

**Women's Islamic Institute**  
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**Study on Divorce as One of the Important Social Injuries**  
**Special in Women's Domain**

**Summary**

1- Now divorce is one of the social injuries of our society. According to numerous statistics divorce often makes bad conclusions for not only women and men but also the family, and in most vats level, the society. In this direction, a factor has constitutional role in its happening that should be analyzed and effective endeavors should be performed for its removal. On the other hand, women and children are vulnerable and will be affected with bad effects of this phenomenon. In this case, some actions should be executed in order to remove its privileges and prepare their future life. Through this report, divorce has been analyzed in Iran. Also, some rudeness in civil rules have been studied that it needs to try in order to change those rules and execute justice for removing family confusions.

**Introduction of Organization**

2- Islamic Institute of Iranian Women is non-governmental and non-profitable organization, registered under No. 2577 on 27 Nov. 1983, holder of public advisory authority with Economic-Social Council of United Nations Organizations (UNO). This Organization started its economic, cultural and social activities from year of 1978. Purposes of this affair are seek to publish and expand culture of Human Rights, protect Women, Children and Juvenile's rights in order to improve present status, remove problems and create fields of development.

3- The Institute coordinated its activities with international movement of women through participating in regional and international conferences of women and children from year of 1980. Activities of the Institute have been executed during three periods:

General activities during years of 1978 to 1983.  
Official activities after registration of the Institute from year of 1983.  
Expanding activities in form of decisions of Pecan Conference (1995).

**Methodology**

4- Present research is one of the library researches and internet searching. In this research, expressing statistics and status of divorce, we tried to improve this social problem.

**Expressing Present Status**

5- From the viewpoint of experts, marriages based on coordination between couples are steadier. Coordination here means similarity in kinds of region, social rank, educational level, from the same race, consentient and etc. otherwise, marriage will become unstable and caused to divorce.

Of course, it is necessary to mention that; however it is not admirable solution sometimes is only way to remove enormous problems caused from discordant marriage.

Under precise analysis to divorce, we can point to factors make cause divorce.

6- Following cases are important factors:

failure to moral rapport and agreement, violence in different types, suspicion, addiction, unemployment, economic problems, second marriage, psychiatric disease,

failure to sexual agreement and its related problems, difference of age, intervention of others including the couples' families, obligatory marriage, cultural differences, lack of necessary educations before marriage, maladjustment, lack of interest,

Failure to pay alimony, according to this point that this issue is origin of 67 percents of divorces. (Iran Newspaper, page no.3486, date 01 Nov. 2006).

it is necessary to mention that from the viewpoint of sociologists, there are fundamental differences in divorce reasons among different classes of society (upper, middle, lower), for example among lower class, most important reasons are financial problems, unemployment, failure to pay alimony, addiction, bad behavior, among upper class lack of rapport and moral agreement, and finally among middle class cultural differences.

Of course, we can name other important factors in this phenomenon like inopportune expectation of couples from each other and also personality crisis that is caused from lack of mental maturity.

7- According to statistics related to divorce in year of 2007 we have 12 percent growth in comparison with marriage. However this amount in year of 2005 was 10.7 percent. The aforesaid declared that reason of this affair is decreasing age of marriage, increasing time from maturity o marriage and increasing average of marriage age specially in educated persons. (Hamshahri Newspaper, page no. 4363, date 10 July 2007).

8- On the other hand, according to divorce roots and according to some researches, at least 50 percents of divorces take rot form sexual issues and according to experiences in families that sexual issues removed between couple possibility of removing problems in family is more. (Hamshahri Newspaper, page no.1644, date 07 Apr. 2008).

9- These researches include following cases:

From any 4 marriages one of them leads to divorce.

Housewives with 68 percents include majority of this phenomena. (Iran NEWS Site)

Rate of divorce and marriage were increased 7.59 and 4.1 percent in year of 2003.

In this year, registered divorce in the country was increased from 67,256 to 72,352.

According to statistics of Organization for Civil Status Registration most and least rates of divorce in year of 2005 was 20,244 items and 183 items in Tehran and Eilam.

It is necessary to mention that, urban marriage and divorce rate in Tehran in year of 2004, 104,094 items for marriage and 19,562 items and 7.057 rural marriage and 682 items for divorce. (Site of Women's Islamic Institute)

10- According to Borna report, studies show that gravity of divorce situation in Tehran is passing. In this case, accelerated growth of divorce in Tehran has direct relation with increasing amount of marriage. According to this report, gravity of divorce situation in border regions of Tehran is more than other regions and only in one of the border cities of Tehran amount of divorce in comparison with year of 2006 increased 50 percent. Shahryar, Robat Karim, Karaj and Varamin are most critical regions around Tehran, also amount of divorce during second six-month of year 2007 in comparison with the same amount of previous year increased 6.1 percent that makes worry. (Aftab-e Yazd Newspaper, page no. 9, date 10 July 2007).

