

LEGAL AND JUDICIAL

How to File a Mutual Consent or Milapatra Divorce in Nepal

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Mutual consent divorce in Nepal is commonly referred to in practice as a **Milapatra divorce** or divorce by mutual agreement. It is the process through which both spouses agree to end their marital relationship and present that agreement before the competent court. The principal substantive provision is **Section 93 of the [Muluki Civil Code, 2074](#)**, which provides that if both husband and wife so desire, they may divorce their relationship at any time.

A mutual consent divorce differs from a contested divorce because the court does not have to determine which spouse is at fault when both spouses jointly seek dissolution of the marriage. However, a private agreement between spouses does not itself dissolve a legally registered marriage. The parties must complete the applicable court process and obtain the court's divorce order.

The following guide explains the **mutual consent divorce process in Nepal, Milapatra divorce requirements, documents, District Court procedure, applicable laws, property settlement, child-related issues, costs, time, and legal services**. [Adalat Lawyers in Nepal.](#)

What Is Mutual Consent Divorce Under Nepalese Law

Under **Section 93 of the Muluki Civil Code, 2074**, both husband and wife can terminate their marital relationship by mutual consent at any time. This is the statutory basis for what is commonly described as mutual consent divorce in Nepal.

The essential feature is agreement. Both spouses must decide that they no longer wish to continue the marital relationship. Unlike a contested divorce based on specific allegations or grounds, mutual consent divorce does not depend on proving that one spouse committed adultery, cruelty, desertion, or another matrimonial wrong.

The term **Milapatra** generally refers to a settlement or compromise between parties. In divorce practice, however, people often use "Milapatra divorce" to describe an amicable divorce where the spouses have agreed on the relevant consequences of ending their marriage. The legal effect comes from the court's order, not merely from signing a private

Milapatra.

A mutual divorce agreement may deal with:

- The parties' agreement to dissolve the marriage.
- Property and financial claims.
- Alimony or maintenance, where applicable.
- Child custody and residence.
- Child maintenance and education expenses.
- Visitation and parental responsibilities.
- Outstanding debts and other agreed financial obligations.
- Other lawful matters connected with the marital relationship.

The Civil Code contains separate provisions dealing with filing a divorce petition, mediation, granting divorce, property partition, lump-sum or periodic alimony, maintenance, and agreements. These provisions appear principally in Sections 96 to 102.

Therefore, mutual consent should be understood as both a substantive right under Section 93 and a court process requiring proper documentation and judicial completion.

Where Can Couples File Mutual Divorce

A divorce case is filed before the **concerned District Court** having jurisdiction over the matter. The court process is governed by the applicable civil and court procedural laws, including the **Muluki Civil Procedure Code, 2074** and the **District Court Rules, 2075**. The Nepal Law Commission publishes the current versions of these laws and rules.

The correct District Court depends on the applicable jurisdictional rules and the facts of the spouses' circumstances. A couple should not assume that any District Court can accept the petition merely because it is convenient for one party.

Before filing, the parties or their lawyer should verify:

- The District Court having territorial jurisdiction.
- The residential circumstances of the spouses.
- Whether either spouse has permanently or ordinarily resided within the relevant jurisdiction.
- Whether there are special circumstances affecting jurisdiction.

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- Whether the documents establish the relevant connection with the court.

The filing section of the District Court receives and processes the petition according to applicable court procedures. Court practice can differ in administrative details, including the counter at which documents are submitted, the number of copies requested, and the manner of document verification.

A lawyer can verify jurisdiction before preparing the final petition. This is useful because filing in the wrong court can cause delay or require procedural correction.

Couples should also distinguish the **District Court** from other authorities. A ward office may issue or maintain civil registration records, but it does not itself grant a judicial divorce. Likewise, a private lawyer cannot legally dissolve a marriage merely by preparing a Milapatra. The final divorce must follow the legally prescribed court process.

