Judicial Dissolution of Marriage - A Study

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Abstract

Families today are being challenged with numerous changes and problems. Without a doubt, divorce rates are high today. These high divorce rates may be used to support the conclusion that marriages may be worse off today than at any point in their history. It is possible that divorce is more common today because distressed married couples have access to better alternatives than they had in the past and because of the fewer costs of terminating a distressed marriage today. This article has been based on the descriptive/diagnostic study which investigates the Judicial Dissolution of Marriage i.e. Divorce. The research is aimed at finding the causes for the divorce, the psychological condition of the respondents. It also includes the study of post-divorce life of the respondents and suggests social work intervention for better adjustment of couples and divorced persons. The sample size consisted of 250 divorcees from five taluks of Dakshina Kannada, using Stratified Random Sampling method. A 125 item interview schedule was prepared, pretested and used. The study recommends the following social work interventions viz:- Education about proper choice of mates, Premarital counseling, Family counseling agencies, Counseling in courts, Help after divorce, Family life education for divorcing parents, Divorce Mediation and Divorce counseling.

Key words: Divorce, Judicial dissolution, Social Support, Social Work Intervention

Introduction

Marriage and family are ancient institutions and around them have grown up deep and powerful sentiments and traditions. Family is the institution which forms the basis for every other institution on the face of the earth. This important institution is formed on another

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institution, namely, marriage. In most of the societies, marriage is considered as a permanent union. We come across many passages to support the view that marriage is the union made by God himself and hence none should break it. In the Holy Bible it is written: Man must not separate what God has joined together. In Hindu text, still more intense view is expressed. For a Hindu, marriage is a sacrament and hence unbreakable. It is a union not only for this birth, but for all the births to come; in other words, immortal, interminable, eternal. In spite of all these data and slogans supporting the indissolibility of marriage, there are factors, internal as well as external, working to undermine the stability of marital ties. Such a situation is termed as marital maladjustment or disharmony, which may be manifested in various forms, divorce being the final.

Concept of Divorce

The word 'divorce' in English is derived from the Latin word dovortium which again is derived from dis which means 'apart' and vertere which means 'to turn'. Divorce is the dissolution of the tie of marriage. So, divorce is the turning away of partners from each other. Divorce in the proper and strict sense of the term means complete rupture of the marital bond; the persons divorced returning to their original state of being free to marry. Divorce is the word we use to mean the legal ending of a marriage. In the legal language, it might appear as a simple phenomenon, but in practical life its implications are massive. Divorce 'represents the end of the hopes that two people had for each other; it is the certificate that their relationship failed'. The concept of divorce may be understood as different from such terms as (a) separation, (b) desertion, (c) annulment.

Divorce is a way of dissolving a legal marriage that permits the partners to remarry if they choose. Divorce involves the recognition that marriage has irreparably failed and that at least one of the partners has no desire to continue the marital relationship. Total dissolution of the bonds of a valid marriage is what is now generally meant by divorce (Krishan Arora, 2006)

The estimated national figure for divorce in India is as high as 6 to 7 percent. However, there are no exact figures available for the number of divorces as many are handled locally and are registered differently by the various states. Some studies have indicated that in the small towns, semi-urban areas and cities, the number of divorces is definitely increasing. Numbers in divorce petitions being filed by

young couples at family courts have grown significantly, especially by women. States such as Kerala and Punjab have seen significant increases. However, the option for divorce is still class led because the rise is being seen amongst the educated, wealthier middle class. The lower classes still do not see it as an option due to stigma, costs and the delay in the justice system which can take years for cases to be settled, especially if they involve children (Sethi, 1989)

Methodology: A total of 250 respondents were selected from the five Taluks of Dakshina Kannada District, Karnataka through Stratified Random Sampling technique. A descriptive and diagnostic design was used in the study. A 125 item interview schedule was prepared, pretested and used for data collection. The respondents were explained the purpose of the study and ensured of confidentiality. The data collected was coded, tabulated and analyzed using SPSS version 13.0 for windows and statistically tested.

Results and Discussion
The socio-demographic data showed that 70 percent of the respondents were between the age group of 30-39 years. However, when we see separately the data of male and female divorcees, highest frequency (36.8 percent) of the female respondents fall under the age group of 30-34 years and highest frequency (53.6 percent) of the male respondents fall under the age group of 35-39 years. Vast majority of the respondents were having more than secondary education. Out of it 3.2 percent of the male and 7.2 percent of the female were postgraduates. Female respondents were better educated than male. 42 percent of the respondents were private employees. However, when we see separately highest frequency, i.e., 39 percent of the male respondents were self-employed and 46 percent of the female respondents were private employees. Highest percentages of the respondents were from middle class families. As majority of the population in Dakshina Kannada belong to Hindu religion, majority (68 percent) of the respondents were from Hindu religion and among that highest frequency of respondents belonged to Gowda Community. Majority of the respondents belonged to rural community. Highest percentage (54 percent) were from rural families. When we see separately 83 percent of the female respondents were from nuclear families and 73 percent of the male respondents from Joint families. In majority (92 percent) of the cases marriage was performed as per religious rights.

