

## The effectiveness of customs at the conclusion of the works and Dissolution of Marriage

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**Abstract:** Discussion marriage (proposal, engagement, etc.) in different societies is a major problem and that is why our jurists and legislators in different fields of jurisprudence and laws of the problem is described. In addition, an important and influential role in how marriage is the norm. We can say that in our society customs official said the demand for marriage proposals from men, although the proposal from the woman seems to be no problem, but it is unorthodox. In our society, marriage and the practice does not occur in the same way anywhere in the proposal, during the engagement, about the relationship between candidates, dowry payments, alimony, and even the dissolution of marriage (divorce and its variants) and so different. In this thesis, we tried to approach the library, to identify sense, common sense, and the status of its application to the background, base, its credibility in society and its impact on marriage, the quality of the proposal, the nomination period, dowry payments, alimony and The role of customs in the liquidation of the institution of marriage and the sanction to be expressed. The results show that although marriage is rooted in religion and our culture is very important in terms of legislation, but of practice in how to propose marriage, betrothal, dowry payments, fees, for example, the Department of Family, and so forth, but with the passage of and in different time zones. The tradition of civil law on marriage, the importance and its role in social resolution. The common effect of court decisions, in particular, are more family court and court judgments, in cases where the law a certain way of making decisions and issuing opinions expressed do not, by tradition, in which the action and the verdict are.

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**Key words:** tradition, matchmaking, betrothal, dowry, marriage, divorce, and nulment of marriage

### Introduction

Will or volitional to the general rule. Since the marriage contract, will, like other contracts, it is considered the most important element. Marriage without a will (intention) is located, null and void. So drunk with marriage marriage marriage with humor and demented that by himself he is closed, due to lack of planning is worthless, it is not only willing, but also from some of the general rules about marriage is that it can be deduced. For example, Article 1062 of the Civil Code, the necessity of going to this phrase says, "Marriage takes the offer and agree to terms that clearly indicates the intention of marriage." Article 1064 of the Civil Code says: "Party is mature and messenger." Party in this matter is whether the person who closes marriage for himself or on behalf of others. It is clear from the above that the intention of the parties is an essential condition of marriage.

In other contracts, the parties can express their will explicitly or implicitly actions that they intend to be established and Rzayshan and explicitly expressed will of the legislator is not required, but the marriage does not observe this rule, and Article 1062 Civil Code, provides that: "Marriage is a name that clearly indicates the intention to offer and acceptance to marry." Therefore, men and women have to do that in common law marriage and the means used to express the will and consent declares its intention. The offer

and acceptance of the need for a clear procedure should conclude that marriage is entered into only with certain words.

For the two sides will be in the tradition of the gap between offer and acceptance agreement could disrupt the real couples, legislators in Article 1065 of the Civil Code, said that "customary sequence of offer and acceptance is a condition for the validity of the contract." This rule is based on Islamic law and the purpose of the sequences or sequence If jurists say that the gap between offer and acceptance is much more common. After Article 1065 of the Civil Code refers to the sequence, one that is ethical and what it means is that no matter how short the period between the offer and acceptance should not exist, it is customary to accept short distance such that the Gnostics acceptable as it requires knowing not prevent the validity of a marriage. However, the marriage contract by correspondence If we just knew it would be more commonly permitted distance.

### The problem:

Often parties while ensuring their commitment not to form Alqd clear. In this case, with the difference and instituting legal proceedings, the court's task? Is based on the principle of, in addition to obligations under the contract or should have ruled out due to lack of commitment to the marriage to ignore the

possibility demystify the dark corners of the court is using common sense.

#### **The aim of the study:**

This study is to determine the various legal proceedings that arise in family court. What is the involvement of customs in marriage? And whether it is acceptable or necessary to the discriminations against or development?

A scientific goals: demonstrating the range of custom and practice of the marriage the effect is clear.

(B) practical purpose: to achieve the objective of solving the issue of the cost to accuracy and fairness of the vote in the court.

#### **Research questions:**

Since any scientific research based on the question or questions in the researcher's mind is formed, pose questions, these questions can be introduced from the research.

Therefore, the main research question are as follows:

- 1) What is the basis of customary obligations?
- 2) the norm in what circumstances is a commitment?
- 3) To what extent is the work of customs in marriage?

#### **Hypotheses:**

It urged civil society to take on the obligations of its members know that people say that their appeal over time as a rule is binding. If the practice is known Atrad and Aghlbyt, and the creation of the pledge.