The safest approach is to confirm the competent District Court and its current filing requirements before submitting the divorce petition.

Who Can Apply for Mutual Consent Divorce

Both spouses can seek mutual consent divorce where both voluntarily agree to end their marital relationship. Section 93 does not require one spouse to establish fault against the other. It expressly recognizes divorce where both husband and wife desire to terminate their marital relationship.

The consent should be genuine. A spouse should understand the nature and consequences of the agreement before signing the petition or Milapatra. If a settlement contains provisions concerning property, maintenance, children, or other rights, each spouse should understand those provisions.

In ordinary cases, both spouses participate in the court process so the court can verify the relevant facts and the parties' position. The exact appearance requirements can depend on the court's directions and the circumstances of the case.

Special issues can arise when:

- One spouse lives outside Nepal.
- One spouse is a Nepali citizen residing abroad.
- A spouse cannot personally attend a particular proceeding.
- A party seeks representation through a Power of Attorney.
- Identity or citizenship documents were issued outside the ordinary jurisdiction.
- The marriage was registered outside Nepal.

A person living abroad should not assume that a Power of Attorney automatically removes every requirement for personal appearance. The court may impose requirements concerning authentication, identity, authority, documents, and appearance.

The parties should also distinguish mutual consent from a situation where one spouse merely agrees to discuss divorce but has not legally agreed to the final terms. A genuine mutual divorce requires a clear and legally usable agreement.

If consent is withdrawn before the court completes the matter, the court cannot simply treat the matter as an agreed divorce. The procedural consequences depend on the stage of the case and the circumstances.

What Requirements Must Couples Fulfill Before Filing

The primary requirement is mutual agreement to terminate the marital relationship. Section 93 permits divorce by consent without requiring the spouses to prove a specific matrimonial fault.

Before filing, the parties should also reach a clear understanding about the practical consequences of divorce. This does not mean that every case must contain identical settlement terms. The appropriate terms depend on whether the couple has children, property, debts, maintenance claims, or other outstanding matters.

A proper preparation stage should address:

- Confirmation of both spouses' identity.
- Confirmation of the marriage and its registration status.
- Agreement to obtain a divorce.
- Property owned individually or jointly.
- Property acquired during the marriage.
- Existing loans and debts.
- Maintenance or alimony claims.
- Children's custody and residence.
- Child maintenance and education expenses.
- Visitation arrangements.
- Other financial or personal claims.

The agreement should be voluntary. A spouse should not sign because of threats, unlawful pressure, deception, or misunderstanding of the legal consequences.

Property issues require particular care because Nepalese divorce law contains specific provisions concerning partition and financial support. Section 99 deals with partition of property before divorce in specified circumstances, while Sections 100 and 101 address lump-sum or periodic alimony and maintenance in circumstances provided by law.

A couple should therefore avoid using a generic one-page settlement without examining its legal effect. A clear agreement can reduce future disputes, but it should not attempt to contract out of mandatory legal protections.

Where minor children are involved, the parents should formulate arrangements that protect the children's welfare rather than treating custody as merely another financial settlement.

What Documents Are Needed for Milapatra Divorce

The exact document list can vary according to the District Court and the facts of the case. The parties should verify current filing requirements before submission. The following documents are commonly relevant to a mutual consent divorce petition:

- Citizenship certificates or other accepted identity documents of both spouses.
- Marriage registration certificate.
- Photographs where required by the court.
- Joint divorce petition.
- Mutual settlement or Milapatra.
- Documents relating to children, where applicable.
- Property documents where property settlement is involved.
- Evidence concerning financial obligations or debts where relevant.
- Power of Attorney and authentication documents where legally applicable.
- Copies of relevant prior court orders, if any.
- Other documents requested by the concerned District Court.

Original documents should normally be kept available for verification even where copies are filed.

The marriage certificate is particularly useful because it establishes the registered marital relationship. Citizenship documents establish the identity of the parties. The petition establishes the legal request, while the Milapatra records the agreed terms.

