

# The Effects Of Divorce On Children

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**Abstract:** *Lawful disintegration of marriage is known separation. This paper tries to give an outline of a portion of the sociology discoveries identified with the impacts of conjugal interruption on kids. Separation and life in a one-parent family are winding up noticeably progressively regular encounters in the lives of guardians and kids. The main objective is to study the effects of divorce and to analyze the effects of divorce on children. Divorce is becoming common in all cases of the Hindu society. Divorce is a heart breaking experience that transforms the lives of parents and children. Divorce is getting to be noticeably basic in all instances of the Hindu society. Relatives of the lower stations or classes approach the legal courts for getting divorce. However unique types of conjugal interruptions like partition and renunciation and in addition standard separation are regular among them. Separation is more typical among childless couples. Separation brings about intense passionate issues.*

**Keywords:** *Divorce, conjugal rights, children, separation, childless, issues*

## I. INTRODUCTION

This paper seeks to provide an overview of some of the social science findings related to the effects of marital disruption on children. Divorce and life in a one-parent family are becoming increasingly common experiences in the lives of parents and children. Prior to the 1960s, divorce in Canada was rare. However, following the adoption of the new Divorce Act in 1968, which made divorces more accessible in all provinces/territories and allowed marriage breakdown as grounds for separation, the number of divorces increased dramatically. According to Dumas and Péron (1992), between the end of the 1960s and the mid 1980s, the divorce rate increased fivefold. In 1995, the most recent year for which data are available, there were approximately 77,000 divorces granted in Canada, a rate of 262 per 100,000 people (Statistics Canada, 1997). According to a report prepared by the Bureau of Review (1990), Statistics Canada estimates that almost one-third of all Canadian marriages will end in divorce. Moreover, it is estimated that one in two divorce cases involve dependent children, illustrating that each year a substantial number of children are affected by divorce. According to the report, in the late 1980s, approximately 74,000 children became “children of divorce”.

Starting in the early sixties, a great deal of research has been conducted on the effects of marital disruption on children and it is perhaps not surprising that the social sciences have had more impact in this area of the law than in any other. During the 50s and 60s, the dominant discourse in the literature constructed the mother as vital to the child’s well being and this was associated with legal and policy shifts that emphasized the ‘tender years doctrine’. Beginning in the late 70s and particularly since the 80s, however, a shift has occurred. The welfare of the child has become the central and determining metaphor in family law and we are witnessing an emphasis on the importance of the role of the father as an instrument of that welfare. Moreover, rights to equality between parents have been used to bolster that role. There has been an emphasis on consensual joint parenting after divorce and on agreement rather than conflict between parents. Fatherhood has achieved a new status and policy shifts seek to maintain relationships between men and children.

Through a review of the literature, this paper attempts to examine how one might best understand the concept of ‘best interests of the child’ by examining studies which attempt to tease out the effects of marital disruption on children. Although the majority of articles are from the United States, for the most part, similar results have been found in other countries and there is little reason to suspect that the

experience of Canadian children would be substantially different.

#### OBJECTIVES

- ✓ To Study the effects of divorce.
- ✓ To analyse the effects of divorce on children.

#### HYPOTHESIS

Divorce is becoming common in all cases of the Hindu society.

#### SOURCE OF STUDY

The researcher entirely depends on secondary sources. The secondary sources include books related to the effects of divorce on Children. Journal, Articles, Websites and Blogs are also been referred.

## II. REVIEW OF LITERATURE

P. K. Virdi (2009) Grounds For Divorce In Hindu And English Law, This study traces the growth of the concept of divorce through the Dharmasastra, custom, case-law and legislation with special reference to the inter-pretation of the relevant provisions. under the Hindu Marriage Act, 1955, pointing out how law has influenced society and vice versa. The work is comparative and presents a picture of the role played by English judicial precedent in Hindu law. For the legal profession as well as the student of modern comparative law this book should prove a valuable compact study.

Naseem Akhtar (2003) Family Law on Divorce, this book deals with Divorce by mutual consent is the fastest way of getting a divorce in India. A petition seeking divorce has to be filed in the Court by the married couple, on the grounds that both the husband and the wife have been living individually for a time frame of one year or more, thereby failing to fulfill their matrimonial obligations and wanting to dissolve their marriage. A reasonable amount of time, i.e. between 6 to 18 months are given to the married couple for reconsidering their decision for seeking divorce and withdraw the petition.

## III. METHODOLOGY

The data is collected mainly through Secondary sources such as articles, journals, and books relating the effects of divorce on Children.