Marriage was more effective than other contracts the norm because it is the subject of the contract directly to the people.

#### **Literature:**

History begins when a scientific problem to which special attention is not enough that words and ideas arisen and as it was evident trace to determine their date of birth. Accordingly, even though the letters on the subject of the norm including custom status in Islamic law and tradition and about the validity of religious jurisprudence Khamse and so on, but in practice the effect of coagulation, work and marriage dissolution of paper or dissertation found.

#### **The structure of the study:**

This study consists of five chapters, the first chapter is dedicated to the introduction. In the second chapter the concepts and principles are examined also Tasyrrf third .fsl premarital affairs like marriage and betrothal gifts as well as the impact on those dedicated practice Dranqad Nkah conditions. Custom work during the fourth quarter as well as the effects of parity and works in practice. In the last chapter deals with the dissolution Nkah Conclusions and recommendations expressed.

#### **Literally and idiomatic usage**

Custom dictionary, the meaning of knowledge and recognition, and so it means something known and familiar and accepted in the minds of the wise men, was used. Among the different meanings, the latter meaning when the word refers to the mind.

In terms of common law definition is given:

A continuous method is ethnic in speech, behavior and interaction are used to call it.

(B) action that the majority of trade unions (class of classes or groups of a community) frequently do and act in accordance with the interests of a class or classes and groups.

#### **Custom forms**

In order to avoid interference issues in terms of verbal and prevent the mixing of subjects, as well as to evaluate the validity of each of the types of practices, it is appropriate to classify areas already pay practices.

The most important of them can be divided into various credit institutions are as follows:

Commonsense, certain practices, business practices, trade practices, wise, practical common sense, common law, customary verbal, local customs, religious practices, institutions of state.

#### **Custom divided in terms of territory**

##### **Special custom**

Common practice in certain locations or between a trade union and the right to say, as common among merchants, sometimes also called trade practices. Judicial and local customs of a particular tradition.

##### **Common sense**

Common practice among a group of people to have a comprehensive trade and hands, such as a local custom, tradition or custom Mmklit religion.

##### **Common share of the provisions of the contract**

##### **Verbal tradition**

Some other words of status determination by clearly specified (literal meaning), it is another problem that is not clearly defined and the terms and conditions set in everyday conversation, is often used in this context.

It should be recognized that the purpose of the reference to "customary verbal" about the meaning of terms is why diagnosis. I swear to rise to the emergence of the idea and the second type is called authentication. In the past may not be the reason for the phrase or sentence with the word implies terms. As if, in the words of the speaker is contextual, whereby the provisions of Whole Word, the Word is different from singular requirement.

Similarly implications have divided into two parts and affirmative vision.

##### **Customary practice**

Customary practice is to hold and practice familiar behavior of people as a result of repeated action resulting in legal theory, sometimes to as a "way of life" is interpreted.

Customary practice or tradition to its credit actors in the field can be divided into two categories:

1. The wise practical procedure, whether Muslim or otherwise, that the "attitude of the intellectuals" called. Usulis later called "of rationalists" called.

2. Muslims and sometimes different hands-on practice such as that term is Shiite, "Sire Islamiyah" or "Muslims juristic tradition" is called.

#### **Into practice in terms of the degree of commitment**

This view can be divided into two categories convention.

(1) Some customs are without engagement element with the element they are very pale. Such as the tip or sending greeting cards to celebrate the New Year and wearing black in mourning. It is best to treat them as social etiquette and civility.

2. Some customs binding, and while it's the opposite of compromise are not valid. Such as observance of time (priority). This category of practices in this regard as contrary to the rules of interpretation that can be agreed and Tmkyly.

#### **The common position**

Practice, in the sense of the good and decent, has long been known as a source of rights. Although various definitions of it, but certainly people have a tradition known drawing area. According to the tradition, established an unwritten rule that a bilateral agreement between the public and the law in order to maintain peace and order in society, respect for tradition, respect it considers necessary and would constitute a violation of it rather disturbing.

Common position not only of rights, but rights constructive elements can also be explained, scholars, constructive elements, including moral rights, religious and political ideals, social, economic, etc. Regarding the status of each of these factors in the formation of customary law it is clear.