If the couple has children, documents establishing the children's identity and relationship may be required or useful. If the settlement concerns land, houses, vehicles, bank accounts, business interests, or substantial financial obligations, supporting documents should be reviewed before the settlement is finalized.

Where a document is issued abroad, the parties should verify applicable authentication, translation, or legalization requirements before filing.

A lawyer should compare the petition, citizenship details, marriage certificate, and settlement agreement for consistency. Differences in names, dates, addresses, citizenship numbers, marriage registration details, or children's names can result in requests for correction.

Because District Court Rules and administrative requirements may change, couples should obtain the current filing checklist from the concerned District Court instead of relying entirely on an old internet checklist. The Nepal Law Commission currently publishes the District Court Rules, 2075.

How to Draft the Mutual Divorce Agreement

A **Milapatra or mutual divorce agreement** should state clearly what the spouses have agreed to and what claims, if any, remain outstanding. The document should not contain vague statements that create uncertainty after divorce.

A well-prepared agreement may address:

- Full names and identification details of both spouses.
- Date and place of marriage.
- Agreement to dissolve the marital relationship.
- Statement regarding property settlement.
- Statement regarding financial claims.
- Alimony or maintenance arrangements, where applicable.
- Children's custody and residence.
- Child maintenance and educational expenses.
- Visitation arrangements.
- Responsibility for debts and liabilities.
- Transfer or release of agreed property.
- Treatment of existing legal claims.

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- Confirmation of voluntary settlement.

The agreement should identify property sufficiently to avoid later disagreement. For example, if a house or parcel of land is being transferred, the relevant ownership and registration details should be checked rather than described vaguely as “all property.”

The same applies to monetary settlements. The agreement should state the amount, payment date, payment method, and whether the payment represents full or partial settlement of a specified claim.

Section 102 of the Civil Code recognizes that certain matters may be dealt with according to the agreement of the parties. The settlement must nevertheless remain consistent with applicable law.

A settlement involving children requires additional care. Parents can agree on practical arrangements, but their agreement should not be drafted as though the child's legal interests are simply transferable between adults.

A lawyer should also examine whether a proposed “full and final settlement” actually covers all intended claims. A broad clause can create problems if it conflicts with statutory rights or if the parties did not understand what rights they were surrendering.

How to File the Divorce Petition in Court

The filing process begins with preparation of the joint petition and supporting documents. The parties should first confirm the competent District Court and prepare the petition according to the applicable procedural requirements.

The general process can be organized into these steps:

Step 1: Confirm mutual consent.

Both spouses should agree to terminate the marriage and discuss all relevant settlement issues.

Step 2: Verify jurisdiction.

Confirm which District Court has jurisdiction over the divorce petition.

Step 3: Prepare the petition.

Prepare the divorce petition with accurate details concerning the marriage, parties, children, property, and agreed settlement.

Step 4: Prepare the Milapatra.

Record the agreed property, financial, custody, maintenance, and other lawful terms clearly.

Step 5: Collect supporting documents.

Arrange citizenship documents, marriage certificate, photographs, and other relevant documents.

Step 6: Submit the case.

File the petition and documents before the concerned District Court.

Step 7: Complete court verification.

The court and its staff process the filing and may require correction, clarification, or additional documents.

Step 8: Attend the required proceedings.

The spouses appear as directed and confirm their position before the court.

Step 9: Obtain the divorce order.

If the statutory requirements are satisfied, the court completes the divorce process and issues the relevant order.

Section 96 of the Civil Code deals with filing a petition for divorce, while Section 98 deals with effecting divorce after the applicable court process.

A private Milapatra should therefore not be confused with the court's final divorce order. The court process gives the agreement its legal procedural effect.

