

Analyzing the Practice of International Organizations in Law Making and Development of Concepts of Women's Rights

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Abstract

Women's rights is one of the important issues in the framework of international human rights; Many international treaties and other documents has been concluded in the field of women's human rights and many international organizations and institutions has had activity in international community so far. International organizations have been applied to monitor on insurance of women's human rights by several functions all over the world and specially their jurisdiction to interpretation of International norms is a key element in development of women's concepts. Some of the important human rights concepts and examples are "non-discrimination", "gender equality", "the right to health", "gender stereotypes" and "sexual and reproductive rights". With respect to the membership of Islamic Republic of Iran in the international treaties including the International Covenant of Economic, Social and Cultural Rights (ICESCR) and the International Covenant of Civil and Political Rights (ICCPR), awareness of the recent general comments the international bodies is advantageous to decide effectively in international relations.

Key words: Women, Human Rights, Non-Discrimination, Equality, Right to Health.

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Methodology of Farabi in House Planning and its Influence on life Style

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Abstract

Cognitive principles and non-cognitive backgrounds restate the formation method and basic methodology of theories and notions of scholars. Farabi is the first Moslem scholar that referred to planning of house and following the Aristotle, have introduced the housing issues as introduction of policy issues; but he has not proceeded to details, cognitive basics and house planning method. This study aims at clarifying the cognitive methodology of Farabi in house planning, and answer to this question that the Farabi' house reasoning is consist on which methodology? House reasoning of Farabi (house planning) introduced the basic methodology using cognitive basics and methods including appearance -orientation, existing - orientation, end -orientation, civil-orientation, wisdom-orientation, inherent-orientation, sense-orientation, religious-orientation, unification -orientation and welfare-orientation , that provides the welfare of material and future life. Also, this methodology , in norms domains , introduce relevant principles and in the area of relationship and family behaviors, introduces the moderating , paramount-seeking ,kindness and justice-orientation approach for house planning and modification of life style. This paper analyses the cognitive methodology of Farabi in house planning and refer to its influence on life style.

Key words: Methodology, House Planning, Practical Reasoning, Life Style, Farabi.

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Studying of the Effect of Refusal of a Woman to Fulfill her Marital Duties on her Delegation Power of Attorney to Divorce) in Status of Husband Remarriage)

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Abstract

Marriage contract would be conditioned by woman that man could not does remarriage while their marriage, and if he did so, she would have delegation power of attorney, and she could be sprated by proving this poviso in the court and its decision. There have been different ideas about divorce application by women on this matter in the courts and doctrine. Some judge bleive that if man remarriage is caused by of refusal of a woman to fulfill her marital duties and man is permitted to remarriage by proving this matter, she will not entitle to have this power; but most of courts believe that remarriage without woman consent, itself, causes to use of this power. Diverse theories on this matter caused to choose the first idea by general council of justices of supreme court. Thus this questions have been raised that whether the chosen theory is couple whith legal and jurisprudential terms for proviso? And so whther parties' wills to determine the codition limits are according to supreme court's interpretation? Although this decision is defendable in a superficial glance, studying the decision's bases and Islamic jurisprudential texts show its fundamental problems. In this paper, this matter is described in detail.

Key words: Uniform Judicial Precedent, Obedience, Remarriage, Delegation Power (of Attorney) to Divorce, Disobedience (Refusal of a Woman to Fulfill Her Marital Duties).

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A Critical Review of Arguments in Favor of Requirement of Criminal Adulthood from Views of Fiqh and Law

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Abstract

In recent years, some scholars in the field of penal law has propounded the term “criminal adulthood” as regards criminal responsibility issues. As far as the writings of Shiite faqihs are concerned, the concept of adulthood mostly refers to legal issues concerning the capacity of satisfaction. Although the term adulthood has an essential role in the capacity of satisfaction in transactions and in its absence transactions are null and void, inclusion of adulthood, along with maturity, as a condition for religious responsibility and criminal responsibility requires religious grounds. Although apparently it seems that such view has no ground in the Quran and hadiths and that it is not supported by early faqihs, some faqihs and jurists believe that there is a definition of adulthood as “sound mind and intellectual ability”, which as a general term applies to criminal issues. This research considers the arguments of advocates of criminal adulthoods to be insufficient and critically reviews their arguments.

Keywords: Age of Criminal Responsibility, Criminal Adulthood, Age of Maturity, Reason.

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Analysis of Refusal to Register Temporary Marriage Crime and Explanation its Challenges

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Abstract

The intervention of criminal law in family scope as basic institution of society is undeniable. The basic reason of this intervention is to keeping family stability and preventing its dissolution. Nevertheless, in Iran law system there are some matters that are not meaning family regarding to its common concept but are entitled to criminal protection. Such as Temporary marriage which means a kind of marriage that conclude with specified dowry and certain time. The main aim of concluding this marriage is sexual enjoyment not reproduction. However, the eventuality of child's birth is enough for intervention of criminal law by forcing husband to register the temporary marriage. For the first time after Islamic revolution of Iran, Family Protection Act forcing temporary marriage registration in three objects that are pregnancy of wife and spouse's independent agreement or in marriage contract agreement. So husband's refusal to register the marriage in this cases has criminal punishment. This first experience is faces to some challenges which studying them is the main prophecy of this paper.

5

Keywords: Temporary Marriage, Marriage Registration, Refusal to Marriage Register, Family Concept, Family Protection.

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Prohibition of Women's Social Presence Narrations from a Fiqh Point of View

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Abstract

Women's behavior model in the family and society is a controversial topic in Islamic Fiqh. Some believe that women must sit at home and be engaged in maternity responsibilities and that their presence in society is only allowed in necessary cases. Others criticize this approach and consider social presence of women as their legitimate right. Disagreement on this issue arises from the apparent contradiction in Qur'anic and Sunnah (narrative) evidence on the issue. Several evidence of Quran and Sunnah implies the legitimacy of women's social presence. Despite them, we also have several narrations about the need for a female be shut in at home. Many great fiqh scholars considered the latter narrations to mean that sitting at home being desirable not a must, to reconcile between the two category of evidence on the issue and thus they consider home sitting as the desired (Mustahab) model of behavior for Muslim women. The author's hypothesis is that the primary Hukm for Muslim women is permissibility of her social presence and sitting at home is not preferred in normal situations. Based on this hypothesis, narrations implying sitting at home of a woman observe on the secondary directions. While investigating the consequences of home-sitting of a woman grown in the modern society, this paper criticizes the ethical analysis of narratives indicating women's home-sitting and explains the secondary nature of the home-sitting Hukm.

Keywords: Home-sitting, Social Presence, Islamic Fiqh.

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