What is the definition of tradition on repeated act in a socially desirable to find it among the general public of the community. Such duplication occurs over time and certainly a result of the acceptance within the community. The acceptance of their own that will arise over time as internal boiling. So to create custom, society which must be injected without any advertising or external thoughts, his behavior was good to repeat it. Not a society cut off from other communities, but standing on thoughts, beliefs and their practices.

Although in our country, "written and codified law" and the main source of law is respected, tradition has an important effect in building the rule of law. Perhaps the most important impacts are not significant in private law practice, but with a little reflection, it became clear that the power of ethos in our legal system is such that it encompasses the study of the laws on the books are in vain.

The fact that all more or less know that the law is unable to predict all issues of social life, so it is not difficult to understand the point of this can be properly used, what the judge for considering the broad social needs and habits and traditions of the people. On the other hand, most people in our country are Muslims and the influence of religion and respect for the provisions of this distinction. While many of the laws in imitation of European law and without regard to our historical and moral characteristics have been developed. As a result of these two factors is that the conflict in the nation where the law is not specific, common law between common rules for the religious.

This historical situation, with the approval of the Constitution of the Islamic Republic, has changed because Article 167 of the law that the judge shall rule by Islamic law to compensate for the defect. However, Islamic morality is the basis of many of the habits and customs of the time under the banner of the legal order effect.

Moreover, if the conventional face many fat was and even books are highly recommended tradition, another important window will show that together makes custom and law.

#### **Custom application**

In many cases, the legislator has explicitly ruled referred questions to the norm. For example, in terms of property ownership, the benefit of the easement on real property other possessions (Articles 54 and 107) and diagnostic functions endowment property and the object of sale (68 and 356) subject to the rule is the norm. In particular, Article 132 about the owner in possession of specified civil rules concerning property rights is one of the most important, to judge the size limit of the norm in neighboring adverse possession has been given an important role.

Also in the works contracts, tradition is very important (Articles 220 and 221 and 224 and 225 and 280 and 344 and 375 and 382 and 386) Article 220 of the Civil Code on the validity of "contractual practices," announces:

"Contracts, not just the parties to implement what is required, is specified, but the parties are all the results under common law or the law of contract are required to be sure."

The evidences, identifying cases in which education is not a common document, is set to the common law (paragraph 3 of Article 1312 BC)

Many legal interpretation of the term is also common. For example, in the sale contract, the seller must deliver the object of sale to the purchaser but surrender determine in what cases and under what conditions is achieved with practice (Article 369 BCE). Or assault and negligence causing trustee responsibility and guilt of the pillars of responsibility causality, but the meaning of these concepts and their

enforcement practices and the causal relationship between the act and entry to detect loss (Articles 332 and 951 to 953 BC) and in the fault (article 426) and fraud (Article 417) and the building of uncultivated land (Article 141) and diagnosis of reproductive or price of property (Article 950) and immediate use of cucumber (Article 1131), and the like.

According to some legal business practices by governmental malpractice laws or because of conflicts in accordance with national laws arise. However, national laws usually pay special attention to these practices and to recognize it. For example, Iranian civil law recognizes customary in many cases. In Article 220 of the contracts not only the parties to implement what has been stipulated that it must take, but all parties results in accordance with common law or the law of contract is obtained, are required. And in Article 225 included a "standard of practice in common law as the contract without specifying either withdraw it, as stated in the contract." In addition, Article 344 provides: If the sale contract if not specified, Payment deadline for delivery or sale is not returned, the sale is considered final and the price is, unless the terms of the common law or common law trade in commercial transactions, a condition or time is promised, although mentioned in the sales contract is not.

It is worth noting not only in civil law but also in many cases the practice of business law business is recognized.

For example, when the sale of the credit authorized by the Commission (Article 366) or he counterparty credit guarantees (Article 367) or the time that would be his property to him (Article 372), or cases where dealers expenses may have to make a deal, demand (Article 349) is defined by common law.

In some cases the common law of necessity implies that the aid is not spoken, but as the rule of law and arbitration practice accepted as law 975 of private contracts and the rule of civil that, contrary to morality forbidden foreign has, while morality is something the norm Mohsinin and righteous, and only in this way could the mandate of Article 975 to run properly.

Also, when the talk of prices and deadlines just that (for 167 and 227 BC) implicitly arbitration practice about fairness they accept, or if the seizure of the property due to property recognizes (Article 35) the judgment of practice on the implementation of the seizure of the neck sets, or if the center of the resort knows the importance of determining the centers suggests that one of its affairs to the convention.

