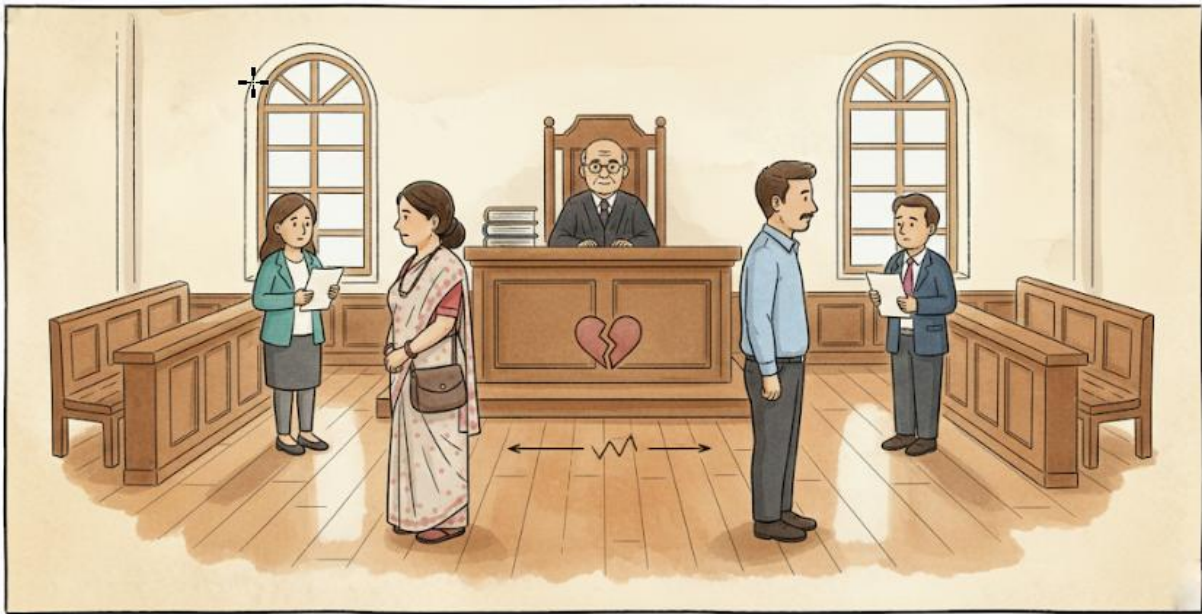


Divorce in Nepal: Step-by-Step Guide to the Divorce Process and Law



Divorce is never an easy decision, but understanding the law and process can make it less confusing. In Nepal, divorce is mainly governed by the Civil Code 2017 (2074), and most cases are handled by the District Courts.

This guide is written for the general public and potential clients who want a clear, simple and professional explanation of:

- How the divorce process in Nepal works?
- What the grounds for divorce in Nepal are?
- How mutual consent divorce in Nepal is handled?
- What happens to property, alimony, and children?

Note: This is general information, not a substitute for legal advice. For your specific situation, you should consult a qualified divorce lawyer in Nepal.

1. Overview of Divorce Law in Nepal

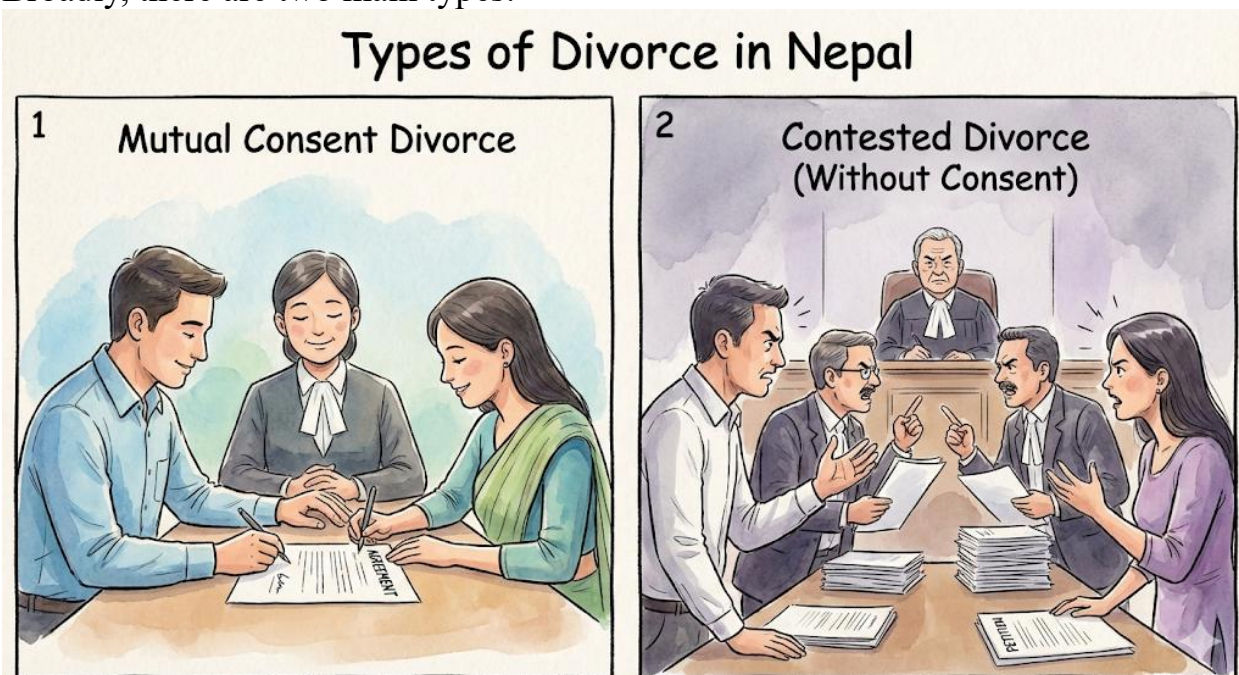
Under Nepali law, divorce is the legal termination of marriage between a husband and wife.

