

**Wife's divorce request jurisprudence and civil law**Mahshid Mahtabi (M.A)<sup>1</sup>, Rasul Parvin (Ph.D)<sup>2</sup>, Ghobad Naderi (M.A)<sup>3</sup><sup>1</sup>Department of law, Payame noor University, IranEmail: [MahshidMahtabi@yahoo.com](mailto:MahshidMahtabi@yahoo.com)<sup>2</sup>Department of law, college of private law, Kermanshah Branch Islamic Azad University, Kermanshah, Iran<sup>3</sup>Department of law, Payame noor University, Iran

**Abstract:** Divorce is one of the most damage of all nations and governments recognize their responsibility toward it. Despite marriage, private contract between the parties, but it is your duty to know the laws of the state in supporting couples, especially women, to predict the time of dissolution of marriage. Since the devastating consequences of divorce for divorced women and their children to follow, in most legal systems, rules and regulations on the financial support of women after divorce has been developed. This support for women, who have no job or income, is vital. Drop divorced women to serious social problems will follow. Growth rates of crime, divorce and children's future, away from home, lack of proper education of children with emotional and mental problems, including the risk that legislation and regulations necessary for women during divorce is justified. Therefore, this regulation has been adopted in many countries to reduce or minimize the adverse consequences of divorce. The issue of Iran's legal system is based on Imami jurisprudence has also been considered.

But the rules of Islam and civil law, the divorced wife of a man they recognized that, in some cases, men abuse this right, causing violations of women's rights, particularly in the material provide predictable regulatory support, Vital and important dates. (Procedure No. 57 of 1385 ).

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**1. Introduction**

Divorce laws in many of the world is absolutely in the hands of the judge and the court can grant a divorce or dissolution of parity of votes the laws of all divorces, divorce is legal.

In our society, usually the dominant male and the separation of the couple's divorce, the couple will be disabled. But in Islam, there are cases that explicitly allows the wife to request court, divorce decree. Some of these include:

1. A woman who has not paid alimony to her divorce from her husband.

2. A woman who divorces her husband missing, is missing.

Article 1130 of the Civil Code of the Islamic Republic of Iran in another divorce because Vhrj added distress occurs when this type of divorce in marriage, couples suffering from unbearable wife entered. Continue and sustain this life, so that the wife may suffer from limitations in terms of the trial judge to intervene in an important role in conflict resolution and will rights of individuals to the family to the selection of solutions Mnasbydr the direction of peace reform society parties tips track.

However, the argument is that a woman has no right to divorce under any circumstances or in certain circumstances it is found that right?

According to the Qur'an addressed the divorces natural right of man, but on condition that his

relationship with the woman also has to its natural flow. Natural flow of her relationship with the woman that if she wants to live with him, well maintained, will pay the salary, socialize and have a good Yyn if you want to continue living together with him, well and good divorce her shows. That information, he will not refuse. Rights Vajbh thank him as well as give him more money. "Indeed Balmrvf comfort Vllmtlqat Ali Almhsnyn" and the marital bond is adjourned. But if the couple's relationship during its natural flow and not, for example, a man is found not to comply with the duties and interest and satisfaction of women and not to the satisfaction Here's what to divorce Do Islam is a regulatory system that coordinates without prescriptions and conversion to allow Islamic law in principle occur without any harm to put the flexible reach immortality of and compliance with life is Tyre variable. (Mary Ahmadih - doctor J. Jafapour; book request divorced woman, divorced her husband's request).

Although it seems to be divorced Myysd with the oppression of women to men in some cases, but given the circumstances and problems that Islam is the way you put a man so inept divorce is all the reason behind barriers put Hychykaz follow Islamic principles and human and not a few cases where a woman is caught nasty wife through a divorce, which makes divorce from her briefs to identify some of

those aspects Sharia law point of view, we will. (Behnampour prosper; supporting the rights of women in law and jurisprudence).

#### **Divorce history:**

The root word means to separate or divorce is released, the Holy Qur'an, Allah commands Svrhay Divorce and the Divorce and the conditions stated in the stands, a divorced woman release is separated from the shackles of the parity of men. (Z-hasanzadeh.blogfa.com).