In cases where the law has no provision or provisions of it is ambiguous, judges may remove the common law has to complete and use brevity and conflict of laws (Article 3 Q..d.m.).have. Now, with

the history of law and jurisprudence, a few examples of custom developed, we review:

One of the important tradition to create new rules and eventually forced the government to recognize it, the Goodwill store owner and tenant relations law already approved by the Persian date Khordad 39.

Another example of the effect of law, rule of polygamy and its limits in civil law. The provisions of the 1048, 942 and 1049 of the Civil Code equally follows that the rights of man we can take multiple wives, but it is not clear what is the scope of a man and a woman can have in her marriage? The answer to this question is known. The religious ruling on polygamy among the people for common law has been on the public conscience void and fifth marriage is recognized, and no court is not in doubt.

Muslim customs in private law to complete and fix defects used the law as a rule of law in criminal law, the principle of legality of offenses and penalties and general principles of 36,166, 167 and 169 of the Constitution and Articles 2 and 11 former penal code, courts are obliged to ensure that the law on their maturity and judgment.

The police and judicial authorities not to invoke custom, or criminal act or omission as a crime according to the custom of their sentence.

The silence of the law, the accused will have the presumption of innocence.

Article 37 of the Constitution says "the presumption of innocence, and no one can not be held guilty unless proved guilty by a competent court."

In addition, the judgment of punishment and its execution must be only by a competent court and in accordance with the law (Article 36 of the Constitution).

However, although according to the principle of legality in criminal cases common law crime and punishment can lead to crime and punishment and no court can someone without the text of the law only by virtue of the common law has convicted despite It is inspired in certain cases of common law.

In accordance with Article 637 of the Penal Code (sanctions): "If a woman and a man between them, interest parity does not exist, commit adultery or immoral acts other than adultery as Tqbyl or Mzajh, for up to 99 lashes sentenced and if surgery force and compulsion are just reluctant to be punished. "diagnosis" other immoral acts of fornication "and" adultery, "said the latter law with common law locals.

In addition, pursuant to Article 638 of the Penal Code sanctions "Whoever openly in public places and public places and pretending to act is unlawful practice in addition to the punishment to 74 lashes. And if the act committed is not punishment, but a virtue hurt the public, only to be sentenced to 74 lashes. "



To detect behavior that hurt public morals must inevitably makes people refer to customs.

Moreover, in cases where the minimum and maximum punishment, punishment by the hate that people from committing crime, have a direct relationship, as in acts incompatible with chastity, commit it to fit the aggression that has good morals and judgment sees punishment custom His fate is effective.

In international relations, the treaty, the most common source of law. Practices that have long been dominated by the relationship gradually turned into law and all international organizations recognized it binding. Article 38 of the Statute of the International Court of Justice in the Treaty and the general principles of customary international law is considered resources. (Treaty of San Francisco, June 26, 1945).

Such practices only independent source of international law is important, also provides grounds for closing treaties, as well as conventions related to the rights and immunities of representatives as a result of the influence of this tradition is closed. However, one must know the etiquette that states in relations with the courtesy and respect they still do not believe it to be mandatory, as was said in the domestic law, the rules of international law, no court can not refer to it, such as political dialogues and mutual assistance and home care and private partnerships.

However, family law, the application of common law is more specific. Non-financial rights of the husbands of wives by their good behavior and sexual rights. Non-financial relations can be regarded as personal relations.

The first is the right of each spouse to the other side of good behavior is important because due to the bond of marriage between men and women, the focus always is formed.

Good socialize in person is different. Between friends and the general public is sufficient goodwill, but in marriage it will not be enough. Of course, for good companionship can not be accurately determined because of social customs and religious culture and ethics of any consistency, good companionship creates a certain sense, but in brief, we can say all the things that are considered socially offensive . Insulting or things like that with the love of family and love between husband is incompatible demands, such as family leave and disregard for the wishes of his wife, the association's arguments are ill.

In general, in any case where the law is silent, referring to the practice. In addition, it can be said about the dowry, the consent of the parties arising from the customs point of view. The social and cultural values, to determine the views of the parties and therefore his opinion is on the stamp. On the other hand, if for some reason the seal Almsmy or corrupt

contract, if awarded to female partners mahrolmesl wives, which is responsible for determining the customs value.

