

Divorce: A bane to our society

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Abstract: With increasing technological advancement, modernization, new lifestyles, a social phenomenon which rarely seemed few years ago but now is common in the Indian context that is “DIVORCE”. And the changing contexts of people from rural area to urban cities, it shifts from joint families to nuclear families. Several surveys were conducted which showed that there are many reasons behind divorce some of the major issues from them are adultery, domestic violence, midlife crisis, insanity, desertion, conversion of caste or religion to another one etc. But the divorce affects families and children’s physical and mental health. This is a major stressor for both of the age groups. Due to this children engage in many bad activities like drinking, smoking, they drop out of their schools, and develop a negative and delinquent behaviour towards the society they live in. Divorce leads to custodial parents face many challenges like forelorn, residential issues, economic related issues, to take care of their children and this ultimately affects the life of each individual involved in the respective families.

This research paper throws light on the issues which have had risen due to divorces and how they are affecting the families and how it will affect the youth on a large scale. And the objective of this research paper is to know the causes of divorce and suggest possible methods for resolving or reducing the issues of divorces in society.

Keywords: Divorce, Midlife crisis, Insanity, Desertion

Introduction:-

Divorce which is also known as dissolution of marriage is a common phenomena in today’s society. Divorce is end of the marriage by an official or legal process which dissolves the bond of matrimony between a married couples. Different countries have their own rules and regulations for divorce, in some countries monogamy is required by law. In other countries divorce involves issues of child, support, division of debt, distribution of property, child’s custody, alimony, parenting time etc.

Annulment is a term which seems to be similar to divorce but it is different which declares the marriage null and void. Some of the countries do not allow divorce till today which are the Philippines and the Vatican City. According to statistics India is the country which has the lowest rate of divorce cases with around only 1% of marriages ending in divorces. There are many laws for divorce one of them is Hindu Marriage Act 1955, the other important acts were also enacted which are :- The Hindu Succession Act (1956), the Hindu Minority and Guardianship Act (1956), The Hindu Adoptions and Maintenance Act (1956).

India has a diverse population and different people follow different culture and religious beliefs, so due to this, The Indian Judiciary has implemented different laws for couples who follow different religious beliefs.

Below are the figures which help to get an idea about the divorce rate in India with respect to other countries.

Sweden – 54.9 %
United States – 54.8 %
Russia – 43.3 %
United Kingdom – 42.6 %
Germany – 39.4 %
Israel – 14.8 %
Singapore – 17.2 %
Japan – 1.9 %
Sri Lanka – 1.5 %
India – 1.1 %

Around 20 years back India had around 5 % divorce rate but the divorce rate is expected to rise up at a faster rate in the coming years as seeing the rate of cases filed today.

A survey was conducted four years ago, Delhi the capital city of India has almost doubled and projected to be 12000 divorce cases in 2008. In 2006, IT Hub of India Bangalore, was recorded 1246 cases. States like Haryana and Punjab seeing an increment of 150 % of divorce rate since the last decade. Kerala, the most literate state has experienced an increment of 350 % divorce rate in last 10 years.

Causes of divorce:- Marriage is a beautiful concept but it comes with a heavy responsibilities and price. It is not easy to maintain a relationship unless both sides willingly work on it. It is being seemed that divorce rates are continuously increasing very high in recent times and there are several reasons cited for the same. Some of the common causes are described below:-

- **Lack of commitment :-** This factor shows both positive and negative effect on divorce . People most likely to agree because of commitment but usually one spouse blamed the other for not working hard to save their marriage . This become a major issue as it's hard to prove especially to the person who's being blamed for the problem.
- **Incompatibility:-** When the question is asked to some of the people that why their marriage ended , they answer with some variation of 'we grew apart', 'we were just incompatible'. This concept of incompatibility includes some other reasons which are sexual difficulties , religious difference , lack of shared values , marrying too young .
- **Communication problems :-** This is one of the major issue for divorce like arguing too much and not being able to talk to each other both affects like if there are problems then only the communication skills helps to resolve it but if arguments and disagreements occurs in the situation then it ultimately ends the relationship.
- **Financial incompatibility:-** These arises because of the differences in priorities and values around financial decision between spouses . If one keeps secrets and lies about purchases or other financial decision , and if one doesn't consult purchases then it will ultimately creates fights between the spouses .
- **Addictions:-** Addictions such as of alcohol , drugs , or any other substance abuse can also lead to a divorce . These additions can affect one's mood swings , behaviour , sleeping pattern , family responsibilities , wastage of money etc. These addictions seems more in the case of men as compared to women but these affects both as a whole.
- **Domestic abuse :-** It is a pattern of behavior in a relationship that is used to gain or maintain power and control over an intimate partner . It includes any behaviour that hurt , humiliate , frighten , manipulate , blame , injure , or wound someone . Both the spouses may be victim of domestic abuse and is can be mental , physical , economic , or sexual in nature .