However necessities has caused God to legitimize divorce but religious policies to invite people to protect their families and avoid divorce has been established. Traditional doctrine, God allows divorce Napsndryn solvent.<sup>1</sup>

Divorce is located in the house where the wreckage is simulated and the man can divorce his wife without cause, allows damned. (Doctor F. Malekzadeh).

Marriage, divorce history dates back to the history of mankind at the request closes the marriage bond to your natural loving family beside her husband to rest and relax as well as possible causes of life refused to divorce, accept.

Voltaire says, "Marriage and Divorce in the universe exist at a time"

It is certain that many divorces and other divine religions before Islam existed brief history of divorce in the past, so it is necessary to discuss here.

(Age of ignorance): The Age of Ignorance divorce the woman and the woman so that the doors to the right and left sides would see a man with such a situation would have realized that was not her husband would divorce her and. When a woman marries a man of her choice if she wanted to stay with her and you would not want.

Ancient Greece: In ancient times she was a puppet of Satan, and so only as a commodity was worth buying and selling and trading. He was banned for anything except for housekeeping and child rearing and man could sell him a gift. In those days it was the discussion of whether women have souls or not? And if the soul is the soul of an animal or the competence of the Community or of men of merit is denied.

Babylon:

Babylon divorce law no man can divorce his wife could never even be sterile. One slave girl to bring home to him the child had no right to refuse it.

Indian Woman Indian Snake Pit or even inferior, disease and death, and asked if her husband was alive he should be burned in the fire as far as the territory of the Kings of India, 17 women, he burned in the fire of his were.

"As a Hindu woman who's not in love Work is not restricted to a pile of burning dead "

(Saeb Tabrizi)

Ancient Iran: Persia divorce was permissible for the men and women were doing were oppressed in society, even a husband could kill his wife for life or imprisonment.

Christian Divorce "odious solvent"

Unlike Christianity, Islam and Judaism is a religion forbade divorce and remarriage is adultery equal.

Jesus (AS) says: Verily, Moses because of the barbarity of his people allow their wives to divorce, the couple as a unit and are physically apart from each other do not, so if God has gathered them together, not human would divide among them.

Divorce in Islam because Islam aims to forge links between human persons and establishing family centers that divorce is contrary to nature and the link between men and women is against the law and it blame Mghbvz God Referred it .

You can double up my legs parting Amz Alashya' Ndy Altlaq

(Jalaluddin Rumi)

However, it should be said Islam does not want peace, freedom and humanity gone to live in hardship and suffering, and no conscience, does not consent to the issue. Hence, unlike Christianity, Islam, divorce is the result of a wish, not as a target. As mentioned divorce grudges because it is divine.

Emir of the Faithful Ali (AS) has said:

Get married but not divorced, because God's throne is shaken divorce.

Islam and women in terms of policy and public affairs practice will interfere with its two equal measures established in the He wants to Ayndlyl the survival Havaeji to eat and drink is Mohtaj to acquired She is too.

(Divorce in the Islamic Republic of Iran Civil Code)

- Male into a court has the right to divorce.

- Women specific condition can also go to court to divorce some of these conditions are:

- Couple of drug addiction
- Getting a couple of different types of alcoholic beverages
- Definitive sentence pair more than 5 years in prison
- Couples for wife beating or abuse is intolerable
- Couple infection diseases incurable physical and psychological

Divorce divorce in the presence of two witnesses are required reading. ([www.pazhoheshkade.com](http://www.pazhoheshkade.com))

#### **Background research:**

The first rule about getting married in August 1310 Drmhrmah adopted and entered into force the

same year. Article (4) of the Act was adopted Zmnqd condition. Substances in 1313 (1120) to (1157) in the context of the dissolution of the marriage law was passed. Matter (1133) would have provided: "A man can divorce his wife whenever he desires to." Man of restrictions on divorce, mainly owed to religious rules include: (1) the implementation of divorce, the specific term, two in divorce Thiourea non Mvaqh 3, the presence of two witnesses just [Material 1141 and 1134 BC. M]. So men without going to court, they could divorce their women. Following the introduction of social change and women's rights in Iran in 1346, the first law adopted family. Pursuant to Articles (8) and (9) of this rule, even in the case of couples who divorce court agreed was necessary. Also in conformity with Article (11) of the Act, five others were added to the grounds for divorce. In other words, the right of women to divorce than civil law, adopted in 1313 increased. Paragraph 3 of Article 11 would set out:

"When couples without the consent of the wife, the wife of another.

