Analyzed in Divorce Convention on the Rights of Women in Islam and Iran

Hosainymighadam Asgari

Behshahr branch, Islamic Azad University, Behshahr, Iran.

Hosainymighadam Asgari; Analyzed in Divorce Convention on the Rights of Women in Islam and Iran.

ABSTRACT

The sacred institution of marriage in society is based on family and warm with love and devotion for the center. Perhaps not to many possible causes of marital stability. Separation and parting is mutual interest in each other. Has been developed in divorce law. Given that, the marriage was formed with the consent of men and women. Divorce is right for men and women in Islam. With this difference that, in some cases the legislation has the right to divorce for men and women in some cases. This article examines the right to divorce her. Divorced woman is entitled to legal analysis and jurisprudence.

Key words: Divorce, Women, Islam, Iran, Convention, Jurisprudence.

Introduction

The dictionary meaning of the word divorce, abandonment, release, separation, opening of the clause and adverb, destruction, removal, and solvent to be, and you are leaving. [1]

In terms of the divorce law emancipation and liberation from the bonds of marriage. It is said: Divorce is a word that means to open the band and the means to give up and leave. Divorce in Islam is meant to eliminate the marriage relationship. [2]

In terms of rights, divorce is a procedure whereby male permission or a court order, the woman who constantly on his marital state, frees. [3]

Terms of history, as old as marriage, divorce, have been considered, when the situation has been married for human transplantation, a procedure known as the divorce is decreed for the break, but this method in various civilizations and cultures and centuries, and ages, in different formats have been met. In more primitive civilizations Wedding has a temporary basis. It still works in some African tribes and African-Americans and Eskimos there. This type of marriage after her separation from husband has no time for no particular formalities. It if it is renewed. The Sumerian civilization - four thousand years BC - only get this absolutely right handed man and a woman would want to get rid of the Wedding, to punish - drowning in the water - was doomed. [3]

The civilization of Babylon - three centuries after the Sumerian civilization - and the laws of Hammurabi, not the temporary relations based Wedding. If the woman's fault, it was fixed, an error that I made ??to honor the man, sentenced to death were documented. Or were punished for misconduct and the courage to demand a divorce. [4]

In Greek civilization, man has the right to leave whenever she wants without any excuse. Anyone who wants to give it to him. Or will it make to the dead. [5]

Wedding in Indian civilization had three stages:
A - Wedding in the first stage as a group have been held. Collectively had a marital relationship with another group. Individuals are limited to a specific individual without ties.
B - The second stage and matriarchy in the evening, only women had the right to divorce.
C - In the third stage and the patriarchal era, divorce was limited to those cases. That spouse's infidelity was proved. Or agreed by both parties was reached. [6]

Faith in Christ, for none of the men and women, there is no divorce. Marriage can only break when the woman is committing adultery. [7]

Contemporary and traditional legal systems of various patterns in the divorce may follow. In countries like Italy and Spain, the sadness, Romanism, divorce was not legal until recently. The new rules also limited in cases of divorce were allowed, for example, divorce law that was passed in 1970 in Italy, only in some special cases (such as a final condemnation of one of the couples, having sex outside of marriage and stop five years of life), the court will allow the divorce judgment. [8] is in some countries. This system would apply to a few decades before the United States. Acceptance of divorce in case of impossibility to establish or prove that married life is actually discrete and acceptance of the divorce agreement, both sides of the other systems in
contemporary societies and in particular, European countries said. In most Islamic countries to uphold the rule of Islamic law, divorce has been granted to men. [9]

Look at divorce statistics:

In recent decades in most countries, divorce is faced with unprecedented growth, so that when this issue as one of the indexes (sexual revolution) to be raised in the West. Of course this does not mean that a high rate of divorce is devoted to contemporary Western societies because many of the primary societies and about some famous people in previous periods (such as Japan in the period between the years 1887 to 1919; Algeria between the years 1887 - 1940 and Egypt between the years 1935 - 1954 has reported a high rate of divorce. [10]) . Statistically valid findings show that the U.S. currently has the highest rate of divorce among the countries of the world. In 1997 approximately 2.1 million divorces in this country were actually increase compared to 1960 doubled the shows. That are located within one year of divorce than the marriages that are to be located in the same year, 50% is attained by two married a year before the divorce takes place. Frequency of divorces per 1,000 population also shows that the fourth person to take action for divorce. [11] Also, approximately 21 women per 1,000 married women in this country get divorced every year. [12] About 2 million American children each year experience parental divorce. [11]

