

## Chapter 12

### Regarding husband and wife

**No. A** husband and a wife cannot divorce except as mentioned in article 10 of No. 2 and No. 4, 5, 7 and 8 of the marriage Chapter and under the following conditions. Even when such conditions arise and divorce becomes necessary, it can take place only after an application is submitted before the office stating the reasons for the same and a decision is made by the office .....

If a wife stays separately from her husband for 3 years or more continuously without her husband's consent or if she is found to be engaged in acts that can take her husband's life, can cripple him or can cause him any other tremendous physical pain or if she is found to be engaged in tricks against her husband, the husband will have the right to get a divorce from such wife. ....

If a husband brings another wife or keeps or drives the wife out of home or does not provide her with food and clothing or stays separately from his wife for 3 years or more continuously without taking care of his wife or if he is found to be engaged in acts that can take his wife's life, can cripple her or can cause her any other tremendous physical pain or if she is found to be engaged in tricks against her husband, the wife will have the right to get a divorce from such a husband.

Apart from the situations as mentioned above, the divorce of a husband and wife can take place when both of them agree to do so. ....

**#No. 1 a** : The party seeking to get a divorce in accord with article 1 of No. 1 of this Chapter or both the husband and the wife seeking to get a divorce with mutual consent will have to submit an application before the Village Development Committee or the municipality and then the Village Development Committee or the municipality on their part should try to reconcile them with each other by means of persuasion. If no reconciliation is possible even by means of such persuasion and if it seems better to have them divorced rather than maintaining the marriage, the application should be forwarded to the concerned district court having the right to perform divorce within one year following the submission of the application.

**#No. 2** : If it is proven that the wife has had a sexual intercourse with another man or if she has eloped, the husband and the wife will be automatically divorced. Even if she has not had sexual intercourse with another man but makes a confession that she has had it, then the husband will have the right to get a divorce.

**@No. 3** : A baby born within two hundred and seventy and seventy two days following the divorce of the husband and the wife in accord with law will be proven to be the offspring of the husband divorced, unless proven otherwise. Regarding the upbringing of such offspring or those under five years of age and the minors above the five year's of age, the provision will be as follows:

If the mother wants to take care of the children under five years of age until they become five years old, she can do so. If she does not want to do so, then the father will have to take care of them. ....1

If the mother who has not eloped wants to take care the Minor children above five years of age, she can do so. If she does not want to do so, then the father will have to take care of them ..... 2

No matter what is written in article 1 and 2 of this No., if both the mother and the father agree, any one of them can take care of the minor child, or they can do so turn by turn. ....3

Whoever takes care of the child - the father or the mother - if there arise situations hamper the well-being of the minor child or if there are reasonable doubts that such situations will arise, then the father or mother who happens to be taking care of the child should provide the opportunity to the other who is not taking care of the child to visit the child at certain intervals. Even an eloped mother is entitled to have such opportunity .....4

If the child is being taken care of by the mother, the father will be obliged to provide appropriate expenses for the child's food, clothing, education and medical care according to his means and

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# Added by the sixth amendment.

@ Amended by the Ninth amendment

social standing. If the child is taken care of not by the mother but by the father and if the income of the mother is greater than that of the father, then such a woman will have to bear expenses for the food, clothing, education and medical care of the child as reasonably fixed by the court, keeping in mind the real situation. ....5

**No. 4 :** If the wife has been driven out of home without providing food and clothing by the husband together with the in-laws or by the husband alone or if she is frequently made to suffer by being beaten or if the husband has brought or kept another wife, then such a wife can have her share separated from her husband's share in property. If that wife dies or elopes, then the property left after being used by her for food and clothing will go to the heir. In a situation where she has been driven out of home by the in-laws only, she should be provided with food and clothing according to the means and social standing.

**§No. 4. a :** In accordance with article 2 of this No. of this Chapter, if the divorced wife lacks property or income enough for food and clothing and wants the divorced husband to provide her with these expenses, then the divorced husband will have to provide the expenses as fixed by the court depending on his means and social standing. Such expenses should be born out up to five years following the divorce or until the woman gets remarried, whichever comes first.

**No. 5 :** If there exist in the family members entitled to have share in property at the time of spending the wife's dowry or personal belongings, the property spent can be paid back in accordance with the Chapter related to the transaction of dowry or personal belongings from common property of those having share in it only if there exists a written agreement of all those above the age of sixteen years. If it is spent without fulfilling the written conditions, it cannot be paid back from the common property of those entitled to have a share in it or to be born by them unless they all agree to it.

**No. 5. a :** One can register a petition requesting to establish relationship with a certain person. If the person is a minor other heirs can also register a petition requesting to have his/her relationship established.

**No. 6 :** Except for what is written in No. 1 of this chapter and except for the question of elopement fine, any lawsuit related to other matters will not be valid if it is not submitted within one year following the event.

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<sup>§</sup> Added by the sixth amendment

<sup>^</sup> Added by the ninth amendment