Family Protection Act, enacted in 1346, during her divorce did not change Malyaz serious support. Pursuant to Article 17 of the Act, the provisions of Article (11) that the conditions stated in these Official Nkahnammhay Zmnqd in Blazl attorney for the wife was emphasized. According to some authors, the purpose of the enactment of Article 17, "divorce standards of jurisprudence do indeed after the law was ratified.

The law divorce for men and women was partially raised. Because by virtue of Article 17 of the men in the divorce was still recognized. With the approval of the legal question was raised as to whether the Family Protection Law, Art (1133), the prescriptions of civil law or not? In answering this question, some authors believed the substances (8) and (11) of the Act, the (1133) law is implicitly abrogated. Others believed that the (1133) still remains and confirmed his claims of material (11) and (17) of the Act cited. Accelerating social change in Iran, legislators passed the Family Support Act in 1353, by removing the words "in addition to the civil law" of Article (8) as well as the removal of Article 17 of Law 1346, Article (8) Divorce causes in paragraph fourteen Ahsa and thus gender equality in divorce than in the past escalated. Although some previous law to resolve ambiguities in the law, but the abrogation of Article (1133) still believed that some substance (1133) is not completely abrogated. (3, p 362). Family Protection Act, enacted in 1353 with the enactment of Article (11) The financial support of divorced women was considered a new development. In another development, by virtue of Article 10 (1) BC. H. St., filed for divorce without

asking for proof of the impossibility of compromise, it was decided that a criminal warrant. Article (4) BC. H. St., in exempting the parties from making poor hearing and other similar costs in family disputes, is a positive step in the laws after the Revolution, less attention has been. With the victory of the Islamic Revolution in 1358 passed a bill establishing civil courts, grounds for divorce in the Family Protection Act 1353, copies and according to Clause 2 of Article 3 of the Act which would have provided "as is divorce cases in civil law and canon law has been set. "restrictions for men's divorce removed the long-standing dispute about the prescription or non-prescription substance (1133) put an end to the civil law and the bill of material (1133) restored the. It also referred to the divorce proceedings (except divorce agreement) can be forced into arbitration. In 1370 Parliament passed a single article was amended divorce laws, and the difference between Parliament and the Guardian Council about the legitimacy of Note "6", the matter was referred to the Expediency Council reformed in 1371 with finally in November of the Note " 6 "was approved by the Expediency Council. Single Article divorced in notes 3 and 6 new safeguards for women's financial rights if the couple divorces, it is anticipated. (Discussion of women's rights, doctor Hussein Mehrparvar, 1384)

#### **Method:**

In this study, the method of taking notes, reading books and internet sites I have used.

#### **Women and Divorce Appeal Court (judicial divorce)**

According to the terms of juridical jurists and civil law, the divorce, the male principle, it should be seen if a woman wants a divorce, what to do and how your marriage falling. According to the principles of our legal jurisprudence and suggests that his wife's decision to divorce and separation in no case does it actually mean that the most natural way to achieve resort to the Disarmament divorce. By giving the money to her husband, her consent to the divorce done. Disarmament is based divorce and financial abomination of a woman who gives her husband for a divorce may be more or less than the size of the seal or (Materials 1,146th of the Civil Code 1147), it is not the husband, or is he poor satisfied not Finance, meanwhile, gives the husband wants to divorce causes what to do? You can go to court and ask the court to issue a divorce decree? In what way and on what factors and aspects to be considered this request and come to fruition.

(Doctor F. Malekzadeh)

#### **First topic: the wife's request for divorce from the perspective of Islamic jurisprudence**

Islamic law: Muslim scholars in some cases to let her have a divorce ruling, and the reasons why the

Quran and Hadith in this regard have, complete and lengthiest discussion Imami jurisprudence in this area, we reached the pleadings Ayatollah of Sheikh Hassan al solution "The law works Alvjh Alvzyh" is. So what is in this paper fail to comply with the duties of a couple of leads (including charitable and sex and sex and good companionship) what fault caused the husband is without fault if the woman's married life and survival is difficult The judge will see that the right to divorce, ruling that the husband had to divorce if her husband does not it, but abstained from ruling as his wife would divorce.