The divorce rate in America, in comparison with the marriage rate between 1960 and 1998 show, the divorce rate increased (Table 1 and Diagram 1) (Quoted from: Lindsey and Beach 2000:384):

<table>
<thead>
<tr>
<th>Year</th>
<th>Divorce</th>
<th>Marriage</th>
</tr>
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<tbody>
<tr>
<td>1960</td>
<td>2.2</td>
<td>8.6</td>
</tr>
<tr>
<td>1970</td>
<td>3.5</td>
<td>10.6</td>
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<td>1975</td>
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<td>10</td>
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<td>1980</td>
<td>5.2</td>
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<tr>
<td>1984</td>
<td>4.9</td>
<td>10.5</td>
</tr>
<tr>
<td>1990</td>
<td>4.7</td>
<td>9.8</td>
</tr>
<tr>
<td>1992</td>
<td>4.6</td>
<td>9.3</td>
</tr>
<tr>
<td>1994</td>
<td>4.4</td>
<td>9.1</td>
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<td>1996</td>
<td>4.3</td>
<td>8.8</td>
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<tr>
<td>1998</td>
<td>4.3</td>
<td>9</td>
</tr>
</tbody>
</table>

Fig. 1: Marriage and divorce in America in every thousand (blue = marriage, divorce, red =).

In England and Wales the number of divorce was entered in 1996, was 157 107 cases (9/13 in thousand of married population), while in 1964, 34 868 divorces (2.9 per thousand married population) and divorced in 1931, only 3668 (0.4 per thousand married population) were located. [9] In 1997 the number of divorces, including children under 16 years in these two parts of the UK over 80 670 cases and number of children (under 16 years), these divorces was 150 309 people. [8]

The divorce rate in Canada under 38 in every hundred thousand people in 1951 to more than 270 per hundred thousand people reached in 1991 (Ibid: 26) and the number of European countries like Sweden, Denmark, Hungary, Finland, West Germany and France, every year more than 300 divorces in 1000 are actually married, although in countries like Spain, Italy, Greece and the Netherlands, the divorce rate is still relatively low at about 135 divorces per 1,000 marriages will be located. [9]. (Table 2)
Table 2: Divorce in different countries in June 2011 (WWW. nationmaster).

<table>
<thead>
<tr>
<th>Row</th>
<th>The rate of divorces per 1,000 married</th>
<th>The</th>
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<tbody>
<tr>
<td>1</td>
<td>4.95</td>
<td>United States</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>4.47</td>
<td>Puerto Rico</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>3.36</td>
<td>Russia</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>2.81</td>
<td>Denmark</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>2.63</td>
<td>New Zealand</td>
<td>5</td>
</tr>
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<td>6</td>
<td>2.52</td>
<td>Australia</td>
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<tr>
<td>7</td>
<td>2.46</td>
<td>Canada</td>
<td>7</td>
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<td>8</td>
<td>1.85</td>
<td>Finland</td>
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<td>9</td>
<td>0.97</td>
<td>Diameter</td>
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<td>10</td>
<td>0.88</td>
<td>Portugal</td>
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<td>11</td>
<td>0.83</td>
<td>Albania</td>
<td>11</td>
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<td>12</td>
<td>0.82</td>
<td>Tunisia</td>
<td>12</td>
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<tr>
<td>13</td>
<td>0.8</td>
<td>Singapore</td>
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<td>14</td>
<td>0.79</td>
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<td>Brunei</td>
<td>16</td>
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<tr>
<td>17</td>
<td>0.68</td>
<td>Panama</td>
<td>17</td>
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<td>18</td>
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<td>Syria</td>
<td>18</td>
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<td>19</td>
<td>0.58</td>
<td>Thailand</td>
<td>19</td>
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<tr>
<td>20</td>
<td>0.42</td>
<td>Ecuador</td>
<td>20</td>
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<tr>
<td>21</td>
<td>0.41</td>
<td>El Salvador</td>
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<tr>
<td>22</td>
<td>0.39</td>
<td>Cyprus</td>
<td>22</td>
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<tr>
<td>23</td>
<td>0.38</td>
<td>Chile</td>
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<td>24</td>
<td>0.38</td>
<td>Jamaica</td>
<td>24</td>
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<tr>
<td>25</td>
<td>0.37</td>
<td>Mongolia</td>
<td>25</td>
</tr>
<tr>
<td>26</td>
<td>0.37</td>
<td>Turkey</td>
<td>26</td>
</tr>
</tbody>
</table>

