
DIVORCE AND ITS EFFECTS ON CHILDREN'S WELFARE

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ABSTRACT

The handle currently looks at divorce's influence on children from the angles of psychology, society, education, and law. It scrutinizes the notion of "the best interests/welfare of the child" associated with law and courts in different jurisdictions, abstracts data from research on children's short- and long-term outcomes, and investigates crucial case law that has had an impact on custody and access decisions. The study claims that it is the post-divorce processes (parental conflict, financial issues, disturbed parenting, and unstable re-partnering) that put children at risk, rather than divorce. The researchers recommend family policy, legal practice, and therapeutic therapies to protect basically children's wellbeing during and after marital separation.

Introduction

Divorce is a major change in the family that can affect children's relationships, daily life, and even their future in a significant way. And researchers separate the immediate changers (moving, changing school and having children) and the mental health, educational level and even family relationship patterns as the long-term developmental effects. Jurisprudence has embraced a child-centered approach, commonly known as the "best interests" or "welfare of the child," to decide about custody, residence, and visitation in many legal systems. It is vital for family law practitioners, legislators, and doctors to understand both the empirical evidence regarding children's adjustment and the legal interpretation of their welfare.

Method and scope

In order to show the ways in which courts put child welfare into practice, the paper refers to typical legal cases from India, the US and the UK plus meta-analyses and major reviews in family psychology and family law. Legal analysis focuses on landmark rulings that characterize the judges' views on custody and visitation, whereas empirical assertions are supported by noted studies and reviews (Amato; Kelly; federal and national reviews).

Empirical Findings: How Divorce Can Affect Children

Overview of observed effects

Extensive reviews and meta-analyses have found that children from divorced families do worse in general than children from continuously married families in different areas (such as emotional adjustment, behavior, academic achievement); nevertheless, the effect sizes are usually small to moderate and vary widely from one study to another. Most importantly, the results show that only a very small fraction of children go through struggles for a long time while the rest are very strong and do not suffer from long-term problems. The findings also point to the role of the moderating and mediating factors (like socioeconomic change, parental conflict) in the process.

Short-term effects

Increased anxiety, rage, sadness, sleep disturbances, a drop in school performance, and misconduct are some of the short-term impacts that are commonly seen in the period immediately after a split. Stress, change of routines, and conflict between parents are the main

reasons that lead to these extreme responses. Researchers state that child maladjustment is more closely linked to the severity of interparental conflict before and after divorce than to the divorce itself.

Long-term effects

The outcomes of longitudinal studies carried out over a long period tend to differ. Certain research concludes that among the adult children of divorce, there will be lower educational attainment, unstable relationships, and mental health problems, while the others point to the fact that the selection factors (parents' socioeconomic status, personality, and pre-existing conflicts) might be closely related to the association and may even be responsible for it. Thus, divorce is not necessarily a cause of negative life outcomes, it merely serves as a risk factor. (Wiley Online Library)

Mediators and moderators

The main elements that influence children's results after divorce are:

- (1) the extent of parental disputes before, during, and after the divorce;
- (2) the standard of parenting (affection, reliability, watchfulness);
- (3) financial resources and material comfort;
- (4) the psychological well-being of the parents;
- (5) the child's age and character; and
- (6) the presence of professional help or supportive social networks.

Child's adaptation to the situation is better if such interventions are applied that reduce the conflict, secure the finances, and promote good parenting. (Justice Ministry)

Legal Frameworks and the "Best Interests/Welfare" Principle

The legal standard

Most common law jurisdictions have courts using a child-centered criterion—the "best interests of the child" (UK/US) or "welfare of the child" (India)—for deciding custody and residency conflicts. This extensive criterion doesn't automatically award one parent custody,

rather it directs the judges to weigh the different aspects (health, education, stability, parental capability, and child's preferences). The principle is to prioritize children's requirements over parents' rights. (UK Parliament)

How courts balance parental rights and child welfare

This delicate balance between parental rights and child welfare is adjusted using different methods in different jurisdictions. For example, in U.S. constitutional law, very large parental rights concerning child upbringing are acknowledged, which can lead to not allowing third parties to interfere (as it happened in the case of *Troxel v. Granville*). On the contrary, biological motherhood or fatherhood is important but not the only factor, and courts assessing the case under the best interests doctrine regard parental rights as a crucial but not sole factor. The Indian Supreme Court has consistently asserted that the child's welfare is paramount and that the best way to evaluate parenting is to see who can best promote the child's well-being. (Justia Law)

Case law analysis

The case of **Rosy Jacob v. Jacob A. Chakramakkal (India, 1973)** not only highlighted the importance of the welfare principle but also laid down the foundation of custody cases in terms of the welfare of the child. The Supreme Court of India in *Rosy Jacob* pronounced that, "the welfare of the children concerned and not the right of their parents is the controlling consideration governing the custody of the children." The Court laid down that all relevant facts and circumstances should be taken into consideration by the courts and that the child's interests should not be overshadowed by procedural formalities. The decision is regarded as a primary exposition of the welfare principle that governs custody disputes in India. (Jharkhand Judicial Academy)

Implication: A substantive welfare calculus is the basis of Indian custody law drawn up by *Rosy Jacob* case, which obliges judges to ascertain whether the custody arrangement—mother, father, or joint custody—simply meets the child's educational, emotional, and physical needs the best.