If a husband does not fulfill the rights of women and forced him to play Obligatory not possible ruling forced the husband to divorce and the husband refuses to divorce her governing divorce and the divorce is religiously correct.

In addition to these cases, the woman who her husband was absent in Islamic jurisprudence, may be missing the circumstances of the divorce court and pursuant to stipulation woman can divorce her husband, some the power of attorney to that, when achieved of her in the mean absolute or their divorce.

#### **Second: the wife's request for divorce from the perspective of civil law**

Civil Code in 1129 and 1130 Myjbaty to ask for a divorce, she has determined that it is based on Islamic law. Article 1129 of the refusal or inability of the husband to support and lack of enforcement of court judgment and obligation to support his wife for a divorce in this case to see the ruling ruling obligation to divorce, which husband.

Article 1130 BC. M.. (Amended 8/14/1370) The hardship which caused extreme hardship if their life for a woman and a woman can be unbearable to divorce court.

In addition to the above civil law to comply with the law, a woman who had lost her husband four years away from the court granted the divorce (Article 1029) wife for a divorce lawyer in civil law, such as Islamic law has been accepted. (Article 1119) (doctor Seyyed Hossein Safaei - doctor A. Imami)

#### **Legal wife's divorce request**

##### **A) In case of failure to pay alimony to wife's divorce request**

This section will examine legal materials related to maintenance.

##### **A - 1) of Article 1107 of the Civil Code:**

This article states the definition of wife "alimony include: housing, clothing, food and home furnishings, which is typically proportional to the status of women and the servant of the servant or need more accustomed to having his servant, due to the members of the disease or deficiency »

Shaykh Tusi wife alimony determined in accordance with the situation and for each of the

three couples as well-off, middle insolvent has identified cases.

What can be said in the 1107 article cited capable >> of anything in terms of conventional maintenance element is needed to be a woman.

##### **A - 2) Article 1108 of the Civil Code:**

"If a woman refuses to comply without hindering legitimate tasks Kndmsthq alimony will be paid, according to alimony obligation jurists bet 2 things: 1 - permanent contract, 2 - subservient wife

The question is raised whether a woman through her alimony claim in court must also prove the relationship between parity, marital duties as part of their duty and prove or substantiate the charity Recalcitrance to meet women, over the wife. The answers could be saying that women in Muslim jurisprudence, but what Recalcitrance not entitled to alimony from the 1106 BC. M. And 1108 BC. M.. It comes on a maintenance contract signing is mandatory and obligatory charity Recalcitrance hinder and prevent unconfirmed until there is parity obligation to support the continuation of the suspension will be why the current procedure vessels Fault is that if a woman petition Both men and women should be subservient to the lawsuit and she could not prove their claims based on failure to pay alimony to her in favor of sentence issued (her Ahmadieh - JAMSHID doctor Jafapour)

##### **A - 3) of Article 1129 of the Civil Code:**

Under Article 1129 of the Civil Code "if the husband refuses to give his alimony obligation non execution of court and support, women can go for a divorce ruling and governing the obligation of the husband to divorce, the husband is the inability to Alimony "

If the court ruled in favor of women's charity and the issuance of Executive Women cannot be executed against the husband to divorce ask the courts for the court's ruling, and the husband to divorce law mandates court, and the wife does not run divorce Judge or his agent instead Mstnkf husband a divorce action that will sign the document. (Doctor Sayyed Hassan Ribald - doctor A. Imami)

##### **A - 4) past and future alimony:**

The purpose of the Tunnel refusing to give permits divorce only for future maintenance or alimony includes past. It seems that only the husband refused to support the future that cause divorce, alimony noble past as a religion on her neck, and the cause is divorce law, however, in this case between the scholars, and the court there is no consensus, a woman who the husband refused to divorce alimony is not directly from the court and refusing to divorce her husband asked her to make the introduction and the first step to a lawsuit demanding alimony, article 1129 only after the judgment and lack of charity to

execute it is. Apart from the civil enforcement of alimony, maintenance of criminal sanctions mentioned in Article 1129 of the Act authorized is determined. Article 642 of the law implies that everyone could afford to pay alimony to his wife in case of maintenance or other persons not to comply with the court's duty to refuse Alnfqh 3 months, and one day up to 5 months sentenced to prison terms will. (ehsani 49. persian.blog.ir Divorce to ask a woman-the Iranian king)

#### **B) The wife asked for divorce due to hardship:**

Article 1130 BC. M. Negation rule "hardship" that jurists of rules in many cases cited and thereby negate the obligations that entails hardship for judgment that is required. Negation of the rule of "hardship" in Islamic jurisprudence used to go there a lot and there are many traditions and verses indicate that the Qad such status.