#### DIVORCE AND ITS EFFECTS ON CHILDREN

A divorce decree establishes the new relations between the parties, including their duties and obligations relating to property that they own, support responsibilities of either or both of them, and provisions for any children. When a marriage breaks up, divorce law provides legal solutions for issues that the Husband and Wife are unable to resolve through mutual cooperation. Historically, the most important

question in a divorce case was whether the court should grant a divorce. When a divorce was granted, the resolution of continuing obligations was simple: The wife was awarded custody of any children, and the husband was required to support the wife and children.

Modern divorce laws have inverted the involvement of courts. The issue of whether a divorce should be granted is now generally decided by one or both of the spouses. Contemporary courts are more involved in determining the legal ramifications of the marriage breakup, such as spousal maintenance, Child Support, and Child Custody. Other legal issues relating to divorce include court jurisdiction, antenuptial and postnuptial agreements, and the right to obtain a divorce. State laws govern a wide range of divorce issues, but district, county, and family courts are given broad discretion in fixing legal obligations between the parties.

In early civilisations, marriage and marriage dissolution were considered private matters. Marriage and divorce were first placed under comprehensive state regulation in Rome during the reign of Augustus (27 b.c.–a.d. 14). As Christianity spread, governments came under religious control, and the Roman Catholic Church strictly forbade divorce. The only exception to this ban was if one of the parties had not converted to Christianity before the marriage.

During the 1500s, the Protestant Reformation movement in Europe rejected religious control over marriage and helped to move the matter of divorce from the church to the state. European courts granted divorces upon a showing of fault, such as Adultery, cruelty, or desertion.

Over 1 million families experience divorce every year. Because of the high divorce rate and unwed mothers, 61% of our children live in a single parent family. Almost one half of the children who have been through divorce do not see their fathers at all. Divorce sets these children up for ongoing loss. Not only do they suffer from the loss of their family and not living with one of their parents, they suffer the change of moving, new schools and often new communities. These losses persist because holidays become different; their birthdays are not as simple and special, school events are spoiled because of the divorce and persistent parental discord. In time, many of these children will have to work through new family situations and possibly another move and another new school. The ever suffering of children after divorce continues. It is no wonder that so many of these children have behaviour and emotional problems.

The Risk of Divorce for Children:

- ✓ Children less than 3 years of age often become irritable, cry frequently, seem more afraid, have problems with separation anxiety, do not sleep as well, and display more aggressive behavior towards others.
- ✓ Children 4-5 years of age often will blame themselves for the absence or unhappiness of parents and will be very susceptible to low self-esteem and poor self-worth. This often is the seed for depression.
- ✓ School age children often are moody, preoccupied, daydream, tantrum and are more aggressive. School performance often suffers as well.
- ✓ Adolescents may develop a premature degree of emotional autonomy. Angry feelings emerge causing some aggression, antisocial behaviour or even substance

abuse. Many will become lonely and will find a sexual relationship for comfort.

- ✓ Some children will test the limits and family rules in an effort to reunite the parents.
- ✓ All children suffering divorce will have more psychosomatic complaints, including headaches, stomachache, dizziness and exaggerated symptoms from viruses. This is an unconscious response to feelings of anger and loss.
- ✓ Other children will play one parent off against the other to gain power over the situation that appears out of control to them.

Divorce is a heart breaking experience that transforms the lives of parents and children. This devastating event affects parents' emotional, psychological, and economical stability. It also impacts parents' relationship with their offspring. Divorce modifies the family structure and the concept children had about their family and the world around them. These multiple changes attached to the family separation generate conflicting emotions in children that deeply affect their well-being. For some children of divorce, parental separation would become a destructive experience that would harm their life without end. For others, divorce would represent an avenue for growth, peace of mind, and an opportunity for more prosperous life conditions. At the end, what would make the difference is the approach that each individual takes after the parental separation. Although it would not be easy, with the commitment and understanding from parents and children the post divorce experience can be more manageable and productive. Post-divorce education, family support, and the assistance of professional support services can be valuable tools in helping parents and children in their adjustment process after divorce.

Parents in separation and divorce are very concerned about the effects of divorce on children. They wonder whether their decision will affect the happiness and health of their child. Reliable information about the effects on children is still being gathered and analysed by sociologists and psychologists. The divorce itself does not affect children in a negative way. The effects result more often from the feeling of uncertainty of what is going to happen after the divorce, from the level of conflict between the parents and from how the parenting after the divorce is done.