According to declaration of one of the judges of the Judiciary forging marriage portion by women is 41 percent. (Site of Women's Islamic Institute dated 15 Apr. 2008)

11- Last statistics related to divorce during first 7-month of the year is 52,453 hat is increased in comparison with previous year. One of the authorities declared about 60-90,000 divorces in the country.

According to statistics, 15.2 percent of total divorces are happened less than one year from marriage, 28.9 percent less than 2 years, 39.4 percent less than 3 years, 47.20 percent less than 4 years and 72 percent of total divorces less than 10 years from marriage. (Iran NEWS Site)

### **Challenges & Opportunities**

12- According to statistical samples of divorce we can see ever-increasing trend of this social disaster. However, as expressed before sometimes divorce can be only solution, according to the said statistics we can not ignore its bad and dangerous effects. For example one of these effects is that person including man or woman feels separation, loneliness and seclusion and this affair increases suspicion and suicide. Therefore, the person does not enjoy life and feels absurdity and asked him/herself that why he/she is live? Then he/she becomes pessimist about against sex and comprehends to all persons of society. Of course a thing that causes this affair is pity feeling of society about these persons that increases mental problems. In this case, vulnerability of young women is more than other parts of society and they will face with some problems like litigating with family members at time of referring to paternal home and generally with society, mental problems like intensive mental tension, absolute despair, intensive blunted affect, showing off to happiness, out of control violation about herself and her previous husband, family and society and finally losing religious beliefs. In addition to the said persons, vulnerability of children is more that the other and they are vulnerable victims of divorce. Their weak morale and body are injured and it has important role in their personality. 90% of bad children are children that they parents divorced. (Iran NEWS Site). If parents act with sufficient information about situation of their child and by observing viewpoints of child psychiatrics they can decrease effects of divorce on this child. Except of the said items under a general analysis in legal rules about divorce, although we have seen some good amendments in legal items during past years but there are some ambitious in rules that surrounded divorce.

### **Analysis of Regulations**

13- According to Article 1133, man has right of divorce but with few precision a doubt is made that based on which official reason man has this right. "According to those signs about divorce, we can understand that there is no inference based on ownership of divorce right and it is not mentioned to right of divorce. In better expression, Quran does not explain right of divorce but all signs of Quran mention to verdicts of divorce and some issues like term of widowhood, revocation of divorce, donation and prohibiting men about tormenting their wives. Therefore, none of the Quran signs mention to belonging right of divorce to man or woman; Islam profit (PBUH) declared that "right of divorce belongs to a person that has right of sexual enjoyment (irony of the husband). But this narration is not inserted in narrations resources and only substance owner named it as accepted profit narrations. Referring to Interpretation & Ayatolahkam books is witness of this affair.

14- Nowadays, referring to some divorce files shows that however courts give all their great efforts in vindication of related rights and condemn the husband for gaining marriage portion and also consider related punishments; unfortunately, there are many women that forgive their marriage portion and alimony and can not secure their expenses.

15- A person who divorces his wife dastardly how we can oblige him to pay financial obligations (alimony and marriage portion). And which woman can perform this affair. (Researching of Woman's Right, page 115, Rooz-e No publication – Naser Ghorban Nia, 2005) In continuation of expressing doubts of civil rules some subject are transferable.

16- Civil Law in three cases permitted woman that refer to court and gain its verdict to divorce: 1) about absence of the husband that is inserted in Article 1029 Civil Law. 2) In case of refusing or disability of the husband to pay alimony that is subject of Article 1129 of Civil Law. 3) In case of distress and constriction that is inserted in Article 1130 Civil Law. It is necessary to mention that in the above-mentioned cases that woman separated from the husband in "Divorced granted by the Judge" or "Judicial Divorce" there are some important issues.

17- In the first case that absence of the husband, because travel or other events and as a result being of a unknown residence, leads to problems for the wife about her alimony and also about her sexual relations there are some questions. Therefore, absence of husband in 4 years is permission of divorce (1029 Civil Law). That with notice publication, according to Article 1023 of Civil Law, for 5 years from date of absence court can not issue divorce verdict. Is not it too long? (Page no 122, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) Is present verdict about absent husband divorce or death? (Page no 126, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) Next case it means refusing or disability of paying alimony is an important issue. According to Article 642 of Islamic Punishment Law "refusing alimony is an offence and is punishable".

