

Causes of Divorce

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Abstract – Marriage was viewed as a hallowed function in India from old occasions onwards. It was considered not exclusively to be the association of two individuals rather it is viewed as the association of two families, cultures, social orders, etc. Throughout the years the significance of marriage itself apparently is decreasing and hitched couples are looking for divorce at an incredibly expanding rate. Divorce or disintegration of marriage is the last end of a marriage, dropping the legitimate obligations and duties involved in matrimonial contract and dissolving the bonds of matrimony between wedded people. The divorce rate and the reasons for divorce do shift in various nations and cultures. Among the causes demonstrated are: women's autonomy; too soon marriage; monetary variables; poor scholarly, instructive, and social aptitudes; liberal divorce laws; sexual elements prompting contradiction; job clashes; liquor addiction and substance misuse; hazard taking conduct; contrasts between the accomplices prompting rancor; religious components; frames of mind to divorce and different elements

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1. INTRODUCTION

AngloNepali dictionary defines divorce as legal separation of male and female dissolving the wedlock. Marital relation between male and female is prerequisite to conduct divorce. Divorce can only occur after the marriage. There is not any provision of divorce in Hindu philosophy. A woman cannot gain her premarital status even she is sold or abandoned by her husband according to Hindu tradition (Manusmriti9/46). Though there is not a provision of divorce in religion, section 12 of National Code clearly states the conditions to carry out divorce. I would like to request to consult the National Code for detail provision.

In society like ours, divorce is taken as a big social problem and incident. As parents' divorce, their children will have direct negative impacts. In some cases, children are depressed and even commit suicide because of the deteriorating relationship of their parents. Not only children, even the family is affected by this. This also becomes the talk of the neighborhood and people start to caution other couples about divorce. Unlike western societies, our society doesn't accept divorce easily. We are following all most everything of western society. And, the reason of rising divorce rate is a result of this trend. Reasons of growing divorce rates in Nepal are many. Women's growing economic empowerment, increasing knowledge level of women, women's decreasing tolerance of violence, legal protection and women's overall empowerment

are some of the reasons of growing divorce rate in Nepal. Time is not the era where women tolerate all domestic violence like their grandmothers. Our time has changed and its being liberal. The society which was reluctant to send their daughters to school is now sending them university. These days, women are not confined within four walls of the home but have ascended to upper level of our nation. Women have proved that they can do everything done by men. Despite such changes, still, there are some social norms and values that are troubling women.

Men's sense of supremacy is still the same. In times of our grandfathers, it would be prestigious to go polygamy. The concept has been changed a bit. Still, polygamy exists.

Marriage is a social and legal relationship between two sexes. Marriage brings feelings of mutual love, respect and responsibility for each other's happiness, pain and pleasure. According to our traditional beliefs, marriage is a union of two souls. However, such union is not always ecstatic. It is not always perpetual. Owing to familial, psychological, social and other some reasons, relationship between married couple gets deteriorated. And, they reach to a stage where they can't accept each other for rest of their life together resulting divorce.

2. REVIEW OF LITERATURE

Marriage is a social and cultural phenomenon and approved social pattern where by two or more persons establish a family. Sexual intercourse between the marital partners and subsumes reciprocal right and obligation between the spouses and their children. Marriage is a key means that enables to make a union between a man and woman, which may situate in different socioeconomic background.

However, the forms of marriage are responsible for disruption of marital status and lead to divorce. In the present research 63.0 percent of divorce cases were under the arranged marriage, which may challenge to western divorce trend where, maximum cases of marriage are under love marriage which breakdown easily. Similarly, 37.0 percent of divorce cases are found with in love marriage. Some of the studies (Choudhary 1988, Pothan 1986, Metha 1975) on divorce based on Indian society have found the causes of divorce leads by exogamy marriage but in this study 8.40 percent of divorce cases have found under endogamy marriage system. Basically, low age at marriage of wife, marriage with wrong information or forced marriage. 7.40 percent of educated women were married with illiterate men without any concerned to her; they were actually unknown about it. In this study as a case, Mr. S.A and miss P.R were married with wrong information. Basically that was based on their family interests. She was matrix pass where as her husband was just literate but relatively well in economic condition. After two years of their marriage, marital relation between them was continuously became loose and occurred divorce. Similarly, unequal educational and economic statuses of the spouses were major cause of the divorce under arranged marriage, which has more or less endogamy nature. Similarly, 33.0 percent of male were generally disagreed on the process of their marriage. 7.40 percent married were exogamy, which failed to gain family support. Those marital circumstances have created the situation that supports to breakdown their marital relation. 33.0 percent of husbands and 60.0 percent of wives were at the age of 20 when they get married. This situation of age factor indicates that the divorcee had immaturity to their family life. Similarly, the high age difference in husband and wife and unequal educational status creates differ expectations from the marriage which strongly support to occur divorce gradually.