Key points:

- The law is set out in the Chapter on Divorce of the Civil Code 2017.
- Sections 93–104 of the Civil Code deal specifically with divorce and mutual consent divorce.
- Divorce cases are filed and decided in the relevant District Court.
- A couple can divorce by mutual consent, or one spouse can seek divorce without the other's consent on certain legal grounds.

2. Types of Divorce in Nepal

Broadly, there are two main types:



2.1 Mutual Consent Divorce (आपसी सहमती)

If both husband and wife agree that they want to end the marriage, they can apply for mutual consent divorce.

Procedure:

- Both parties sign and file a joint application to the District Court.
- The Court will confirm that the decision is voluntary and that both understand the consequences.
- If everything is in order, the Court can finalize the divorce relatively quickly.

- Often, issues like property division, child custody, and maintenance are already agreed between the parties and included in the application.

This is usually the simplest and fastest form of divorce in Nepal.

2.2 Contested Divorce (Without Consent)

If one spouse does not agree to divorce, the other can still file a case, but only on legally recognized grounds.

Grounds for Husband to File for Divorce:

A husband can seek divorce without the wife's consent in situations such as:

- The wife has been living separately from him for three or more continuous years without his consent, unless they had previously separated with legal partition or separation of bed and board.
- The wife denies him maintenance (basic support) or expels him from the shared home.
- The wife commits or conspires to commit an act that is likely to cause serious physical injury or severe physical/mental suffering to the husband.
- It is proven that the wife has had sexual relations with another man.

Grounds for Wife to File for Divorce:

A wife can seek divorce without the husband's consent in situations such as:

- The husband has been living separately from her for three or more continuous years without her consent, unless there is already a legal partition or separation.
- The husband denies her maintenance or drives her out of the home.
- The husband commits or conspires to commit an act that is likely to cause grievous injury or serious physical/mental suffering to the wife.
- The husband has married another woman.
- It is proven that the husband has had sexual intercourse with another woman.
- There is evidence that the husband has raped his wife or engaged in a conspiracy likely to result in her rape.

In contested divorce, the Court examines evidence and hears both sides before making a decision.

3. Step-by-Step Divorce Process in Nepal

Step 1: Consult a Lawyer (Recommended)

While the law does not force you to hire a lawyer, working with an experienced divorce lawyer in Nepal is highly recommended, especially if:

- There is dispute over property, children, or grounds for divorce, or
- One spouse lives abroad.

Step 2: Prepare Documents

Common documents include:

1. Marriage registration certificate (or other proof of marriage if the certificate is not available)
2. Citizenship certificate (copy) of the applicant
3. Passport-sized photos of the applicant
4. Any supporting evidence related to the grounds for divorce (e.g., proof of separation, messages, medical reports, etc.)



Step 3: File the Divorce Petition

- The spouse (or both, in mutual consent) files a petition at the concerned District Court.
- The petition states the facts, grounds for divorce, and requested relief, such as property division and maintenance.

Step 4: Court Issues Notice to the Other Party

- The Court sends a formal notice of the petition to the other spouse.
- This is usually done through court officials or authorized process servers.

Step 5: Reply from the Other Spouse

- The spouse who receives the notice has to file a written reply (statement of defence) within the time given by the Court.
- They may accept or deny the claims, and can put forward their own version of facts.

Step 6: Mediation and Reconciliation

- The Court generally tries to encourage reconciliation.
- Mediation is often arranged to see if the couple can settle their differences or at least agree on terms (like property or child arrangements).
- If they reconcile, the case may be withdrawn.
- If they cannot agree, the case continues.

