

A comparative study of Iddah* in Iran and other countries

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Abstract

Iddah is a jurisprudential and legal issue behind which there is specific goal. During Iddah, divorce Iddah or death Iddah, women are not allowed to remarry. In all Islamic denominations, Iddah is an undeniable principle though there are minor disagreements with respect to the related verdicts. After doing a comparative study of the laws of Iddah in Iran and some other Islamic and non-Islamic countries, the paper tries to answer the question whether there is Iddah in the laws of European and American countries. The answer is no, but to prevent problems of genealogical mixture in these countries, provisions such as lengthening the hearing sessions, the prohibition of body contact during the procedure of divorcing, and the couples being banned from remarrying as determined in the divorce verdict have been implemented which serve the purpose of Iddah.

Keywords

Iddah, divorce, death Iddah, permanent marriage, temporary marriage, dissolution of marriage

*- The period a divorced woman should wait before remarrying.

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A legal analysis of affordable marriage gift or claimable marriage gift

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Abstract

According to instruction number 153958/34/ dated Bahman, 7th, 1385 (SH), issued by Documents and Estates Registration Organization, the heads of Marriage Registration Offices have to explain the contents of article 2 of marriage contract conditions related to affordable and claimable marriage gifts to the couple so that they chose of the two types of marriage gifts. In this way, the assumption of the neutrality of the man, which can be found the article 2 of the law of the implementation of financial sentences in relation with marriage gift, changes and, as a result, the number of marriage gift prisoners is reduced. It seems that dividing this condition into two, i.e. affordable or claimable, in the instruction is illogical and results in problems to collect marriage gift, and increases the possibility of man's loss. It seems that dividing marriage gifts into affordable and claimable in the instruction of the Registration Organization is illogical and makes the collection of marriage gift impossible. This paper studies these two conditions from a jurisprudential and legal approach and shows that this instruction is against the spirit of clause 3 of article 148 of Civil Injunction Application Law ratified in 1977 and article 58 of Bankruptcy Liquidation Law of 1939. In addition, the impossibility of issuing an execution command and liquidation of marriage gift through the application of registration because of the dependency of marriage gift to affordability is an unjustifiable limitation for women.

Keywords

debt, term, affordable marriage gift, claimable marriage gift, returnable debt

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Women and children, the victims of the terrorist MKO

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Abstract

Mojahendin Khalgh Organization [MKO] was established in 1965 by young intellectuals to overthrow the Shah's regime. However, after the Islamic revolution it stood against the Islamic revolution and its members left Iran in 1981 and joined the opposition abroad. Masood Rajavi the self-appointed leader of the group has now chosen the commanders of the groups from among the women. MKO has secretly imposed vast ideological divorces on its members in 1989, i.e. all members had to renounce their right to marry and in case of being married they had to separate from their spouse with hatred. This compulsory divorce resulted in various problems for children, and men and women loyal to the organization. Based on a criminological approach, this paper studies the sectarian opinions of this terrorist organization concerning family foundation, the explicit breach of women and children rights, the ideological divorce and its aftermaths, and penal responsibilities of the leaders of this sect in the face of national and international courts. Finally, suggestions have been proposed to support the children and women who are the victims of terroristic goals of MKO and the fact that the Iranian government can legally sue it in international courts.

Keywords

victims of terrorism, women's and children's rights, MKO, family, ideological divorce

Semantic relationships among the Quranic verses related to divorce:

An Osuli-Fiqhi, interpretive, and linguistic approach

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Abstract

Quranic verses have vast semantic relationships, but due to the difference in goals and methods, and the differentiations of various sciences only some dimensions of Quranic verses have been studied. To have an overall understanding of the issue of divorce in Quran, one should adopt an approach which studies all the implicit and explicit semantic relationships among the verses. After explaining the semantic interactions among verses according to Fiqh and Osul, Tafsir, and linguistics, the paper tries to study categories such as the specific and the general, the absolute and the limited, the abrogating and the abrogated, the brief and the fully explained, the relationships between verses and their occasion of revelation, different stylistic relationship, the unity of verses, and conceptual blending in verses. In addition, some samples are also mentioned in each case. Thus, there is apparently a trans-jurisprudential necessity to study divorce and to implement and interpret the related laws.

Keywords

divorce, principles of jurisprudence, tafsir, linguistics, semantic relationship, style relationships

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Divorce and legal vacuums of djudication

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Abstract

It is natural for couples to have disagreements because of personal differences, but this natural disagreement should not be so much as to shake the foundation of family. Thus, as Quran recommends us in chapter Nisa' [women], after the emergence of the symptoms of disagreement, a family peace court should be formed to solve the problem. In the Iranian law, this is called jurisdiction of divorce to which the law maker should pay attention although there are deficiencies in the law. This paper deals with the foundations of jurisdiction, the development of law-making in jurisdiction, a study of the present law of jurisdiction, and an elaboration of legal impairments in the Iranian law. Then Iran is compared to Egypt, Iraq, and Syria in this respect. Finally, the paper suggests that the judiciary establish a sufficient number of branches for jurisdiction, along with family courts, composed of legal experts, family counselors, and psychologists to help courts to solve family disagreements.

Keywords

arbitrator, divorce, khal', mubara'a, discord, solving disunion, compromising divorce

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Divorce and the Family Support Bill: With an emphasis on the prevention of divorce

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Abstract:

Family is an important social foundation whose changes affect on social changes. Thus, governments should specifically pay attention to it. Divorce is a factor influencing on family and has legal, social, cultural, and economic aftermaths. As a result, the Iranian judiciary presented a family support bill to the parliament. This bill, in addition to solving the impairments of the previous law, contains new suggestions to strengthen the family foundation. This paper elaborates on some articles of the bill, specifically the articles for preventing and implementing divorce, articles such as the qualification of the family court, the expense of trial and bill. Finally, the paper proposes some suggestions in this regard, as well.

Keywords

marriage, divorce, family, preventing divorce, family support bill, family court

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A legal approach to the provision of alimony for preventing divorce

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Abstract

Economic problem is an important factor of divorce. Man is responsible for affording life expense and this is expressed through alimony. The condition of the payment of alimony to woman is her compliance to the man. But, what is the range of responsibility? How many of divorces are due to the lack of the payment of alimony? What should be done to stop these kinds of divorces? To answer these questions, this paper refers to the concept of alimony, the needs of modern societies with respect to the instances of alimony, the relationship between alimony and divorce, the factors influential on the non-payment of alimony, the classification of economically unable groups, the possibility providing these groups with insurance help, and a comparative study in relation to Egypt and Tunisia. Finally, the paper proposes a suggestion for the improvement of “law for securing deserted women and children” to reduce the rate of divorces arising out of the non-payment of alimony.

Keywords

alimony, divorce, compliance, financial security, social security, women

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