These are the some of the causes behind a divorce , there are many causes other than these which are :-

- Adultery and infidelity
- Long- distance relationships
- Health problems
- Religion
- A difference in parenting style
- Family interference
- Jealousy and insecurity
- Unrealistic expectations

The effects of divorce on children :-

We can see that divorce is all around us in today's society and it is becoming the new norm . We know that "The family is the building block of society and marriage is it's foundation", then also some of the marriages end in divorce and it directly affects children . Divorce introduces a typical and a massive change into the life of their children no matter what the age of their child . A child who takes birth prior one day of divorce of his/her parent's or a child who is 20 years old at the age of his/her parent's divorce both the children will affect equally . Following are some of the consequences faced by children after divorce of their parents:-

- Children lose their confidence in life as they relate all their problems with their parent's divorce and get demotivated and give up in all problems and not imagine good future.
- Prostitution , some children face economic crisis after their parent's divorce and due to which they find a solution for this which is prostitution.
- Academic failure , children got disturbed after their parent's divorce and then they will not be able to concentrate in studies and fails in all their academics.
- Aggression and maladjustment , children got frustrated and they got irritated easily even in a normal situation.
- Addiction , children got very much disappointed after seeing their parents got divorce and they then addicted to alcohol , start taking drugs and addicted to many bad habits.

For the first few years after divorce , mostly children face problems in adjustment they faces problems with the parent who get their custody and wants to meet or try to make contact with the other parent , which affect both children and parent and in this case girls face emotional problems . Both boys and girls in this case try to live away from both the parents and they set a boundary for their parents and want to live alone.

After 2-3 years of divorce the children totally break off from their parents and they create their own life and follows their own rules and regulations and they even don't approach their parents for economical issues they tried to earn money of their own and face conduct difficulties , self – esteem , academic performance , emotional problems , and relationship with their parents .

Most of the children feel lonely without their parents, they can't share their problems with their parents . Society abuses and blames their parents and taunt the children for the same which makes them very disrespectful and it affects children mental health and they starts thinking in the most negative manner and then they reach a point where they don't have any company and no one support them at this stage and they didn't have any option left and then they try to put an end to their life .

The effects of divorce on families' life:-

Firstly, when two individuals divorce each other, it is not a divorce between the two individuals only, the divorce occurs between parents and their children, between family and the two individuals.

Immediately, after a divorce mostly parents have a set of problems: adjustment problem, their relationship with their children, their relationship with their in laws and many more. Both the individuals (divorcees) and families have stress of divorce which tends to weaken the relations of them with their family which eventually breaks the family.

During the last few years, the nature of the family has undergone enormous changes. In 1950's, American families underwent a gradual change from being extended, to nuclear and single parent in nature. But the concept of nuclear families made it easy for adult children to move far away from their family and establish a new life in distant places.

There is a immense effect of divorce on extended family members, they feel upset, betrayed, and hurt by the divorce. If the couple don't have child (divorcees not having children at the time of divorce), extended family members no longer wish to see or feel comfortable seeing the ex-spouse. If children or grandchildren are involved, then it creates an uncomfortable and awkward situation at first to maintain the same relationship.

If we consider a situation that there is a person who was in the family for a period of time and is no longer present (part of the family), that leaves a gap that may provoke some real grieving to the other family members and the divorcees too.

The other problem which most of the families face is the reputation of the family when any one member from the family take divorce. After having divorce both the individuals settle their life at one or other place but it's becomes difficult for the family to survive or resist in the same society where they have been living. People taunt the members of the family when they go out for any work, people around them make their life worst. They even don't spare the small children because of divorcees in the families they even taunt them for their parent's divorce.

