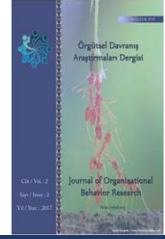




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MUST OF SECONDARY RULES BY EXPLAINING THE CRITERION OF RECOGNITION OF SECONDARY TITLES OF PRIMARY TITLES IN FAMILY LAW

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ABSTRACT

The results of secondary rules and recognition of secondary titles and mandates in family law are one of the few topics that have been discussed. Secondary titles are titles that are fixed for objects in view of what is out of its essence, and the first decisions are to observe the natural states and normal status according to the well-known secondary of the observers. In the sense that there is no ambiguity in the concept of titles and division, but it is sometimes difficult to distinguish between the first and second title and consequently it is difficult to distinguish between the first and secondary titles and consequently it is difficult to explain the first and second order. In other words, some of the first decisions are in order to ward off the loss or loss of the state of state. In this case, how can it be realized that the verdict is the first or the second and the title specified in that first or secondary? Also, the legislation on the basis of secondary titles has special codes and criteria that neglect sometimes affects the religious nature of the rules, and sometimes will pursue administrative problems. After the studies in this paper, which is based on the library method, it has been clear that it is easier to distinguish the first and secondary directions of the criteria and measures which make the first and more precise order of the first and more precise, and there is a way for legislation the secondary rules that are investigated and evaluated in this study.

Keywords: Recognition Criteria, Sentences, Titles, Primary, Secondary.

INTRODUCTION

Human needs are always changing and never stable. As time progresses, new human needs happen, as social issues are constantly changing. in regard to this, how can these alterations and alterations can be adapted to the fixed and unchanging judgments of islam , which is also called resolvent till doomsday? One of the two approaches is difficult to match, but in the shadow of secondary titles, many nodes and problems can be resolved. the range of secondary titles is so vast and its examples abound, so that it contains an important part of human needs. secondary titles of all are invariant, but its examples are variable and consistent with the changes in in other words, the basic needs of man are fixed and immutable; because it is a man of human nature and natural, natural and permanent, though the quality of meeting those needs and needs is variable. Human, for example, requires food, clothing, housing, treatment of diseases, science and science, industry, and sport, and these needs are fixed and unchanging, but the ways to address these needs have been different throughout history. Therefore, the principle of human needs is constant and secondary matter and how to meet those needs. In

this case, there is no ambiguity in this case, there is no ambiguity in this case, that it is sometimes difficult to distinguish between the first and secondary titles and consequently it is difficult to distinguish between the first and secondary titles and consequently it is difficult to distinguish between the first and secondary titles. In this case, how can it be realized that the verdict is the first or the second and the title specified in that first or secondary? therefore, the recognition of the first and second title and consequently the first and second order is one that is important in terms of jurisprudence and jurisprudence, but there have been little research in this regard. hence, this paper seeks to demonstrate the effectiveness and dynamics of islamic jurisprudence by analyzing the efficiency and dynamics of islamic jurisprudence through the analysis of verdicts and secondary titles in jurisprudence, then how to identify secondary and secondary decisions through consideration of the quality of legislation and address to the basis and document of verdicts and also considering that the basis of secondary rules or legislation based on secondary titles has certain principles and criteria that neglect sometimes undermines the legal nature of the rules, and sometimes has administrative problems, in this part of occasions research, secondary rules will be investigated and evaluated.

Definition of the first order

It is the first order given to certain topics, regardless of the effects of the secondary effects upon which the subject is concerned, and the sacred highway, with regard to the material and the abuses which it is in itself, forged it. (in the case of expediency, necessity, necessity, respect). the necessity of praying, fasting, and hajj, and the accuracy of Water deaf. and Current of sale and nullity of Bride kidnapping deal (Mohaghegh Damad, 1985).