Divorce in Iran:

In Iran in recent years have seen an increase in divorce rates increased, especially in large cities, is very sensible. In 1992 the total number of divorces was 33 983 cases, while in 2000 this figure has risen to about 53 797. The divorce rate in the whole country between 1996 and 2000 from 63 thousand to 85 thousand has increased and this means that the rate of divorce has increased during the four years 35. [10]

The ratio of divorces to marriages in the whole country in 2000, is 12 times, meaning that for every 120 marriages, 10 divorces were recorded, while this ratio was 6.1 in Tehran Province , versus 10 divorces, 61 marriages have taken place. [10]

According to the divorce registration Iran is rising. The divorce statistics registered 84.7 percent in urban areas and 15.3 divorces per cent in rural areas has been registered. In 2010 the country recorded 137 200 cases of divorce in the same period the previous year has increased 9.1 percent.

Divorce in the Islamic legal system:

Like other contracts of marriage in Islam is that it works is once only rights, but that link is for the peace of the Holy Spirit and human body, is required. The Holy Qur'an has commanded it and many people without a spouse that is encouraging. Prophet and the Imams have emphasized too much to marry. In incite Muslims, have used every means possible, that the Prophet's most popular house is a house built with the marriage. Disadvantage of it is a house with separation and divorce has been destroyed. God, the helper of those who marry, shelter. [12]

As in Islam, marriage is sacred and good. For stability it has a lot of stress, divorce, is indecent and unholy. Every possible means to prevent it from using the words of the holy founder, has been interpreted to the disadvantage of these solvents. There is something to anger God. Worst of God's house, a house that marked the divorce, is disintegrating. Divorce than those who turn to God, despises. When divorce occurs, the Throne of God comes to earthquakes. [11]

Although at the time of divorce in Islam, is legitimate. But for the founder of holy marriage, it is not separated. The scope of the dangerous whirlpool of other innocent people, did not harmful. As soon as a man of his wife is unhappy. Divorce does not show up. But invites him to patience and fortitude. [11]

Consequently, the addition of the solvents, the introduction of divorce is the worst. Every means to avoid what they do before and after the divorce and when it is needed. However the way divorce is not wearing a whole. Because sometimes, despite all these solutions, some lives come to an impasse. Should anyone else living with another couple resume.

Why Islam has given men the right to obtain a divorce?
Because in natural conditions, the separation, the man is buried?

In response to this question said:
A - Divorce for women in any kind of outcome funding followed and the man that when divorce dowry to pay, cost of living woman to 3 months to accommodate women in the period of preparation
and life of the children until maturity provide. In addition, the custody fees and costs of child marriage is also put upon him. So the equity out of the unintended consequences of action to the other person and to punish the woman is given a unilateral right to divorce.

B - Female, according to their nature and the duties that God has laid upon him the high emotions and reactions of their early shows, and statistics show that when the divorce is granted to women like ancient Rome, some The Arab tribes, and some Western countries, the number of family breakdown has been growing rapidly. [10]

C - If the Muslim woman can be released from the shackles of marriage while the wife is willing to continue living, a way to win her consent to be ousted from her divorce. In addition to being able to contract marriage, divorce attorney in divorce and won the bet.

D - A look at the sanctity of Muslim women and is associated with dignity and respect. The lover of intellect and wisdom to judgment as a good and clean and free from flaws are introduced. The divorce is a foul and what is obscene and what is the norm in Islam and the traditions and verses as the work of God is considered a loss. Accordingly, God's fault and the shame of the woman and the man entrusted this responsibility to her skirts and keep it safe place and character of this area does not harm women.

Her divorce:

However, in jurisprudence, divorce is normally in the hands of man, the woman's right to comply with the legislation is in some cases divorce for women. Which is as follows:

A - Divorce disarmament:

Disarmament word in the dictionary meaning is picking up. In terms of jurisprudence, divorce is to disarm the woman's marriage is unhappy and cannot live with men and in return for giving or giving dowry to the man to divorce. Intersect because such duties have said, is that men and women to dress in the Koran is interpreted. As if men and women separated from their clothing is torn off. [10].