In Nepali society, there is growing trend of divorces. If we are to observe at district court, cases of divorce are on rise every day. There are many who are separated without going through legal divorce procedures. In Kathmandu district court, 4-10 divorce cases are registered on an average day, say officials of the Kathmandu district court. In fiscal year of 2064/65 BS, 2,716 cases of divorce were registered. The later year, the number was jumped to 4,304.

Last year, Kathmandu district court got highest number of divorce i.e. 690. The digit was 202 in Lalitpur district. Out of 2108 divorce cases registered in Kathmandu district court, 1667 were given verdict by the court and 441 were left. In 2071/72, out of 2256 divorce cases registered, 1818 were given verdict pending some 428 cases.

Some of the court decisions at district were moved to appellate and supreme court for final hearing. In 2070, some 6 cases were moved to Supreme Court from Sunsari, Kathmandu, Bardiya and Banke and the decisions of lower courts were upheld by Supreme Court. Few were overturned. In 2071 also, 7 divorce cases were taken to the Supreme Court and 2 were upheld and others were overturned. Likewise in 2072 BS, 7 cases were taken to the Supreme Court. Looking at divorce cases filed at Sunsari district court in between Shrawan of 2072 BS to Baisakh of 2073 BS, 370 divorce cases were found to have filed by women.

The data presented above proves that divorce has been a general affair gradually in Nepal. If we are to look at our society, divorce is always taken negatively on cultural ground. For example, in Hindu culture, marrying couple take oath of living together all their life by 7-time circling around holy fire. However, it is uncertain that the relation is always on right track. Many problems are surfaced while living together. If we are to look broadly and from deep inside, this unveils new turn and dimension of life. What is to be noted is that marriage is a social compromise and divorce is a social incident. Developed societies witness more divorce rate. Because of human rights, equality, self-dependence and responsible nation are the causes for leading divorce and human development index of Scandinavian nations. They are followed by USA and other western European nations. In underdeveloped societies, especially on Hindu and Buddhist culture and then in Islam culture, they have comparatively low divorce rate. It assumes that invisible divorced conditions are found in the Nepalese society, which is not legally recognized and practised in the open ground.

There are four procedures of customary divorces, which are as follows: a) Divorce obtained by some formal action: Married couples that are going to be divorced, have to go through some formal actions of divorce by custom in front of their community's assembly or kinsmen assembly, for example tearing of a 'pan' leaf by both the parties indicates the end of a marriage. b) Divorce obtained by writing: Divorce which is obtained by writing on the 'Divorce Form' is called 'Dohoro Likhat Gari Chhornu' or 'Chhuttanama' or 'Ichhapatra' in local language; all meaning divorce. c) Divorce obtained by oral pronouncement: This kind of divorce is prevalent among Musalman communities, which are called (i) Talaque-I-Rajai (ii) Talaque-I-bine (ii) Taakaque-I-Mugallja d) Divorce obtained by "poila" or "Jari" or "Chuman" or "Sagai" form: When a

married woman elopes with someone other than her husband, her first marriage automatically breaks down (Thaplia 1995:29-30).

Different customary divorce practices and patterns among different caste and ethnic groups in Nepal, which are legally not seen in the public ground can be another crucial research area for sociologists.

3. CAUSES OF DIVORCE ARE MANY

Health and psychical cause: In western nations, it is heard in news that divorces are given just for snoring habit of his/her partner. Despite marriage bond, divorce is made owing to physical and mental problems.

Patriarchal beliefs of men: For family rooted in deep patriarchal beliefs, men don't tolerate the voice of equality between men and women. Men start to think that they are being downtrodden by this equality. Men are engulfed with the beliefs that women are slave or second-class human being. Men don't want freed women but women want freedom. This leads towards divorce.

Domestic violence: In families where there are daily familial feuds, there are chances of divorce. Divorce is made for torture given for not bringing enough dowries, not giving birth to son or for being infertile.

Unequal educational level: Divorce is made even in couple which has largely different level of education. **Psychological & Sexual dissatisfaction cause:** If couples are suspecting each other on multiple reasons, if they are not satisfied on each other's complexions, if they are not happy on their physical relationship, there are maximum chances of divorce. Husband and wives are not the same in all sexual desires. Most of the can have imperiled sexual desires regarding their nature, and biological conditions. The very circumstances lead them to serious misunderstanding, duel and consequently to the divorce at last.