Definition of a secondary sentence

the second order is a decree by which it is required to act in special and exceptional cases. such as: rigor, loss, reluctance, urgency, condition, maintenance of the system, the necessity of the introduction of the introduction or a manner that changes some of the sentences. In such cases, the secondary orders affect the initial verdicts and make it another decree. The Holy Quran says: "Non - garden coercion. and Then it's not a sin. gainst" (Baghare, 2, 173), in this verse, the ban on sanctions has been lifted due to urgency. He says: " the faithful, my parents Don believers ... (They feared!); people with faith must not elect infidels rather than believers as their friend and guardian - unless you take care of them (and for more important goals)

Criteria for identification of secondary titles and Sentences

in the sense that there is no ambiguity in the concept of titles and Sentences, but it is difficult to distinguish between first and secondary titles and consequently it is difficult to distinguish between the first and secondary titles and consequently the first and secondary terms; since titles that have already been identified as the referents of secondary titles have already been used. In other words, some of the first decisions are in order to ward off the loss or loss of the state of state. In this case, how can it be realized that the verdict is the first or the second and the title specified in that first or secondary? to identify the first and secondary decisions of the criteria and the secondary and secondary decisions are presented (Hedayatnia, 2013)

The alternative to the criterion of recognition of the first order from a secondary sentence

The second order has a literal and formal similarity with terms, such as the secondary principle, secondary rule and secondary legislation. The difference between them and the secondary order was elucidated by the description of the apparent rule. according to the definition we mentioned for the first and secondary orders, the criterion for recognition of the second title from the first title is also well clarified. According to the famous statement, the supervisor "s instructions are assigned to the exceptional states and conditions of the supervisor, i.e., according to the same definition For example Ba made by Hemin definition, Paz ah "but denied Alichm dead, blood, pork and what the people he garallah it forced other bag and not returned it is evil in" (baghareh, 2, 173).

It is clearly used as a secondary "urgency", as such that the " suppress is necessary " are used in a clear way that the state of "precautionary" state is required from secondary titles and occasional emergencies. one can cite examples of secondary titles and first titles in a different way It would be the first thing to say, it would be the first to assume the matter and its title, and between them it might not be possible, but if it were not portable, it would only be secondary as a common transport.

and to say : the title of everything then will be the first to assume the subject and its title and between them the first one can be established and if such a categorical case is not possible , it is secondary only in the case of the subject and the predicate of the two predication .

For instance, when we say: "Fasting is necessary," a title we can observe for the subject of this (day) sentence, the same ".

For instance , when we say : " Fasting is necessary , " a title we can observe for the subject of this (day) sentence , the same " fasting; "

That means, in this proposition, it's like saying, " fast, it is necessary to be fasting.

And it's clear that if we put a portable light into these two, we should say, " fasting is fast This will be the first, and as a result, the title "fasting" will be the first to belong to the ruling However, there must be a pose in such a yard so that revocation did not have to be needed But when we say: "fasting is not necessary," it's like saying, " fasting is not necessary to be a rigor.

It is clear that if we are to take the title of rigor on the one - day - long ruling.

As a result, it is also a secondary title for fasting.

But what is not to be overlooked is that as a second term as a rule, it cannot be called a secondary term in the sense of habit

For in apparent decrees such as: prudence and acquittal ,as well as in emergencies, such as the necessity of my team for a person who does not have water or uses water as secondary titles.

At the beginning of this chapter we learned the method of recognizing a second order from the first order.

But in that manner it is impossible to recognize a second order from some other decrees, such as the Ollie.

For this purpose, we have to be used in some other way to use it to Type of Type and Provision (Kalantari, 2008)

criteria Type of Type and NOTE:

In cases, the first sentence is forged during a first order, for instance, the passenger is a first sentence on a matter, and the first is a first sentence on a matter.



Or, for example, my team and my team are both the first, but during each other in the secondary orders, the second order of the observer is in terms of certain conditions under which the titles are known, the basic orders in fact do not rule each other and have no government, precedence has been stated as

It is said that the man who is eligible for his duty is responsible for his duty, whose duty is simply pure and pure.

In the first verdicts, there may be a reason for another reason for the next few years, and from the sum of the two, that the tasks are different, and the first sentence takes place during the verdict.

If you don't get out from the beginning, you can't understand that there are a few basic rules here

As the secondary orders are required to be divided and divided, the responsibilities of the two shall be divided, and a duty is forged for each other

In other words, White lies in the nature of this verb to this person, regardless of reason, and incidental as accidental.

