

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1064
Land:	Iran
Kilde:	Nationalt ID-Center
Titel:	Iran: Issuance procedures of Iranian divorce certificates
Udgivet:	6. november 2023
Optaget på baggrundsmaterialet:	11. april 2024



6 November 2023

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Iran: Issuance procedures of Iranian divorce certificates

Introduction

The following note describes the divorce procedure and the related issuance of divorce certificates in Iran and at Iranian diplomatic missions abroad. For further information on marriage certificates, see the theme note *Iran: Marriage registration and the issuance of marriage certificates*.

The note is partially based on information obtained during a mission to Tehran in September-October 2018, where representatives of the NIDC met with Iranian authorities and diplomatic sources from other European representations in Iran.

The note has been updated with open source information in August 2020.

The legislative framework

The legislative framework for marriage and divorce registration in Iran is the Civil Code of Iran and the Civil Registration Law. While the Civil Code defines Iranian subjects and regulates family law in Iran, the Civil Registration Law defines the responsibility of The National Organization for Civil Registration (NOCR) in registering vital events for the Iranian subjects and issuance of civil status documents.¹

Civil marriages are not recognised by the Islamic Republic of Iran and have no legal validity in the state. Marriages are only legal and valid if they have been entered in accordance with the religious procedures of a state-recognised religion and registered by religious authorities.² Article 13 of the 1979 constitution of Iran recognises groups of Christian, Jewish and Zoroastrian Iranians as religious minorities that are allowed to perform their own religious rites and ceremonies. Marriages contracted by religious authorities within these minorities are the only non-Muslim marriages that may be legal and valid in Iran.³

¹ Landinfo, 6 March 2018, p. 35.

² Immigration and Refugee Board of Canada, 5 December 2001.

³ Constitution of the Islamic Republic of Iran, 24 October 1979, Article 13; McGlinn 2001, p. 18.

As the majority of Iranians profess to Shia Islam (officially approximately 90-95%⁴), the following section will focus on the divorce according to Shia Islamic rules and procedures as determined by the religious and administrative authorities in Iran.

The divorce

A divorce may be either revocable or irrevocable. In revocable divorces, the man has a right to revoke the divorce and return to his wife within a fixed time limit (*iddah*). This waiting period is typically defined as three months or three menstrual cycles. If the divorce is revoked, the couple will not have to draw up a new marriage contract.⁵ The revocation happens by utterance or deed and requires no witnesses.

Only divorce by consent or dethroning is irrevocable.⁶

Divorces fall into one of five different categories: *Talaq*, *Mubarat*, *Khul*, *Tatliq* or *Faskh*.

Talaq refers to a divorce by repudiation. This entails that the man must speak an Arabic repudiation formula in the presence of two male witnesses. This may be done without agreement from the wife or even her knowledge, and there is no need for him to justify his decision. After the speaking of the repudiation formula, the *iddah* begins and lasts three menstrual cycles.⁷

The divorcer must be “of legal age, in possession of his faculties, must intend the act and not be under coercion.”⁸ The formula can be spoken by a lawyer.⁹

Mubarat refers to a divorce by consent. This kind of divorce is obtained when both parties are in agreement to terminate the marriage. In this case, the wife pays her husband the amount of the dowry.¹⁰

Khul, or *dethroning*, refers to the woman’s right to demand a divorce. In this case, she may offer payment or give up her financial rights in order to obtain the divorce.¹¹

Tatliq refers to a divorce obtained by way of court, in case the husband denies his wife a divorce. As opposed to the man’s right to divorce (*talaq*) the woman must be able to justify her wish to divorce.

⁴ CIA World Factbook, 12 August 2020.

⁵ Landinfo, 6 March 2018, p. 35.

⁶ McGlinn, 2001, p. 61.

⁷ McGlinn, 2001, p. 62.

⁸ McGlinn, 2001, p. 63.

⁹ McGlinn, 2001, p. 63.

¹⁰ McGlinn, 2001, p. 63.

¹¹ Landinfo, 6 March 2018, p. 36.