The consensus of jurists and explicit verse of the Quran, Islam divorce is legitimate disarmament and women can benefit from this right across the board if needed. In the hadith narrated by Ibn Abbas: The wife of the Sabet bin Qais Prophet came and said, I still do not like religion and morality and religion of disbelief and fear? The Prophet (PBUH) said: You are currently on the handling of his garden? She said yes. So he had to prove her garden, and divorce were deposed. [12] is the first divorce in Islam has been deposed. Some scholars believe that she would divorce the man forced a woman to divorce is necessary. [12]

B - Divorce Separation:

The term rights is that men and women both despise each other and cannot continue to marry and women to pay something or give dowry to the man's divorce. [11] Of Imam Sadeq (AS) was asked about the quality of divorce, separation, Imam her dowry from her husband or did something else with her husband and her dowry or part of it will belong to the man And the man can divorce. [12]. Please if you can see, if the woman fails to cause moral or behavioral problems or social and family or ... He can live with the husband of disarmament and divorce divorce separation separated from her husband and the husband refused to divorce and has no effect in these two cases.

C - stipulation:

The Shi'a scholars that many of the same opinion is based on civil law, Iran, women can be through stipulation, won the right to divorce, to the case that the marriage contract or Another condition is that the absolute or conditional contract on behalf of her husband's divorce lawyer is in implementation. [11] Thus, if the exclusive right to divorce a man comes to speak, merely the basic rules about marriage and should not lead to the misconception that Islam is no strategy for getting a divorce is not considered optional woman. As does Article 1119 Civil Code, marriage parties can oppose the marriage of any condition that is not appropriate to put the marriage. According to this article can be a woman in marriage the husband once who shall violate the conditions of men, women's representation in divorce. [12]

Right to terminate the marriage, the authority of Islamic law that has developed for women is that if the man is wrong in the marriage and marital affairs and it will wreak havoc with a woman can be separated from the men, although men are not satisfied.

If the woman is also some defects in males can also be separated from women and to terminate the marriage. Going to court and divorce: the legal aspects of divorce, women need to request that the law has to prove in court that these cases are:

* Alimony or inability to give her husband refused to pay (Article 1129): if the woman can prove this in court, forced to divorce their husband's will, and if she divorces her husband and does not run the court or judge Rather than attempting to divorce her husband and a representative will sign the document.

**Hardships: civil law in Article 1130, if the woman has the right to life continues to be subject to the hardships he was suffering from divorce court to request this article and note examples of the hardships is enumerated.

A - Left the family life of the man. B - A type of drug addiction man live so that the damage to it. C -
A definite conviction to imprison for 5 years or more. D - Every beat and abuse. E - untreated mental disorders or contagious diseases of man who would disrupt lives. It should be noted, that the law named after them, and not by the severity of the hardships is Casual. Burden of proof on the shoulders of each of these cases are women and women must prove their claims in court and may be the reverse also happens in court to prove that the man life women and is intolerable.

***Husband's absence more than four years:
According to Article 1029 Civil Code to be missing man missing for four years may request divorce his wife.

Divorced women in Iranian law:

Article 1133 stipulates that a divorce in Iran as a "man can divorce his wife whenever he wishes to" the will and desire is that men and women in certain cases, such as alimony or the absence of her husband refused to four years and the hardships she can request the court to divorce. Iran rules exit from divorce and the law has been codified and integrated in divorce in 1934 was approved by Parliament. Family Support Act of 1967, the first step in limiting legislative authority is the man in divorce. Until then, it will, if he could divorce the man and woman without her consent divorce. But based on the 1967 Family Protection Law was given to the courts. Only in certain cases the request of the couple or the impossibility of a compromise agreement to issue the certificate. Under this law, divorce, each spouse would be based on justifiable reasons. The Family Support Act of 1974, absolute and unlimited authority over the man was taken to divorcing couples that divorce was a court document your request to one of the cases listed in the proposed rule making. Despite these court cases were diagnosed. After the Islamic Revolution in compliance with Sharia law and this case was correct. Civil law is grounds for divorce in three types:

6-1 - The will of man to divorce:

In Iranian law, the divorce is in the hands of men. The man appointed by divorce petition and if you want to go to court to divorce his wife. In this case, the court will issue a certificate of non-compromise and divorce registration certificate will be possible only with this. The Civil Code Article 1133, which was given unlimited authority to males in 81 years was modified this way: "Man can comply with the prescribed conditions in this Act referring to the divorce court to make his wife. "Note: this article was to give women the right to divorce." She also provided the material conditions in 1119 (the terms of the contract with the representation of women in divorce), 1129 (Inability or refusal to pay alimony in a divorce case) and 1130 (the hardships women) from the divorce court."

