

REVIEWS DIVORCE JURISPRUDENCE AND THE RIGHT TO DIVORCED WOMAN IN ISLAM

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Abstract

Family is important in Islamic jurisprudence and civil law Lawyer and legislator freedom intention of the parties as a result of the full integration of social life is limited to family life and marriage annulment and divorce is determined. In the legal system of Islam and the Islamic Republic of Iran, the divorce will be gathering Real Couples. The Shi'a jurists, the couple is not obligatory disarmament and therefore, given the disdain of the wife and the realization puncture proof, can not be forced couples to divorce In terms of Islamic law and the Islamic Republic of Iran's rights, there is the possibility of forcing couples to divorce. Because of its importance and its impact on family and women's rights, the theory of jurisprudence and law review and assessment and documentation of and arguments related to it are discussed. In this study, the number of divorce cases in accordance with legal norms and legally transferred to the woman deal.

Key words: husband, wife, divorce

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Introduction

Divorce word means opening up and drop nodes. Islamic law is defined in divorce have said that divorce is the word for marriage Removing constraints. (Safa'i, Imam, 1993, p. 259)

Today Iran's rights without a court order or divorce may be and in defining it can be said: Divorce is the dissolution of permanent marriage with certain conditions and procedures of the man or his legal representative. The special divorce is permanent marriage and temporary marriage dissolution or termination of the waiver period is done. Article 1139 of the Civil Code in this regard says: "Divorce for permanent marriage weight with long expiry or waiver of the husband's side. Divorce is one of the social problems in recent decades has become increasingly grow in most countries. In Iran, the Organization for Civil Registration According to latest statistics, the total divorce cases registered in urban and rural areas of Iran in 1992 was equivalent to about 33 .983 The index increased by about 80% in 2001 to about 61,013 today. The problem becomes apparent when the results of multiple studies in the field of internal and external profound impact of psychological, social, economic and even divorce law on all those who somehow involved in it, should be considered. However, during the life of a couple, sometimes a situation arises the divorce, the "most abominable solvent God" is inevitable. In such circumstances, as in any stressful situation in life, it is necessary to deal with it, and in order to minimize damage and complications tried it. The children and teenagers who were inadvertently exposed to this phenomenon and have to adapt and adapt to challenges and changes resulting from it are, In terms of greater vulnerability, need special care and attention and specific measures. (Qadiri, 2003, p. 1)

History of Divorce:

Divorce history goes back to the history of marriage, for that matter, that man closes at the request of its natural marriage To warm the heart of the family and with his wife to rest and relax, as there may be reasons to refrain from continuing to live and to accept divorce. "Voltaire" says divorce and marriage emerged at a time in the world, so it is obvious that in many religions and secular divorce before Islam existed. (Aljmry, p. 156).

Dr. Aghajany, sociologist believes "social problem of divorce as one of the major phenomena of human life. We can say that there is less social phenomenon as complex divorce. Divorce causes

different, and that causes social or deep layers, or layers in appearance, but it should be noted that understanding and interpretation of the layers is complicated.

Dr. Aghajany causes and influential factors in the divorce put it this way:

- 1 .The lack of moral understanding and agreement
- 2 .Inconsistency and lack of compromise
- 3 .Unreasonable and ill-treatment
- 4Violence (beating)
- 5 .The differences and contradictions in life
- 6 .The cultural differences
- 7 .Suspicion
- 8 .Addiction
- 9 .The lack of knowledge and understand each other
10. Second Marriage
- 11 .Involvement in life
- 12 .The age difference
- 13 .The lack of interest
- 14 .Mental illness
- 15 .Unemployment
- 16 .Disagreements in sexual problems (marital)
17. The forced marriage

Basis by a court of law divorce

Among the mass of Muslims, the question arises that if the court ruled that the divorce without her husband's consent, whether it is a religious divorce? The woman who divorced in the area, satisfaction brought him to divorce correct?

Islamic scholars on this subject in a few cases the woman is allowed the courts to file for divorce and the reasons stated in this context of verses and hadiths. Ayatollah Sheikh Hussein in the Shiite jurisprudence honored solution called "rights Wife and their effects Positivism" complete debate on this issue has And 229 and 231 of Surah verse and his "second verse of Surah divorce" has invoked if the married life and survival becomes difficult marriage, the woman has the right

to refer to the judge and asked for divorce. The ruling forced to divorce her husband. If the husband to refuse to give a ruling as yet impossible to divorce the woman.

