

Legal Analysis of the Nature of Agreements in a Consensual Divorce

Ghafour Khoeini¹
Maryam Ghanizadebafghi²
Shirin Dashtian Roozbahani*³

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Abstract

Agreements in a consensual divorce have opened up a relatively new topic in family law issues by bringing the consequences of divorce closer to the couple's preferences. Since these agreements are included in the divorce with the consent of the couple, they are effective ways to avoid the tensions resulting from the divorce, but their purpose has been neglected due to the lack of explanation of their nature. Neither a consensual divorce nor the agreements have been studied much in terms of nature. One of the controversial issues over a consensual divorce is finding the nature of this type of divorce. Accordingly, this study is conducted to answer the question of what is the nature of agreements during a consensual divorce. The couple's consent on the consequences of divorce distinguishes this type of divorce from a simple divorce. However, the role of consent is not explained to determine whether the agreements are the only motives in the divorce or are they the conditions of the divorce? This descriptive-analytical study examines the nature of consensual divorce and the agreements obtained from it to determine that these agreements are conditions. So, they follow the provisions of the Civil Code in the matter of conditions, the most important effect of these agreements is the guarantee of the non-fulfillment of the condition.

Keywords: consensual divorce, agreement, condition, unilateral legal act

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1. Associate Professor, Department of Private Law, Kharazmi University, Tehran, Iran
Ghkhoeini@khu.ac.ir
 2. Assistant Professor, Department of Private Law, Kharazmi University, Tehran, Iran
m.ghanizadebafghi@yahoo.com
 3. *Corresponding Author:* PhD Student in Jurisprudence and Private Law, Kharazmi University, Tehran, Iran
sh.dashtian.r@gmail.com