Step 7: Evidence, Hearings, and Arguments

If mediation fails:

- The Court proceeds with full hearings.
- Both sides can present documents, witnesses, and other evidence.
- The judge examines whether the legal grounds for divorce are satisfied and considers issues of property, children, and maintenance.

Step 8: Court's Decision

If the Court believes it is better to end the marriage than to force it to continue, it will grant a divorce decree.

- The order will generally mention:
 - Whether divorce is granted
 - Any division of property
 - Any alimony or maintenance
 - Arrangements for children, where applicable

Step 9: Updating Official Records

- The divorce decision must be recorded, and
- The marriage registration should be updated/cancelled in the concerned Ward Office or registration authority.

4. Property Division, Alimony and Maintenance

Financial matters are often the most sensitive part of any divorce case in Nepal.



4.1 Property Rights of the Wife

Under the Civil Code:

- The wife generally has a right to an equal share in the husband's property as a coparcener.
- For purposes of partition, husband, wife, father, mother, sons, and daughters are all treated as coparceners.
- If property in common is registered in the name of one or both spouses, it should be divided according to law before the divorce is finalized.
- If the husband has not yet taken partition from his own father or other coparceners, the Court can order disclosure of all coparceners and then apportion the shares.

4.2 When Husband May Not Have to Give Property Share or Alimony

The law provides that the husband may not be required to give partition share or alimony to the wife if:

- The wife deprived him of maintenance or expelled him from the house;
- The wife committed or conspired to commit an act likely to cause serious physical or mental harm to him; or
- It is proven that the wife had sexual relations with another man.

Each case depends on the facts and evidence presented.

4.3 Alimony and Lump Sum Payments

Instead of a share in property, a wife who is divorcing may:

- Request a lump sum amount
- Ask for annual or monthly alimony/expenses.

The Court may order the husband to pay such amounts based on his property and income.

However:- If the wife remarries, the obligation to continue paying such alimony generally ends.

4.4 Maintenance Where There Is No Property for Partition

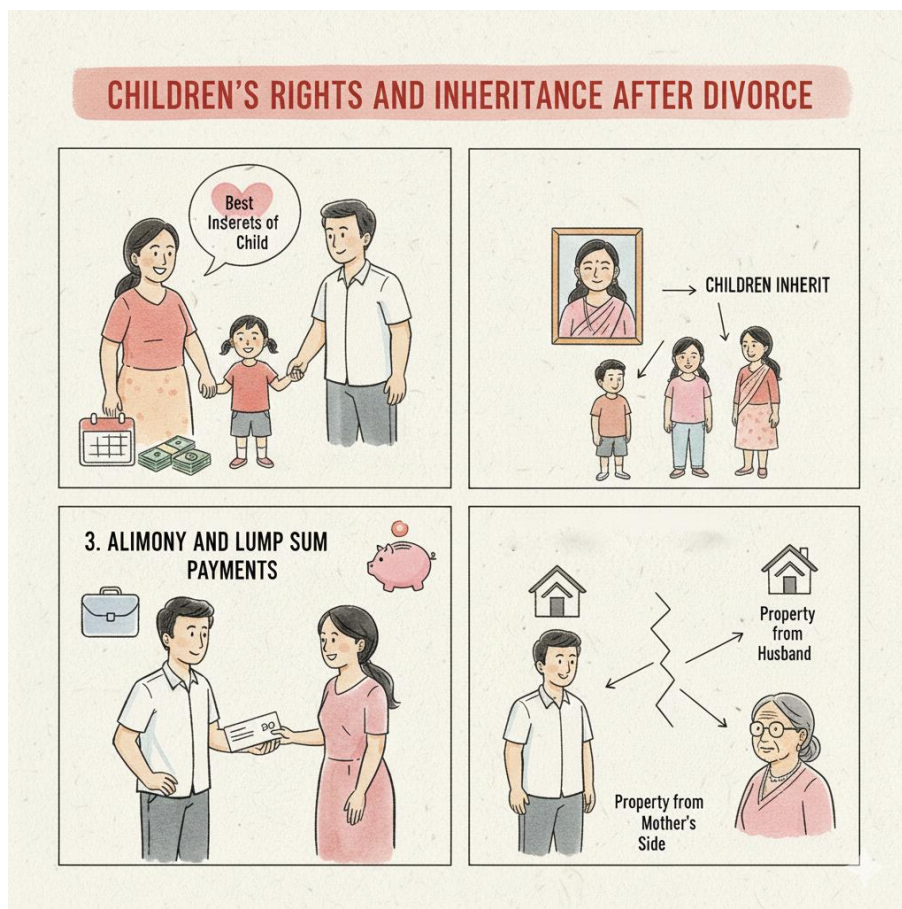
- There is no property to divide, but
- The husband has some income, and
- The wife asks for maintenance,

then the Court may order the husband to pay maintenance costs according to his income.