(Hardship rule and the right of women to divorce) (Haji Ali Mvgdyy)

As is apparent compliance as an important jurisprudential Qadhy "hardship" in civil law marriage with a woman who comes Forest requires review jurisprudence and its associated branches.

#### **Meanings of key terms:**

##### **1 - Definitions lexical**

- A source of distress and the sense of being difficult, difficult strictures, is hardly poverty, distress noun means tightness, stiffness and difficulty.

- Sin Anbvr word on the trees, rather than a narrow, narrow place full of trees, tightness and pressure, as well as the meaning of sin and crime he did not say Forest on sin and he did not protest.

##### **2 - Legal Definitions**

The definition of hardship between the two said, "Every act of man to pinch pockets. Hard is and conversely, whatever is done to one's hard labor, causing shortness of pressure on him.

Moreover, the criterion determining the true hardship is the norm, according to which everything that causes sin and hardship and difficulties as well as difficulties.

##### **3 - rejecting arguments hardship**

One. Quran 2. Narratives; 3. Reason

Been used in 3 meant hardship in the Quran:

A) Difficulty: we Forging Alaikum Faye Din I Sin; Hajj / 78 (God is not a religion for you Forest »

B) consider God The Website Alys Vela Consider The Website Alsr; Cow / 185 "God for you is easy (not difficult)."

Licking Ali Alamy Fault Vela Ali Al-Araji Fault Vela Ali Almryz Sin; Light / 61 "on one blind and one lame and the sick person is not a sin."

A bottleneck is located at:

Fmn Practitioner God Having it assigned I Practitioner Having it assigned Yzlh Yjl Sdrh Zyqa Hrja, gratuities / 125 'whoever Allah wills to guide, his heart for Islam Mygshad and anyone who is willing to put his heart astray "

Narratives: fireproof Prophet Muhammad (PBUH), Prophet Ballhnyfh Alsmh Als·hlh, he was raised religious, attest to is that easy and not difficult.

Reason: It is accepted by all religions and arduous task outside the scope of God is impossible because the mind considers such action impossible. (Mary Ahmadiyya - doctor Jamshid Jafapour)

#### **4 - juridical basis hardship for divorce**

The inquiry will consider the words of scholars, few of them about the possibility of divorce by the husband to continue to live in hardship, are discussed.

"The purpose of the rule jurisprudence is very general formulas derived inference rules are more limited and assigned to a particular case does not come under different rules and different Qar»

Lahraj hardship rule or the rule of law is called jurisprudence is based on numerous verses of the Quran. Hardship rule of jurisprudence is secondary rules in the initial rule about divorce is that it provides a long lasting marriage, but the husband of the woman, causing extreme hardship is to divorce her husband, as a rule of secondary wife ruler divorce, the ruling forced the husband to divorce and the husband refuses to divorce ruling, despite the verdict, ruling or legal counsel representing her husband will divorce her. Detection of extreme hardship and that life is unbearable for a woman with a judge. (Doctor Hossein Safaei - doctor A. Imami)

#### **5 - review examples of hardship in wife's divorce request:**

Article 1130 of the Civil Code pursuant to this article, "durable if parity is causing hardship to his wife could go to a judge and ask for a divorce, the court fixed the hardship to be compelled to divorce, and the court can couple If coercion is not possible to divorce the wife of the judge's permission. "

Note: this article is the existence hardship situation and endure living with a woman with Mshtqt it is difficult to establish if the following instance of a competent court will be hardship.

1. Family life by a couple left at least six consecutive months or 9 months in intermittent year without giving any reasons.

2. Addiction couple of drugs or alcohol, according to his illness disrupts family life and the refusal or inability to his obligation to leave the addiction to a physician's diagnosis of that.

