

● **The principle of "negation of oppression"**

○ **Presented By: Seifollah Sarami Commentary\* By: Hassan Ali' Aliakbarian\*\***

The principle of "negation of oppression" was the subject of a scientific meeting held at the Institute of Meftah-e Keramat, which was raised by Professor Sarami and was criticized by Professor Aliakbarian. In that meeting, due to the belief of the presenter of the discussion to the difference between 'justice' and 'negation of oppression' in the context of inference, instead of speaking about the principle of justice, the principle of negation of oppression has been deliberated. And the result was that, firstly, one can not infer and prove the Sharia law based on rational discretion, and secondly: in the jurisprudential principle of negation of oppression, the rational recognition of oppression does not have validity in comparison to the principle itself.

**Keywords**

Jurisprudential rule, Negation of oppression, Justice, the Rule of La-Haraj (denegation of hardships), the Rule of La Darar (denegation of harmfulness).

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● **Investigation of the history of the formation of new subdivisions in the early Shiite school of Fiqh; A case study about the relationship between "Noshooz" (disobedience) and Alimony in the discussion of marriage**

○ **By: Seyed Mohammad Kazim Madadi Almousavi\***

One of the most important periods in the history of Shiite school of Islamic jurisprudence is the end of "narrative jurisprudence" and the beginning of "inferential jurisprudence", which has greatly influenced the whole of Shia Fiqh. With the inception of novel inferences, new subdivisions added to the Islamic jurisprudence, which brought innovative principles. Although the origin of some of these new frameworks can be analyzed historically, but an important part of the effects and consequences of this period has remained subtle to this day. One of the consequences of the lack of a thorough analysis of the conditions of this new era is the inability to discover the factors behind the emergence of these subdivisions and the absence of a comprehensive system for their analysis. Of the most important examples of this phenomenon is a situation in which a variable has been added to one of the issues in one of the eras of inferential jurisprudence. Instantaneously by entering the issue, it affects all of its subordinate issues. And with the passage of time, not only will it become one of the basis of the issue in question, but itself is one of the underlying principles for the inference of other subdivisions and even other issues.

In this paper, these developments have been examined through the analysis of the components and investigation of the evolution of a jurisprudential subdivision from formation to progression. And a picture of its consequences in Shia jurisprudence will be demonstrated. The survey is based on the discussion of "necessity of the woman's alimony on husband", which has been subject to complexity and interference through various developments in different stages which makes it a decent example for reviewing these new criteria. With this review, the role of the historical course of inferential jurisprudence and the attitude of the Prophet's companions in shaping this complexity and the main causes of ambiguities in such subdivisions will be illuminated.

**Keywords**

Alimony, Noshooz (disobedience), Allameh Helli, Mohaqqueq Helli, Shia Jurisprudence.

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● **Rebellion (Bagh'i) against Islamic state: causing Kufr or "Fisq"?**

○ **By: Javad Hoseini\***

"Bagh'i" or departing from the obedience of the Imam or the Islamic state in Fiqh and Islamic theology leads to some consequences including whether Bagh'i causes Kufr (disbelief) or "Fisq" (violating Islamic law). Among the scholars of Shia Imamiyyah, there are two theories regarding the rebellion against the Imam. But there has been no debate about the departing from the obedience of the Islamic state at the time of occultation of twelfth Shi'a Imam. This paper undertakes an analytical- jurisprudential study of the problem. By quoting, criticizing and investigating the views of the Muslim jurists and the reasons of each group on this issue, we conclude that departing from the obedience of the Imam does not lead to Kufr; let alone withdrawing the obedience of an Islamic state in the era of occultation. But since the rebellion against the infallible Imam knowingly and deliberately is considered a major sin in Islam, it causes Fisq and deviance from the circle of justice. Bagh'i and departing from the obedience of the Islamic state also leads to Fisq in some cases.

**Keywords**

Bagh'i, Islamic ruler, Islamic state, Kufr, Fisq.

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● **Understanding the concept of underestimating, spoiling and neglecting prayer**

○ **By: Seyed Mahmoud Tayyib Hosseini\* and Maryam Julaei\*\***

One of the serious damages that exists in the field of the explanation of religious teachings, that occasionally causes distortion in the teachings of religion, is the superficial understanding of some of the vocabulary in the Hadith. One of these cases is the vocabulary used about prayer; words such as underestimating, spoiling and neglecting prayer. In the present article the perception of many writers, which has become popular in the society that underestimating, spoiling and neglecting prayer means missing the time for prayer and leaving the prayer until the time is over and not participating in congregational prayer, has been criticized and proved that, first, although these terms are conceptually different, but they are synonymous in terms and are different interpretations of the truth. Second, according to the methodology of the Hadith including these terms, underestimating and spoiling prayer is prohibited and recognized as a major sin: Al-Kabirah in Islam. While leaving the rituals and preparations for prayer, missing the time for prayer and failing to participate in congregational prayer are considered Mustahabb (recommended and not obligatory) and can not apply to these three words. Thus, the purpose of the three terms mentioned above is missing the time for prayer, neglecting prayer and leaving the prayer until the time is over. Third, with regard to the context of stating Hadith, one can infer a special meaning from the preferred concept of these terms that the instances can be generalized to any kind of shortcoming that spoils the truth and spirit of prayer.