Gaurav Nagpal v. Sumedha Nagpal (India, 2008) — application to interim custody and contact

The Supreme Court in *Gaurav Nagpal* ruled that while visitation and contact arrangements can

be tailored to secure the child's stability, the most important factor in temporary custody decisions has to be the child's welfare. The case is frequently cited in support of the argument that temporary custody orders are dictated by children's needs rather than parents' convenience. (IndianKanoon)

Re G (Children) (UK House of Lords, 2006) — parental status and welfare calculus

The House of Lords in *Re G (Children)* reiterated that biological parenthood has an effect but still remains a minor aspect to consider, and the welfare issue is still the Court's top priority. The decision stated that clearly showing the courts' position was that in cases involving non-biological parents and changing locations, the courts will have to spot the better option for the child's health between the two, either transferring or staying the same. (UK Parliament)

Troxel v. Granville (U.S. Supreme Court, 2000) — limitation of parental rights concerning visitation of third parties

The U.S. Supreme Court in the case of *Troxel v. Granville* stated that the law of the state which allowed "any person" in principle to ask for visiting rights was unconstitutional because it infringed upon the Fourteenth Amendment's guarantee of parental rights. The decision made it clear that the courts must acknowledge and honor the parents' decisions regarding the visitation of children as there is a basic presumption that good parents act in their kids' best interests. *Troxel* is a clear illustration of a constitutional constraint imposed on the courts' ability to prioritize child welfare over the rights of individuals seeking visits with the child. (Justia Law)

Santosky v. Kramer (U.S. Supreme Court, 1982) — standards in child-protection/adoption contexts

Santosky v. Kramer is notable despite being outside the realm of divorce custody cases as it illustrated the legal system's way of balancing life-time liberty interests of parents and child protection needs through requiring a higher evidentiary standard (clear and convincing proof) before the irreversible termination of parental rights. In extreme situations, the decision bears implications on how judges come up with permanent custody or removal verdicts. (Justia Law)

Interpreting the Law Through Social Science: Where Courts Succeed and Where Gaps Remain

Courts that focus on welfare can safeguard children, provided they rely on proof

Judges have the power to make decisions (supervised visits, gradual transitions, counseling, enforcement of financial support) that during their considerations of the empirically established risk factors (high parental conflict, domestic violence, severe economic difficulties, mentally ill parent) can diminish the impact and at the same time build up the strength of the affected children. The social sciences are drawing nearer to and influencing the law through the latter's welfare approach which is explicitly result oriented (parenting competence, child's expressed needs, continuity of schooling). (Justice Ministry)

Gaps: zero-sum disposition to custody; weak enforcement and lack of follow-through

Some rulings, however, still ignore post-order monitoring or revert to the winner-take-all custody schemes. Social research predicts better child outcomes with consistent cooperative parenting, secure financial arrangements, and dispute resolution. There are times when legal systems cannot offer accessible mediation, implement parenting agreements, or ensure that financial orders lead to material security. The legally "best" directives may be practically useless because of these implementation gaps. (ScienceDirect)

Policy and Practice Recommendations

1. Make conflict reduction central to family proceedings

Early courts' detection of high conflict and domestic violence should be their first priority and families should be guided to scientific-based treatments such as organized mediation, cognitive-behavioral co-parenting programs, and child-inclusive counseling. Interventions targeting the reduction of parental hostility may result in better adjustment for children. (PMC)

2. Highlight where necessary the capacity of parents and the division of responsibilities between them

In case there is no immediate danger to the child, parenting arrangements that allow significant interaction with both parents should be the ones supported by courts rather than the ones leading to sole custody. If there is evidence of danger or extremely poor parenting, then the protective measures (such as supervised visits, primary care transfer) are justified to be taken. The legal requirement should always be based on the child's interest and be flexible according to the particular family situation. (National Academy of Justice)

3. Enforce and control economic support orders without delay

Economic instability is one of the main reason why negative outcomes occur. In the case of divorce, it is greatly possible that the material conditions of children will be stabilized through child support enforcement, linking such supports with social safety nets, and the provision of transitional financial aid. All these socioeconomic improvements during the post-divorce period are found to have many negative effects reduced as a result, (Justice Ministry)

4. Use of Evidence in Judicial Decision Making

It is necessary to carry out regular training and seminars for judges and family court staff on the latest child development and divorce research, so their decisions would be based on the information on the risk and resilience. The courts should use custody assessments that are based on trustworthy tools and highly skillful professionals whenever it is possible. (Wiley Online Library)

5. Support and follow-up after the order is made

Family arrangements undergo changes with the passage of time. It is necessary for the courts and the child welfare agencies to set up inexpensive follow-up measures (like access to family services, periodic review hearings) to make sure that custody orders keep being in harmony with the child's welfare over the years.

Limitations and Areas for Future Research

Research on divorce and children is restricted by selection effects (e.g., families who divorce may differ in many ways from families who do not) and the differences between national cultures and laws. To discover causal effects, measure the relative effectiveness of court-mandated interventions, and gain a more detailed understanding of welfare outcomes in low-income and non-Western settings, longitudinal, quasi-experimental designs should be the first choice in future research.

Conclusion

Divorce can be a very unsettling and challenging time for children. Children do not suffer (or rather the divorce does not have such an impact) directly because of the divorce itself, but

through the separation process that usually includes strong parental conflicts, loss of financial resources, and inadequate transitioning of parenting. If courts adopt a strict, evidence-based welfare standard and link court rulings to resources (economic enforcement, mental health support, and mediation), they can play a major role in reducing the negative impact and also promoting the children's resilience. The legal commitment to a child-centered approach is evident in the landmark cases in the U.S. (Troxel, Santosky), India (Rosy Jacob), and the U.K. (Re G). However, applying the welfare principle requires more institutional support and interdisciplinary collaboration.