

# Marriage and civil law aspects of its dissolution in Iran

**Mohamadreza Marandi<sup>1\*</sup>, Mojtaba Alefkhani<sup>2</sup>, Yasoob Heidari<sup>3</sup>, Ali Beigzadeh<sup>4</sup>**

<sup>1</sup>Department of Law, Germe Branch, Islamic Azad University, Germe, Iran.

<sup>2</sup>Department of Law, Germe Branch, Islamic Azad University, Germe, Iran.

<sup>3</sup>Department of Law, Germe Branch, Islamic Azad University, Germe, Iran.

<sup>4</sup>Department of Law, Germe Branch, Islamic Azad University, Germe, Iran

## ARTICLE INFO

### Article history:

Received 09 Apr 2019

Received in revised form 14 Jun 2019

Accepted 24 July 2019

### Keywords:

Marriage,

Respects the dissolution,

Annulment,

Divorce,

Giving time

## ABSTRACT

**Objective:** A marriage contract is essentially a non-financial nature, in which women and men are aiming to raise a family together. Marriage for happen to be true, must be conditions. **Methodology:** Marriage or divorce or pay to terminate the contract for the interruption dissolved. It is not a marriage annulment. **Results:** For annulment of marriage involves a violation of public order and moral, as well as the dissolution of marriage requires special toys in Article 1120 of the Civil Code have been recognized. **Conclusion:** Married women and men to participate in family life and helping each other and with the aim of legally unite together, essentially a non-financial contracts and financial effects that can be treated, and minor consequential aspect.

## 1. Introduction

marriage contracts in the Civil Code of Iran is one of the most important because it is doubly important to psychologists, sociologists, theorists, and scholars have dealt with different aspects of the doctrine of rights. Value marriage so that the Prophet (pbuh) said in its virtue: one that marries keep half your religion, so fear God in the other half. Marriage comfort and peace of the human heart. Quran creating a source of peace and friendship to the wife of the man himself and kindness to human introduction, and this is one of the signs of God. The family as the core of society is formed by marriage. Marriage and upbringing of children in families who can turn the wheels of society and social and economic development of hope. A society in which free and unrestrained sex, you will be faced with corruption and prosperous society that sex and reproduction based on regular and correct basis. The survival of the human species in a way that is worthy of him only in the light of true marriage and relationships between men and women is possible. Marriage is effective in the economic development of a nation, because those who marry and form families show more economic activity and this will have a significant role in economic develop me (Shahri and Houssien Abadi, 1979).

Marriage has the basic conditions for the way health and the effects of certain provisions of certain contracts other than civil law, and respects its dissolution also been recognized. Many books and articles have been written about marriage and jurists and lawyers have dealt in their works. Second martyr in "a chapter devoted to marriage. The civil rights of authors in their books to have this important contract. "The civil rights of the family" by doctor N. consistory in 2 volumes which has been very worthwhile (Mojarad et al., 2013).

In this paper, the marriage, the dissolution of the civil law with integrity and respects Iran. It is hoped that civil society will be accepted.

### 1.1 The definition of marriage

Marriage or civil marriage is not defined in law.

The word marriage means to attach (join) and the legal term contract under which men and women living with a partner and united, form a family. Legal relationship of marriage between man and woman is achieved by giving them the right to take sexual advantage of each other. Couples the right to marry

\* Corresponding author: Mohamadreza.Marandi@gmail.com

DOI: <https://doi.org/10.24200/jsshr.vol7iss03pp42-45>

to each other in a legitimate way and thereby participate in the life of men and women to unite together and help each other legally. Lord marriage as "the voluntary union exclusively between men and women for life" is defined (Kang, 2015).

### **1.2 Types of marriage**

Civil marriage law is twofold: permanent marriage and temporary marriage.

Legislator in civil law (1), temporary marriage is considered as a kind of marriage. Article 1075 of the Civil Code states: "When marriage is interrupted for a certain period of time." The difference permanent marriage with temporary marriage.

