



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

BEYOND THE COURTROOM: THE SILENT VICTIMS OF DIVORCE AND ITS IMPACT ON CHILDREN'S LIVES

Khushi Saggu

INTRODUCTION

Imagine a court room where silence shouts louder than words. A judge smiles at a young child and asks, “Who do you want to live with, your mother or your father?” The child looks at one parent, then the other. They try to answer a question no child should ever have to answer and tears come to their eyes. After a long pause they whisper, softly, “Can't I have both?” The law can decide custody and dissolve a marriage but it cannot mend a child's broken sense of security.¹

Although parents leave the court as former partners, children will leave as individuals who bear the emotional weight that they do not even know how they have acquired.

Divorce is usually seen as a legal issue among the two parties. It does, however, have repercussions that go far beyond legal implications. Children, who were innocent bystanders in this whole process, are often the unseen casualties. The psychological and emotional effect of divorce can affect how they feel about themselves, relate to others, perform academically, and affect their wellbeing for many years.

BEYOND THE COURTROOM: DIVORCE IS MORE THAN A LEGAL SEPARATION

For many families, the court's judgment is the end of a marriage. But for a child it is often the beginning of a new and strange reality. Legal proceedings may resolve questions of custody but they cannot produce the sense of stability and security that many children lose in the process.

¹ The Guardians and Wards Act, No. 8 of 1890 (India); The Hindu Minority and Guardianship Act, No. 32 of 1956 (India)

Two homes, new routines and less time with one parent may be becoming familiar to kids. Birthdays, school events, family celebrations, holidays and everyday experiences can suddenly feel different. Sometimes they experience conflicts between their parents, financial stress, or an unspoken expectation to pick a side, even when they are not part of the conflict. These experiences can leave children feeling anxious, confused, guilty or insecure even when both their parents love them dearly.

On the other hand, there are some situations where there is violence, abuse, or constant conflict in the family, then divorce might actually bring a more secure environment for both parents and their offspring. Nevertheless, even if divorce becomes a right step, children will need support, comfort, and security anyway.

DIVORCE'S HIDDEN EFFECTS ON CHILDREN

Children have been called the silent victims of divorce as they are one of the groups whose life will be affected. Although they may not comprehend what the legal ramifications of their parent's separation will be, they know that something is happening around them. The comfort of the family environment is substituted with new experiences, unknowns, and uncertainty that cannot be fully explained to them even with court documents.

The emotional consequences for the child start well before the process of divorce is completed. Regular arguments, tense atmosphere at home, and emotional detachment of their parents can stay with a child forever. As a result of separation, a child starts experiencing negative emotions like depression, stress, anger, feeling guilty or alone. Moreover, some children try to cope with their negative feelings through silence and isolation from others whereas other kids may act out their feelings. However, even if they are reassured that it is not their fault, many children still have a burden of guilt on them.

Childhood exposure to instability will affect how they will view relationship, conflict, and commitment as they mature. Children who have been provided with adequate emotional support and stability will have a higher tendency to adapt successfully and form healthy relationships in their later lives.

ROLE OF LAW: SAFEGUARDING THE BEST INTEREST OF THE CHILD

The objective of custody is not to declare one parent the winner and the other the loser, but to ensure that the welfare of the child comes first.² Though a divorce decree brings the legal battle to a conclusion, it marks just the beginning of an uncertain future for a child. The court will take care of matters concerning custody and parental duties, while the emotional well-being of a child depends upon the actions which come next. Parent's ability to communicate and cooperate can help a child overcome the problems related to the divorce.

Children do not expect their family to be perfect; they expect love and affection. Parents who put their children before the quarrel, respect each other, and create a peaceful environment, help lessen the emotional effect of a divorce. The use of professional counselling and communication will make children feel comfortable and confident in the new circumstances.

It must also be noted that schools, teachers, relatives, psychologists, and the entire community should all play their part in creating an atmosphere of understanding where children will not feel like they are being condemned. Any act of compassion helps rebuild this sense of security which can be lost due to a family's breakup. In any case, the real test for a successful divorce is not the sentence passed in court but the life the child will lead after it.

The notion of justice is not achieved when one marriage falls apart, it is achieved when the child at the center of this conflict still feels protected and cherished.³

CONCLUSION

Whereas a divorce paper can formally terminate a marriage, it ought never to lead to the termination of a child's feeling of love, safety, and being wanted. While parents struggle to make tough choices that might provide them with fresh start, it is the children who have to deal with comprehending the harsh reality of divorce that they had nothing to do with. All that they want from their parents is not favourable rulings, but to know that the love they had will not vanish after they sign certain papers.⁴

There are divorces that hurt children, and there are divorces that do not affect them at all. Nonetheless, it is vital that in case of any kind of divorce, no child grows with the feeling of guilt for what happened. No child should be carrying the burden of feeling guilty for a decision that they did not take.

² Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 SCC 42

³ Convention on the Rights of the Child art. 3, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁴ Nil Ratan Kundu v. Abhijit Kundu, (2008) 9 SCC 413.

For some kids, the reminders of the divorce process do not happen in court but silently come to them when they are writing down the name of their parent on some official form, waiting for only one signature instead of two, or answering questions about their family structure. What seems like just another formality to someone can open up all those emotions that they had been trying to overcome for years. This is proof that for some children, divorce is not just one episode in their lives.

For others, divorce is only an end to their marriage. To children, it is just the beginning of their questions that they did not even ask, responsibilities that they did not choose, and a sense of guilt that they do not deserve.