

Jurisprudential-Legal model of systematization; Damages and solutions

Nasirollah Hasanluo

Ph.D. in Philosophy of Law, Department of Additional Philosophies, Faculty of Philosophy and Ethics, Baqir al-Olum University, qom, Iran, (Corresponding Author).
nasirollahhasanlou@gmail.com

Hassan Shujaei Aliabadi

Ph.D. Student in criminal law, Adalat University, Tehran, Iran.
hsh_1359@yahoo.com

Abstract

The system of the Islamic Republic of Iran based on the jurisprudential model of “Imamate and Ummah” is one of the most innovative political patterns in the contemporary world; Despite this, the sub-systems involved in this macro-political system, including the “legal system” have not been formed on the basis of an efficient and correct jurisprudential model, and in the context of developments caused by the requirements of the modern world, it has led to the transformation of the nature of some of the most important elements of Islamic law. The pathological examination of the model implemented in the existing legal system, which is the result of the political developments of the constitutional period until now, and the presentation of a new model for systematization in the field of the legal system, is the issue of advanced research. This research is descriptive-analytical in terms of method, and its findings show the dualism, jurisprudence and law, the dependence of the existing legal system in its fundamental and macro elements on modern legal systems, and the predominance of the individual approach over the social approach in shaping the main components of the legal system. The most important harms and changes in the theoretical approach to the relationship between jurisprudence and law, taking a social approach to jurisprudence and paying attention to the principle of social and human objectivity in system building are among the most important elements of the jurisprudential-legal model of Islamic system building.

Keywords: System building, legal system, jurisprudence, law, individual jurisprudence, social jurisprudence.