In other words, regardless of the effects, the sentence is for the passenger, regardless of the imposition of a title, or a matter for the passenger.

A traveler is not a title to complain about, "but he is not a passenger," says the passenger, "or is not said ":Present "or is it.

but from the beginning the duty is to be divided into two types, and it is divided into two types, and is fixed by the Opinion of the duty and the cheeks of the verdict.

In other words, the verdict in the original title is by the White inductor ,in which there is a resolution, regardless of duty

in secondary orders, the verdict is required to establish a condition and condition and new title.

It is incumbent on the mission to include " :traveler ," the theme of all " present ," not" traveler."

Not human Because it is not said The present person due to the heat The mode of travel for her That sentence is fixed for him.

Because when the travel mode comes to her, it is no longer " present"

It is the main difference between the primary and secondary orders in the same issue that secondary orders are fixed on the same principle as it has been the first and all that it is protected only by one thing, but it is not so in the original terms ([www.m-noormofidi.com/print2.aspx, 2304](http://www.m-noormofidi.com/print2.aspx,2304))

Attribute - based and documentary criteria

According to the aforementioned criteria for easier and more precise order of order, the first and more precise order of the first order should be considered.

The benchmark measure and the documentary along with each other gives a reliable criterion for detecting the first and secondary orders.

Our purpose is based on the order to find out what is relative to the Shari ' ah ah or the same title: is it a cause or wisdom?

first, the difference of reason and wisdom is expressed in the criteria of verdicts, then its relation to the present debate is considered· (Hedayatnia, 2013)

It should not be brought up with the wisdom and philosophy of it.



For example, the cause of the palace prayer palace is the breath of travel - with special circumstances - but the wisdom and the expediency of it is to relieve the hardships and discomfort of the journey.

Now, if the journey has no trouble, and even with special equipment, it is more comfortable than home and native country.

Because the cause remains strong and the ruling is set up on its cause (Makarem Shirazi, 2006) Although it is not easy to discern what is the wisdom of judgment or cause it is not an easy task, but according to the measures of definition, it can be realized by the nature of the trueborn and the primary or secondary nature of it (Makarem Shirazi, 2006)

An alternative sentence documentary

In cases where an alternative sentence is to be documented in certain cases, it is considered the first, even if it is the basis of its rights.

In this case, we consider the loss of judgment, but if there is no one specific cause or cause, we shall make it a secondary sentence for the sake of universal proof of loss or loss. (the same, p.113)

For example, in the case of passengers and patients who are exempt from the fasting decree. He said, " I am joined with him. I am joined with him, "he says;" God wants your comfort, not your trouble ".(Baghareh, 185)

Philosophy and philosophy explain it" affliction, so it should not be traced back to the Secondary of the verdict (Makarem Shirazi, 2006)

Abby moradi says: " Can a woman separate from her husband about a woman whose husband has a disease and cannot meet his wife?

" If it wants, it can be separated," Imam said.

in another narrative of Imam, the he said " they get divorced and is dowry ".The two separate from one another and the man is detention. and punished, and since he has been married to his wife, give her dowry. (A group of authors, v39, p.144)

According to these traditions, when a woman finds out that her husband is young, she can break the marriage and punish her dowry, but if a woman is satisfied with such a situation. (A group of authors, v39, p.144)

"If a woman wants to be separated from her after marriage," Ali Ben Abi – hsamzeh said, "If a woman wants to be separated from her," (The same, p.142)

A group of jurists has pointed out the right to the cancellation of the rights of the defects in the cases of defects as losses and affliction ;but the order of the termination of termination is documented in the cases referred to as legal texts

That is why, even though the order of termination is an alternative order and is based on the loss of an alternative, it is not secondary, but it is not secondary. (Hedayatnia, 2013)

Rule - based legislation based on secondary titles in family law

The basis of secondary rules or legislation based on secondary titles has specific principles and criteria that neglect sometimes affects the religious nature of the rules, and sometimes will pursue administrative problems.

in this part of the occasions research the secondary rules will be investigated and evaluated (The same, p. 277)

explanation of the concept of secondary titles



The transition from none of the secondary titles has yet been defined and the applications of any title in the law are also uneven, and the criteria do not provide clear criteria. It refers to some ambiguity.

