not mandatory, which is the preponderant opinion.

They also differ as to zakat on the rent of fallow lands and real estates in two opinions; the first states that no zakat is payable on the rent unless one year elapses and the second states that zakat is payable on the rent of leased fallow lands when received if it reaches the zakatable amount. The same applies to leased real estates. The time the landlord receives the rent, he should pay the zakat without waiting for the year to lapse. The first opinion is the preponderant one.

If anyone rents a farm and cultivates it; should the zakat be paid by the lessee or the landlord? Two opinions are expressed in this regard. However, the preponderant opinion is that the zakat should be paid by the lessee.

Transformation and its Rulings in the Islamic Jurisprudence

Dr. Yaaseen bin Naasir Al-Khateeb

Abstract

The present paper discusses the rulings on transformation of substances from impure to pure in the books of Islamic jurisprudence. The author finds that Muslim jurists have tackled all subjects that concern Muslims in this life and the one to come and that Islamic *Sharee'ah* has brought up everything useful for human beings and left nothing unaddressed. The author concludes the following:

Everything that transforms from a state of impurity to purity is permissible to use if it is useful and good for use.

Skins that are tanned are pure and permissible to use according to the express proofs supporting the same.

If wine changes to vinegar by itself, it is pure according to the unanimous opinion of scholars.

However, if it changes to vinegar by adding a substance to it or moving it from one place to another, the preponderant opinion is that it becomes pure.

Everything that changes from one name to another or from one condition to another, it is considered permissible if it changes to a useful thing and forbidden if it changes to a harmful thing.

The ruling applies to the new names to which the substances changes rather than the old names because rulings change with the change of names and names change with the change of conditions.

Usefulness and harm are decided by the *Sharee'ah*; they are the subjects of opinions and whims.

Anything that may be doubted should be referred to pious people who are capable of distinguishing useful things from harmful ones.

Zakat on Fallow Lands

Comparative Juristic Study

Dr. Khaalid bin Abdullah As-Sulaimaan

Abstract

The author states that the zakat for judgment is the product of hearing the lawsuit and the defences of the defendant by on fallow lands is worthy of researching and study because investment in and development of lands is one of the sources of income in the present time. People have taken care of lands and merchants have found in them a chance of competition. Prices of lands are very high these days.

After discussing the subject, the author concludes the following:

Zakat is mandatory on four items: livestock, produce, currencies including gold nad silver and business commodities.

Business commodities are the items made ready for business whether they are part of the items subject to zakat or not.

Zakat is mandatory

on business commodities according to the preponderant opinion of scholars.

Jurists differ as to how to evaluate business commodities.

The rate of zakat on business commodities is quarter of tenth, namely 2.5%. Twenty five Saudi Riyals is paid for every one thousand Saudi Riyals

The preponderant opinion of scholars that the zakat on business commodities should be paid from their value rather than the very commodity.

The fallow land is the open land free from cultivation and buildings and can be used for both purposes or either one.

Jurists differ as to the zakat of the fallow land and the preponderant opinion is that zakat is mandatory on the fallow land dedicated for trade.

Jurists who state that zakat is mandatory on business commodities

provide four conditions for this as follows:

Nisaab (amount subject o zakat),

The intent of trade and investment for a period of one year,

The owner of the land has acquired it through a compensation based contract; this condition is subject o disagreement among scholars, and

The real estate should be owned by an identified person; lands and real estates owned by the state are not subject to zakat and those owned by public institutions and endowments are paid to charities.

Fallow lands are evaluated at year end at their equal value at maturity date irrespective of the price of purchase. Evaluation is made by experts as per market price.

If the fallow piece of land amounts to nisaab, the amount of zakat equal to 2.5% of the value of the land should be

Mechanisms for the Standardization of Laws in GCC Countries A Vision in the Light of Sharee'ah Policy

Dr. Sa'd bin Matar Al-Otaibee

Abstract

The author presents a vision on the mechanisms required for the standardization of laws in GCC countries taking into account the Islamic and Arab identity of these countries and in the light of *Sharee'ah* policy. After tackling the constitutional mechanisms for the standardization of laws in GCC countries, the author concludes the following:

It is not difficult for GCC countries to realize their aspirations as to the standardization of their laws although it requires direct care by decision makers at summit level and integrated and consistent efforts by executive authorities.

The proposed technical and scientific mechanisms contribute in realizing a large amount of similarity and multiple clusters of standard laws that can be added to the ones already standardized.

These standardization efforts should take into account that it is the duty of officials to standardize our laws in order to unify our people and institutions.

This important trial needs sufficient efforts to make it real in a model way that paves the way to realize a model Islamic experience emanating from GCC countries to cover other Arab countries and then Muslim countries whose people suffer all types of division as a result of the application of foreign laws brought by colonization powers.

Such a huge project requires a supreme patronage to guarantee facilitation and funding especially that it needs much time and effort. Therefore, it might be suitable to submit a proposal of this project that includes budget, cadre and time period with the assistance of some reliable expert houses to Custodian of the Two Holy Mosques in his capacity as the advocate of movement from cooperation to unification to consider it and adopt it at the GCC Summit.

Stipulation of Non-Conception in the Marriage Contract

Dr. Abdullah bin Fahd Alheed

Abstract

The author speaks about the wish of some husbands not to have children. Indeed, some couples agree to this point. Many marriage contracts have been concluded stipulating non-conception. The author discusses this issue and concludes the following:

Islam enjoins and encourages people to marry. It is a means to realize a great objective of *Sharee'ah*, namely to safeguard offspring and reproduction.

Islam encourages having many children as this realizes a great objective.

The condition in a marriage contract is the condition that is binding to both parties.

Linguistically speaking, the Arabic term *injaab* means reproduction which is giving birth to children.

Technically speaking, the term means having offspring through a process that starts with inoculation and ends with birth. Delivery is giving birth to a child at the end of the gestation period.

The marriage contract is the one under which both the husband and the wife enjoy the pleasures of each other in a legal way.

Stipulating non-conception contradicts the objective of the marriage, namely to reproduce children which has been encouraged by the Prophet (peace and blessings be upon him).

Stipulating non-conception is the first type of the third section of conditions which include invalid conditions due to the fact that they contradict the provisions of the Islamic *Sharee'ah*. The marriage contract remains valid but the condition is null and void because it violates the objective of the marriage contract and *Sharee'ah* provisions.

If the condition of non-conception is specified by a period of time like one year or two years, this is similar to the couples' agreement to delay conception. This is permissible according to the four imams of jurisprudence provided the wife's consent is obtained. This is similar to isolation which is permissible according to the Prophet's *Sunnah*.

If conception takes place while either party has already stipulated non-conception, this may lead to abortion, dissolution of marriage or treating the wife unjustly.