
PREY CHILDREN - VICTIM OF MARRIAGE AND HUMAN DEVELOPMENT

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ABSTRACT

The Joseph Shine Vs. Union Of India¹ (2018) the landmark judgment of the Honourable apex court which decriminalise the adultery by giving importance to the individual autonomy and privacy by mentioning it as the strong ground for the divorce. That to pertinent here arises the propound issue that the marriage and the human development began to show important to the articulation of the individual interest, rights and privacy but to the contrary snatching the peaceful and secured environment of the children. YES! When the individual decided to focus on the individual autonomy by breaking the matrimonial bond by the way of dissolution marriage, on the other side the children of the wedlock or unseen and their rights and happiness are camouflaged in the name of the individual autonomy which ultimately questions the emotional well being of the children future which also threatened the humans social obligations towards the society. Those Children often become the most vulnerable parties in matrimonial disputes, even though the legal conflict is between the parents. That the consistent emphasize and the best interests of the child must remain the central concern in every such situation for the welfare of the future generation.

Key Words: - Adultery, Individual Autonomy, Child Welfare, Privacy, Matrimonial Disputes

I. DEVASTATION OF THE BROKE OF SOCIETAL STRUCTURE

As the two individual create a family, the social structure and which is dominant for the development of the society formation. That due to the difference opinion and the individual autonomy in the martial relationship causing extra marital affair and decided to part form the marital bond. To important the children in the marital bond are the major victim of the dissolved marriage as they undergo tremendous emotional imbalance due to the separation of the cardinal structure of the society i.e., Family.

II. WORLDWIDE CARDINAL PRINCIPLE

That by considering children as the assets of the nation our forefathers and the scared document of country laid down several important laws and enumerated fundamental rights for the welfare and the development of the children. Notwithstanding all the laws the children are left to suffer in their own safer place once that in their own family due to the separation of the family. That in order to eradicate the suffering that every family laws and the courts worldwide are very knee and peculiar to the child's emotional, physical, educational, and psychological welfare as priority over parental rights. That our apex court in *Gaurav Nagpal v. Sumedha Nagpal* ² (2009) held that **child welfare is paramount**, not the legal rights of parents and the courts must consider emotional, moral, and educational well-being of the children over the individual interest.

III. MENTAL STATBILITY AND PSYCHOLOGY OF THE CHILD

As the individual right and the children emotional security are in the conflict in several matrimonial issues which is the paramount socio concern in this 21st era. As in the name of personal vengeance and ego several matrimonial cases are filed every year and in the name of the children the two individual fights for the custody and visitation rights but in none of the instances they think about the wellbeing of the children who are made to suffer to meet their loved ones i.e., their biological father and mother. Moreover, the ultimate error is that the children are only allowed to visit their own parent one or twice in a week that too for an hour which literally affects the emotional wellbeing of the children and causes inferiority in the tender and minor age.

That the devastation of the society change is that the children are compelled to accept their parent's individual autonomy in the minor and tender age by suffering silently, that in some cases it is vice versa the one parent is the suffer and their whole life is getting scattered in the dissolved marriage. That in several instances the children are been induced and turned hated toward their own parents but it is been indeed the mere happiness of one partner towards the other to showcase their heatedness towards the other by utilizing children as a dice, indeed this are the unknown emotional cruelty caused to the children.

IV. LAW COMMISSION AND APEX COURT

That the apex court being the protector of every fundamental right of the individual in *Vivek Singh v. Romani Singh*³ (2017) highlighted the importance of **child psychology** warned against parental alienation. The **Law Commission of India** has played a major role in shaping child welfare reforms in the context of matrimonial disputes, especially custody and guardianship. Below is a structured overview of the **important reports, their recommendations, and relevance to child welfare**. That the law commission report No. 218, 83, 133, 263 and 257 pertinently recommended and emphasized on emotional well being, psychological development, Education and stability of children is paramount. Moreover, the law commission 218⁴ report recommended India to join in the **Hague Convention on International Child Abduction** Protect children from wrongful removal by one parent and Law Commission report 263⁵ also focused on the international parental child abduction cases. That it is clearly evident that **children are indirect victims of matrimonial disputes**. Through progressive reforms—especially in Report No. 257⁶—it attempts to transform Indian family law into a **child-centric, welfare-oriented system**, moving away from rigid, parent-focused approaches.

V. CHALLENGES

To pertinent in several instances the children interest and rights are been totally scarified in the matrimonial issues. As in the matrimonial issues the law only protects the rights of the individual but in the scenario of the children well being is still remains unanswered pragmatically. That in the 21st century the children are growing in the environment out of

the social family structure due to the separation, divorce the co-parenting in the growth of the children is been difficult nowadays. The most suffering happening is the society is in most of the cases, the individual without social obligations, and adaption, the children are made to suffer from the tender age without the co-parenting love and support as these are the higher concern in the Human development.

The children in the 21st century are often affected by the failure of the marital bond and in most cases victim of the matrimonial litigation which questions the stability of the future generation and the social structure of the society.

As the individual interest, autonomy and privacy are important in the same stand the welfare and the peaceful environment for the growth of children are very necessary for the welfare of the future generation to exile. As when marriages break or relationships shift, the real question is not who stays, but how responsibly adults continue to care especially when comes to the welfare of the children which is the big question concerning socio-legal issues arsing in the 21st century as due to the increasing matrimonial issues and litigation due to which the children often absorb what the law cannot regulate—emotions, conflict, and the meaning of trust.” Even though Indian courts consistently hold that children are not property or bargaining tools in matrimonial disputes. The judiciary has evolved toward a more humane approach, ensuring that **the child’s welfare, dignity, and development remain paramount**, even if it means limiting parental claims, but the change remains in the act of every individual for the pragmatic approach and execution of the paramount necessities of the child.

VI. CONCLUSION

The children who becoming the prey of victim in the between the marriage and human development is the serious concern to be analysed in the 21st century as the law protects the rights of the individual but emotional stability of the children remains unanswered due to the lack of pragmatic approach from every individual. As the every individual of the society as the responsibility to up bring the future generation by not snatching their natural right in the society, the more awareness and pragmatic measures to be taken to eradicate the emotional instability in the children that must start from every individual towards the welfare of the society.

References

1. Joseph Shine v. Union of India (2019) 3 SCC 39, AIR 2018 SC 4898
2. Gaurav Nagpal v. Sumedha Nagpal (2009) 1 SCC 42
3. Vivek Singh v. Romani Singh (2017) 3 SCC 231
4. The Law Commission Report No. 218 (1980)
5. The Law Commission Report No. 263 (2016)
6. The Law Commission Report No. 257 (2015)