



IMPACT OF CHILD BEHAVIOUR DUE TO PARENTIAL SEPERATION

¹Miss. DEEPA KHANNA

¹Research Scholar, Delhi University

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ABSTRACT

This paper evaluates the traumatic experience of the children of divorced parents. Initially, the pain experienced by children is distressing as they see the family disintegrating and sense vulnerability. Divorce, in any circumstance, rips a child apart, emotionally and psychologically, thwarting upon the child's wellbeing. However, long term affects are determined by the behavior on the part of the parents which determines good adjustment for children going through divorce. A major impact of divorce is on the parent-child relationship..

1. Introduction

The quantity and quality of contact between children and non-custodial parents usually fathers-tend to decrease and the relationship with the custodial parent-usually the mother shows signs of tension. Further, divorce raises the needs of definitive articulation of child rights in the present context and how they must be represented in a divorce proceeding. Divorce is an extremely disturbing experience for all children depending upon the age or maturity level. In the present context, when the family in India is understood as the first line of defense, in an event of divorce, family serves as a source of stability. In light of this let us now observe the experience of children in the family while going through their parents' divorce. Child's Behavior Associated with Divorce is inarguably intensely distressing for children. Outside the realm of family, because of the stigmatization of divorce, the child faces a tough time attempting to be accepted by a conservative society.

This essentially means that a child of divorcees shall not be discriminated against in educational institutions etc. The most relevant Article which pertains to separated parents provides for the best interest of child to be taken into consideration while deciding the residence of the child. Further, both parents are sought to be responsible for the development of the child and for the necessary assistance. Thus, the broad category of rights ensures the welfare of the child during the parents' divorce. Despite the strong infringement on a child's interests implicit in divorce, the law currently does not consider children to be affected parties except in the issues regarding custody. Leaving apart the archaic legislations on personal laws which govern child custody, there is no special legislation to treat child rights on a larger platform and to accord them special status and thus to treat these children as different from others.

This paper evaluates the traumatic experience of the children of divorced parents.

Initially, the pain experienced by children is distressing as they see the family disintegrating and sense vulnerability. Divorce, in any circumstance, rips a child apart, emotionally and psychologically, thwarting upon the child's wellbeing. However, long term affects are determined by the behavior on the part of the parents which determines good adjustment for children going through divorce. A major impact of divorce is on the parent-child relationship. In socioeconomic attainments, children who experience their parents' divorce have lower educational prospects than children from intact homes. Within the family, the obvious effects are on the physiological behavior of the child. There are also children who are left in a guilty conscious in the post-divorce period especially if they are a frequent witness to the parent's feuds. They are left thinking what is that they did to cause the divorce. Moreover, in older age groups the assumption of hyper-maturity is also common as children often assume the tasks of adults to stabilize the custodial parent's household. There is also a reciprocal dependency relationship between the child and the single parent which is in 90 percent of the cases the mother. This principally relates to a closer relationship between the parent and the child more as peers, both struggling to keep the family going. A lack of generational boundaries means a less hierarchical family and less authoritative generational distinctions. This is understood to inadequately socialize children or place them in a disadvantageous position when they find themselves in hierarchical organizations.

There are special set of child rights that come to the fore during divorce proceedings which must be looked into from a distinct point. These rights may include both parents to remain jointly and severally liable for care and maintenance of the child; to establish a stable home for the child close to the pre-divorce standard of living. The reform by the way of a specialized legislation to focus on the child rights in case of parental conflict is a proactive step towards looking into this special situation demanding a specific articulation of child rights. Further, the policy of mediation should be employed rather than the use of solicitors because mediation is seen as a more effective way of reducing hostility and

encouraging cooperation. The difference simply lies in recognizing autonomous 'child rights' rather than just the 'rights' to be protected.

2. Child Rights Vs. Parental Rights

The problem that emerges in defining the parent and child rights separately is that of demarcating the self of parent and children. The idea of according equality rights in the specific context of Article 14 of the Constitution of India to children is then relatively confounding. The concept of equality that entails differential treatment to respond to different needs must especially be looked into with regards to children. Parental right to raise children is fundamental even though not expressly mentioned in the Constitution.

The concept of rights presents special difficulty because of the conflicting interests and rights of the parents and child. Parents are seen as protectors of their children's interests but their interests may differ vastly from those of their children. We solicit the rights of individuals to emphasize their autonomous selves. Such emphasis may be obscure in the case of parent-child relationships. This traditional approach that favors parental rather than children's rights led the State to affirm the inherent parent's patria jurisdiction of the State to protect the best interests of the child. When divorcing parents have agreed on a common course of action, there is little reason to believe that the judge is in a position to make a better decision One of the natural rights incidentals to parenthood is the right to custody of the child recognized as a common law doctrine of 'parental autonomy' which the Courts do not easily discard. Also observe that the natural right of the parent to the care of a child prevails as against an entire stranger.

Hence, only unusual custodial arrangements which pose imminent harm to the child should justify intervention. It is therefore, essential to analyze the aspect of child custody and how the children are affected largely through the custodial arrangements. Custody means the obligation to control, care for and supervise a child. Custodial parent may be the guardian for both the person and property of the

minor and is often over-loaded with the child's responsibility. There are also consequences of being the non-custodial parent, such as not being able to take the child out without the Court's permission.

The law cannot prevent all damage to the child's interests caused by divorce, since it cannot compel harmonious human relationship. It can, however, provide a means for reducing the damage by ensuring that the child's interests are not neglected in divorce custody proceedings. While there has been no formal enunciation of factors ascertaining best interest, the Courts look at the following decisive factors:

1. Parent's ability to provide the child-food, shelter, clothing, medical care, education; and
2. Child's established living pattern-school, home, community.
3. Child's age, gender, mental and physical maturity and also of parents;
4. Relationship and emotional ties between the parent and the child;

3. Conclusion

The analytical efforts made aforesaid conclude on the point that the child's psychological balance is deeply affected through the marital disruption and adjustment for changes is affected by the way parents continue positive relationships with their children. Also, as regards the recorded rise in female headed households, the scholarly opinion largely asserts that fathers need to take up a larger responsibility and provide for timely maintenance. As it has been argued, these rights though cannot be distinctively articulated from that of the parent's rights, yet the child should be considered as an autonomous self to be accorded individual rights. The researcher also reiterates the need for enumerating the parameters to determine the best interests of the child rather than leaving the judiciary with absolute powers to determine the child's welfare. From a legal standpoint, the researcher suggests that a single law governing child rights in divorce cases and also matters pertaining to custody and maintenance must

come into place for an enhanced framework protecting the child's future.

4. References

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