After divorce, women demands for alimony from their husband and property from the family which brings clashes in the family. It affects the family a lot and after this they even don't want to see the women in their house and sometimes they even don't accept the custody of the child because of this issue. And sometimes there are clashes in the family for the custody of the child whether the father should take it or the mother who will better take care of the child.

So there are many issues at family level too after the divorce of any one member of the family and it is very difficult for the family to cope up with these problems and move on from these problems.

How divorce affects both the individuals (Divorcees) :-

(1) Impact of divorce on the mental health of the couple:- Dissolution of marriage is not always a happy event, it sometimes marked by disappointment, loss of dreams, expectations. In addition to these, divorce comes with multiple legal, financial, parental, emotional and practical issues that require the couple to change their routines and responsibilities. The partner with lower income will be adversely affected by divorce. According to a study, it is proved that women who suffered divorce tend to experience sharp declines in their family income.

On the other hand, economic status of the custodial parents is also affected due to the presence of the child. The parent with the custody of the child experiences up to 52% drop in household income. Due to least income, even children suffers worse outcomes as compared to other children.

Both the individuals face depression, anxiety disorders, schizophrenia, eating disorders and addictive behaviours, negative thinking, miserable behaviour with others. It makes the person miserable and unable to effectively participate in their day to day activities such as work etc. Addictions and depressions are the most common mental illnesses which are enhance by divorce. An addicted person finds it difficult to balance his/her economy to satisfy his/her own needs.

(2) Effect of divorce on the future relationships of the affected couple:- Divorce is usually a difficult experience for both the individuals and have adverse consequences on their future relationships.

There are three pillars of a good relationships which are love, intimacy, and passion. Divorce does not only weaken these three pillars of love but also impact the strength of future relationships.

It is seem that both men and women are not able to build their relationship with another person after getting divorced. They face difficulties in adjusting with new partner, sharing their problems with a new partner, finding difficulty to trust on a new person. Even they face problem in getting married again because our society doesn't accept a divorcee to marry again.

There are physical effects of divorce on both men and women they both suffer higher rates of mortality, depression, illness etc. some of the physical effects of both men and women are listed below :-

- (i) Physical effects of divorce on men :-
 - Get more cold and cases of flu due to a weakened immune system.
 - Significantly higher incidences of cancer and heart disease.

- Extreme change in their weight.
- Suffer more heart attacks and strokes.
- (ii) Physical effects of divorce on women:-
 - Risk of heart attack by 72%
 - Digestion issues
 - Metabolic problems
- (3) Emotional and Psychological effects of divorce on both the individuals:-

Common emotional and psychological effects of divorce include :-

- Guilts
- Anxiety/stress
- Depression
- Insomnia
- Substance abuse
- Identity crisis

Sections defining divorce in The Hindu Marriage Act , 1955 :-

S.13. Divorce:- (1) Any marriage solemnized , whether before or after the commencement of this Act , may , on a petition presented by either the husband or the wife , be dissolved by a decree of divorce on the ground that the other party:-

⁵(i) has , after the solemnization of the marriage , had voluntary sexual intercourse with any person other than his or her spouse ; or

(i-a) has , after the solemnization of the marriage , treated the petitioner with cruelty ; or

(i-b) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition ; or]

(ii) has ceased to be a Hindu by conversion to another religion ; or

¹[(iii) has been incurably of unsound mind , or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent ;

³[(iv) (xxxx)]

(v) has , ⁴[xxx] been suffering from venereal disease in a communicable form;or

(vi) has renounced the world by entering any religious order;or

(vii) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of it , had heard of it , had that party been alive , ⁵[xxx]

(viii) ⁶[xxx]

5. Subs. By Act 68 of 1976, w.e.f. 27-5-1976, for the words "is living in adultery;or

1. Subs. Act 68 of 1976, w.e.f. 27-5-1976,,for "has been incurably of unsound mind for a continuous period of not less than three years , immediately preceding the presentation of the petition;or"

³ Cl.(iv) is omitted by The Personal Laws (Amendment) Act,2019(Act 6 of 2019), dt. 21-02-2019. The earlier clause was as follows: "(iv) has been suffering from virulent and incurable form of leprosy;or"

⁴ Omitted by Act No.68 of 1976,w.e.f. 27-05-1976.