Exceptions:

- If the wife remarries, the husband usually no longer has to pay maintenance.
- If the wife's income is higher than the husband's, the Court may not order maintenance.

5. Children's Rights and Inheritance After Divorce



While this guide focuses on the divorce process, it is important to note:

- Child custody, visitation, and support are typically decided based on the best interests of the child.
- On the death of a divorced woman, her children (son or daughter), if any, generally inherit her property first.
- If she has no children, property she received from her former husband may revert to him, and property not received from him may go to heirs on her mother's side, depending on the circumstances.

Because inheritance and child issues can be complex, it is wise to seek specific legal advice.

6. Divorce from Abroad: For Nepalis Living Outside Nepal

- A husband or wife living overseas can file for divorce in Nepal without physically coming to Nepal.
- They can issue a Power of Attorney authorizing someone in Nepal (often a relative or lawyer) to act on their behalf.
- This Power of Attorney must be verified and authenticated by the Nepali Embassy or Consulate in that country.
- A local divorce lawyer in Nepal is usually needed to prepare documents, file the case, and appear in Court.

Divorce from Abroad: For Nepalis Living Outside Nepal



File from Overseas

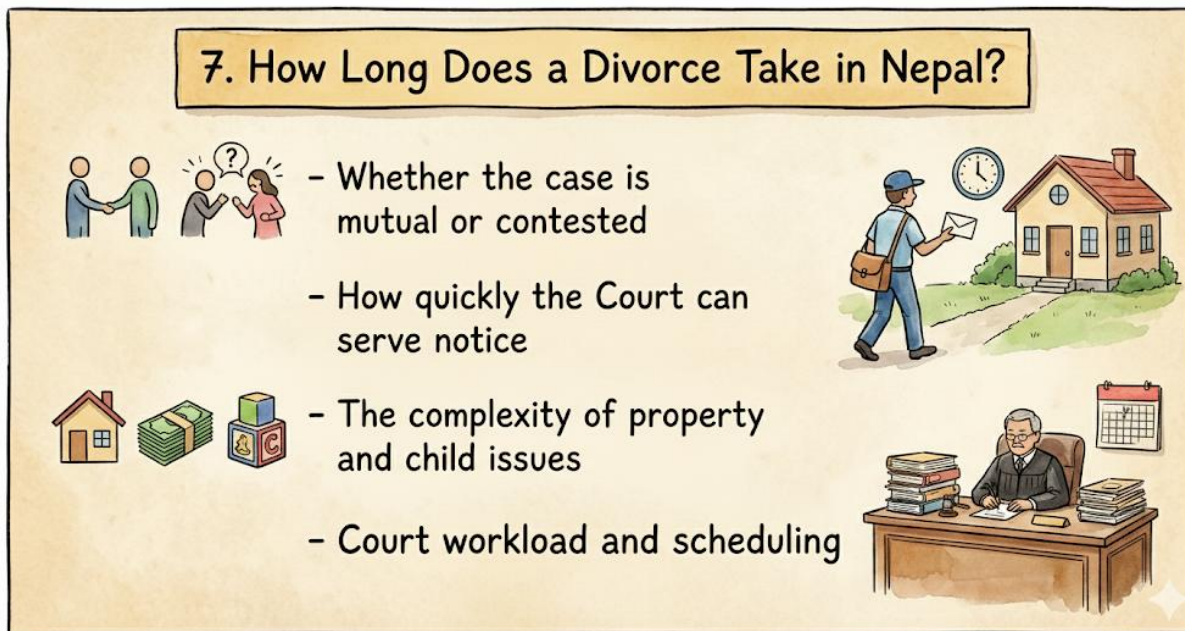


Lawyer Acts on Your Behalf



Finalizing the Divorce

7. How Long Does a Divorce Take in Nepal?



Timeframes vary depending on:

- Whether the case is mutual or contested
- How quickly the Court can serve notice
- The complexity of property and child issues
- Court workload and scheduling

General guideline:

- **Mutual consent divorce** – can often be completed relatively quickly, if documents are complete and both parties cooperate.
- **Contested divorce** – if the parties refuse reconciliation and the Court must go through full hearings, it can take around one year or more from the date of filing.

8. When Should You Talk to a Divorce Lawyer in Nepal?

You should strongly consider speaking to a divorce lawyer in Nepal if:

- You are uncertain whether you have legal grounds for divorce
- There is joint property, business, or inheritance involved
- You and your spouse disagree about divorce or about money/children

- You live abroad and want to start the divorce process in Nepal
- You want to explore mutual consent divorce and formalize the agreement properly

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