

## A Reproach of Loss in Insurance

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### Abstract

Insurance is one kind of uncertain contract. It is possible that insurance located as another form and title but it is no one of them and it is independent contract. Extension of loss in process of insurance is possible (like other contract) because the rate of insurance may be more less than the installments and payment of insurance or it may be less that whole of it. Possibility of loss in insurance is in three case including: (1) ignorance of substitute and return (Casing loss or not and premium from the side of insurer); (2) ignorance of quality of substitute (rate and kind of possible loss); (3) no ability of submission (the lack of insurer for paying the payment). Certainty of this loss in insurance contract is not clear and proved because the possibility of accident during of contraction is possible and reasonable and uncertain. In the common way it is true too. Permission of right purchase is the good reason for lack of loss in the contraction of insurance. Regarding to this fact that payment be certain for compensation of loss it is true that the contraction has been done in present and before of compensation.

**Keywords:** damages, ignorance, insurance contract, loss, payment.

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## **Muzarebah and its Applicability on Interest-Free Banking**

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### **Abstract**

Does Muzarebah include all Commercial activity or includes only sale? In jurist opinion Muzarebah is valid only under two conditions: (1) being with money or in cash and (2) Commercial activity for interest should be sale. It is vague about meaning of commercial activity. In accordance with the aim of Muzarebah legislation and general provision it seems we can extend the subject of Muzarebah to all legal Commercial activities.

**Keyword:** agent, business, corporation, Lucre, Muzarebah.

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## **Legal- juristic study about property of computer data**

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### **Abstract**

The issue of the property of computer data is very important in different sciences such as religious jurisprudence, law, economy and even computer science. The proof for the property of such data can have some effects as well as civil and criminal acts in mentioned subjects. The nature of these data and their property require essential explanation. In this study, computer data is defined and then, it is compared with different principles of objects as property such as foundations of economic value, mores and wise men, meeting needs and other valid foundations in the assessment of objects as property. We will observe that the data are consistent with all criteria of being property of objects. In this way, the effects of being property of objects have been investigated and computer data have been evaluated in terms of the acceptability of these effects so that the effects of the property will also be analyzed. This study is a new effort to achieve this objective and provide a new horizontal in criminal issues related to the object property of computer data.

**Keywords:** computer data, fundamentals of property, Mores and Wise Men, property.

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## **Inference of Jurisprudential Rules out of Quranic Stories from Sunniviewpoint**

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### **Abstract**

Quran as the first and main source of religious orders, answers all human needs in all fields; hence, the most jurisprudence rules of this miracle of God is without detail and not always in command and prohibition; but sometimes located in amidst other Quran topics such as religious and moral issues, proverbs and stories. Stories, one of the most influential and repetitive of the Quran topics, in addition to being have lots of advice and lessons; in many cases, from their intents and purposes are obtained contents that can be field of inference and fiqh. Using Quranic stories to deduce the laws, gains a lot of great achievements in different issues such as trade and administrative and judicial fields; as religious Jurists have been extracted many rules in the various issues from stories verses; such as: legitimate of lot and reward and guarantee and delegation and rent, predicate name of child to grandchildren from daughter, and unlawfully of music and singing.

**Keywords:** inference, jurisprudence, Holy Quran, rules, story.

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## **The law of war in the Shiite jurisprudence (Fiqh) and its comparison with the Humanitarian Law**