The Concept of affliction in Family Code

Regarding the definition of affliction, the civil code is very anxious and cannot be understood from the sum of its applications. In this thesis, first the concept of affliction is defined in civil law and then its variants

Definition of affliction in the Iranian Civil Code

Whenever there is a situation for women in common life, which is a continuation of life for him with hardship and hardship, he can come to court for divorce, and the court responds to his request after reviewing the matter if he recognizes the circumstances for the "unbearable" woman. (Number 1130 Civil law, Amendments 1984/12/28)

Here are some tips for brevity.

Number 1130 Civil law before the application of repeated amendments - stated that if they realized, the woman could request a divorce by referring to the court, and if they proved it, she would have to divorce the couple.

These include:

1. when the husband does not fulfill the obligation of other human rights, nor is it possible to force him to play.
2. When the marriage of the husband is so strong that the continuing life of a woman with the husband is "unbearable"
3. If due to infectious diseases, the marriage lasts for women.

However, that in the aforementioned article some of the provisions stipulated in the provisions of this article and the stipulated conditions were not stipulated for the marriage.

In the analysis of the bases of this decree, at least some of its items were cited, including the case in Article III of the article. (Mohaghegh Damad, 1985)

affliction in Divorce

The divorce in Islamic sharia is in the hands of men.

anytime he wants to divorce his wife he can." (Number 1130 Civil law)

In other words, the common life that starts with an agreement

The key to leave is absolutely in the hands of men.

But in the protection of the family, which I don't know Indeed This term in support of the family How much support for men and how much support for the family!!

trying to get on with it A little of the absolute authority of the man in this regard could be reduced.

In reforming 61 and 70 years in Civil law 1130 matter changed too

Certain instances where a wife had the right to ask for a divorce Like, " mistreat, wrong of husband and His incurable disease was abolished.

And instead of that rule replaced that, by the way In the event that wifeness may have difficulty with the wife

He may come to the law of Sharia and demand a divorce

if the hardness is fixed in the court Court can force a couple to divorce



and if must not be forced

There will be a hard secondary sentence imposed on the first order - A divorce is in the hands of the husband - and the wife is divorced with and the wife is divorced with Acting rule. (Tabatabaee, 1983, v1, p75)

A divorce for hard from the jurists' eyes

apparently among the shiite scholars said Mohammad kazem Yazdi the first is that, in this regard, we have accepted the rule by applying the principle of the principle of refusal - to obtain a divorce from the governor.

In their opinion, in the event of a divorce and a wife's delay, the divorce order is not likely to be obtained.

In their opinion, when the life of the missing couple appeared to be certain

But it can't wait even in the case of a few missing persons who seem to be imprisoned But his return is never possible.

or in the case where the husband is present he could not collect his wife's alimony from insolvency. And his wife, in this case, can't wait. Although the expression of the words and the absence of a wife's divorce is ruled by the governor.

A divorce can be attributed to the negation of the forfeiture and distress.

especially when spouse is young.

and his patience in the course of his life make it hard for him to fall in severe toil (Tabatabaee, 1983, v2, p75)

The theory, though contrary to his well known view and it has been rejected by the jurists of the late tabatabaei in contrast to the civil code, which in most cases follows the famous theory is preferred to the famous theory. (Mohaghegh Damad, 1985)

in the face of the texts in which they have protested in jurisprudence. It is inferred It is inferred that the court's requirement for divorce is not due to the severity of the wife's difficulty In fact, a divorce that was finally taken by the court itself It is because it is governor but impossible not for the severity of a wife. (Mohaghegh Damad, 1985)

The second nature of experience in family law

experience means "asthma and asthma" is one of the secondary titles And the secondary meaning of it is that If a person at the execution of the dictates of sharia face hard to face In spite of the difficulty in spite of their fears, God's judgment may change. (Ameli, 1999, p.167) for example, by civil code 1130 if it is fixed for the Tribunal that the marriage lasts possible, 'Divorce is given by the governor's order. (Montazeri Najaf Abadi, 1988)

The concept of loss in family law

Because the loss of words is clear in the formulated rules They haven't defined it and in the matter of law 728 Civil procedure that was removed There is only the possibility of a loss being made But a definition of loss is not provided. It's just a little bit of a loss It has been stated according to its origin and examples of Court damages are considered. (<http://rapel.ir>)