However, today if a man wants to divorce his wife should go to court and the court referred the dispute to arbitration if the peace between spouses and between men and women will not compromise a certificate will be issued no compromise. The men had to divorce even if the excuse is required dowry, dowry and the wife to pay alimony. But if there is no excuse for men and only referring to Civil Code Article 1133 of their right to use this right to women, there is the dowry, dowry and alimony, things in common life, with no intention to Tbr and The man has done (and could prove it in court) to receive.

6-2-1 - divorce to her request:

Under civil law, a divorce can be achieved in three ways. Approval by giving some money to her husband (divorce and separation of duties)

If for any reason a woman is unhappy with her "husband and the words "abomination" is given a man to divorce, financial giving dowry to her husband that some or all of this is mine, and he agreed to get divorced a.

6-2-2 - Go to divorce court:

In this type of legal ways to apply the law of divorce, the woman should have to prove in court that these cases are:

A - The husband refused to pay her alimony or incapacity (Article 1129) . B- the hardships: Civil Code Article 1130, if the woman has the right to life continue to be subject to the hardships he was suffering from divorce court to request the amendment of this Article instances, the hardships is enumerated. C - Left the family life of the man. D - A type of drug addiction man live so that the damage . E - A definite conviction to imprisonment for 5 years or more. F - Beat any abuse G- having a mental disease impede the common life. H - The husband's absence for more than four years: According to Article 1029 Civil Code to be missing man missing for four years may request divorce his wife.

6-2-3 - resorting to the provisions of the law for marriage and divorce:

Article 1119 Civil Code as a party to the marriage or the marriage of any condition that the marriage is not opposed to appropriate housing. According to this article can be a woman in marriage the husband once who shall violate the conditions of men, women's representation in divorce. The marriage registration offices and also in matters of marriage deeds under the conditions of contract printed, these terms and conditions, including the transfer of assets by half dismissal for a divorce
without a lawyer is in some cases. No dismissal in law in Deeds married to wife, male to female representation in the 12 cases that occurred in each of these 12 patients, and their absolute requirement that the court cases are:
A - Refused to give her alimony. B - Socialize abused or men. C - Catching the disease without treatment her husband. D - Termination of insanity in cases where religious marriage is not possible. E - Non-compliance with court orders prohibiting the employment in which couples to the job, according to family court and the dignity of women is incompatible materials. F - The man to five years imprisonment or more. G - Getting a man to have any harmful addiction. H - Have no excuse to leave the life of the man. I - A definite conviction as to whether any penalty or punishment is a crime against the dignity of her family. J - Male infertility or other physical effects that lead to that after 5 years not to have children. K - The missing couple. L - Another man's wife without the wife's consent or a court to recognize their spouses than does justice.

6-3 - Couple Divorce Request:

Third case of divorce, the couple has requested that both the applicant and spouse have agreed on all matters. In such a case, their agreement on all matters including child custody and alimony after divorce and a few days, get the dowry, dowry and collect. To declare in writing to the court record in their records. [12]

In her divorce Convention on the Elimination of Discrimination:


Member States shall take the necessary measures to eliminate discrimination against women in all matters related to marriage and family relations based on equality of men and women in particular to take action and ensure the following matters:
A - The same right to contract marriage. B - Same right to free choice of marriage partner and the signing of the free and full consent of both parties. C - The same rights and responsibilities as parents, irrespective of their marital status, in matters concerning children, in all cases, the interests of children is a priority.

Please if you can see, the Convention on the rights of men and women in divorce and marriage is the same problem and so that the man has the right to marry and divorce, the woman would marry and divorce and Essen is the distinction between man and woman and every Two can enjoy the same right.

Conclusion:

Although divorce has been entrusted to man as it is thought the man in the exercise of this right, is not considered to be released. In addition to the moral order and the limits and regulations on its way, and necessary to prevent the holder of each factor is also used. Inequity that abuse of the rules are unfair, and in all the systems it is possible, because the law is for everyone, no exceptions and rare, to put the system account. Muslim women complain that it does not treat him according to Islamic rules. The law is not fractured. But as it is worthy of the Islamic Society's Islamic laws are not applied correctly in the courts.

References