#### **Conflict custom and law**

Custom can be used to complete the brief removal of the rule of law and create legal but it is still unclear is whether the power to create custom rules contrary to the law, or not? In other words, as the new law, to the extent that it conflicts with the prescriptions of the former law, whether the practice also has the power and the judge would rule against the law, arguing that in practice there or law enforcement silent it is implicitly abrogated know? It seems that for the conclusion of this discussion, it's the difference between mandatory and complementary: if the practice is incompatible with the spirit of supplementary rules, no doubt the ruling conventions take precedence. Because, to interpret the will of the two parties, habits and Rosman them more competent and indicate the purpose of the law is stronger. The appearance of silence in the face of common sense is that they wanted to respect the judgment of practice and know that their will is superior complementary laws.

However, in the case of mandatory, if not reverse, the preferred way, the maximum that the spirit of the law and have the credit institution and the other one does not rule. So, the judge who must decide as they conflict, and as if the two are in conflict with the law, one's reasonable to give preference to another: in case one of the reasons we prefer, considering the severity of clarity and certainty them: So that the spirit of the law and practice should be compared, and the clearest and most indubitable interpretation placed upon them.

According to this way of working and likes to shed light on understanding rather than help.

Owner and tenant relations law enacted before May 39, none of the provisions of the tenant's right to recognize as goodwill, while the high cost of goodwill in the market buying and selling businesses and people be so legitimate that it believed that, If a landlord tenant without paying him his business premises death, all his action against the justice and public order is sometimes thought, the common law has accepted the right of goodwill for tenants. On the contrary, the spirit of the law in this regard was very clear: on the one hand, the fact is that authors consider civil law, respect for property rights are absolute, and perhaps they thought such a right for both the tenant Nmykrdhand. However, the provisions of Bylaw Amendment (October 34) and 301 and 302 of the Civil Code, the use of unnecessary (eating property to property) prohibits, about the possibility of goodwill legitimate doubts could be found. Why should the right business practices, and much of the value of the

product and attract customers from his tenant, the landlord is unnecessary? In short, while demand in civil law contrary to the principles of goodwill seemed, was not certain that the legislator now also be against it.

In this situation, if an action is brought against the goodwill was, seemed to have the privilege of observing certain customs because of a conflict of certainty and suspicion was certainly no doubt that should the opposition Vzn removed from the mind. In other words, judgment shall not prevent suspected to be against Muslim rule.

Also, if compared with the general principles of the rule of law respected opposition or jeopardize the vital interests of society, whereas, according to custom, with the public interest and the nature of social life, certainly the result compared to the norm is more preferable.

But the problem is that, if it can not otherwise be found reason to prefer and tradition and spirit of the law in terms of a clear and certain, the task is?

As a result of the authority of tradition and spirit of the law is that, according to general rules, the new rule is placed abrogating the old sentence: It means that, if the former practice of law, it should be noted that the legislator, thus implicitly prohibits its implementation is. Conversely, when the norm of law is established, it should be preferred. Especially that your legislator and the public morality and customs of those who practice absolute best way to get the custom of the law.

But if the discussion comes to a judge to obtain a warrant needs to be understood and research stage, certainly not. Where the legislature's intention is clear that it can not be doubted, and the rule of law is perceived norms can never be equal to it.

For example, an order that the result of logical deduction (subject of the implementation examples) or comparable legal cause for the clear and is, in fact, part of the body of law provisions. So, the discussion becomes about the judgment against the law or as a result of understanding the concept of analogy is based on the suspected cause.

### **The importance of marriage**

God created human beings in such a way that no wife is incomplete. Man (or woman or man) both in terms of science, faith and moral virtues do not go up to the wife, is not perfection.

The code creation system and the whole universe is governed.

The survival of the human race depends on marriage and if this has caused harm will undermine the survival of the human race.

Commitment to his wife and family, generosity and sense of social responsibility creates for human

beings and a lot of ability and talent that lies within him fertile and flourishing.

### **Time to break**

One of the most fundamental and most important issues related to marriage, during marriage.

Determination of the age of marriage to a man's hand is not linked to various factors.

The nature of the entities and individuals, the quality of physical growth, mental fitness, geographical situation and attitude to marriage are factors that define the age of marriage. Areas, environments, societies, races, tribes, families and people in this area are the same, but different from each other. For example, in the territories "tropical" early sexual maturity comes to quantity and quality of feed and food in cold regions this effect, those who eat more food and more powerful, their physical maturity faster. In some regions of the country in the past, the age of marriage for men and women, their age, and it has become the norm.