How Does Court Handle Mutual Divorce Cases

After the petition is filed, the District Court examines the case according to the Civil Code and applicable procedural law. The court can examine the parties' identities, the marriage, the petition, the settlement, and the circumstances relevant to the requested divorce.

Section 97 contains provisions concerning mediation or reconciliation between husband and wife. Section 98 addresses the effecting of divorce after the applicable statutory process.

In a mutual consent case, the central issue is whether the parties genuinely seek divorce and whether the legal requirements have been satisfied. The court may ask questions to establish that the parties understand their decision.

The court process may involve:

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- Registration and scrutiny of the petition.
 - Verification of identity and documents.
 - Examination of the spouses.
 - Consideration of reconciliation or mediation provisions.
 - Review of settlement terms.
 - Consideration of property and financial arrangements.
 - Consideration of child-related arrangements where applicable.
 - Issuance of the final divorce order.

The court does not simply approve every private agreement automatically. The settlement must operate within the law. For example, an agreement concerning property should be legally workable, while arrangements concerning children must be consistent with applicable legal protections.

The exact number of hearings cannot be guaranteed. Court workload, document deficiencies, disputed terms, appearance requirements, and procedural issues can affect the process.

The **Muluki Civil Procedure Code, 2074** provides the broader procedural framework for civil proceedings, while the District Court Rules, 2075 contain court-specific procedural provisions.

The safest statement is therefore that mutual divorce can be simpler than contested litigation, but no responsible lawyer should guarantee a fixed number of days for every District Court case.

How Long Does Mutual Consent Divorce Usually Take

There is no universal statutory guarantee that every mutual consent divorce in Nepal will finish within a particular number of days. Actual time depends on the District Court, filing condition, court schedule, completeness of documents, availability of the parties, and whether any legal issue requires further consideration.

A properly prepared case may move faster than a case with incomplete documents or unresolved settlement issues. However, claims that every mutual divorce in Nepal is automatically completed in two or three working days should not be treated as a legal guarantee.

Factors affecting the timeline include:

- Correctness of the District Court jurisdiction.
- Completeness of the petition.

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- Availability of citizenship and marriage documents.
 - Accuracy of the Milapatra.
 - Agreement regarding property.
 - Presence of minor children.
 - Court workload.
 - Hearing dates.
 - Availability of both spouses.
 - Need for additional documents or clarification.
 - Any issue raised during judicial examination.

Section 97 provides for mediation or reconciliation, while Section 98 deals with the court's effecting of divorce. The statutory procedure must therefore be followed even where both spouses already agree.

The one-year waiting concept sometimes discussed in Nepalese divorce law should not be presented as a universal cooling-off period for mutual consent divorce. It relates to the statutory treatment of reconciliation and certain contested situations, not a blanket rule that every mutual divorce must wait one year.

The practical time should therefore be described as **case-specific**. A lawyer may provide an estimate after reviewing the particular District Court and documents, but the court controls hearing dates and judicial completion.

The parties should also allow additional time to obtain certified copies and complete any post-divorce record updates.

What Are Court Fees and Divorce Costs

The total cost of mutual consent divorce in Nepal has several components. It should not be confused with a single fixed "divorce fee."

Possible expenses include:

- Applicable court fee or filing charge.
- Application or document charges where applicable.
- Photocopying and document preparation.
- Translation expenses, where required.
- Authentication or certification expenses.

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- Travel and appearance expenses.
 - Legal consultation fees.
 - Advocate's drafting fees.
 - Court representation fees.
 - Expenses relating to property documentation, where applicable.

The exact government or court fee should be confirmed with the concerned District Court at the time of filing. Published court service information shows that court applications can carry prescribed application costs, but this does not establish a universal divorce fee for every District Court proceeding.

Legal fees are separate from government charges. A lawyer may charge according to the nature of the work, including consultation, petition drafting, settlement drafting, filing, appearances, document review, and representation.