1. Derived from materials in 1075 and 1076 of the Civil Code, it is necessary to determine how long the temporary marriage.
2. Article 1095 of the Civil Code of Iran derived from the basic conditions of temporary marriage, seal and stamp of the contract would be invalid.
3. The obligation to pay alimony to the wife by the husband of temporary marriage does not exist "unless conditions or the contract that it is now" (Article 1113 of the Civil Code).
4. Divorce of Article 1120 BC Special permanent marriage and temporary marriage is not implemented and the separation of husband and wife or waiver term expiration or termination of the contract will be realized.
5. Some of the region's wife after separation from her husband in a non-pregnant woman two Thrust, while some marriage annulment or divorce in marriage is a permanent three-theorem. If the woman does not become the region UCT Journal of Social Sciences and Humanities Research with the requirements of age, his number is 45 days, while some of these women marry for three months (of 1151 and 1152 BC).
6. Temporary marriage couple do not inherit from each other (940 and 1077 BC).

## **2. Materials and methods**

### **2.1 The nature of permanent marriage**

Permanent marriage, which aims to raise a family and take part in life, basically a non-financial contracts and financial effects that can be treated, and minor consequential aspect. Seals that while marriage may be determined by a subordinate contract, the nature of marriage is not a permanent marriage, even without specifying the time stamp is correct in this case, after the close, mahroolmesl awarded to women. Other financial effects of marriage (inheritance and alimony) stems from the agreement of the parties, but also works that once the law on marriage and even agreed to the contrary is void of class (Emami, 2011). About freedom in marriage

The rule will play a central role in the contract is not important in marriage. The male and female mate choice and close or failing to wear a marriage, legally free. But in addition to the specific circumstances and obstacles to marriage ordained marriage works basically has set and will not change people cannot work. For example, couples can inherit violation of the law on alimony and custody of children or agree with each other or with the consent of the woman, gives each head of the family (Seif, 2008). While most of the rules relating to financial contracts commentary (substitute), almost all the rules of marriage and it is related to public order and agreement contrary to the will of the people they cannot have a credit value. Article 1034 of the Civil Code One of the traditional preparations before marriage matchmaking is rooted in religious and legislative attention is also located. The proposal is to ask a woman to marry. Article 1034 of the Civil Code is dedicated to woo Iran, Islamic law is based. The marriage of a woman who has an impediment to marriage (such as a married woman who is a person of incest relative or in-laws) is not permitted (Khamenei, 1991).

### **2.2 Nomination**

The rules of engagement in Articles 1035 to 1040 of the Civil Code states.

Engagement or promise of marriage is a contract between two people to get married in the future shall be closed and the parties can terminate it.

Because marriage is a contract and bring important works, the legislature has allowed both men and women until the last moment before the marriage, of his decision to return and promised to disrupt the wedding. Withdrawal of a rash decision and promise of marriage is better than that man and woman form a family of shaky and uncoordinated and miserable to live a lifetime of suffering. So none of the candidates cannot be derived from Article 1035 of the Civil Code through judicial candidates are forced to marry and to refrain from marriage license is not a demand for compensation (AminPour, 1951).

A) The conditions of validity of a marriage planning and satisfaction of the parties the couple should herald remain satisfied. So, if the contract is to be drunk or anaesthesia, or a mistake in going to one of their provisions conflict with what is outside, the marriage because of "lack of intention" is invalid. Also, if a married man and a woman will not have to actually implement some regulations in order to escape or to obtain some concessions to formally marry, the marriage has no effect. If someone else uses torture or scientific equipment to artificial sleep and he had this to say about the consent to marriage inspired him, such a contract is void and does not correct it for the sake of the next derived from Article 1070 of the Civil Code Iran if reluctant to reach a level of intensity that can decide to deny, marriage is void (Consistory, 2009).

B) The capacity of the parties

One of the eligibility conditions of the contract, the parties must have the legal ability to contract marriage. Qualifications of the contract is subject to special rules. Qualification for marriage includes a few tips: First, men and women should be reached puberty required by law or the health of their marriage, but married secondly, in some cases, must agree to and qualified by allowing him to be perfect. Third, marriage is stupid and insane subject to certain provisions (Safai and Emami, 2011).

C) The issue of marriage

Marriage may be the subject of marriage is permanent or temporary. When marriage is interrupted for a certain period of time and that time must be clearly defined. Marriage contracts than any other moral aspect, so that we can say, if men and women really have in common life, for it is always legitimate and what is illegitimate in order to reach the goal they will have a real marriage. So if a man marry a woman, he would make it easier for

prostitution, the illegitimacy of the past, and it can be argued that these will not have been true at the conclusion of marriage. In cases where marriage to evade military service and leave the citizen and the like are done, if the parties will have a real and serious marriage, the law only works to eliminate illicit sex, and no one in the marriage properly skeptical does not. Because these goals the family aspect is secondary (Consistory, 2009).