⁵ The word "or" at the end of clause (vii) and clauses (viii) and (ix) omitted by the Hindu Marriage (Amendment) Act , 1964, S.2, w.e.f. 20-12-1964.

⁶ Omitted ibid, w.e.f. 20-12-1964. Omitted sub-clauses were as follows:

"(viii) has not resumed cohabitation for a space of two years or upwards after the passing of a decree for judicial separation against that party;or

(ix) has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree".

1. Omitted by Act 44 of 1964, w.e.f. 20-12-1964.

3. Sub-sec(1-A) ins. by Act 44 of 1964, w.e.f. 20-9-1964

4. Subs. By Act No. 68 of 1976 , w.e.f. 27-5-1976, for the words "two years".

1. Subs. for the word "bestiality", by Act No. 68 of 1976, w.e.f. 27-5-1976

2. Ins. by U.P. Act No.68 of 1976 , w.e.f. 27-5-1976

(ix)¹[xxx]

³[(1-A) Either party to a marriage, whether solemnized before or after the commencement of this Act, may also present a petition, for the dissolution of the marriage by a decree of divorce on the ground :-

- (i) that there has been no resumption of cohabitation as between the parties to the marriage for a period of ⁴[one year] or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties ;or
- (ii) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of ⁴ [one year] or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties].

(2) A wife may also present a petition for the dissolution of her marriage by a decree of divorce on the ground :-

- (i) in the case of any marriage solemnized before the commencement of this Act, that the husband had married again before such commencement or that any other wife of the husband married before such commencement was alive at the time of the solemnization of the marriage of the petitioner :

Provided that in either case, the other wife is alive at the time of the presentation of the petition ;or

- (iii) that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or ¹[bestiality;or]

²[(iii) that in a suit under section 18 of the Hindu Adoptions and Maintenance Act, 1956 (78 of 1956), or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974), (or under the corresponding Section 488 of the Code of Criminal Procedure, 1898 (5 of 1898)), a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards;or

(iv) that her marriage (whether consummated or not) was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age but before attaining the age of eighteen years

⁶ [13-A. Alternate relief in divorce proceedings :- In any proceeding under this Act, on a petition for dissolution of marriage by a decree of divorce, except in so far as the petition is founded on the grounds mentioned in clauses(ii), (vi), and (vii) of sub-section (1) of section 13, the Court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation.

13-B. Divorce by mutual consent :- (1) Subject to the provisions of this Act, a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) *[On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime], the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.]

⁷[13-C. Divorce on ground of irretrievable breakdown of marriage.-(1) A petition for the dissolution of marriage by a decree of divorce may be presented to the district court by either party to a marriage, [whether solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 2010], on the ground that the marriage has broken down irretrievably.

(2) The court hearing a petition referred to in sub-section (1) shall not hold the marriage to have broken down irretrievably unless it is satisfied that the parties to the marriage have lived apart for a continuous period of not less than three years immediately preceding the presentation of the petition.

⁶ Sections 13-A and 13-B were ins. by Act 68 of 1976 w.e.f. 27-5-1976

***Note:** The proposed Amendments to Sections 13-B by Marriage Laws (Amendment) Bill, 2010 (Bill No. XLI of 2010). To be subs. for brackets words "Upon receipt of a petition under sub – section (7)".

⁷ The proposed Amendments to Sections 13-C to 13-E by Marriage Laws (Amendment) Bill, 2010 (Bill no. XLI of 2010) are pending for introducing in the Parliament. However, these amendments were earlier introduced in Lok Sabha on 27-2-1981 by the Marriage Laws (Amendment) Bill, 1981 but subsequently it was not passed. The present Bill of 2010 is in toto of 1981 with slight modification in Sec.13-C clause(2). The earlier clause in 1981 Bill was as follows:

"(2) The Court hearing such a petition shall not hold the marriage to have broken down irretrievably unless it is satisfied that the parties to the marriage have lived apart for a continuous period of not less than three years immediately preceding the presentation of the petition."

(3) If the Court is satisfied, on the evidence, as to the fact mentioned in sub-section(2), then, unless it is satisfied on all the evidence that the marriage has not broken down irretrievably, it shall, subject to the provisions of this Act, grant a decree of divorce.