For example, Kamal and Sita (name changed) got married on 26th Magh, 2065. Both of them migrated to UK after marriage. Husband came back to Nepal shortly. The wife was living lonely in UK. They didn't have frequent communications, and husband started to look his wife negatively. Wife tried to return at times but couldn't because of her mental problems. And, finally their filed divorce case at Kathmandu district court on 23rd of Chaitra, 2072.

Economic cause: In family with less income or having unemployed partners, they either divorce or commit suicide in many cases. **Sexual displeasure:** In recent years, the growing rate of divorces is linked with foreign employment by many experts. Because of long separated periods of spouses, they might

lose their tolerance. They start feeling bored and come to city enjoying modern lifestyle.

Once they are habitual to such environment, they lost the money sent by husband in luxuries. This decreases their infatuation at their partners gradually. This, finally, leads to divorce.

While taking an example of divorce caused by foreign employment, there was a divorce case registered at Kathmandu district court on 2, Ashar, 2065. Namita and Harkajung (names changed) were in good terms till 1 year after their marriage. On 21, Baisakh, 2066, Namita went to Israel for foreign employment. Her husband Harkajung stayed in Nepal. They were in good communications till one year via telephone. They would talk of their pains and pleasures. After a year, her husband started to suspect her, scold her and exhibit arrogant behaviors. Namita was blamed for nonsense things as was said that she was not Harkajung's wife. Because of such torture, Namita filed divorce case at Kathmandu district court.

Child marriage, love marriage in immature age and inter-caste marriage are also causes of divorce. Inter-caste marriage is well-accepted by society and there is growing divorce rate because of this reason.

For example, a case of such background was registered at Sindhupalchok. Kedarman Dong, 12, married Sommaya, 16, but his wife didn't live with him after a year. They didn't have children and she was flown abroad without consulting her husband. Later on, Dong filed case at district court for divorce on 20, Baisakh, 2070 BS. This proves that immature marriage also leads to divorce.

4. ACCESS TO EDUCATION IN WOMEN

Women are alert and because of their access to education in Nepali women, they do not agree that they should be deprived and be enslaved by men. Even if the woman is educated, she is also responsible for the role four of kitchen women choose to divorce when the husband is not properly showing respect to women.

5. REACH OF EMPLOYMENT IN WOMEN

Currently, the rate of women employment has increased in Nepal. Women are also able to stand themselves in their own hands. Even if both men and women both go to the offices, the woman is deprived of a patriarchy. Women are also entitled to divorce on the basis of unnecessary burdens of self-cleaning, silent check and care for their children.

6. CONCEPT OF NUCLEAR FAMILY

Previously the family used to be joint and there was co-operation and co-ordination in the family matters. At present, due to the trends of so-called modernization, most families are nuclear. Again the husbands hearing the family for foreign employment and returning in the internal of many years has led to the divorce.

- **Poverty:** Poverty is troublesome as for the poor children are added to the poor families, more problems are increased to maintain their needs. This led family to come in confrontations and to divorce.
- **Misuse of Social Network:** Internet is used to misuse. Wherever it is used to gift, but it has been like unwashable poison in most societies. People searching negative sites have negative waves in their daily life, due to which the incidents of rape are increasing. The raped a condemned woman losses social dignity in the family and ends in divorce
- **Misuse of Mobile Phone:** Mobile phone is easier and portable. Due to revolution in technology and communication people are sharp and swift in their approach and performance. Here, it has been used even in making rumors fake calls and unfair meetings. These create doubt and untrusted among families towards divorce.
- **Fashion design:** In this age of new thought, idea and fashion people are interested have new tables in their daily life. They want to eat delicious, wear beautiful and hunger for the use of new gagates. Here, the husbands limited earning and sharing contact afford the innumerable wishes of the wife. The wife goes to brother for additional income and the very consequence ends the relation in divorce.
- **Living in rented house:** Nepali youth leave the family in the rented house in city for the fulfillment of his and his wife's, wishes to provide better education for children during his departure for foreign countries. In the days the wife engages with other males in the socialization process, and she feels better in city with more than the single male (husband). She prefers divorce with husband.
- **Men are not only responsible for divorce.** Problems are created even by women. In some instance, there are men victimized by women. However, men don't want to make this public. It is because they don't want to be seen as miserable. In recent days, most

of the women-related cases are of divorce cases. Previously, women were uneducated and illiterate. They would tolerate all sorts of violence on them. These days, women's knowledge is improved. They are privileged with protective laws. Laws have given more rights to women. Although, the divorce gives freedom to couple, this creates negative impacts on familial and social fronts. This has severe impacts on children and older parents. Children of divorced parents are found to have drug addiction. They are likely to be indulged in theft and minor crimes making their future darker. Likewise, we can't reject its impacts on divorcees as well.