The cost can also increase where the case involves:

- Extensive property.
- Multiple properties.
- Business interests.
- Foreign documents.
- Foreign residence.
- Complex custody arrangements.
- Existing litigation.
- Multiple hearings.
- Disagreement about the settlement.

Couples should ask for a clear breakdown of professional fees before retaining a lawyer. They should also confirm whether the quoted fee includes drafting, filing, appearances, certified copies, and other services.

Because fees and court administrative practices can change, an article should not publish an unsupported fixed amount as the current mandatory government fee. The current law and the concerned court should be checked before filing. The Nepal Law Commission maintains the principal civil legislation and procedural legislation online.

What Laws Govern Mutual Consent Divorce Nepal

The main law governing mutual consent divorce is the **Muluki Civil Code, 2074**, also referred to as the National Civil Code, 2017. The Nepal Law Commission identifies the Civil Code, 2074 as a current Nepalese statute.

The principal divorce provisions include:

- **Section 93:** Divorce by consent of both spouses.
- **Section 94:** Circumstances in which a husband may seek divorce.
- **Section 95:** Circumstances in which a wife may seek divorce.
- **Section 96:** Petition to be filed for divorce.
- **Section 97:** Mediation or reconciliation between husband and wife.
- **Section 98:** Effecting divorce.
- **Section 99:** Partition of property before divorce in specified circumstances.
- **Section 100:** Lump-sum amount or alimony.
- **Section 101:** Maintenance costs in specified circumstances.
- **Section 102:** Matters according to agreement.

The statutory structure confirms that divorce is not governed by Section 93 alone. Property, alimony, maintenance, procedure, and agreement issues can engage other provisions.

The **Muluki Civil Procedure Code, 2074** provides the wider procedural framework for civil cases. The **District Court Rules, 2075** also govern court administration and procedure.

The exact wording of the current law should always be checked before filing. The Nepal Law Commission is the appropriate primary government source for the legislation. Its website provides the Civil Code and Civil Procedure Code.

A lawyer should also consider other applicable laws where the case involves children, property registration, foreign documents, domestic relations, or enforcement of particular settlement terms.

How Are Property and Alimony Settled

Property and financial settlement can be one of the most significant parts of a Milapatra divorce. Parties should identify property and liabilities before signing the final agreement.

Section 99 of the Civil Code contains specific rules concerning partition of property before divorce in circumstances covered by that provision. It also addresses situations where partition may take time and provides for monthly expenses in specified circumstances.

Section 100 deals with lump-sum amounts or annual or monthly alimony in circumstances specified by law. Section 101 addresses maintenance costs in specified circumstances.

A settlement should therefore consider:

- Land and buildings.
- Vehicles.
- Bank deposits.
- Business interests.
- Shares and investments.
- Household assets.
- Loans and liabilities.
- Property registered jointly.
- Property registered in one spouse's name.
- Financial claims between spouses.

The parties should establish exactly what happens to each major asset. If one spouse receives a house, for example, the settlement should identify the property sufficiently for implementation.

Where money is payable, the agreement should state:

- Total amount.
- Payment schedule.
- Payment method.
- Due dates.
- Consequences of non-payment where legally permissible.
- Whether payment settles a specified claim fully.

The phrase “no further claims” should not be inserted casually. It should be used only after the parties understand what claims are being settled and whether any statutory rights remain.

Property rights can also depend on how and when the property was acquired. A lawyer should review title documents and the source of property before finalizing the Milapatra.

How Are Children Protected After Divorce

Divorce does not end a parent's legal responsibility toward a child. Where the spouses have minor children, the settlement should address practical arrangements for care, residence, maintenance, education, healthcare, and contact with the other parent.

A mutual divorce agreement may include:

- Who will ordinarily care for the child.
- Where the child will reside.
- School and education expenses.
- Medical and healthcare expenses.
- Food, clothing, and ordinary living expenses.
- Visitation arrangements.
- Holiday arrangements.
- Communication with the non-residential parent.
- Responsibility for major educational or medical decisions.