(4) In considering, for the purpose of sub-section(i), whether the period for which the parties to a marriage have lived apart has been continuous, no account shall be taken of any one period(not exceeding three months' in all) during which the parties resumed living with each other, but no other period during which the parties lived with each other shall count as part of the period for which the parties to the marriage lived apart.

(5) For the purpose of sub-sections(2) and (4), a husband and wife shall be treated as living apart unless they are living with each other in the same household, and reference in this section to the parties to a marriage living with each other shall be construed as reference to their living with each other in the same household.

13-D. Wife's right to oppose the petition on the ground of hardship.-(1) Where the wife is the respondent to a petition for the dissolution of a marriage by a decree of divorce under Section 13-C, she may oppose the grant of a decree on the ground that the dissolution of the marriage will result in grave financial hardship to her and that it would in all the circumstances be wrong to dissolve the marriage.

(2) Where the grant of a decree is opposed by virtue of this section, then,-

(a) If the Court finds that the petitioner is entitled to rely on the ground set out in Section 13-C; and

(b) If, apart from this section, the court would grant a decree on the petition,

The court shall consider all the circumstances, including the conduct of the parties to the marriage and interests of those parties and of any children or other persons concerned, and if, the court is of opinion that the dissolution of the marriage shall result in grave financial hardship to the respondent and that it would, in all the circumstances, be wrong to dissolve the marriage, it shall dismiss the petition, or in an appropriate case stay the proceedings until arrangements have been made to its satisfaction to eliminate the hardship.

13-E. Restriction on decree for divorce affecting children.- The court shall not pass a decree of divorce under Section 13-C unless the court is satisfied that adequate provision for the maintenance of children born out of the marriage has been made consistently with the financial capacity of the parties to the marriage.

Explanation:- In this section, the expression "children" means,-

- (a) minor children;
- (b) unmarried or widowed daughters who have not the financial resources to support themselves; and
- (c) children who, because of special condition of their physical or mental health, need looking after and do not have the financial resources to support themselves].

Above mentioned are the laws which are enacted for both men and women who all wants to take divorce from their spouses.

Suggestions :-

It takes a lot of efforts to protect, nurture, and grow a marriage. With a lot many responsibilities, work load, children and other obligations, sometimes it can seem impossible to maintain that relationship. When problems arise, some couples find that it's healthier to divorce. If anyone want to stay with their partner and avoid divorce, there are measures they can take.

Firstly, respect your partner and be honest with her/him, try to enjoy each others company and try to spend time with each other. Communicate on regular basis it's crucial that one listen to the other partner, try to spend time with each other and the time where you both can talk and which is free from interruptions.

If the couple is facing problem with each other than they should give time to themselves instead of filing divorce.

One is the divorcing couples can approach or participate in 'divorce mediation'. In divorce mediation divorcing couple meet with a neutral third party, a 'mediator' who helps them or tried to reduce their issues whether they are having property related issues, child custody. This helps the couple in maintaining their relationship.

In almost all the situations where family member is experiencing a problem or undergoing a stressful change such as family violence, rape, a serious illness, and mostly the topic on which we are focusing "**divorce**" family counselling can help the entire family reinforce positive changes, and address negative patterns appropriately.

Conclusion:-

With this research paper, I'd like to highlight that it is very certain that in the nearing future the rate of divorces is about to increase but it is not that we cannot avoid this situation. If we are voluntarily willing to take a relationship ahead despite of the challenges. There are people and communities who will be there to help and guide the people in dilemma of relationship.

The fact-changing social and family environment has thrown up new challenges particularly to the young people. With the advancement of time, higher education, and campaigns of human rights activists, divorce has become a way to break free from martial clutches.

Couples who are facing difficulties in equating their levels of compatibility are now filing divorce in order to renew their life afresh. In modern era, dissolution of marriage derives from the idea that living an independent life will be much better than keeping marriages in terms of personal welfare. Earlier, divorce was considered as one of the dirtiest social phenomena's in India but now it is comfortably accepted for even silly reasons. Some have seen this as a sign of social and moral disruption with a potential to shatter the family and the foundation of the society at large scale.

Reference:-

[1] PROF.G.C.V. SUBBA RAO'S, The Family Law In India, 10th edition, Pages 234-241.