**Keywords**

Underestimating the prayer, Spoiling the prayer, Neglecting the prayer, Leaving the prayer.

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● **The evolution of "Fatwa Fiqh" (Islamic Jurisprudence)**

○ **By: Reza Mokhtari\***

Islamic Fatwa jurisprudence, just like Islamic argumentative jurisprudence, has gone through an evolutionary period. Evolution from the perspective of expansion of ancillaries, classification of Islamic jurisprudence, language of explanation of Fiqh, application of new terms and writing thesis in the field are examples of the evolution of Fatwa Fiqh. The evolution of writing thesis in terms of style and content in accordance with the needs and circumstances of the time is a necessity that is dealt with in this paper. This discussion was first presented at a scientific meeting.

**Keywords**

Resalah Amaliyah (treatise on practical law), Taudheeh Al-Masail (collections of juridical edicts or clarifications of questions), Shia Fiqh, Evolution, Shia Fuqaha (plural form of Faqeeh; an Islamic jurist or an expert in Fiqh).

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● **Islam and "kufir" (Unbelief) in Fiqh (Islamic Jurisprudence)**

○ **By: MohammadReza Ghafourian\***

The term 'Islam and "Kufir" (disbelief)' is very important in many fields of Islamic culture from theology to interpretation, ethics, mysticism and jurisprudence. This term has a significant difference in the meaning and criterion in these fields. In Fiqh (Islamic jurisprudence), Islam and Kufir are tied to accepting the monotheism and the mission of the Prophet of Islam or the recite of the creed. Islamic rules such as purification, marriage license, inheritance, and the like, all of which are for "Muslims," are only denied to those who refute one or both of the principles of the reciting creed. Denial of necessary, and so on, is not an independent reason for renunciation of Islam by a Muslim, unless he/she clearly reveals the denial of the reciting creed, then it will cause apostasy. "Seerah of Ahlul Bayt", whether during the era of "BASTE-YAD" (the de facto guardianship of Imam (a.s) or his deputy) or otherwise, confirms that he/she was considered as Muslim by reciting the creed. Although this declaration was accompanied by an esoteric denial or doubt. Semantic differentiation of rules of Islam and Kufir in various fields, especially Islamic jurisprudence with other areas is very important and necessary. This paper seeks to examine the issue with this perspective.

**Keywords**

Islam, Kufir, Reciting creeds, Denial of necessary, Islamic jurisprudence.

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## ABSTRACTS

Trans. By Mahdi Gholami

- **The Islamic jurisprudential principle of "Nafye al-sabil"; provisions and reasons<sup>1</sup>**
- **By: Yousef Saanei\***

The Islamic jurisprudential principle of "Nafye al-sabil"; which signifies the legal rejection of any dominion or rule by the faithless/unbelievers over the faithful/believers (Muslims), has been cited by Muslim jurists in various jurisprudential issues. In this sense, all Muslims have to be honored and dignified, thus not being subjected to the dominion of the faithless and their abasement. This does not mean that one is not allowed to establish relations with them, but that one should avoid having any relation that may result in the acceptance of their rule and dominion over the Muslims. "The lack of permission for the transmission of the Quran" and "the lack of permission to surrender Muslims to the unbelievers" are examples of these Islamic jurisprudential rules. In this paper, along with presenting and scrutinizing well-known Islamic jurisprudential views, concept and meaning of this rule based on the Quran; this verse: (And never will God grant to the unbelievers a way (to triumphs) over the believers) and the words "unbelievers" and "believers" has been discussed. As a result, this paper concludes that the domination of an individual(s) who disbelieve knowingly and deliberately, over Muslims is strongly rejected. Therefore, the transmission of the Qur'an to nonbelievers who often disbelieve in ignorance and distrust Islamic teachings unknowingly and unintentionally is permitted.

### Keywords

Disbeliever, Believer, Nafye al-sabil (Rejection of the Faithless Dominion over the Faithful), the Transmission of the Quran.

1. An example of a specialized Islamic jurisprudential discussion and necessary for a Muslim society that honored teacher Ayatollah Yousef Saanei presented in his dars e khaarij (the highest level of seminary studies and advanced course in Islamic jurisprudence) – KETABOL-BEY' (book on trade) and KETABOL-Qaza (Book on Verdict) compiled for the use of interested readers. A precise scrutiny in the understanding of the Quran verses and narrations, in the context of the inference of the Shari 'a law, is one of the features of the special courses of dars e khaarij. Offering this paper to the readers of the journal, we apologize for any ambiguities and deficiencies that may have occurred in setting up and arranging this presentation to the readers.

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