In terms of terminology, there is a loss of the common sense and includes defects in wealth and space, and width Is it not clear that the purpose of the lose of law is common or not The loss in some laws The common sense and in some laws have a certain meaning and sometimes mentioned absolute form. What a trait has made it so It has to be reviewed. some laws which



have expressed a great harm in the general sense. As for: Principle 171 of the Constitution says: if, in the effect of the judgment or mistake of the judge on the subject, or in accordance with the judgment of the particular case, the physical or moral harm should be observed, In case of fault, the blame is made according to the Islamic standards, and otherwise the damages are compensated by the state, and in any case the defendant is recovering from the charge. (Hedayatnia, 2013)

Rule of damage and allow the husband to leave the house

If in the social direction and on the basis of custom The husband's house is in the shape of his wife, but in some respects the husband's lodging is a loss to a lady, for instance, fear of physical injury or persecution ;

and this anxiety seems to be correct in the eyes of custom and wise

In that case, the departure of a woman from the common house will not lead to disobey.

Therefore, the civil code in the (1115)article stipulates that "If a woman in a house in which the house consists of physical or financial loss or honor for a woman she can afford to have a decent sedative, In case of proof of damages, the court will not return to the husband's house and as long as she refuses to return to the house, The husband pays his wife's fee. (Emami, No dates, v4, p. 450)

The secondary nature of loss in family law

Damage rule is one of the secondary titles, and being secondary That's to say,in law and in general in islamic jurisprudence, There's no harm in it ۛAnd every sentence that the principle of its existence or its elasticity requires the detriment of it is negative in Islam. (Allameh Jaafari, p.114)

Reluctantly in the jurisprudence

In Sharia the word and act has been issued from someone who's reluctant has no effect Except in the murder, Because it is reluctant to use secondary titles, if it falls on the promise or the present, in order to remove the first sentence, by the duty and the proof of a second order. (Sheikh Ansari,1994, v1, p.704)

like a reluctance to drink the wine which will cure the first order That is to say, the reverence, It causes a secondary sentence to be fixed, moreover, the effect of the first order does not apply to the corrosive wine.(Najafi, 1979, v22, p.265)

The opinion of the scholars is that a divorce by compulsion, It is not true.

But if by the ruling of the law or by the lawyer, it is true. (Jannati Shahroodi, p.125) If a woman increases her love to the husband to get rid of her persecution, and gives her a divorce, The religious scholars ruled that the divorce was annulled, and that man had no right to seize any property. (Shobeiri Zanjani, 1998, v8, p. 2649)

CONCLUSION

According to the definition we have quoted for the first and secondary orders of the famous The parameter recognition of the second term as the first is also well lit.

Recognition of the secondary decisions in many cases seems easy; However, in some cases, this may not be easily possible. And those are cases where the first order has a number of formal forms

therefore, according to the research done to distinguish the first titles from secondary and avoiding the mucus between these two types of order:

refers to the quality of legislation and how to address the highway, whether it is" Type of Type "or" Provision and: law?"

The criteria for the explanation of the criteria are given. in some cases, it has been considered to be obliged to perform a variety of cases, so called Type of Type.

all the decrees that arise in such cases are the first ones

In some cases the way to address the verdict is turned out.

that the Holy crap of the Holy See has had the right to explain the two corresponding decrees. it is the name of the legislator, like the law and the note of it.

It is, in the lighter sense of the first order, as a general order and a second order exception to it It is also necessary to consider the basis and the documentary of the verdict.

as well as the Shari ' ah ah, there are certain bases or foundations that a decree is defined to provide it but in some cases it is the kind of reason, sometimes of wisdom.

The basis of the verdict is the kind of reason that the title is permanently grounded he would say that he had an air of dignity and dignity. But in wisdom, the relationship is not permanent. in cases where an alternative is documentary evidence We bring it up first.

Even if it is the basis of it. it would be a loss But if there is no letter or reason

In this case we consider the loss of judgment at the same time a decree from the public proofs of the loss of loss or failure will be a secondary consideration.



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