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### **Abstract**

Law of War consists of a set of rules of international law governing relations between nations, hostile or neutral in an international armed conflict, that the parties are required to follow it. The history of this issue shows that Muslims preceded the West in this case. According to the Islamic system of the codified Law of War, the Muslims were restrained any aggression and oppression. In this system, the principle of respect for human dignity and moral principles in hostilities and refrain from aggression, killing and destruction has been asserted. These principles are discussed in the jurisprudence books of Sunnite i.e. kitab al-syar and of Twelver Shiite i.e. kitab al-jihad. But this discussion in Shiite was less than Sunnite, because they had been less in power. Nevertheless, in such legal issues of war as treatment of prisoners of war, properties and booties of rebels (Ahl al-baghi) women and children they have had clear ideas. To use any weapon to win the war, deflagrate soldiers, poisoning their drinking water, demolition of enemies collectively, divesting the right of submission, revengeful acts, disrespecting the wounded and murdered, depriving the enemy of drinking water and food, destruction of buildings and burning trees were forbidden. This study attempts to examine the historical and jurisprudence texts of Shia in order to answer the following questions: what is the position of the law of war in Shiite jurisprudence (fiqh) and like Sunnites whether they have a rich heritage in this regard? What is its bases and principles? And how much it conforms to rules and regulations of the humanitarian law and prohibition of the use of weapons of collective killing in modern time?

**Keyword:** baghi, Dar al-Islam, Dar al-Harb, humanitarian law, law of war, Shiite jurisprudence (fiqh).

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## **The obstacles of exercising child custody in the Imami jurisprudence, Iranian law and French law**

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### **Abstract**

Parents' authority in support and education of their children should be used only to protect their best interests. Therefore if protection of child's safety, health or education is so requires, this authority may be limited or withdrawn from the parents. In Imami jurisprudence, Iranian law and French law, welfare of the child is the main factor governing the support and education of the child. Each of the three legal systems, therefore, developed its own measures to protect child's welfare. However, in French law in addition to the protection of children, measures of educational assistance could be judicially ordered to help the parents fulfill their parental authority. In Imami jurisprudence and Iranian law parents may restitute their parental authority if obstacles are eliminated. In French law it is the same except if the child has been placed for adoption before restitution request.

**Keywords:** child custody, obstacles of exercising parental authority, restitution of rights of child custody, welfare of child.

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### Intellectual reason in prespective of sheikh ansāri

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#### Abstract

The purpose of this study is to recognize the rule of Intellectual reason (dalil aghl) in deduction (istinbāt) of religious edicts in Sheikh Ansari's perspective. The study method is analyzing jurisprudential contents of his relevant books. The results show: he believes that Intellect is an inward messenger, so he accepts its validity and independent Intellectual edict (therefor ugliness of unlawful can be recognized by Intellect), certain Intellectual reason Take precedence over the Signification, in confliction cases, the stronger Religious reasons preferred by Intellectual reason, it helps Religious reasons to reasoning for generalities. Sheikh Ansari states that the Intellectual reason commands to avoid something as unlawful and it sometimes rejects unlawful. He says that Religious edicts sometimes recognize through Intellectual reason. He proves incumbency of achieving conformity with the commandment of God. In some cases he regards to principle of continuance (istiṣḥāb) as Intellectual reason. And ultimately in his viewpoint it establishes some general jurisprudential principles and rules.

**Keywords:** intellect, intellectual reason, reason, Sheikh Ansari, sources of deduction.

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## Consumption imam's dues in time of absence in view of lawyers

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### Abstract

This article reviews the impact of the governmental approach on contemporary lawyers' attitudes about consumption imam's dues in time of absence. Given that one of the major issues of Fiqh al-eqtesad and political conduct is consumption imam's dues in time of absence. In the last century, the Shia has fond governmental approach to Fiqh. What impact has been this change in approach to the issue of Consumption imam's dues in time of absence? To answer this question, change of the approach in of the two schools of contemporary Shia's Fiqh (Najaf and Qom) has been studied by descriptive and explanatory described method. The paper concluded that Najaf and Qom Schools of Fiqh were tending to governmental approach and according to this view beloved that imam's dues provide part of the Islamic state's cost, Imam Khomeini initiated by the governmental approach to Fiqh and some of his students have followed this approach. This tendency can be found in the Najaf School and Sadr were inclined to consider this approach and developed by his students.

**Keywords:** complementary theory, imam's dues, Najaf school and Qom school, satisfaction theory.

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