

the unanimous opinion of scholars.

The author elaborates on the difference between the husband and the wife concerning the house furniture, each claiming to be his or her property without having any proof supporting his/her claim:

For items special for men like the turban and similar items, the statement of the husband along with his oath are accepted.

For items special for woman like jewels and similar items, the statement of the wife along with her oath are accepted.

For items suitable for both of them like utensils and similar items, the statement of the husband along with his oath are accepted.

The Preponderant Opinion: The author states that the preponderant opinion is that the one of the couple who provides a weightier statement along with his/her oath are accepted whether such difference occurs during their matrimonial life or after divorce.

The author delineates on the statements of jurists in case the woman buys house furniture with her dowry and then she is divorced before the consummation of marriage. The author is of the opinion that the husband receives half the furniture and does not charge her with half the price which is the dowry unless both parties agree to this.

Position of Arabic Language in Contracts and Proceedings in the Saudi Judiciary Law

Abdul Azeez S. Al-Dughaitir

Abstract

The present study discusses the following points:

Position of Muslim scholars on unnecessary use of other languages. Use of Arabic fosters belonging to the nation and adds to trust in the power of the nation. Scholars warn against using other than Arabic for those who are fluent in Arabic.

Understanding the holy Qur'an and the Prophet's *Sunnah* is mandatory, both of which cannot be understood properly in other than Arabic. Anything without which a duty may not be understood is a duty.

The Saudi legislator states in several places of the law that it is mandatory to use Arabic as the official language of the country.

An interpreter is the one who translates words from one language to another.

There is no difference among jurists that the judge may use an interpreter if he does not know the language of any litigant or witness..

Scholars differ as to the number of interpreters in two opinions as follows:

First Opinion: It is enough to have one interpreter according to Abu Haneefah, Abu Yusuf, the Maalikites and Ahmad.

Second Opinion: The interpreter is a witness and should meet the conditions applicable to witnesses according to the Shaafi'ites, the Hanabalites and others.

The second opinion is the preponderant one according to the author.



The Wife Spending Her Dowry for the Purchase of House Furniture

Abdullah bin Ahmad Saalim Al-Muhammadee

Abstract

The present study discusses the following points:

Definition of house furniture: it is the furniture provided by the wife and her family to furnish her house.

Definition of dowry: It is the money to which the wife is entitled under the marriage contract.

The opinions of jurists on the reality of the dowry are as follows:

1st Opinion: it is a compensation for enjoying oneself with one's wife according to the majority of the Hanafites and the Maalikites and is the sounder opinion of the Shaafities and the opinion expressed by the Hanbalites. The author considers this opinion as the preponderant one.

2nd Opinion: The dowry is a gift according to some of the Hanbalites and some of the Shaafi'ites.

The author discussed the opinions of jurists on the wife's spending of her dowry for the house furniture as follows:

The Hanafites are of the opinion that the husband is the one who must provide the furniture unless he pays an amount over the dowry

for the furniture, in which case, the wife must provide the furniture.

The Maalikites are of the opinion that the furniture must be provided by the wife as per the dowry she receives provided that three conditions are met:

Receiving the dowry before the consummation of marriage,

The husband should not have promised his wife of an amount over the dowry she received as payment for furniture, and

The dowry should have been paid in cash.

The Shaafi'ites, the Hanbalites and the Dhaahirites are of the opinion that the dowry is the property of the wife which she can legally dispose with it the way she likes.

This is the opinion considered preponderant by the author.

The author divides the beautification items of the wife into three parts and elaborated on the financial support and who should provide it as follows:

The items needed for the wife's cleanliness like creams and similar items. This part should be provided by the husband for his wife accord-

ing to the unanimous opinion of scholars.

The beautification items without which the wife is harmed even if cleanliness is achieved like eyelid liners, perfumes and the like. Jurists differ on this issue in four opinions as follows:

The Maalikites and some of the Shaafi'ites argue that the husband must provide the eyelid liner but not the perfume.