The parents should use clear language. A statement such as “the father will take care of the child” may be insufficient if it does not explain residence, expenses, education, and contact arrangements.

Child-related terms should not be drafted solely as a bargain between spouses. The legal interests and welfare of the child remain relevant to the court.

The Civil Code contains separate family-law provisions concerning children and parental relationships. The custody arrangement should therefore be reviewed against the applicable provisions rather than relying only on a private settlement.

The parties should also consider future circumstances. A child's education, health, age, residence, or financial needs can change. A settlement should therefore avoid language that creates unnecessary uncertainty or prevents lawful future arrangements.

Where parents cannot agree on a child-related issue, the court may need to consider the issue separately. A mutual divorce does not automatically convert every disagreement concerning a child into a private contractual matter.

A lawyer preparing a Milapatra should review the child's age, present residence, education, financial needs, relationship with both parents, and the proposed parenting arrangements before finalizing the agreement.

What Happens After the Divorce Order

The court's divorce order is the key legal event that formally ends the marital relationship through the judicial process. Parties should obtain and preserve an authenticated or certified copy of the relevant court order.

After receiving the order, the parties may need to address related administrative matters depending on their circumstances.

Possible post-divorce actions include:

- Obtaining certified copies of the court order.
- Updating relevant civil registration records.
- Updating personal records where required.
- Completing agreed property transfers.
- Updating ownership records.
- Updating banking or insurance records where necessary.
- Keeping custody and maintenance documents safely.
- Completing any agreed financial transfers.
- Preserving evidence of payments made under the settlement.

The parties should not assume that the court order automatically changes every government or private record. Where property, business, bank accounts, insurance, citizenship-related records, or other registrations are involved, the relevant authority may require separate documentation.

Nepalese law also recognizes legal consequences concerning remarriage after termination of a marital relationship. The parties should therefore rely on the court order rather than treating physical separation or signing a private agreement as equivalent to divorce.

A certified court order should be kept permanently with other important legal documents.

If a settlement requires one spouse to transfer property or pay money after divorce, the parties should maintain receipts, bank records, transfer deeds, and other evidence of compliance.

If a spouse fails to comply with a court-approved or legally enforceable arrangement, the appropriate enforcement remedy depends on the terms of the order and applicable procedural law.

Post-divorce work is therefore not necessarily finished on the day the court announces its decision. Property, financial, child-related, and administrative matters may require separate implementation.

What Checklist Should Couples Complete Before Filing

A practical **mutual consent divorce Nepal checklist** can help identify problems before filing.

- Confirm that both spouses freely agree to divorce.
- Confirm the correct District Court.
- Verify both spouses' citizenship or identity documents.
- Verify the marriage registration certificate.
- Check names, dates, addresses, and identification details for consistency.
- Prepare the joint divorce petition.
- Prepare the Milapatra or settlement agreement.
- Identify all significant property.
- Identify loans and other liabilities.
- Decide whether either spouse has an alimony or maintenance claim.
- Record any agreed financial settlement clearly.
- Identify all minor children, if any.
- Agree on custody and residence arrangements.
- Agree on child maintenance and education expenses.
- Agree on reasonable visitation arrangements.
- Prepare supporting property documents where necessary.
- Prepare photographs and copies required by the court.
- Check whether foreign documents require authentication or translation.
- Confirm applicable court charges.
- Confirm advocate's professional fees separately.
- Confirm the expected court appearances.

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- Keep originals available for verification.
 - File the petition before the competent District Court.
 - Attend proceedings as directed.
 - Obtain the final divorce order.
 - Obtain certified copies of the order.
 - Complete any required post-divorce registration or property work.

The checklist should be treated as a preparation guide rather than a universal filing form. District Courts can request documents according to the facts of the case and prevailing administrative practice.

