

## ABSTRACTS

### **Condition of Loan for a Renting Contract**

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Condition of loan for a renting contract” is a part of transactions common among people; namely, if someone wants to rent a house, they rent it for lower than its real value by paying an amount in advance as “loan”. The question raised here is whether the above procedure which is proposed as a substitute for “condition of mortgage for a renting contract” is legally sound? Would not such conditioning imply usury? What is discussed in this paper is an answer to the above question and inquiring into the legitimacy of “condition of loan for a renting contract”.

**Keyword:** loan, renting contract, donative (*ma‘ābātī*) transactions, usury, formal transaction, illegitimate intention.

### **Legal Principles and Rulings Concerning Environment I‘sān**

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Development of human Communities and city dwelling brought into attention such issues as destruction and pollution of environment. In respect to the great importance of this trend in the life of modern man, the present paper intends to make a close inquiry into the position of religious law (*sharī'a*) in regard to the changes occurring in environment with reference to the Book, the Sunna, and rational proof. Similarly, it is attempted to elucidate all the responsibilities originating from damages and destruction to the environment.

**Keywords:** legal principles, expediential good and evil, destruction, environment, liability.

### **A Study of the Impasse Existing in the Executive Structure of the Theory of A'lamīyyat**

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The theory of imitation of *a'lam* (the most learned Jurisconsult) is apparently a solution to the dilemma of what should be done in case of disagreement about a certain issue among several contemporaneous Jurists.

The focal point of this paper, after reviewing some opinions existing on this issue, is to bring up the question as to whether this theory – even if it is theoretically well-founded and accredited – may have suitable executive structure or not. Thus, detailed mentioning of the two parties is avoided and it is attempted to indicate that despite the primary assumption, the theory of *a'lamīyyat* is not explicit enough in “elucidating the concept” and “determining the referent”. The ending part of the paper is dedicated to the question that if it is true, then what the solution would be.

**Keyword:** imitation of the *a'lam*, *a'lamīyyat*, the most learned *mujtahid*.

### **A Deliberation on the Legitimacy of Civil Lapse of Time**

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Civil lapse of time is a judicial issue covering the legal process up until passing a verdict. It is also one of the important discourses of civil procedure.

In the Islamic Republic of Iran's statutory law, the Guardianship Council regards the lapse of time in the civil law as generally contradictory to legal standards. "General" lapse of time, i.e., respites and deadlines, which are of equal nature to the "specific" lapse of time, are accepted in the laws approved by the Guardianship Council.

There are narrations in the Imāmī tradition texts which altogether can serve as a basis for the acceptance of the principle of lapse of time. The legitimacy of civil lapse of time can be accepted through such tenets and principles as aversion (*i'rā'*), relinquishment (*isqā'*) and remission of debt (*ibrā'*), occupancy (*ḥiyāzat*), state command, and the rational principle of demanding for preserving social system.

**Keywords:** civil lapse of time, principle of aversion, principle of occupancy, state command, principle of preserving social system.

### **From Pertinence to Perception of Jurisprudence: Ways toward Comprehending the Objectives of Religious Law**

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That the Lawmaker has certain objective or objectives in legislation of ordinances is obvious to all; it is equally evident that the Lawmaker's purpose is to safeguard people's interests. Despite explicitness of this reality, when there has been disagreement concerning the validity of expedience among schools of thought, the conflict itself originated from the question as to what object or objects this expedience and that objective distinctly – and as a minor term – apply to. Then, the main question concerning the objectives of religious law (*sharī'a*) is neither validity (*ḥujjiyyat*) nor non-validity; rather, it is whether there is a

distinct mechanism (or mechanisms) for achieving this objective and that expedience or not.

The author has attempted, in an inductive search rather than through a deductive approach – which basically resolves no dilemma – to find some clues to certain mechanisms leading to grasping the objectives of *sharī'a* and to display their traces in the Sunnī and Shī'ī jurisprudence. These mechanisms mainly appear in such methods as *munasibat* (pertinence), *sabr wa taqsīm* (fathoming and division), *taqīq wa takhrīj-i manā* (investigation and extraction of criteria), and *madhāq-i fiqh* (perception of jurisprudence). Given the explicit homogeneity that the author has found among such terms as *munasibat*, *sabr wa taqsīm*, and *madhāq-i fiqh*, he has proceeded to examine these mechanisms. It is hoped that this type of inquiry is a prelude to the justification of inductive surveys instead of deductive reasoning and an introductory step in turning to *madhāq-i fiqh* as an efficient rule in drawing inferences.

**Keywords:** expedience, purposes of *sharī'a*, *sabr wa taqsīm*, *munasibat*, *madhāq-i fiqh*.

### **Assessment of Theoretical Foundations and Articles of Universal Declaration of Human Rights with the Qur'anic Fundamentals and Doctrines**

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Human Rights represent the universal cause of justice and a society in which every human being may enjoy a decent life together with peace, security, and welfare. Declarations and documents that have mainly been formulated after the World War II are based on the same creed. The most important document of human rights is the 1948 Universal Declaration of Human Rights (UDHR) which is known as the cornerstone of the modern man's human rights. There has been much talk concerning the relation of Islam to the above Declaration. Some believe in their being contradictory and divergent; others regard them as harmonious and convergent. What is indisputable, however, is the existence of similarities and uniformities between many of articles of this Declaration and the Islamic Texts. The Holy Qur'an, as the initial

source of Islamic doctrines and laws, essentially contains many of the articles of UDHR; although incongruous with it in fundamentals and principles.

**Keyword:** right, human rights, universal declaration, the Qur'an, jurisprudence, rulings

### **Rashīd al-Dīn Faḡl Allāh and the Idea of Prosperity in the Ilkhanid Kingdom**

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Rashīd al-Dīn Faḡl Allāh Hamadānī (645-718/1247-1318) was among the intellectual viziers of Iran in the Islamic era. He was able to implement socio-economic reformations in the reign of Ghazan Khan and Uljaitu and opened a bright chapter in the Post-Mongol Invasion Iran by virtue of his lofty ideas and far-sightedness along with his widespread appreciation of scientific and practical experiences of the politicians of Islamic and pre-Islamic era. Historians, both present and past, have compared him to great pre-Islamic politicians of Persia such as Achaemenid Darius, Sasanid Anushirvan, and Buzurgmehr b. Bakhtigan, for his special attention to prosperity and development. Contrary to other Iranian viziers of Islamic era – such as Bal'amīs, Jayhānīs, ḡāḡib b. 'Ibād, Khawja Niḡām al-Mulk, etc. – Rashīd al-Dīn Faḡl Allāh had the advantage of competency in executive management in addition to his enjoyment of scientific excellence. Being aware of the destructions and massacres resulted from the Mongol invasion and its aftermaths, he endeavored like an adept psychologist to implement his reformist plans in various parts of the society without being entrapped in religious and ethnic fanaticism (Qāshānī, 95). He managed to inspire new hope in life into the Iranian society by providing appropriate projects for improving cities and villages, prospering agriculture, and developing roads. In this paper, Rashīd al-Dīn's initiative is studied and analyzed as an underlying idea and macro-developmental planning reflected in his letters.

**Keywords:** Rashīd al-Dīn Faḡl Allāh, reforms, prosperity, incidents of Mogul Ilkhanids.