DrSafai writes in his book of family law:

Alshat comprehensive compilation of jurisprudence in large MirzaQomi's book, page 508 answer such questions in wrote: "There is no doubt in that, though the wife's rights as couples An incompetent wife is in violation of their legal even though there is also the wife to the couple in violation incompetent It is also the wife to the husband for alimony and sacred rules give him to agree with him without any legal tiff and he does not upset So when the wife was a violation of the rights of his wife and the judge demanded to see his wife did not benefit And after fixation in him before the judge's obligation and compulsion rights or to divorce the wife. When science comes to ruling that the couple does not conduct to be famous And fulfill the rights of his wife forced him is not incompatible with the obligation on divorce and the divorce is not true ... "(Safai, 2003)

See also the wife to the court in four religions recognized the right one for the wife that the wife could in some cases we called "toys court ruling on the separation between husband and wife. But Hanafiyyah intends to provide alimony alimony from her husband stating that the lack of separation between couples should not be cast as either poor or rich husband. If the husband is poor to pay alimony not commit oppression; for the LORD Almighty says: Anyone who has wealth (to his family) expense make it, but he missed one day on her own , wealth and income is not enough, the same that God has given him (as possible) expenses (his family life) of government funds. (Altlaq: 7) But if her husband is wealthy, due to nonpayment of alimony guilty, but avoid wronged him through a divorce is not true, But she forced her husband to live with the obligation to provide for his detention and sale of property otherwise unable to meet maintenance, solve the problem. (VhbthZhyly, 2003)

See also the wife to the court in four religions recognized the right one for the wife that the wife will be entitled at any point we "The court's ruling on the separation between husband and wife," We will review the law and order has been institutionalized religion. Referred to court, demanding divorce, Stating that the lack of separation between couples should cast alimony from

her husband because the husband or the poor or the rich. If the husband is poor to pay alimony not commit oppression; for the LORD Almighty says: Anyone who has wealth (To his family) make the expense, but one day he narrowed his property, wealth and income is not enough, the same that God has given him (as possible) expenses (family life) to government funds. (Divorce: 7) But if her husband is wealthy, due to nonpayment of alimony guilty, but avoid wronged him through a divorce is not true, But she forced her husband to live with the obligation to provide for his detention and sale of property otherwise unable to meet maintenance, solve the problem. (VhbthZhyly, 2003)

Law of the Jews does not have the right to divorce. As soon as he could he abandon his wife is absolutely dissatisfied. Upon marriage is a good man and does not need to prove disagreeable and not expressed. In Christianity there for any of the men and women the right to divorce and marriage can only break is that the woman committed adultery. Perhaps the lack of legitimacy of divorce in Christianity because the men and women of Mary and Jesus did not follow And with the conclusion of marriage have committed a big crime so be sure to foot the action inadmissible burn the punishment of which have set up their own. Divorce in Islam and in time of need is legitimate, but the lawyer for the early married life is not separated And a range of other innocent people lost dangerous whirlpool terminate as soon as the man his wife is unhappy The divorce does not show, but her patience and Quran invites the best way to prevent the separation of couples through practical Has shown: and if the separation between the two (husband and wife) you fear After the arbitration of family (husband) and the judgment of their families (women) set. If compatibility between them will fit into God ... (Nisa, 35). Because sometimes, despite all these solutions, some are dead-end life to another life and should resume with another couple. In Islam, a woman can be abandoned if the marital modality while his wife wants to continue living is a way of satisfaction he catches and expropriation of her divorce. In addition, it can be represented in a divorce if the marriage contract and the right to obtain a divorce. If divorce is considered violence against women and the economic consequences are really looking for are all painfully to the direction that it is our behavior in a society based on Sharia Koranic, his walk is not and if our system our society is perfectly Islamic none of these consequences will be.

Divorce is the old way of resolving family disputes. There are a variety of backgrounds in the community. It is evident that the heavenly and earthly rituals, each in connection with this social phenomenon, have their own views. And one based on social and cultural conditions of their times have regulations and laws. Compare these laws and prefer one over the other, in addition to considering the human experience gained, a comparative study is needed. Divorce in Islam is very bad. This abomination to the verses of the Quran and some innocent remarks can be seen. Islam must divorce as a last resort, not the first and easiest way.

Discussion and conclusion

the majority of them believe that if a woman's hand, and stated the abomination of divorce and now for her dowry, for man to realize the position does not create a divorce but also can offer to accept her: woman, and instead accept the divorce and can not divorce and, however, have said if the woman's hand, and said severe abomination that might commit a sin, the precautionary That is the proposal to accept women and divorce. Sheikh Tusi in the book actually build muscle from the divorce and is obligatory for a man if the woman said to the husband said that I would not obey you, do not so comply, the of I don't and if you don't to betray, in this case it is obligatory upon man that he divorce Sheikh Tusi expropriation., pp 529 Tin Saladin also believes that if a woman's husband's request for a divorce from the ordinary And he wants to get in front of the property, he. The woman's husband is not obligatory to accept but if you want to separate severe as to say that if you do not divorce, I commit sin and The man could not be inconsistent with the principles of unjustified reasons and was known as the, the marriage dissolved. Give up the principle of the necessity of marriage and divorce licenses even believed to cause sufficient reasons need to be unjustified that the defendant and inalienable principles and religious conflict are known. That was significant to Islam to avoid injustice and to the woman before them, including. One of these solutions put a bet on a legitimate marriage and marriage, knowing that it is the right of divorce to be placed at the disposal of woman gives up in case of violation of the condition of the man, his lawyer is divorced. I will betray the man is not allowed to hold him and should get a lot of money that couldbe yours to divorce her.

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