Some of the Hanbalites contend that the husband must provide perfume but not the eyelid liner.

The Hanafites, the Shaafi'ites and some of the Hanbalites believe that the husband must provide perfume if it is needed to remove some offensive odour but not for any other purpose. Moreover, eyelid liner should be provided if it is used for joy and pleasure with one's wife.

The sound opinion of the Hanbalites is that the husband is not required to provide perfume and eyelid liner.

Beautification items without which the wife is not harmed like jewels and similar items which are used for joy and pleasure. This part is not required from the husband according to



Factors Terminating the Right of *Qiwamah* (Maintenance)

Wafaa' bin Abdul Azeez As-Suwailim

Abstract

The author discusses the following points:

Definition of *qiwamah* (maintenance) as "the husband's undertaking of and caring for the interests of his wife, supporting her, preventing her from leaving the house except with his permission and disciplining her.

Qiwamah is legitimate according to the Qur'an and the *Sunnah*.

The husband is the one who has the right of *qiwamah* thanks to the characteristics man has and the responsibilities he is entrusted to shoulder which make him more capable to undertake the maintenance of his wife and family.

The author discusses the reasons of the establishment of the right *qiwamah* for the husband. These include the following:

Man is given a rank higher than woman, and

Man is the one who supports the woman.

The author elaborates on the conditions of *qiwamah* as follows:

Undertaking the financial rights of the wife including dowry and financial support;

Treating the wife in nice way and avoiding causing her any harm; and

Exercising honesty and fear from Allah in performing this mission and using this right.

The author delineates the factors terminating the Right of *qiwamah* as follows:

The husband fails to fulfil the rights of

his wife or treats her badly. In this case, the wife has the option either to stay with him or to dissolve the marriage.

The husband refuses to support his wife though he is financially capable. If he does so, she can take from his money or the judge can impose support on him or the marriage is dissolved. This is the opinion expressed by the Hanafites, the Maalikites, the Shaafi'ites and the Hanbalites. However, if he is insolvent, jurists differ on this issue in two opinions as follows:

1st Opinion: The Hanafites and some of the Shaafi'ites: The wife may not dissolve the marriage contract.

2nd Opinion: The Maalikites and the Shaafites according to the soundest opinion of the school and the Hanbalites: The wife has the right to dissolve the marriage contract if she so wishes.

The preponderant opinion is the first one.

The study states that the wife's dispensing with the financial support does not terminate the right of *qiwamah* and discusses the opinions of scholars on this issue.

The author states that the *qiwamah* is not dropped even if the wife drops her right in the financial support.

The author states that the wife's stipulating *qiwamah* to be her right in the marriage contract is invalid because it contradicts with the intent of the marriage contract.



“Faulty Suspicion Forms No Evidence” Juristic Maxim and Its Juristic Applications

Sa’eed bin Mut’ib Al-Qahtanee

Abstract

The author defines the following terms: evidence, suspicion and faulty.

The author discusses the reasons of faulty suspicion from three respects:

Reasons of change of *ijtihad* in relation to the mujtahid and the judge

Reasons of change of *ijtihad* in relation to the verification of the subject of ruling.

Reasons of change of ruling.

The author gives the general meaning of the maxim as an action based on suspicion that has proved to be faulty and that such a suspicion does not form any evidence and that any ruling based on it should be cancelled.

The author gives a number of proofs supporting this maximum including the narration from Umar bin Al-Khattaab (may Allah be pleased with him) on deciding on cases and revoking such judgments.

The study discusses some rules related to the maxim as follows:

Authority of suspicion in the *Sharee’ah*: The author discusses the differences among jurists in four opinions as follows:

1st opinion: It should be given authority according to the majority of fundamentalists

2nd opinion: Suspicion forms no evidence unless it is impossible to reach certainty according to Ash-Shaashee, Abul Hussain Al-Basree and others.

3rd opinion: No authority should be given to suspicion whatsoever according to Ibn Hazm.

4th opinion: It has authority in branches but not in fundamentals.