Source: *Primary Data*

The study result shows that the major cause of divorce is Unwillingness to compromise. There were 194(77.6 percent) respondents who felt this way. Second in the order of importance was not satisfied with each other 135(54 percent) respondents. This was reacted to by poor communication of the spouses 131(52.4 percent), Quarrelsome disposition of spouses 119(47.6 percent), Ego between partners 95(38 percent), Interference by third parties 91(36.4 percent) respondents respectively. An interesting finding of this study is concerned with financial causes and urban- rural differences as elements in divorce. Only 38 (15.2 percent) of the respondents felt that the problems of finances can lead to divorce. Money usually is a measure of power, influence and status. But money is a measure of value and it is sometimes perceived as the root of all evils. A rich man may use his riches to destabilize his family. This may take the form of keeping chains of women and/or marrying many of them.

Table 2 : Data regarding Ground on which Legal Divorce was sanctioned

In Judicial Dissolution of Marriage ground on which the court sanctions the divorce decree is an important factor. In this study 29.6 percent of the cases of divorce was granted through mutual consent. On the other hand, for 70.4 percent cases, the grounds for divorce were on the different causes specified in the Marriage Acts varying between Adultery and Non restitution of conjugal rights, say 15.6 percent was of adultery, 13.2 percent was of cruelty, 10.4 percent was of desertion, 5.2 percent was of impotency, 5.2 percent was of non restitution of conjugal rights, 0.4 percent each of impotency and religious conversion and 13.2 percent of other causes. When we take the male and female cases separately in 36.8 percent of the male respondents the decree was granted on mutual consent followed by desertion (17 percent) and adultery (15percent). However, in female highest frequency 24.8 percent of the cases the decree was granted on cruelty from the side of their spouse. It was followed by mutual consent (22 percent) and adultry (16 percent) of the cases.

Table 3: Data regarding Initial filing of divorce

Code No	Aspects	Frequency n=250					
		Male		**Female**		**Total**	
1	Husband	67	53.6%	36	28.8%	103	(41.2%)
2	Wife	58	46.4%	89	71.2%	147	(58.8%)
Total		125		125		250	

Source: Primary Data

Contrary to what prevailed earlier, more women are initiating divorce proceedings (Table 3).

The society seems to be accepting the fact that divorcees need companionship. An increasing number of women are now hoping to click with someone online. For example, as reported (Hindustan Times, February 17, 2008), seven per cent of all registered women on jeevansathi.com are divorcees, as against four per cent of all male users.

Table 4: Data regarding the Type of Family of the Respondents

Code No	Aspects	Frequency n=250					
		Male		**Female**		**Total**	
1	Nuclear Family	52	(41.6%)	83	(66.4%)	135	(54%)
2	Joint Family	73	(58.4%)	35	(28%)	108	(43.2%)
3	Extended family	0	(0%)	7	(5.6%)	7	
Tota		125		125		250	

Source: Primary Data

In India, we have both nuclear and joint families in most communities, whether rural or urban. The types of family, joint or nuclear, do matter with regard to marital disruptions also. Fonseca has pointed out that "the typical kind of joint family or in some cases extended family has been the cause for a good deal of conflict and has led to dissatisfaction among many modern couples". Vast majority (54 percent) of the respondents of the present study lived in nuclear families. 43.2 and percent of the respondents belonged to joint families and the rest 2.8 percent were belonging to extended family.

Suggestions

• A more concise programme should be set up in Family Courts and in Panchayats to create awareness and motivate couple living.

- There can be annual awareness programmes organized by the panchayats for the youngsters getting married in one year time.

- Couple relationships and marital responsibilities could be a topic to be taught in the degree colleges to prevent misunderstanding, doubt and feeling discomfort in sharing to each other as couples.

- Ask the couple to set aside regular time for communicating about what matters to each.

- Recognize each other's strengths: affirm it warmly, caringly, regularly.

- Discuss disagreements, negotiable compromise and resolve conflict.

- Provide equal opportunity to developing unused strengths.

- Help to develop their own support group individually and as couple.

- Help them enrich their inner life by intellectual and spiritual pursuit.