18- Refusing of paying alimony is one of the evidences of disobedience of the husband and makes for the wife right of receiving her rights from the court and makes no disobedience right for the wife but disobedience of the wife makes right of refusing to pay alimony for the husband. (Page no 127, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) there are some doubts: to petition for divorce: if at first expenditure judgment has been issued and the wife can not petit for divorce at first and directly without representing claim about alimony. If it makes no limitation for wife and husband that refuse to pay alimony? (Page no 127, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005). If refusing of paying alimony that is permission of divorce is supervisor of previous or future alimony or both? (Page no 130, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) and at the end "most important issue that is considerable about Article 1130 with subject of Divorce on the strength of distress and constriction is recognition of evidences of distress and constriction because in text of said article approved in 1935 it is ambiguous and in one side in Emamieh Jurisprudence petition of divorce in case of failure to perform necessary rights of the Wife is not subjected to distress and constriction and the wife even has no hard aroduous can ask for divorce. (Page no 132, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) Except of the said cases, we can mention to other cases like discriminatory judgment of Civil Law in right of marriage termination for the wife.

19- In this order: necessity of equality of men and women's rights is making the same condition in right of marriage dissolution through termination because man and woman should have the same role in marriage dissolution special through special termination because of faults and diseases as same as their similar and unit effect in creating interest and no difference and discrimination. Because first, if foundation of marriage termination right with faults is principle of no harm then removing harm form both parties is necessary and there is no difference between woman and man. 20- Second, about faults, explanation has not been happened and there is no Quran sign or signs and word of innocence is not composited. Because of this we can not represent steady and trustful reasons in order to legal and jurisdictional explain of Civil Law provisions about man and woman's faults (1122 and 1123 of Civil Law) and ignore discrimination judgment of Civil Law that is based on clear difference between woman and man status in marriage termination.

21- A s a result, we can perform effective actions in order to improve wife's marriage termination right in amending legal articles using advanced medical experiences, needs, sprit of the time and society. (Page no 136, Researching of Woman's Right, Rooz-e No publication – Naser Ghorban Nia, 2005) as mentioned above we can make conclusion that in spite of some amendments constitutional actions should be performed in order to remove discrimination in present rules and we will achieve to this affair only through reeducating holy Quran signs and documented narrations of religious authorities in this field.

## **Conclusion**

According to all represented topic we can concluded in the said article that divorce is for becoming free from distress and constriction and for promoting accompanied family that make steady social core.

Following this we can mention to religious trainings as one of the important factor in order to preserve and promote family and prevent from most of the crisis.

The couples that make themselves to observe moral and religious principles create bed of many norms in their children. If family as fundamental cell of society remain out of injures it can guarantee security of society, therefore observing traditions and cultural differences is necessary. Failure to attention to another party interest and existing moral disputes, luxuriance, pride, lack of generous have important roles in divorce.

## **Strategies for Decreasing Divorce**

Lawgiver invites the couple to patience and fortitude and asked them to appoint two trustees and competent lawyers that solve their problems. Therefore, they should refer to and should be encouraged to refer to judges and great persons of families.

Having Islamic and spiritual criterions instead of western criterions in life intercourses and applying principles of piety and self-control is one of te important strategies.

In selecting spouse only feelings are not enough but the spouses should be similar in mental, spiritual and religious fields and at the end in sympathy and feelings.

Marriage acculturation and creating correct culture of marriage and preventing from divorce by the state cultural-educational centers and organizations (Ministry of Education, Ministry of Culture & Guidance, Higher Education and Consulate)

However lack of knowledge in different fields is one of the important factors of divorce; therefore, counseling with persons who are going to marry, improving level of their knowledge is valuable help in order to improve marriage. We use family counseling centers in our country.

Iran NEWS Site: educational counseling about life skills before marriage is effective 70 percent in decreasing divorce.

Another way is changing the state educational structure, in our country there are no sufficient information about other sexes and it can be a factor to divorce.

The parents should have more attention to their children and their problems and make home as an appropriate place for children training.

Studying and researching about family life of the innocents and Imams and selecting their patterns.

Cooperation of mass media in order to analyze divorce and drawing bad events of it.

Changing some discrimination rules like putting conditions for marriage with executive guarantee (woman can select any condition that is not opposite of marriage nature like right of work, right of habitation, right of education and even right of ownership about of half of properties of man that will receive after marriage.)