Ijtihad revoked by a similar *ijtihad*: The author discusses the meaning of revoking *ijtihad* by another *ijtihad* and the forms of *ijtihad* and things related to changing *ijtihad* by the judge before and after issuing the judgment.

The author discusses some actions of judges which are not considered as judgments and which other judges may change or reconsider.

The author divides faults by judges based on suspicion which revokes his judgments into three parts as follows:

No consideration is given to the faulty suspicion related to the judgment itself like contradicting the provisions of the Holy Qur’an.

No consideration is given to the faulty suspicion related to the parties of the judgment.

No consideration is given to the faulty suspicion related to the methods of substantiation of the judgment.



person,

The judge should not have rejected the previous statements of the litigant,

The claimant does not drop either contradictory statement, and

The claimant should not have given an acceptable justification of the contradiction he has expressed.

The author discusses the opinions of jurists on the elimination of contradiction

The author discusses the lawsuits excluded by jurists from the issue of contradiction including the claim of lineage, the claim of freedom and the claim of nursing.

pacitation and the reason of incapacitation.

Opinions of scholars on incapacitation and their proofs. The majority of jurists are of the opinion that an adult may be incapacitated except the Hanafites.

Incapacitating a weak minded person should be based on a judicial judgment.

Incapacitating a weak minded person fulfils several Sharee'ah, economic and social objectives.

Rules of Objection through Appeal

Na'il M. Yahyaa and Maazin M. Sabaah

Abstract

The present study discusses the following points:

Definition of Disciplining: It is light beating, rebuking and similar ways of disciplining by a person having authority over the disciplined person for the purpose of correction.

Disciplining is legitimate by the husband of his wife, the father and teacher of minors and the ruler of his subjects for the purpose of keeping order.

Differences between disciplining and similar terms like discretionary and textual punishments.

Means of Disciplining the Wife include good advice, abandoning sleeping with her in the same bed and light beating.

Conditions of disciplining of one's wife in the Islamic Sharee'ah.

Damaging the wife as a result of disciplining should be compensated for according to the preponderant opinion of scholars.

Conditions of disciplining of minors by their parents through beating

The two parents have the right to discipline their children even after the age of puberty according to the preponderant opinion of the Hanbalites.

Conditions of disciplining disciples by their teacher through beating

If the disciple is damaged as a result of legitimate disciplining, no compensation may be paid according to the preponderant opinion but is compensated if the teacher exceeds the limits of legitimate disciplining according to the unanimous opinion of scholars.

Conditions of disciplining by the ruler of his subjects.

It is a point of difference among scholars. The author is of the opinion that it is mandatory if reasons require the same. This is the opinion expressed by the Maalikites and the Hanbalites.

The damage caused by the disciplining carried out by the ruler is not compensated for according to the preponderant opinion of the majority of scholars.



Contradictions in Lawsuits in the Hanafite School

Hassan Tayseer Shammoot

Abstract

The present study discusses the following points:

Concept of contradictions in lawsuits: Statements by the two litigants or their lawyers before the judge contradicting the statements expressed in the lawsuit.

Types of contradictions in lawsuits depending on the person who contradicts his previous state-

ments.

First Type: contradiction from the claimant

Second Type: contradiction from the defendant

Third Type: contradictions between evidence and the claim statement. The author divides this type into two sections as follows:

Section One: contradiction between the claim and the evidence pro-

duced by the litigant, and Contradictions in the evidence itself.

For contradictions to be taken into consideration, the following should be fulfilled:

The statements may not be subject to agreement,

The contradictions are expressed in the court session,

The contradictions are expressed by the same

Stopping Persons of Weak Mind from Acting: Rulings and Sharee'ah Objectives

Hisahm Bohash bin Mubarak

Abstract

The present study discusses the following points:

Definition of a person of weak mind and incapacita-

tion.

Types of persons incapacitated.

Proofs supporting incapacitation of persons of

weak mind.

The reason of incapacitating persons of weak mind.

Affinity between inca-