The consequences of a divorce for children are mostly that they have to move to a different home and sometimes to a different school and that they will not see and be with both their parents at the same time any more. In most of the cases, they will live with their mother and they will see their father much less. To adjust to their new situation takes them 2 years or more. The age of the children plays a role in how they react to the divorce. Effects of divorce on children under 9 years - the so called pre-schoolers - are that they tend to blame themselves for the divorce. They also dream about their parents getting back together again some day. That's wishful thinking.

Guidelines for Parents:

- ✓ If the battle between mom & dad continues the child continues to suffer acutely; the longer the battle continues the worse your child will fare. Do not persist in the fight. Divorce, settle the affairs, settle the visitation and leave it.

The more fight you participate in, the worse your children will fare. It takes two to fight and never is all one

- ✓ When it comes to discipline, you should use the same discipline techniques as you used before the divorce. When the rules change and discipline changes then children see things as more out of control and they do not feel as safe or secure. Discipline the same.
- ✓ Never make the child choose one parent over the other. Court battles are harmful for children; try not to put them through it.
- ✓ Children need routine; as quickly as possible get them into a routine again. Monitor their success at school and with friends to insure that they are successfully tolerating the change.
- ✓ If you are seeing aggression from your child, suspect that he or she might be angry. Try to talk to them, give them time to say their peace. Assist them emotionally. If this is not working, then consider professional assistance.
- ✓ Do not talk negative about the other parent in front of the child. Your child needs a healthy relationship with both parents to mature and become a well-adjusted adult. When you talk bad about your ex-spouse you are asking your child to choose between parents, and that is unfair!
- ✓ If you see your child losing their resilience, becoming angrier, less tolerant of others, then seek professional help. Because children of divorced parents have more mental health problems, help as soon as it is noticed.
- ✓ Be honest, tell the truth always. Do not tell your children things they do not need to know unless they ask, but never tell them anything that is not true. A lie is never in their best interest.
- ✓ Finally try to develop a positive attitude about your new life with your children. Make every attempt to being positive. Find your own happiness after divorce, it will allow your children to do the same.

The ways children cope with divorce and the strategies they use depend on different factors. Moderating variables are:

- ✓ A trusting, supportive and stable relationship with both parents.
- ✓ The feeling to be loved by the noncustodial parent, and to play an important role in his (her) life. This is linked with regular contact with the noncustodial parent and the possibility to spend time with him (her) alone.
- ✓ Parents' ability to communicate with each other, to reach agreements, and not to devaluate the ex-partner. Supportive siblings, grand-parents and friends.
- ✓ Sufficient and child-adequate information on the divorce and how it will affect children's daily life.
- ✓ Possibilities to participate in decisions about their living arrangements after their parents separate (e.g. contact with the noncustodial parent).
- ✓ New partners who don't influence the relationship between children and biological parents in a negative way.

#### GROUPS OF DIVORCE IN INDIA

Following points are the major grounds of Divorce in India:

- ✓ Adultery – The act of indulging in any kind of sexual relationship outside the marriage is termed as adultery. It is also constitutes a criminal offence for males. One single act of adultery is enough for either spouse to file a divorce person on this ground (1976 amendment).
- ✓ Cruelty – Any kind of mental and physical injury that causes danger to life, limb and health constitutes cruelty. The intangible acts of cruelty through mental torture are judged on a series of incidents. Food being denied, continuous ill treatment, abuse to acquire dowry, perverse sexual act/s, etc. are included under the definition of cruelty. Either spouse can file a divorce person based on this ground.
- ✓ Desertion – If one of the spouse voluntarily abandons his/her partner for a minimum period of two years, the abandoned spouse can file a divorce person on the ground of desertion
- ✓ Conversion – If either spouse converts to a different religion (any religion other than Hinduism) then their partner may file a divorce person based on this group.
- ✓ Leprosy – If either spouse has a ‘virulent and incurable’ form of leprosy, then their partner can file a divorce person on this ground.
- ✓ Venereal Disease – If either spouse is suffering from a communicable disease such as AIDS then their partner can file a divorce person on this ground.
- ✓ Renunciation – If either spouse renounces all worldly affairs by embracing a religious order then their partner can file a divorce person based on this ground.
- ✓ Not Heard Alive – If the spouse is not seen or heard to be alive by those who are expected to be ‘naturally heard’ by the person, for a continuous period of seven years, the person is presumed to be dead and their partner has the right to file a divorce person on this grounds.
- ✓ No Resumption of Co-habitation – It becomes a ground for divorce if the couple fails to resume their co-habitation after the court has passed a decree of separation.