### **Proposal**

The relationship between spouses, in addition to the role of the parties affected by other social communication that begins their families. So that as the first step in creating a marriage proposal, the way people in different cities.

Sacred foundation of marriage usually begins with the proposal. The wise plan of God, man and woman created the epitome of matchmaking and love and desire flirting and receive love parade.

Although in some cases the opposite principle to eat. Although looking at strangers is forbidden and illegitimate daughter, but the marriage was built as a boy to get married, it is permissible to look at her face and hands and Z positions, but the positions diagnosis ornament and look at the hair of whether he is allowed or not, is up to the supreme leader and grand ayatollahs. In short proposal is to eventually seek and desperately want, and the bridegroom is the one who really Khvahndh and the Taliban. The family that used to really want to woo a girl and wants to be with his humility and the desire and interest to declare and respect, modesty and dignity acknowledge the girl and her family.

One of the most influential and important factors that could cause family stability and happiness of couples, the male and female face dialogue at matchmaking. The discussion of Islam and reason, it is desirable and good.

### **Nomination**

Candidates or promise of marriage is a contract between two people to get married in the future is closed. Nomination can not be considered merely a moral obligation, as essentially moral obligations, rather than a discussion of ethics is not in law books.

The nomination of a contract, but the contract allowed the parties can terminate it.

When the nomination period starts fresh at this time of God's love and the love between boys and girls provide unique, so they are happy to see each other and feel a certain inner peace and perhaps altogether: nominated for best and sweetest time moments of life. The critical period is an opportunity for mutual recognition and the development of multi-directional, it seems that during the period between betrothal and marriage is distance:

1. dkhtry who lived several years in a family and their separation from him is hard, it is not advisable to suddenly separated him from his family.

2. dkhtr and a son who has been responsible for the lives of the parents, it is not ready for the responsibility of a life time to take a shower.

3. dkhtr and son who were strangers to each other until recently, finding it hard to get together once and offhand.

4. may be male and female, married and independent not ready for some reason, after their candidate until it overcome obstacles.

5. valdyn daughter and son loved ones need to be ready for the wedding, the time necessary for the preparation provided by candidates.

#### **The bride's dowry**

Married son and daughter-in-fact goblet to enter a new world and a new life fresh and interesting is the amount of life Sfatr relationship between these two couples are more effective in keeping warm. Thus dowry, which includes a set of new tools for the life and settle down to the house, it may be acceptable to Islam, almost all parts of the country it is tradition that the bride's family to purchase basic supplies and sends her to the groom's house. The Islamic tradition, good and is recommended.

#### **Marriage**

The word marriage means a marriage contract closing and legal terms can be defined as "marriage contract in which men and women living with a partner and united together, form a family."

In the language of marriage and marital contract is to create a common bond between the couple, under which the rights, obligations and responsibilities arise bilateral contracts in order to participate in family life and a type of two-religious relations and law.

#### **Permanent and temporary contracts**

Permanent contract marriage in which time has not been set for the uncertainty and woman in marriage is the man.

Temporary contract, contract for a specified period in which the woman is married to a man in this type of contract in terms of marriage and the formula is called.

May your marriage by couples or by theologians and clergy should be respected and trusted.

Temporary marriage is in many ways like a permanent marriage. Customer obstacles temporary marriage is that marriage is permanent. Basically, it works well, except for the heir to the effects of marriage is permanent alimony, especially in children, the difference between permanent and temporary marriage is not marriage and child marriage, all the rights of the child of the marriage is permanent.

#### **Contract of permanent marriage**

The marriage must be clear who closes with whom marriage. For example, if a man who says I'm one of your daughters in marriage, the marriage is void, because the man does not know which of his daughters is married to his wife.

A person who reads the formula of marriage should stop saying it. This is going to be literally "Ankht" or "marriage" to hear a summary. The one who reads the words of the formula of marriage to distinguish.

#### **Temporary marriage laws**

The marriage dowry and alimony are not required, and the time must be specified and the couple can not agree to pay alimony.

#### **Dowry**

Dowry is an Islamic tradition and culture, is a gift from a man who wants to marry and married women is concerned, the extent to which women and men, which consent may be a small or large dowry and dowry may not marry lawfulness or unlawfulness. After you make a dowry to the woman's contract is awarded. In the meantime, the dowry to the car with Mahr also say that honesty is the man.