### 3. Discussion and results

#### 3.1 *Directions dissolution of the marriage*

Under Article 1120 of the Civil Code of Dissolution of Marriage directions are:

- A) termination
- B) Divorce
- C) paying for the contract interruption

Of course, these aspects must also be added the death of either spouse. Marriage is a bond between the living and the contracts that will be closed to mark the couple's personality. The treaty also limits their work in relation to inheritance after death is not transmitted. Dissolution of the marriage by the death of a spouse, to the extent it is natural that, not only real death, but also the supposed death seems certain (Najafi, 2008).

Lan and her husband due to marry an unbeliever, an infidel woman is Muslim or Islam is dissolved. Obviously, the marriage dissolved when that contract comes with all necessary conditions and contract works just as well to leave and then terminated due to death or divorce or waiver term contract or Antta or Lan and or reject the Muslim woman's husband or conversion of the pagan woman dissolved. In this case, the relationship between the couple lived together at a time when true parentage are legitimate and children (Haeri Shahbagh, 1950).

#### A) Termination

Terminate the contract

##### 1) Defect

An important part of the provisions relating to terminate the contract on the exercise of the defect.

Madness defects if a woman is married to his wife the right to terminate.

Under Article 1122 of the Civil Code amended 14/08/1370:

"The following defects in man will be the right of cancellation for women:

1-Khsa' 2-impotency as long as even one act of marriage is not done. 3. Fixed the penis is not enough to be able to have sexual relations.

According to Article 1123 of the Civil Code: "The following defects in women the right of cancellation will be for man:

1-century 2-leprosy 3-leprosy 4-Afza' 5-land measuring 6blindness of both eyes. "

If these defects are created for man the right to terminate the existing contract and no matter the man is married to the woman. (Articles 1124 and 1126 of the Civil Code).

2) misrepresentation and breach of condition attribute Jurisprudence misrepresentation or deception in a couple of reasons to terminate the contract and the provisions of Article 1128 of the Civil Code is law professors misrepresentation for wife cheated cucumbers have concluded. Article 1128 BC Breach of condition is related to the cucumber. This means that if one of the spouses if the couple attribute the lack of quality in her, for the other party the right to terminate it. But, because of the misrepresentation of one of the parties does not pretend to have attributes that attracted the attention of another, and in this way he deceived the result of his deception is that the other party mistakenly believes that his future wife described as arbitrary There. So, if it determines that he thought were wrong and that the compromise was typical of her husband was not there, would have the right to terminate the contract. In other words, in case of misrepresentation is also typical that the agreement is not a cheater wife and as a violation of the condition as a common basis. The legal document misrepresentation and breach of condition as is the cucumbers and cucumber both about the substance of the 1128 BC is created (Shamei, 2009).

#### B) Divorce

Divorce is a ritual in which men and equipment, the permission or a court order, a woman who constantly frees him indicating parity. Divorce is only the will of the husband or his representative and does not require the approval of her (divorce is unilateral obligation) and the unilateral obligation not only to satisfy real husband and the special requirements needed. (Divorce is a formal act). In the event that woman is calling for secession, surely there must be proof of hardship in life on the basis of the couple's marriage from court and having to divorce the husband want to leave a proposition that the, is should procedures and after referring to the judgment, the court's permission to divorce. The support of family leave law "compromise impossibility certificate" is called. (Divorce or court order actually gets permission) if temporary marriage, its dissolution on the basis of Article 1120 of the Civil Code of Iran by paying for the husband or by the end of the period (dissolution of marriage by divorce is permanent). Types of divorce

Under Article 1143 of the Civil Code: "Divorce is twofold:

Irrevocable and revocable divorce"

Revocable divorce, divorce, divorce at the time, some of it can be turned. On the contrary, irrevocable divorce, the marriage ends in divorce. The irrevocable divorce to the husband is not entitled.

Under Article 1145 of the Civil Code: "The divorce is

#### 3.2 *irrevocable following*

- 1) Which intersect to be located nearby.
- 2) Postmenopausal divorce.
- 3) Khula not change as long as the woman is referred to.