Divorce: The legal separation of man and wife, accomplished by the judgment or decree of a court, and either totally dissolving the marriage relation, or suspending its effects as it concerns the cohabitation of the parties.

Divisible Divorce: Decree of divorce may be divided as between provisions for support and alimony and provisions dissolving the marriage. Doctrine applied in cases under Full Faith and Credit Clause in connection with effect of foreign divorce on support provisions.

Ex Parte Divorce: Divorce proceeding in which only one spouse participates or one in which the other spouse does not appear. The validity of such divorce depends upon the nature of the notice given to the absent spouse.

Migratory Divorce: Term used to describe a divorce secured by a spouse or spouses who leave(s) his/their domicile and move(s) to, or reside(s) temporarily in, another state or country for purpose of securing the divorce.

Divorce a mensa et thoro: A divorce from table and bed, or from bed and board. A partial or qualified divorce, by which the parties are separated and forbidden to live or cohabit together, without affecting the marriage itself.

Divorce a vinculo matrimonii: A divorce from the bond of marriage. A total, absolute divorce of husband and wife, dissolving the marriage tie, and releasing the parties wholly from their matrimonial obligations.

Grounds for Divorce under the Indian Divorce Act, 1869

- ✓ Adultery
- ✓ Conversion to another religion
- ✓ One of the couples suffering from an unsound mind, leprosy or communicable venereal disease for at least two years before the filing of the divorce.
- ✓ Not been seen or heard alive for a period of seven or more years.
- ✓ Failure in observing the restitution of conjugal rights for at least two years.
- ✓ Inflicting cruelty and giving rise to mental anxiety that can be injurious to health and life.
- ✓ Wife can file a divorce based on the grounds of rape, sodomy and bestiality.

Under the old Hindu laws, divorce was viewed as forbidden and was not talked about as freely as it is spoken out today, but with the codification of the laws the provision of divorce were laid down. The provision of “Divorce” has been dealt with under the Hindu Marriage Act, 1955 as being a true blue method whereby both the parties to the marriage, decide to break all the promises or vows taken at the time of marriage. All Hindus, Buddhist, Jains or Sikhs are covered under the divorce provisions of the act. Divorce by mutual consent is the fastest way of getting a divorce in India. A petition seeking divorce has to be filed in the Court by the married couple, on the grounds that both the husband and the wife have been living individually for a time frame of one year or more, thereby failing to fulfill their matrimonial obligations and wanting to dissolve their marriage. A reasonable amount of time, i.e. between 6 to 18 months are given to the married couple for reconsidering their decision for seeking divorce and withdraw the petition. However, if the petition is not withdrawn during this period, the Court after having been fully satisfied with the averments made in the plaint and after having heard both the parties would grant a decree of divorce.

#### IV. CONCLUSION

Divorce is becoming common in all cases of the Hindu society. Family members of the lower castes or classes approach the judicial courts for obtaining divorce. Yet different forms of marital disruptions like separation and desertion as well as customary divorce are common among them. Most of the Hindu castes still treat divorce as a social stigma and criticise individuals for opting for it. Education has widened their horizons and ability thinks and rationalises. Despite higher education and employment of women love marriage are comparatively few in number, the main reason is this appears to be marriage at relatively early age. It is also noticed that most of the Indian males are still traditional in their outlook in matters of marriage and they depend upon elders for the selection of bride.

The early days of marriage are extremely important and crucial in relation to marital adjustment. In many cases, it is noticed that marriages are disrupted right at this phase.

Divorce is usually a product of multiple factors - personal, familial and environment at work simultaneously with the changes in legislation, public opinion, weakening of tradition and religion as well as emancipation and economic independence of women, divorces and remarriages are likely to increase.

Except in cases of mutual consent, divorce is still a cumbersome costly affair. Many a time, it is observed that a spouse who is not interested in legal decree can prolong a case for years. Thus wasting precious years for the other spouse after divorce men face relatively fewer problems as compared with women. The Indian society is still partial towards its attitude towards men. Men continue in their joint family as a result, home management of even care of the children poses no great problem.

Remarriage rate is much higher in men. Several of them did not wait for a legal decree of divorce and started living with another spouse with or without marriage. In most cases, where children were present, it was the mother who kept the children. The care of the children was an important deterrent in divorcee-female's remarriage. Divorce is more common among childless couples. Divorce results in acute emotional problems. Longer the duration of a marriage, greater is the

trauma produced. In this aspect women suffer much more than man. Many women are just house wives and they have no place to go no body to talk to. Parents and relatives may be highly critical. Children of divorcees do suffer in various ways if not physically at least emotionally due to the absence of one parent.

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