A lawyer should review the final checklist before filing, particularly where the parties have property, children, foreign residence, or complex financial arrangements.

What Legal Services Can Lawyers Provide

A lawyer can assist at different stages of a **mutual consent divorce in Nepal**. The parties can obtain legal advice before signing the settlement, which can help them understand the legal consequences of the proposed agreement.

Common legal services include:

- Initial divorce consultation.
- Verification of legal requirements.
- District Court jurisdiction review.
- Petition drafting.
- Milapatra drafting.
- Property settlement review.
- Alimony and maintenance advice.
- Child custody and maintenance drafting.
- Document verification.
- Court filing assistance.
- Representation before the District Court.
- Assistance with court proceedings.

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- Obtaining certified court documents.
 - Post-divorce legal assistance.

A lawyer should not simply reproduce a standard divorce agreement without considering the facts. Property ownership, children, financial claims, foreign residence, previous litigation, and the wording of the settlement can materially affect the case.

For example, a couple with no children and no property dispute may require a relatively straightforward agreement. A couple with several properties, business interests, children, or international assets requires more detailed legal review.

Legal fees are separate from government or court charges. Before instructing a lawyer, the client should understand what services are included in the quoted fee.

A lawyer can also explain whether personal appearance is required at a particular stage and whether any special documentation is needed where one spouse resides outside Nepal.

For **Adalat Lawyers in Nepal**, the appropriate legal service should focus on accurate petition drafting, legally workable settlement terms, proper court filing, representation, and protection of the parties' lawful rights.

The final advice should always be based on the client's documents and circumstances. A general online article cannot replace case-specific legal review.

What Common Mistakes Should Couples Avoid

Several mistakes can delay a mutual consent divorce or create problems after the divorce.

Filing in the wrong District Court: Jurisdiction should be checked before preparing the final filing.

Using an incomplete Milapatra: A settlement that does not address property, money, children, or other relevant matters can create later disputes.

Assuming private separation equals divorce: Living separately or signing a private agreement does not by itself replace the court process.

Using inaccurate personal details: Names, citizenship numbers, marriage dates, addresses, and registration details should match the supporting documents.

Ignoring property issues: Couples should identify major assets and liabilities before declaring that all financial claims are settled.

Using vague payment terms: A settlement should specify amounts, dates, and payment arrangements where money is involved.

Ignoring children: Custody, residence, maintenance, education, healthcare, and visitation should be addressed where minor children are involved.

Assuming a fixed timeline: Court schedules differ, and no universal completion period should be promised.

Relying on outdated fees: Court fees and administrative requirements should be confirmed with the relevant District Court.

Signing without legal understanding: Each spouse should understand the consequences of the agreement before signing.

Failing to obtain the final order: A private settlement should not be treated as the final proof of divorce. The court's order should be obtained and preserved.

The Civil Code expressly regulates divorce, mediation, property, alimony, maintenance, and agreements through Sections 93 to 102. The Civil Procedure Code and District Court Rules provide additional procedural requirements.

Frequently Asked Questions About Mutual Divorce Nepal

What is Milapatra divorce in Nepal?

Milapatra divorce generally refers to an amicable divorce where both spouses agree to end their marriage and settle relevant matters. Section 93 of the Muluki Civil Code, 2074 expressly permits husband and wife to divorce by mutual consent at any time. The settlement may address property, maintenance, children, and financial matters. However, the private Milapatra itself does not replace the required court process and final divorce order.

Can spouses divorce by mutual consent anytime?

Yes. Section 93 of the Muluki Civil Code, 2074 states that if both husband and wife so desire, they may divorce their marital relationship at any time. Mutual consent therefore does not require one spouse to prove adultery, cruelty, desertion, or another fault-based ground. The spouses must still follow the applicable District Court procedure, submit the required petition and documents, and obtain the court's final divorce order.

Where should a mutual divorce petition be filed?