3. Couple definite conviction to imprisonment for five years or more

4. Beat or any sustained couples traditionally given the status of wife abuse is not tolerated.

5. Woman suffering from incurable mental illness or sari or any other incurable disease that can disrupt life.

Items contained in this article does not preclude the court in other cases where hardship is Ahrza woman in court, divorce decree is issued. "Hardship gap that normally consists of extreme hardship or is not tolerated,"<sup>2</sup>

Article 1130 of the Civil Code lawmaker resorting to Qaddhy S's denial of the basic rule that fault divorce, according to jurists known as the guy knows absolutely taken off and replaced it with the theory, and the things of the is absolutely hardship Instances seems to depend on the court.

Since the precedent in this case the transparency is not necessary and therefore cause hearing Prolongation and women wandering the halls of justice provides the expediency of annexing Note Article 1130 Ahsay hardship issues discussed above, will.

After proving the hardship that it's not the same case the court declares the couple's relatives and acquaintances about the art of self-confidence and determination are introduced. After the usual formalities and judges fail court issued a divorce judgment based on evidence and to determine child custody, and other financial rights of women, the payment would be. (Such as dowry, alimony, dowry), and if he cannot or will not pay a woman to divorce her financial rights can be recorded and it demanded a divorce and financial rights as a debt is charge of the husband remains the received later than executive action issue. (Ehsani49.persian.blog.ir Divorce to ask a woman-the Iranian king)

#### **C) Absence of husband for more than four years.**

##### **Nature divorce about missing absentee**

In this case, the disappearance of her husband and her ignorance of life and death after a relatively significant period of investigation, ruling for a woman to get out of the uncertainty involved, and he gives to the divorce is for those who follow keep Abstract days of uncertainty and some women can be freed from the shackles of the old parity to another husband.

So if the divorce occurs before the expiration of the revolving husband found some references and marriage can continue. Reversionary spouse absent, missing in the divorce law and in the words of the scholars have stipulated. (Doctor F. Malekzadeh) pathology review in divorce and civil rights.

Article 1029 of the Civil Code "is missing when Shkhsychar years away. Can divorce his wife and then divorced her ruling that compliance with Article 1023.

Carefully in this matter in order to clarify the juridical point of view is necessary in this connection to refer to several topics:

- I) the necessary arrangements governing sentence
- II) judgment ruling means divorce or death of some
- Iii) search in four years
- IV) search platform Away missing

#### **C - 1) for a preliminary ruling essay sentence:**

If not received any news of the death or life of the couple, he would be missing the proper sense of the word, so at this point, "even if the property is absent then feeding a wife or husband is from there and expenses of the person who he provides the woman must wait, otherwise, according to renowned scholars can go to court and file for divorce, and her 4-year ruling from the date of application determines the deadline for need to be Jstjy. Second martyr about it, says the ruling could later claim to divorce his wife and looking at 4 years, including its own, although this does or attempts to do so, he would absent.

#### **C - 2) sentence ruling means divorce or death?**

According to the News and traditions as possible so that they later divorced, divorcing Although the size of some people's death and divorce, is revolving Fault in this times, and if the woman deserving the to be of the world, died for woman And if you inherited the lives of people living in this period is not specified, man, woman, man, woman inherits the term for some, not HADAD. So therefore applied to the revolving nature of such support - not divide inheritance and not having the Haddad is placed. However, due to vacillate between a missing person status and long lifetime, in order to observe the side of caution, the amount of time they will be considered death.

#### **C-3) Search for four years:**

The problem is the difference between senior scholars, some scholars believe that the origin of the four-year deadline for 4 years to determine if your wife's request.

Civil law in many cases absent, missing, presumed time of death and time to death has been sentenced to a divorce. As is clear from the first glance was not a 4-year period and assesses various situations, sentenced to death and assumed secular and rational criteria will determine the duration of However, according to Article 1029 BC. M.. When any of the conditions given death sentence may not be available absent and yet no news of him, four years as a search of the couple have set up so that it can be ruled divorce.