The seal in Iran based on tradition and religion.

#### **Grounds maintenance**

In this article, grounds and reasons for the establishment of permanent alimony to the woman is the man we consider. That is, we want to examine, why pay someone else to provide life? Therefore, efforts are required to better understand the legal basis and then to follow civil law jurisprudence has this requirement in their regulations, too.

#### **Jurisprudence**

##### **A: Quran**

1-Baqara, where he said that mothers should breastfeed their children two complete years, says: "... and Ali Almvld Le Rzqhn and Ksvthn Balmrvf ... and the responsibility of a child (the father) is to feed and dress mother to be reasonable. "

2. Baqara, Allah advises, "and nurseries Ytvfn Mnm and Yzrvn Azvaja will Alhvl Lazzvajhn Mtaa to non-expulsion ... of those who have died and their wives remain that spouse wills them up to one year of maintenance and of do not leave her husband's house. "

3-Surah Nisa, "Men tell women's vote] Ali Fadlallah Bzhm Anfqva some of us .... I Amvalhm men dominate women and the right to be guarded by the supremacy of God and also by some to have some regulation the men of his wealth to support the woman."

4-chapters divorce: "I Zvsh Lynfq Sth and I appreciate against God .... Rzqh Flynfq future to meet the man, to the extent of the frequent maintenance and the woman suckles the poor and cramped living conditions and what God has given to charity. ...".

In addition to the above verses, verses such as 215, 241 and 270 of Sura Baqara, 22 of Surah Noor, 54 Surah Repentance, and 6 chapters, divorce, alimony associated to.

### **B traditions**

1. The Holy Prophet (PBUH) in the farewell speech he said: "... Flykm Rzqhn and Ksvthn Balmrvf, the wives be to you one day, and clothing to give to merit it."

2. Abubasir from Imam Baqir (as) has narrated: "I Ndh Kant Yks-ha Department of films and trick us thru wall Ytmha we truly Yqym Sibha Kan Imam Ali Yfrq evidence that we have a man on his wife and that her dress cover maintain and do not provide food and feeding needs to be healthy, the Imam has the right to place the separation between men and women."

3-Imam Sadiq (AS) said: "A woman came to the Prophet and asked the wife to wife, heard the answer, then the right to ask his wife, the Prophet said: the woman who is the wife of nudity cover, When the offense is feeding hungry entry to forgive him ...

### **Legal grounds**

Chapter VIII of the first chapter of the seventh book, the second volume of the Civil Code, the rights and duties of spouses to each other is dedicated. Article 1102 of the Civil Code, the first article in this chapter we read: As the marriage was to be true, marriage relationship existing between the parties and the rights and duties established couples against each other. One of the rights that women earned the conclusion of permanent marriage, the right to receive alimony from his wife. In other words, the marriage the husband is obliged to pay alimony to his wife. It is concise and clear in Article 1106 of the Civil Code states. The article said: "At the conclusion of permanent alimony to the woman's husband."

Non-eligible women to alimony

The temporary marriage

In temporary marriage, marry as soon as the contract is contrary to law, the husband is obliged to pay the expenses. Marriage is not accompanied by the maintenance of law on the occasion of marriage (temporary) husband to give his support.

The introduction of elements of alimony and it can be concluded that the agreement on this issue. So,

it need not be, however, is proportional to the status of women. (Article 1107 BC) we have to see both sides to what factors were considered, and if briefly about the alimony agreed, should be referred to the common law and by custom, and examples of alimony to be determined.

Should be noted that normally, especially in cases where the marriage happens for a long time, and the difference between permanent and temporary bases in marriage, there is no alimony. As mentioned above, predictors in Article 1107 of the Civil Code is just an example and husband to his wife's material needs as appropriate norm is provided. The temporary marriage is usually a condition that the husband and wife alimony to determine if and how the child is also government institutions. Also, usually for temporary marriage which is rather long implied term secular (article 225 BC) that the couple must pay alimony.

### **No child deserves to marry the woman after the disobedience**

According to Article 1108 of the Civil Code, women are disobedience, the woman who refused to perform the duties of marriage shall not have the right to alimony.

