

Gradual criminal responsibility of girls

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Abstract

Criminal responsibility age has always been a controversial issue in criminal law. One of such controversies is graduality or suddenness of criminal responsibility. According to most Shiite jurisprudents, criminal responsibility age in Islamic penal law is based on religious maturity age, i.e. 9 for girls and 15 for boys. Now, a number of questions arise here: Is founding the basis of criminal responsibility age on religious maturity correct? Is the age of religious maturity a religious matter or a natural one? Is it gradual or does it happen suddenly? This paper studies the criminal responsibility age of the girls from different aspects, evaluates the existing related laws, suggests that this age is gradual and varies according to girls' rational growth.

Keywords

girl, gradual criminal responsibility, maturity, growth

Legal revision of clause 1043 of Iranian civil law

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Abstract

Various opinions are expressed about the impossibility of the marriage of virgin mature girl without the permission of her compulsory custodian. Clause 1043 of Iranian civil law, too, clearly specifies the necessity of the custodian's permission for a virgin girl's marriage. Some jurists believe in the differentiation of temporary and permanent marriages, many are cautious in this regard, and other jurists, including some the present Marja's, do not consider the permission of the father for the marriage of girl as necessary. Thus, this clause is against the views of some Shiite jurists who are Marja's for many people. Now, if a girl who follows such Marja's gets married with the permission of her father, the law considers her marriage as unlawful. The paper is to study this problem. Thus, the paper studies the views of previous and contemporary jurists, compares the views of jurists and Marja's with this clause, and explains the legal and criminal implications of following the views of such Marja's which are against this clause. At the end, the paper proposes legal suggestions to solve such problems.

Keywords

virgin girl, marriage, permission of father, Wellaya, religious growth

Women trafficking: A crime against women's dignity

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Abstract

Women trafficking as a crime does not have a long legal history in Iran. It goes back to the Law for Campaign against Human Trafficking ratified in 2004. However, this crime challenges us in two ways: trivialization of the blame and willingness of the women to be trafficked. Willingness for being trafficked leads both the society and the criminals not to consider trafficking as a blamable behavior. Since human trafficking usually takes place in countries with poor economic or security conditions, being trafficked may be considered as a path to freedom. As a result, although legal banishment of trafficking is necessary, elimination of women trafficking is dependent on the provision of all-inclusive facilities for such women and laws for preventing and prosecuting it.

Keywords

women trafficking, Law for Campaign against Human Trafficking, international documents, prevention, prosecution.

Blood money differentials and authority limit of guardian of the murdered person after the intentional murder of a woman

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Abstract

According to Imamite Fiqh, if a man intentionally kills a woman, the legal guardian of the woman can pay half of the blood money of the man and ask for a death sentence for him. With regard to the fact that blood money is compromisable and needs the agreement of the murder, sometimes this verdict becomes practically problematic because sometimes the guardian may not be able to afford to pay the blood money differentials and/or the murderer is not willing to compromise. As a result, the woman's murder remains unretaliated. There are a number of solutions to this problem including considering an equal amount of blood money for men and women, paying the women's blood money by government [Beyt al-Mal], not asking for the murderer's consent. Critically studying the first two solutions, this paper supports the third one.

Keywords

retaliation, blood money differentials, Beyt al-Mal, intentional murder, guardian of the murdered person

The role of gender in the punishment of a criminal

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Abstract

Basically, gender does not result in differences of punishment, but in Islamic legal system, and as a result in the current regulations in the Islamic republic of Iran, one can see such differences. Such differences are of three types: differences in the type and degree of punishment, differences in exemption from punishment, and differences in the execution of punishment. Are these differences at odd with individuals' equality before law and, as a result, unjust? The paper tries to answer the question on the basis of rational arguments and familiar principles and concepts in penal law. The research shows there are differences between men and women in cases of adultery, homosexuality, pimping, and apostasy. In addition, there are allowances for women in executing punishments. The paper, finally, elaborates on legal vacuums existing in such cases.

Keywords

gender, woman, man, crime, punishment, penal law

Prohibition of marrying a married woman and a woman in Iddah

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Abstract

There are various traditions and rational arguments according to which marrying a married woman or a woman in Iddah is not permissible whether temporarily or permanently. Marrying a married woman or a woman in Iddah can be classified into different groups on the basis of being or not being aware of it and the type of verdict. The verdict for this type of marriage, in case the man knew that the woman was previously married, is permanent unlawfulness [hormat], and in case he did not know and did not have intercourse with her the marriage is invalid. If the man is aware of the woman's previous marriage, their child will be considered as the child of adultery [walad al-zena]; if the man is not aware, the child will be considered as the one with doubtful origin. This paper studies arguments for the prohibition of such marriage and verdicts for various types of such marriage on the basis of religious arguments and the existing laws. The paper also suggests amendments for three related clauses in civil law and two clauses in Islamic penal law in order to remove ambiguities.

Keywords

Iddah, married woman, marriage contract, divorce, punishment, permanent unlawfulness

Iran's criminal policies against prostitution

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Abstract

Prostitution is a subject matter in many branches of human sciences. The legal study of the phenomenon may be done in two respects: why this behavior is considered as a crime, studying the three elements of the crime. Interpretations of the principle of legal support and of legal ethics are the basis of its being considered as a crime. This crime has a habitual nature and it happens only if it is proved that the criminal has committed it. In jurisprudential texts, the term 'famous for adultery' is the closest concept to this crime for which there are various verdicts. Therefore, since prostitution is a specific crime, legislators should take measures to remove the legal vacuums on the basis of jurisprudential sources. Finally, the paper proposes suggestions to fill the legal gaps in this regard.

Keywords

prostitution, famous for adultery, habitual crime, legal vacuum.