

The Effect of Additional Concept on the Nature of Divorce in Regulating the Couple's Right to Divorce

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Abstract

Explaining the nature of the subjects of rulings in terms of being right or ruling, has several effects in terms of documenting the will of the addressee of the ruling or being limited to the religious address and the requirements arising from it. (Purpose) The issue of divorce, whether it is at the disposal of the couple or it is the subject for the legislator (Shari') to determine in terms of action and omission, requires the determination of the right or ruling in its nature. (Findings) Some believe that divorce by the couple is initially an obscene ruling that in the conditions of necessity, acceptance, sanctity and hatred, it is ordered to act or leave it, and there is not any case that the couple can dissolve with one-sided consideration of personal interests. On the other hand, some people believe that if the supreme interests of the family are not observed, the divorce will never be valid from the point of view of the legislator (Shari') and its validity is a problem, and even if the divorce would be right, the abuse of this right will not be allowed. To be done unjustly and cruelly. But in the third consideration, one can consider a compound nature for divorce and accept that the conflict between right and judgment in the theoretical level does not necessarily lead to the monopoly of natures in practice, because by assuming the divorce would be right and that the conflict between Rights and duties are additional categories, the right to divorce can be considered as an additional category and a compound status, and it requires the obligation to provide for the interests of the family and its criteria are determined accordingly. (Research method) In the present study, which is done by descriptive-analytical method the library information and documents have been researched. (Conclusion) It has been proved that the nature of divorce is in the additional categories and based on the relation that it establishes with the priorities of marital duties, would be limited in actions.

Keywords: right, sentence, nature of divorce, additional nature, family interests, duty

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