4) The third divorce action comes after three consecutive union whether the union will accept the result or outcome of the new contract.

"C) paying for the contract interruption Under Article 1139 of the Civil Code: "Divorce for permanent marriage and female Mnqth the expiry or waiver of the husband is" Paying for just the will of a husband and wife plays no part in it and it should be among the apparatuses and equipment. While for certain temporary contract is deemed to be in favor of the husband and therefore she can also benefit from the cross and while that remains to forgive her. This legal action "giving time" is called. It is clear that the annulment of marriage is not soluble. Why disturb the marriage because of certain specific provisions require consensus, and thus, the marriage cannot be dissolved by the annulment of both sides and also the terms of the signed contract by mutual consent of the parties should be consistent with the public interest and public order and morality the same does not. Annulment of marriage involves a violation of the public order and moral society. The dissolution of the marriage in Article 1120 of the Civil Code of Iran enumerated ways and discretion in the text of the law is not permissible. So marriage is not soluble by the annulment.

#### 4. Conclusion

Married women and men to participate in family life and helping each other and with the aim of legally unite together, essentially a non-financial contracts and financial effects that can be treated, and minor consequential aspect. In this respect different opinions from the civil law professors that Safai views and Doctor Asad Imam Hossein doctor agrees logic and the spirit of the civil law on marriage is compatible. For permanent marriage without determining the correct time stamp and other financial effects (inheritance and alimony) stems from the agreement of the parties, but that the law on marriage work load so the financial impact of the consequential aspect of their marriage.

Precepts and writings of peremptory marriage and the contrast of public order and the agreement will be null and void.

Marriage to the condition that must be true. Couple carrier should remain satisfied. So if the contract will be drunk, marriage is void due to lack of planning. The parties shall also have the legal ability to contract marriage. So it must have reached the age of majority stipulated in law but also to be a virgin girl. And the marriage issue should also be specified and legitimate.

Marriage or divorce or pay to terminate the contract for the interruption dissolved and it is clear that marriage annulment not be dissolved by mutual consent of the parties to the terms of the contract signed Tfaskh should be consistent with the public interest and public order and morality on even if annulment of marriage does not violate public order and moral, as well as in Article 1120 of the Civil Code "annulment" is not mentioned as one of the ways the dissolution of marriage.

#### REFERENCES

- AminPour, M. T. 1951. Criminal law and public opinion to the Supreme Court. Tehran Printing Company.
- Consistory, N. 2009. Foundation, civil rights, legal enforcement of contracts-unilateral obligation (13th Edition). Tehran: corporation pub.
- Emami, S. H. 2011. Civil rights (3th Edition), 4, 10-12.
- Haeri Shahbagh, A. 1950. Described the Penal Code. Publication of the World.
- Kang, H.-H. 2015. The Effects of a Non-traditional Monetary Policy on Housing Prices in Taiwan. *Humanities & Social Sciences Reviews*, 3(1), 38-41. Retrieved from <https://giapjournals.com/index.php/hssr/article/view/243>.
- Khamenei, S. M. 1991. Public domain (First Edition), 78-80. Tak Publishing.
- Mojarad, S. N., Shabani, S., & AhmadiGatab, T. 2013. Studying the effects of teaching cognitive and metacognitive strategies on self-efficacy and goal-selecting of orphan girl students. *Procedia-Social and Behavioral Sciences*, 84, 1716-1721.
- Najafi, M. H. 2008. *Javaher Al-Kalm Fi Sharha Sharaye Al-Islam*, Edited by Mohammad Ghuchani, 22(5), 475-478. Imamiyeh Print.
- Safai, S. H., & Emami, S. H. 2011. Brief family law (29th edition), the legal foundation.
- Seif, A. 2008. *Modern Educational Psychology, Teaching and learning*. Tehran: Agah publication.
- Shahri, Gh., & Houssien Abadi, A. 1979. A series of consultative Legal Department of Justice. Islamic Republic of Iran in civic issues.
- Shamei, M. 2009. Analysis of the nature and consequences of administrative contract in Iran's rights. Hands Publishing.

#### How to Cite this Article:

Marandi M., Alefkhani M., Heidari Y., Beigzadeh A., Marriage and civil law aspects of its dissolution in Iran, UCT Journal of Social Sciences and Humanities Research 7(3) (2019) 42–45.