

Nas, especially the applicability of crime-covering principles in issues in which the pure rights of God is considered, the validity of these evidences in this type of crimes is facing with restriction, and these evidences can be used only for innocence and not for prove.

Keywords

Proofs of Crime, Forensic Medicine Surveys, Circumstantial Evidence, Presumptions, Judge Knowledge

Validity of Forensic Medicine Survey in Proof of Crime in Shiite Jurisprudence

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Abstract

Today, scientific and technological advancements have affected all fields including the means and tools of discovering and proving crimes. Therefore, in this era, which is named the era of "scientific evidences", even the traditional well-accepted proofs such as witnessing and confession are in some cases evaluated by modern scientific proofs. The so-called scientific evidences include a wide variety of scientific and technical actions, experimentations and explorations that is in charge of the most of case studies in criminalities of forensic medicine.

On the other hand, regarding criminals' use of scientific and technical methods in committing crimes and the inefficiency of using mere traditional proofs to counter them, we should authorize juridical systems to equip themselves with various types of scientific methods to counter crime, among them making use of scientific proving methods. Thus, we should investigate the validity of these evidences, especially Proofs from rigorous experiments of forensic medicine, from Shiite Jurisprudence and criminal law's point of view, particularly modern proving documents. In this study, the validity of these documents is dealt with by explaining the concept and the boundaries of judges' knowledge. We concluded that in the case that proofs from forensic medicine survey provide a common knowledge and a conventional certainty for the judge, due to the validity of judges' knowledge in Hagh-Allah (right of God) and Hagh-al-Nas (right of people), we can consider them valid in Shiite jurisprudence, and as a result, in criminal law.

In addition, due to the exclusive policies of Islam in dealing with the crimes involving Hagh-Allah and the crimes that involve Hagh-al-

The rules of marriage in the bisexual people

Ehsan Samani

Abstract

In us, the human beings, in addition to the existence of male and female, there is another sex called hermaphrodite (bisexual) that has both masculine and feminine sexual organ. The question which we are going to answer in this paper is that if the bisexual person can marry or not, and if it can, which gender he is allowed to marry with, i.e. whether it is permitted to marry with males or females, or it is allowed to choose between the two. Another question is that if someone got married with a bisexual, does it have option to rescind the marriage for this defect or it is not entitled to enjoy this right.

Similarly on the prohibitions of marriage we see when somebody commits the nefarious act of sodomy, his marriage with the mother, sister and the daughter of the sodomized person with the sodomist is prohibited, now if one of the parties or both of them are unclear bisexual (real hermaphrodite), what is the law and obligation?

Another question is that if the unclear bisexual (real hermaphrodite), in accordance with the conditions of the fostering book, gives milk to a child, does this cause the relationship which brings about forbidding marriage or not. And another point, whose is the right of the child custody in real hermaphrodite from the age of three to seven? Is it for the father or for the mother? Of course before answering these questions, we will describe some words like bisexual and real hermaphrodite.

Keywords

hermaphrodite, real, unclear

Liability arising from the transmission of sexually Transmitted diseases

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Mohammad sadeghi

Abstract

Carrier's liability enforced, whether with intention or ignorance of the disease, due to the settlement of the liability component is no harm in non-compensation fixed, and judgment is granted to compensation. In terms of criminal responsibility should be placed, and in case of transmission by sexual contact, and without the knowledge of science and intended, it affects your partner, as a deterrent, social and material demands, the death sentence is consistent with the rules of the In the case of attempted murder or a fatal disease being transmitted or not, according to principles such as justice, law and punishment of the crime, the defendant's narrow interpretation of Rule Dara', quasi-intentional sentence with caution appropriate. What can be derived from existing law, particularly civil law, sexual diseases such as HIV cannot cause the termination of the marriage under Article 1127 BC. M., information on sexually transmitted disease woman couple (after contract) refused and this refusal may hinder compliance He had no right to alimony. Imprisonment in default on the right of the wife's right of refusal upon proof of compliance to ensure the test results and sexually transmitted diseases, the sentence will be. Also, according to Article 1130 BC. M. permit divorce in sexual epidemics is completely acceptable.

Keywords

Liability, civil liability, criminal liability, illness, sex, death, damage.

Criminal liability arising from the omission leading "death" by the physician

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Abstract

Omission of physician that led to the death can be discussed in two ways: as a disciplinary offense or punishable as intended murder or quasi- intentional. This paper concentrates on the second one. It seems that omission is considered as a criminal offense, even if the omission is not regarded as "*actus reus*" of the homicide generally because of having arbitrary responsibility. By virtue of general or special obligation of the physician and other considerations, he or she is eligible for punishment as a retaliation (Ghesaas) or blood money (Dieh).

Leading to ignorance, omission after act and dependency the life of patient to physician will put the doctors in different situation and impose heavier criminal liability on them.

Keywords

omission, criminal responsibility, the obligation of doctor, murder

The physician responsibility analysis of unintended harm toward the role of IHSANN in Shi'a jurisprudence

Hosseinali Saadi

Abstract

The Physician liability arising for damages in Islamic view is so important; the patient legal rights from one side and endangering the doctors' profession are considerable. In the penal code of Islamic republic of Iran's law, on the article number 319 and 322 pointed that the Physician is full responsible and the only way of compurgation of doctor is the permission of the patients or their guardian. The issue of physician responsibility in light of the IHSANN rule, denying any liability of Benefactor, is a very good approach here. In this paper we are going to study the principles and scope of this rule and approve this hypothesis that the doctor when works free of charge comes under the rule but when works for price is not without liability. Of course the penal liability according to this rule needs further studying.

Keywords

Ihsan rule, Physician liability, compurgation, damages

Islamic Religious and their view on medical staff rights, legal and criminal liability

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Abstract

Medical procedures in order to the patients' treatment are legitimate, necessary and have to be done sufficiency. When the under treatment patient dies or injured, are the doctors responsible, even if he/she has enough knowledge and experiences, or there are some limitations? The question is whether or not the physicians are responsible for compensation? Addressing such kind of questions needs systematic investigations in different aspects. The present descriptive/ analytical study, aimed to compare perspectives of Islamic religious either Shi'a or four divisions of Sunnis about juridical and legal responsibilities of medical staff. In conclusion, physicians are not either responsible or free of charge in absolute, but if they have no enough experience and knowledge, or did not pay enough attention, they are responsible, otherwise not.

Keywords

Islamic religious, cure, Medical staff, Responsibility, Permission