

ABSTRACTS

An Analytical Review of the Concept of the Witness's Justice

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Bearing witness (evidence) is one of the ways of proving the lawsuits and crimes and the witness is one of its significant elements. In view of the impact of bearing witness on proving lawsuits, crimes and issuance of verdicts regarding refund of property, subsistence of matrimony, its dissolution, murder, whipping, etc., the witness is required to have certain qualifications. One of these qualifications is justice. The evidence given by an immoral (*fāsiq*) person is not acceptable. The present research verifies various definitions of justice and regards it as limited to an inner state (rather than a faculty

which is contrary to the dominant view) which leads to avoidance of major sins and not insisting on minor sins. It also rejects the requirement of manliness in the definition of justice (contrary to the dominant view). Although the present discussion concerns justice of witness, the topics brought up here would serve as a theoretical and practical pathfinder for some other instances (such as prayer leaders, judges, etc.) where justice is a requirement.

Keywords: bearing witness, witness, justice, *fisq* (immorality), faculty, great sins, minor sins, insistence, manliness, *jarā* (disparaging), *ta'dīl* (declaring trustworthy).

Trinity from the Viewpoint of Ibn 'Arabī and 'Abd al-Karīm Jīlī

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Trinity is one of the major doctrines in Christian theology which has been openly rejected in the Holy Qur'an and the belief in divinity of Jesus (A.S.) regarded as *kufir* (blasphemy). On the other hand, Ibn 'Arabī and 'Abd al-Karīm Jīlī – from among the Muslim mystics – have referred to a kind of trinity in their writings. In this study, while reviewing the viewpoints of

each of these mystics in respect to divinity of Jesus (A.S.), referents of trinity in their writings are quoted and in conclusion the extent of difference of this trinity with the authorized and committed Trinity in Christianity (Council of Nicaea) is examined.

Keywords: perfect man, divinity, Trinity, Holy Ghost, eternal, blasphemy, consubstantial.

The Proviso of Trustworthy $\square amān$ in the *Imāmiya* Jurisprudence

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One of the examinable issues is the proviso of trustworthy $\square amān$ (surety), since in social conventions in many of the credit transactions trustworthy $\square amān$ is demanded. Thus, it is necessary for such proviso to be legally clarified. Legal views in this respect can be summed up in three categories: First, the view of invalidation of proviso and contract on the basis that the proviso is contrary to the requirements of the contract itself; second, the view of invalidation of proviso for the reason that the proviso of trustworthy $\square amān$ is contrary to the Qur’an and the *Sunna*; third, the view of the validity of the proviso, since there is no reason for the invalidation of such proviso and what is stated concerning the invalidation of the proviso or contract

due to the proviso is not reliable.

Keywords: *amān*, trustworthy, proviso, contract, damage.

Lien

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fulfillment of any contract undoubtedly creates commitments and duties as well as rights and privileges for the parties. Lien (*ḥaq al-ḥabs*) is among the rights that are often brought about in barter dealings. It may be conjectured at first glance that this is merely a judiciary term used in various juridical schools; whereas, it has since long been brought up and reviewed in detail among jurists (Fuqahā')

In this paper, besides extracting and codifying the main issues in relation to lien from among the written works of the jurists, which are scattered among the legal texts, the wrong notions such as the generalization of its theme to any abstention, its exclusiveness in sale contracts, and even the necessity of its being bilateral have been criticized and reviewed. The research pursued in this paper may resolve the ambiguity and brevity existing in the single article regarding lien,

and paves the ground for amending the law and possibly adding other articles to it in order to eliminate the existing insufficiencies.

Keywords: *ḥabs* (lien), right, *bay'* (sale), barter contract, *'ayn* (object), benefit, abstention, *qabḥ* (seizing), *iqbāḥ* (granting), surrender, *tamlīk* (transfer of property), *'iwaḥ* (equivalent), *mu'awwaḥ* (compensation).

Repentance and the Cancellation of Penalties

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Although repentance (*tawba*) is among the fundamentals of Islamic Criminal Law, which is considered for correction of criminals and offenders and even in some cases it elicits cancellation (amnesty) of the penalty, it is rarely observed to be employed for cancellation of penalty in courts and by judges. While examining the issue of *tawba* and stating the legal proofs in this respect, in the present article, we have dealt with the quality and the importance of using it in the cancellation of punishment of criminals and concluded that if due attention is paid to the criminals' repentance (of course, in respect to the

verses and traditions available on this issue), it will be noticed that many criminals would enjoy this privilege and the society would also witness a reduction in the number of prisoners and the execution of penalty for the offenders and their correction. We have further concluded that the current excuses concerning *tawba* are to be eliminated and that it should be accepted by mere verbal declaration, since there is no precondition for *tawba* except for its persistence. In the meantime, it is suggested that, in case of achievement of *tawba* and the cancellation of penalty, the bad record to be removed from the criminal's punitive register. It is also proposed that a center by the name of "Repentance Institution" to be established in the judicial system.

Keywords: repentance, punishment, law, penalty, *ḥadd* (legal penalty), *ta'zīr* (discretionary punishment).

An Inquiry into the Condition of Mutual Resemblance of Blood Ransom between Men and Women

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One of the significant issues concerning the Islamic Human Rights is the legal and juridical differences set between men and women. A man's blood ransom (*diyya*) is twice as much as that of a woman; and although a man is retaliated (*qiṣāṣ*) for murdering a woman, the *Imāmiya* jurists believe that in case of the *qiṣāṣ* of a man for the murder of a woman, the family of the woman must refund the extra amount, i.e., half of the blood money, to the family of the man. In contrast, all the *Sunnī* jurists and a few of the contemporary *Imāmiya* scholars – acquainted with jurisprudence – do not deem as necessary the refund of the surplus by the woman's family. In this paper, the claims and proofs of both parties are touched upon.

Keywords: *qiṣāṣ*, *diyya*, surplus of *diyya*, *qiṣāṣ* of a man for murder of a woman.

A Critical Review of the Article 637 of the Islamic Penalty Law

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Illicit relations and acts of immorality other than adultery are regarded as crime from the legal point of view and liable to discretionary punishment (*ta'zīr*). In jurisprudence and law, no comprehensive and exclusive definition is given for these two issues. The nature and definition of the crime of “illicit relation” is different from that of “immoral act other than adultery”. The former can be defined as any relation between a man and a woman with the intention of pleasure and the latter as any physical contact between stranger (unmarried) man and woman for the intention of pleasure without engaging in intercourse. Legislators have not specified the extent of discretionary punishment for the above two cases but the number of lashes is to be different in respect to the difference in nature of the two. In this paper, the issues “illicit relation” and “immoral act other than adultery” are reviewed from the two legal and juristic points of view.

Keywords: illicit relation, immoral act, the four proofs, legal basis, tangible basis, intangible basis.