7. LEGAL SYSTEM FOR DIVORCE

In the Hindu Society, marriage in the Vedic period (1400-1000 BC) was regarded as a religious sacrament and was indissoluble by human action but Narada and Parasara, the two Smirti writers, had laid down that marriage code be dissolved if the husband was impotent. There were five ground of social sanction where in the wife was allowed to remarry. A woman could take a second husband if the first was missing or dead or had become an ascetic or impotent or was regarded from the ease (Altekar 1980:134) As Kautilya, an ancient Philosopher/economist, has viewed if the husband and wife hated each other, divorce was to be obtained on the ground of mutual enmity. "The Buddhist literature indicates that divorce was rather unusual in the cultured section of the society, women points out her husband that thought she did not love him, she refrained from marrying again because it was not the custom in the family for a wedding wife to take new husband"(Altekar 1980: 134). During the medieval period (879-1768) remarriage and divorce for women was not allowed in the higher caste. Beside Hindus, marriage is the sacred social institution among the Christians, whether Catholic or Protestant. According to the Holy Bible the first marriage of human society was performed at the initiative by himself (Pothan 1986:41).

However, divorce has been permitted under the special legal provision for Christian. After 1857, the high court of London and after 1912, certain provincial court allowed to grant divorce with adultery as the only ground (Pothan 1986:41). Similarly, the dissolution of Muslim marriage Act VIII of 1939 has been permitted to divorce on special ground.

There are some countries even at present where divorce is not permitted by law, e.g. Argentina, Brazil, Chile, Colombia, Eire, Paraguay, Philippines, and Republican Spain (Rheintein 1972:8). In this context, legal provision for divorce

in Nepal was clearly declared for both husband and wife by the New Legal Code, 2020 B. S.

8. CONCLUSION

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. In our context it should be sociologically investigated. This study has been an attempt to identify the causes of divorce, which provides sociological insight to further researcher. The pattern of divorce in this study is diverse and it is found in each community even in Hindus, in which marriage is taken for life or it is for after death, therefore divorce and remarriage is not culturally and socially accepted in the almost all Hindu dominant Nepalese society where nearly eighty percent people belongs to Hindu religion.

Divorce rate is higher in cities than in villages. It is higher among educated families than in uneducated ones. It is higher in upper class families than in lower and middle class ones. Those who are using freedom carefree are divorcing more. Filmy artists have highest rate of divorce. For example, after 10 years of their marriage, Rekha Thapa and Chhawi Ojha, they have divorced. Priyanka Karki who was married with Rochak Mainali got divorced in 2013. Likewise, the pairs who registered as legal couple for flying abroad also divorce increasing divorce rate at district court. As per experts' saying, foreign employment is the biggest reason of divorce in Nepal. Based on age-group, there is increasing divorce rate between 20 and years of age. The divorce is seen to have occurred even up to the age of 60. Very few are found to have divorced after 60 years of age.

They are many couple who are in hurry before marriage and in remorse after being married. Sociologist Krishna Bhattachan says, 'it is not abnormal to break down patriarchal slavery by divorce. This can increase more.'

We don't need marriage registration for getting official legal divorce these days. Photos and videos of marriage and the eyewitnesses are enough bases of divorce in Nepal. These evidences are enough to get half share of property legally after divorce. That's why legal avenues to divorce are not blocked due to lack of marriage registration.

Irrespective of causes and circumstances of divorce, this can be reduced by education, knowledge and tolerance. There are no logics for terming divorce as good or bad. Instead in modern society, there is growing acceptance of divorce for escaping forceful relation and unacceptable misunderstanding.

According to existing country code has provision for legal divorce. Despite a bit longer procedures for male compared to female, the goal of divorce is to give justice to both.

Divorce can be controlled within home itself. For this, husband and wife must have mutual respect. They must respect emotions of each other. In case of any misunderstanding, this must be settled by a mediating member of the family. If wife and husband have some problems, they must not be in hurry to take major decision.

Incidents of this nature can be reduced once the compromise is made thinking about children, parents and family. And, most importantly, this can be narrowed by expanding education with enlarging narrowed mentality.

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