Insubordination and disobedience in the dictionary sense of incompatibility to the woman's husband. All evidence that the rights of both wife and husband and wife over the husband's rights entered, withdraw the case that husband and wife in the bed and under the supervision of his department located in his father's house and do not include couples. The importance to the necessity of alimony in the event of divorce, the couple's revocable, because in case of no intention to accept, support remains while there is no compliance. While acknowledging the difference between right Altah Jewelry owns some of the examples (of disobedience) and compliance, such as minor wife or the wife has the disease of the century, while the wife obedience examples, but the examples are not compliance, it goes negligence and for extension Among these is the condition of compliance or disobedience is prevented not distinguish. This view is not correct and lawyers, including obedience and adherence to clearly understand and says: "The concept of disobedience against mere compliance, but whether it is conceptual and female non-compliance Nashzh addition to Astmtaat, must submit to Tom and all the couples without permission even to visit their parents and not leave the house. It should be noted that the wife obedience in religious or legal prohibition where the woman is not. If you fail to obey his wife religiously or legally, of instances of disobedience and disobedience would not be subject to submission of proof out. (Latah Lmkhlvq per Msyth Allah)

Now we have to see what's defiant disobedience to cause conflict and should be entitled to alimony



woman? It seems that the definition of disobedience and determine which cases should be referred to the convention. Undoubtedly, conventions, debates and disputes fleeing that their life is not out of its natural decay of the violation and knows her inconsistency. In view of the common practice is disobedience to prevent the marriage, and the common tasks that specifies which prevents the exercise of the tasks marriage. For example, if an argument between the couple and the woman come into existence because of her husband is offended in his room separated from her husband for a few days and speak with her, her husband can not act as disobedience and of give alimony to the woman refused, because not only does this practice does not consider her disobedience, but the husband (not charity) contrary to justice, fairness and moral.

### **Dissolution of marriage**

Marriage or divorce or pay to terminate the contract term discontinuity is dissolved.

Madness in each of the couples on condition of establishment, whether permanent or recurrent to the other party the right of cancellation.

Defects such as: 1-Khsa' 2.nn, provided that even once the marriage is not done, 3.mqtv of the penis to the extent it is not able to have sexual relations in men's, women's right to terminate for cause.

Khsa' means castration of male and eunuch said the person with the disadvantage. Due to the lack of male impotence impotency means his penis. However, the wording implies that civil law only if there is a fault on the three men, a woman has the right to terminate the contract, as long as the contract is available and women are not aware of their existence.

And defects such as 1.qrn, 2.jzam, 3. leprosy, 4.afza', 5. floor of 6. blindness in both eyes at women, the men may have the right to terminate.

Century bones and meat waste in the woman's uterus to prevent sexual intercourse with him. Leprosy: a disease of leprosy, also called Sari. Vitiligo: Vitiligo is the same. Afza': one for urine and menstrual duct to say.

### **Conclusion**

The parties of their obligations during Alqd often does not specify clearly and put a lot of detail dormant. Based on the results of civil law to all parties under common law or the law of contract are required to be obtained. Because marriage is rooted in religion and culture, resulting in the continuation of the human race in terms of legislation that is of great importance such as dowry, dowry, hire, for example, the President of the man and the more. Although during his lifetime that the legal institution of human life is not changed, but its opposite, his work has changed over the years

and the role of customary law in this regard is undeniable.

Civil law in many of his seventh volume of the norm contribute to justice in family relations is highlighted.

It seems that legislative practice in family law was in three different forms:

1-legislators mentioned and then expressly stated that specifies the details of the convention. For example, in Article 1107 of the Civil Code, they are obliged to give him support, but to determine the amount and type of deposit is the norm.

2-legislative decree mentioned, and no word from the norm in the not, but implicitly determined that the verdict has been handed to customs. For example, in article 1034 of the Civil Code states that: "Any woman who is free from obstacles marriage proposal might be." However, in the matter of the proposal mentioned but not explained how and in what form the action taken be. Will have to see what the verdict is the norm in this regard.

3. legislation in cases of silence or if the ruling will be expressed in such a way that couples can agree to the contrary in these cases as possible and customs law practice in strengthening the family. For example, although the provision in Article 1107 of the Civil Code furnishings Prophet is the duty of the husband. Tradition in Iranian society (the majority of) this task to the woman and her family with the lawyers and the courts to respect the custom look.

In each of the three above-mentioned common for couples to establish that the commitment of the applicable warranty. Enforcement is not only a military organization of such summary court, but the public opinion that the rules of customary conditions over time, and ensure its implementation as well.

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