#### **C - 4) search of missing platform as civil law**

Civil Code Article 1029 states "shall govern with respect to divorce her 1023 article" In

accordance with procedure, when the husband is absent for four years and she does not feed him, and shall give a petition to the civil courts of last resort. Away reasons to provide parity and residence of his absence. Court before any further action to address the causes and hear the testimony of witnesses must satisfy a four-year absence, the husband in a far local or regional newspapers 3 of consecutive Tehran widely circulated newspapers; interval any month prompt and of those who may be absent from the news they want to notify the court if one year has passed from the date of first publication of announcements and news from absent to avoid the court's request calls for sentence divorce. So before passing away at least 5 years from the date of the last report due to the absence of a court husband can divorce decree is issued. (Mary Ahmadiyya -doctor Jamshed J. M.)

So in general we can say that "a woman who lost her husband away and divorce her the ruler should keep the date of death among the divorce (Article 1156 of the Civil Code); perhaps for the possibility of her husband's death in these cases too 's. And if someone does return some time passed away after a divorce and the other does not have a right to his ex-wife, but if before the expiration of some time to return to the divorce and the right to return to her a saying Volition divorce works blow marriage destroy. (Article 1030)

Regulations civil law in matters of divorce, the wife is absent, based on Imami jurisprudence.

"Imami Jurisprudence say if money is missing. Zvjhash that can give support, or the husband or someone else give her alimony Mhana woman and cannot wait longer to get married. But the absolute law after the expiration of the prescribed period for a woman's right to divorce is granted. (Doctor Seyyed Hossein Safaei - doctor A. Imami) Family Law Brief **D) the representation of women in divorce**

D - 1) Another woman who has divorced itself (divorce) is when women have some concerns with respect to future husband can divorce stipulation to retain and use Nd Alzvm said. Meanwhile, the man regardless of their substitution does not confer the right of women not to deny that the substitution of attorney Blazl in verse, usually as a condition implied in the contract-analyzing them. Under the condition of women, absolutely or in some cases have already been given to divorced itself. Female lawyer for divorce in civil law, such as Islamic jurisprudence accepted. According to Islamic law and civil law and law marriage valid in Article 1119 of the Civil Code.

The first law that explicitly stipulation for divorce in Iran and accepted Rights Act of Marriage Act 1310 and Article 4 of the prophet hath liberty to divorce their wives on (owner of gave) also Comes

law that is the woman of the women can lawyer If the divorce. Thus, Article 1119 of the Civil Code Imami jurists is based on a famous quote.<sup>3</sup>

Here are the provisions of Article 1119 of the Civil Code for understanding apply.

Article 1119: Provided that any opposition party to the marriage can not Appropriate signing the marriage contract or contracts while others may need. If such is the condition of the other woman's husband may be absent or at a certain time or leave to charity or to attempt or abuse against a woman's life that lives between them attorney and lawyer unbearable, female, after establishing the substitution fulfill the requirement in court adjudicating her sheer will. (B. Prosper - supporting the rights of women in law pulsate)

Note that the above analogy is not capable of Article 1119 of the rule is a rule of thumb on top of the other instances can be. It is valid only if the contract itself is not opposed Appropriate not illegal and against the rules.

D - 2) Imami Jurisprudence: Sheikh Tusi respect to the substitution inaccuracies women in divorce and apparently referred to some traditions. But the famous quote is Aqvy license. And the Prophet (pbuh) said their wives in divorce pronoun is also the wife can divorce her husband is a lawyer.<sup>4</sup>

Thus, Article 1119 Imami jurists is based on a famous quote.

D - 3) the absolute or general power of attorney in a divorce to marry another woman during marriage or divorce lawyer is absolutely no exercise of the lawyer's client is conditioned to the fulfillment of the condition is it true? If the Attorney General shall, as a condition of the wife of a husband who is a lawyer and attorney in substitution whenever they want to divorce her, you can bet you knew right? Islamic jurisprudence is wrong with this representation because they said it was, therefore, considered the evidence, the distinction between substitution and not his wife, and the husband can be absolute or general power of attorney to another person to his wife to divorce a woman absolute or universal Lawyer In a divorce.

This condition is neither illegal nor contrary Appropriate essence of the contract. So it should be considered correct. Marriage Act 1119 and article 4 of the first paragraph of general civil law can be inferred meaning. (Doctor Seyyed Hossein Safaei - doctor A. Imami)

The marriage registration offices and such things as the condition of the Qballhay marriage contract also includes provisions to transfer up to half of the printed representation Blazl assets and provisions for divorce in some cases.

