

Criticizing the Position of Consensus and Reputation in Jurisprudential Fatwas with Emphasis on Women's Issues

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Abstract

The central issue of this research is how the place of consensus and reputation in the derivation of women's jurisprudence is reviewed. This research explores the answer to this question by analytical-critical method and by referring to library sources. There is a claim of consensus or reputation regarding most of the jurisprudential issues of women. Some jurists have sided with the incompatibility of the implication of proof on the one hand and consensus and reputation on the other hand and have refused to issue a fatwa in accordance with proof. This process is not acceptable; because the strongest type of consensus is invalid, as a result, other types of consensus and reputation cannot be used. In addition, disagreeing with the proof and agreeing with the consensus and reputation is not only a performance in accordance with caution, but it is a kind of imprudence due to disregarding the valid proof. Some jurisprudential fatwas in the field of women's issues are rooted in the anthropological foundations of jurists, which are incorrect; as a result, their consensus is on a case where there is an independent reason, and such a consensus is not valid. The correct path in jurisprudential issues of women is methodical research in reliable sources, even if the result of this research is contrary to consensus or reputation.

Key word:

consensus in women's issues; reputation in women's issues; women's jurisprudence; women's religious authority.

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