According to Landinfo, the following are the accepted reasons for *tatliq*:

- Insufficient financial maintenance
- Lack of sexual life, infertility
- Failure to inform of a second marriage or differential treatment of the wives
- Mental illness
- Incurable disease
- Acquiring of profession below the dignity of the woman
- Imprisonment for five years or more
- Conviction of an offense that is repugnant to the family and wife
- Substance addiction, or
- Maltreatment of the wife.¹²

Faskh is another way to have a marriage annulled on ground of a fault in the marriage contract or due to an impediment to a valid marriage.¹³

Registration and issuance procedure

Like marriages in Iran are only valid in so far as they have been contracted in accordance with the religious rules and procedures in force, a divorce can also only be obtained in accordance with the religious rules in place. This entails that the couple must obtain permission to divorce from the court of family law and a religious certificate verifying the divorce in order to have the divorce registered with the NOCR and a divorce certificate issued.¹⁴ The registration includes the conditions for divorce such as custody agreements.¹⁵

According to a representative of the Iranian Ministry of Foreign Affairs, a uniform format of the Iranian divorce certificate is being implemented during the Islamic year of 1397 (March 21st 2018 until March 20th 2019).¹⁶

The uniform format of the divorce certificate was shown to the NIDC analysts during a meeting with the Ministry of Foreign Affairs. It is a white booklet with a bright colourful pattern of blue and red on the front cover. The booklet has no security features, besides the serial number. A black and white copy may be seen below.

¹² Landinfo, 6 March 2018, p. 36.

¹³ Landinfo, 6 March 2018, p. 36; McGlinn 2011, pp. 67-67.

¹⁴ Iranian authorities, Tehran, September 2018.

¹⁵ Iranian Ministry of Foreign Affairs, Tehran, September 2018.

¹⁶ Information obtained from the MFA representative in February 2019.



Image 1: Copy of a specimen of the Iranian divorce certificate obtained from the Iranian authorities. The red stamps indicate that the document is a specimen. (NIDC reference material)

Archives and registration routines at the NOCR and embassies abroad

According to a representative of the Iranian Ministry of Foreign Affairs, the NOCR will generate an archival document that is stored in hard copy at the NOCR while registering a birth, death, marriage or divorce. The archival document is mainly for statistical reasons, but the NOCR will refer to the archives when reissuing a civil document.¹⁷

The NOCR internal forms for civil events registrations are differentiated by colour.¹⁸

The divorce is also registered in both of the divorcees' birth and identity booklet, the *Shenasnameh*, upon registration.¹⁹ The *Shenasnameh* is a booklet issued to the individual upon birth as proof of one's identity and Iranian nationality. It also holds information pertaining to the individual's family and civil status. As civil status information pertaining to each citizen does not appear to be unified in a central civil registry, the *Shenasnameh* is essential to Iranian citizens as their proof of identity and civil status.²⁰

¹⁷ Iranian Ministry of Foreign Affairs, Tehran, September 2018.

¹⁸ Iranian Ministry of Foreign Affairs, Tehran, September 2018.

¹⁹ Iranian Ministry of Foreign Affairs, Tehran, September 2018.

²⁰ Western diplomatic representation, Tehran, October 2018.

Iranian citizens hold a *Shenasnameh* without a picture until the age of 18, at which point the citizen will have a new *Shenasnameh* with a picture issued.²¹

Procedure for obtaining a divorce certificate outside of Iran

When an Iranian couple wishes to divorce outside of Iran, the registration will be handled at the Iranian embassy. To have the divorce recognised by Iranian authorities, the couple will need to present the embassy with a court order legitimising the divorce. According to Landinfo, the couple must present a duly filled registration of divorce, the *Shenasnameh* of the divorcing parties, Islamic certificate of divorce, certificate of divorce from the country of residence (original and two copies) as well as an official translation of the certificate (original and copy), four new photos of both parties, valid residence permit, marriage certificate (original and copy), receipt for payment of the consular fee and the ID cards of the divorcing parties.²² Muslim couples will further be required to have religious approval of the divorce, which is why the embassy will arrange for a clergyman to be present.²³

The archival document that is normally generated by the NOCR will in this case be generated by a consular officer at the Iranian embassy. One copy is archived at the embassy in question while another is sent to the NOCR in Iran for archiving.²⁴

It is also possible for a couple living abroad to have their divorce processed in Iran by using proxies. In that case it is required to give the proxies a power of attorney which must be attested by the Iranian embassy of the country of residence. If one party lives abroad, the one party in Iran must apply personally, while the party residing outside of Iran must be represented by proxy.²⁵

²¹ For more information on the *Shenasnameh*, consult NIDC note: Issuance procedures of the *Shenasnameh*.

²² Landinfo, 30 June 2020, p. 36.

²³ Iranian authorities, Tehran, September 2018.

²⁴ Iranian authorities, Tehran, September 2018.

²⁵ Landinfo, 30 June 2020, p. 36.

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