In terms of female representation Blazl the wife in marriage Qbalhhay 12 cases of attorney in the event that any of these 12 conditions to the court and to his divorced.

1. Husband refused Dadnnfqh
2. Misconduct or socialize men
3. Husband infection diseases incurable
4. Where the madness is not possible Snkh religious marriage
5. Non-compliance with court orders to prohibit the employment of married couple employment that the court is incompatible with the interests of the family and the dignity of women.
6. Man jailed for 5 years or more
7. Men suffering any harmful addiction
8. Leave the man's life without giving any reasons.
9. Definitive sentence a man to punish any offense against the dignity of both the extent and Strengthening the Family is Woman.
- 10 - male infertility or other health complications that can result after 5 years, not children.
- 11 - missing couple
- 12 - Man's wife without the wife's consent or the court's discretion not to seek justice against their husbands.

Also, he has the option to accept any of the Terms, which can be good and not forced to accept all the above mentioned and other conditions.

Note: In addition to her husband Fqv can agree on other items included in the marriage.

1. Housing rights of the women assigned to the specified location.
  2. Right to Education
  3. Divorce
- ( mhjohar.blogfa.com )

**Third argument: a comparative study of the application for divorce by wife (divorce judge) of Sunni scholars view:**

**Do not judge a man forced a woman to divorce?**

Abu Hanifa said Judge no way to divorce the woman unless the couple is Mjbbv or blueberries or rape. Not alimony, absent without notice, and such Nmytvandmjvz life in prison without the consent of her divorce because couples get divorced is the one who gets the leg, "the couple's discretion." (Comparative jurisprudence, Muhammad Jawad Mughniyah, Javadi M K. translations)

**A) The absence of the pair:**

If a couple is absent, so location is not known Msknsh news to come from him. Abu Hanifa and Shafi'i and Ahmad ibn Hanbal says missing wife may after the expiration of such time period often end up living person does not marry. But the owner says, referring to the judge's wife waited four years from

the date that the news is not even four months and ten days, and then they hold on her marriage is lawful. (Doctor Seyed Mostafa Mohaghegh Damad)

Nzdmalk and Ahmad ibn Hanbal Although spending needs during their absence may have even less time with his wife, can be called for the separation of Ahmad ibn Hanbal 6 months, and his own 3-year-It is said that the law of one year in now known to have Egypt 1 . The owner of the warrant for the couple's absence is no excuse if not successful, and both deserved break but told Hnably: Separation is not permitted unless an excuse for absence.<sup>5</sup> (Jurisprudence of Comparative - Mohammadjavad Mughniyeh, KAZEM translated Javadinia pour)

Imamia believe if your missing funds that could pay the wife or the wife to pay her <sup>sixth</sup> husband's death or divorce of science did not have long to wait. (Mohaghegh Damad)

**B) the refusal or inability of the charity:**

Malek Shafi'i and Ibn Hanbal agree that if the couple is unable to provide the necessary support. His wife demands a divorce is permissible. And the inability to prove he did but refused to pay, Shafi'i said, no real separation between them.

**Discussions**

As was seen in the facts contained in the records of the divorce petition on behalf of women, with what lawmakers cited as causes for divorce are different hardness Therefore, for more realistic examples in this regard have been more transparent and provide more facilities for Justice And the number of vessels to prevent the unreasonable expectations and expertise with other instances can be added And when we need to investigate and pursue peace and reconciliation between your spouse has become integral to the season, they do not Because of this separation and reunion action in Lord of the conflict, the cleanest act according to their nature, the Consolidated If the family circle can be re-heated and fun, thanks to the receipt of such a condition is necessary The losses resulting from the separation of the two is a lot more than when they were living under one roof. So the judge is obligated to identify as a compassionate healer and root problems resulting marriage in any particular case is this important issue. The rescue of many dissonant elements immoral, subject to salvage any of the families that go to family courts.What is the rule of distress and injury to the religion, this is a common fault - it is personal. That is in addition to what is typically required for a petition for divorce shall be presented to the judge sin on someone else claims the investigation to the Divorce obtaining the non-be tolerated, legal to do

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