- The premarital counseling can be made compulsory in all the religions. It will enhance the couple's understanding of each other and increase the coping patterns in married life. It helps for better guidance and better insight-building for youngsters who have been never living together until their marriage.

- The social workers and related bodies can take initiative and organize regular programme for pre- marital as well as for post-marital counseling and guidance.

Areas of Intervention

Divorce is frighteningly common in the world today, yet few people understand the true reasons couples opt to dissolve their marriages. A common misconception about divorce is that infidelity is its most common cause; however, infidelity is cited as a factor in 20-25 percent of divorces, while lack of intimacy is cited by 80 percent of couples as the main reason for divorce. Another common misconception is that couples that argue often are more likely to divorce; however, research findings suggest that it is the way couples behave during arguments rather than the number of arguments that leads to divorce. In the light of damage divorce does to individuals and society, it is important that people understand the factors that contribute to divorce as well as the best ways to prevent it. An

estranged relationship can always be revived with the interference of close friends and relatives. But the present day nucleated families are not that fortunate enough to get the opportunity to reconsider their marriage under the presence of close family members.

The global divorce rate is increasing alarmingly. Governments of various countries including India are taking up necessary steps to reduce the rate of divorce and to save marriages. Surveys and studies are conducted across the globe to infer the exact reasons for breaking down marriages and families. The awareness of the concept of living in a healthy and close knit family is the probable solution to lessen the increasing rate of divorce.

Divorce is really a tragedy, for it generally means disorganization of the personalities concerned and of their children. Steps must be taken to mitigate such tensions in the early stages by various means such as proper education of the spouse before and after marriage through literature, family counseling agencies, courts and services after divorce.

Divorce is more widely accepted and less stigmatized today than it has been in the past, but it still tends to be viewed negatively and is often blamed for many individual and societal problems. Opposition to divorce also has legal and political implications as efforts surface to toughen divorce laws and make it more difficult for couples to obtain divorces.

Public and scholarly attention also needs to be devoted to interventions designed to educate and better prepare divorcing adults-parents and non parents alike for stresses, transitions, economic responsibility and difficulties, and co parenting challenges they will face in a variety of post divorce family forms. The challenge will be to explore these and their inventions as ways of normalizing divorce, facilitating healthy adjustment, and embracing family diversity.

Although the vast majority of divorcing couples somehow manages to get through these various stages, there is a small proportion that gets stuck in the process and fails to maneuver through the stages. Typically, these couples lodge in the transition stage and never get through it. Disorganization of the family does not end with divorce or desertion. This crisis is the final outcome of the long process of family disorganization. But is final in the sense that it represents a formal break in a previously intimate relationship. Both husband and

wife have to adjust to the new and strange circumstances. Thus, many consequences follow from divorce.

For some, the divorce does not solve the problem of unhappiness and dissatisfaction within the marriage. Leaving the marriage brings similar or increased frustration, pain, and unhappiness. These feelings may occur as the person, living as a single, experiences deep loneliness and despair, or, as a remarried person, finds that the next marriage or marriages may recreate the problems in the original one, with all the frustration, alienation, and anguish.

Some spouses who are left after the mate chooses divorce never regain their composure. They sink into a chronic state of depression, laden with feelings of self-pity, worthlessness, and anxiety. They feel permanently burned or afflicted with a broken heart, and they withdraw from most social contacts. They may become chronically physically ill, alcoholic, drug dependent, or suicidal. They may become chronically debilitated psychiatric patients. They may no longer have the capacity to function as adequate parent figures because of their depression. In some cases, unfortunately, they discontinue contact with their children because such contact all too painfully reminds them of the lost marriage. These persons have popularly and validly been labeled "divorce flame-outs," having indeed lost their spark for life.

Conclusion

Divorce could have a significant and life-altering impact on the well being and subsequent development of children and adolescents. Divorce is multidimensional and it involves multifactor social events. It can be found in each and every society, which may be either in customary, or in legal form. Basically it occurs easily within more open and industrial society. It is emerging a form of new sociological events due to the pattern of socio-cultural changes by the process of modernization and simultaneously urbanization. Single causal factor is not responsible for dissolution of marriage. Dissatisfaction between the spouses as a result of personal, familial, social and economic condition or structure are also the contributing factors for the dissolution of marriage. Therefore, it should be treated under the multidimensional approach basically in the reference to contemporary changing socio-cultural pattern. There is a greater need for marital and familial counseling, which should include Sociologists, psychiatrists, and social workers, doctors and priests. Courts as well as other agencies must make better and greater efforts

for reconciliation. In other words, holistic approach is needed both by the government and society.

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