A mutual divorce petition is filed before the competent District Court having jurisdiction over the matter. The correct court depends on applicable territorial jurisdiction rules and the circumstances of the spouses. Couples should verify jurisdiction before filing rather than choosing a court solely for convenience. The Muluki Civil Procedure Code, 2074 and District Court Rules, 2075 provide relevant procedural frameworks for civil court proceedings.

Do both spouses need to appear in court?

Both spouses ordinarily participate in a mutual consent divorce so the court can verify their identity, consent, and position. The exact appearance requirements depend on the circumstances and directions of the concerned District Court. Where one spouse lives abroad or cannot attend, special representation and authentication issues may arise. A Power of Attorney does not automatically eliminate every court requirement, so the arrangement should be confirmed beforehand.

What documents are needed for mutual divorce?

Common documents include citizenship certificates or identification documents, the marriage registration certificate, photographs where required, the divorce petition, and the Milapatra or settlement agreement. Additional documents may concern children, property, debts, foreign residence, or Power of Attorney arrangements. The exact list can vary according to the case and District Court. Original documents should remain available for verification even when copies are submitted.

How long does mutual consent divorce take?

There is no single legally guaranteed timeline for every mutual consent divorce in Nepal. Completion depends on the District Court, document readiness, court workload, hearing dates, appearance requirements, and whether property or child-related issues require consideration. A properly prepared case can proceed more efficiently, but claims that every mutual divorce finishes within two or three days should not be treated as a universal legal guarantee.

How much does mutual consent divorce cost in Nepal?

The total cost can include court charges, document preparation, copies, authentication, translation, travel, and advocate's professional fees. The applicable government or court charge should be confirmed with the concerned District Court because administrative fees and requirements can change. Lawyer fees are separate and depend on the services provided. A client should request a clear breakdown showing what drafting, filing, appearances, and other services are included.

Can property be settled through the Milapatra?

Yes, property and financial matters can be addressed in a mutual divorce settlement, subject to applicable law. Section 99 of the Muluki Civil Code contains provisions concerning property partition in divorce, while Sections 100 and 101 address alimony and maintenance in specified circumstances. The agreement should identify major assets, liabilities, payment obligations, and transfers clearly. Property documents should be reviewed before the final Milapatra is signed.

Can child custody be included in Milapatra?

Yes, parents can include arrangements concerning custody, residence, maintenance, education, healthcare, and visitation in a mutual divorce settlement. However, child-related arrangements should be drafted with the child's welfare and applicable legal requirements in mind. Parents should not treat custody solely as a private financial bargain. Where the parents cannot agree or the proposed arrangement raises a legal issue, the court may need to consider the matter separately.

Is a lawyer required for mutual divorce?

A lawyer is not necessarily required in every case merely because the divorce is mutual. However, legal representation can assist with jurisdiction, petition drafting, document review, property settlement, alimony, child arrangements, court filing, and appearances. A poorly drafted Milapatra can create later disputes. Couples with property, children, foreign residence, substantial financial claims, or complicated documents should consider obtaining case-specific advice before signing.

Conclusion

Mutual consent divorce in Nepal is legally recognized under **Section 93 of the Muluki Civil Code, 2074**. The process is based on the agreement of both spouses, but the parties still need to complete the applicable District Court procedure.

A properly prepared case should address the divorce itself, property, financial claims, maintenance, children, documents, court jurisdiction, and the final court order. Sections 96 to 102 of the Civil Code provide additional provisions relevant to filing, mediation, divorce, property, alimony, maintenance, and agreements.

The most reliable approach is to verify the current law, District Court procedure, applicable charges, and document requirements before filing. The official Nepal Law Commission sources for the **Muluki Civil Code, 2074, Muluki Civil Procedure Code, 2074, and District Court Rules, 2075** should be consulted for the prevailing statutory and procedural framework.

This article provides general legal information and should not be treated as a substitute for legal advice based on the particular facts and documents of an individual divorce case.

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