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MARITAL DISCORD AND ITS IMPACT ON CHILDREN

AUTHORED BY - NIRALI JAIN

INTRODUCTION

Parents are the most important people in everyone's life. All children need parental protection. They are responsible not only for the birth of the child, but also for its future care. When parents divorce, it is the children who is deprived of one of the parents. The child gets caught up in negative thoughts, which are the most dangerous. Children suffer the most socially, economically, culturally and emotionally. Even though there are many laws in place, children of divorced parents still suffer the most. Parental divorce negatively affects psychological, cultural, social, educational and many aspects of life. It often happens that children refuse to participate in relationships, blame themselves for their parents' divorce, behave badly, resort to violence, etc. This spoils the future of developing countries like India. Since the court recognizes this fact, children are generally placed in the care of parents who can contribute to the child's overall well-being. Welfare of the child is given the paramount consideration. Decision-making authorities consider the principle of the best interest of the child in custody hearings. A new concept of shared parenting responsibilities is evolving in India, where both parents work together to do the best for their children even after divorce. Divorce has a huge impact on children and should be handled carefully.

DEFINITION OF A CHILD

“Every human being below the age of 18 years unless under the relevant law applicable to the child, majority is reached earlier.”¹

“Nothing is an offence which is done by a child under 7 years of age.”²

“a boy who has not attained the age of 16 years, and a girl who has not attained the age of 18 years”.³

“a person who has not completed 18 years of age.”⁴

“a child means a person, who, if a male, has not completed 21 years of age, and if a female, has

¹ UN Convention on the Rights of the Child, Art. 1.

² Indian Penal Code 1860, sec. 82.

³ The Children Act 1960, Section 2 (1) (e).

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015, Section 2 (k).

not completed 18 years of age.”⁵

“a person who has not completed his 14 years of age.”⁶

“Every person domiciled in India shall attain the age of majority on his completing the age of 18 years and not before. In computing the age of a person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained majority at the beginning of the 18th anniversary of that day.”⁷

CHILDREN AFTER SEPARATION OF PARENTS

Parental separation can have a profound effect on children, affecting many areas of their lives, including their emotional well-being, social relationships and academic performance. Children often experience a range of emotions in response to parental separation, including sadness, anger, confusion and anxiety. Family breakdown can disrupt children's sense of security and stability and lead to feelings of loss and abandonment. Additionally, children may struggle to adjust to changes in their living arrangements, routines, and family dynamics, which may exacerbate their anxiety.

The quality of the relationship between separated parents and their ability to co-parent is critical. The role effect of separation in assigning children. Positive co-parenting arrangements that prioritize the well-being of the child and maintain open communication between parents can help mitigate the negative effects of separation. Conversely, conflictual or hostile relationships between parents can increase children's stress levels and feelings of insecurity, as they can find themselves in the middle of parental arguments.

Parental separation can also affect the social relationships that children can experience changes in peer groups, extracurricular activities and community involvement. Feelings of isolation or exclusion can arise when children move from a two-parent household to live separately. Additionally, after parental divorce, children may struggle with questions about their identity, sense of belonging, and future relationships.

Children of academically divorced parents may encounter problems such as reduced concentration, motivation, and performance. The emotional turmoil caused by parental separation can affect children's ability to focus on their studies and participate effectively in learning activities. Additionally, disruptions in home life and routines can increase school absences, tardiness, or behavioral problems.

⁵ The Prohibition of Child Marriage Act, 2006, Section 2 (a).

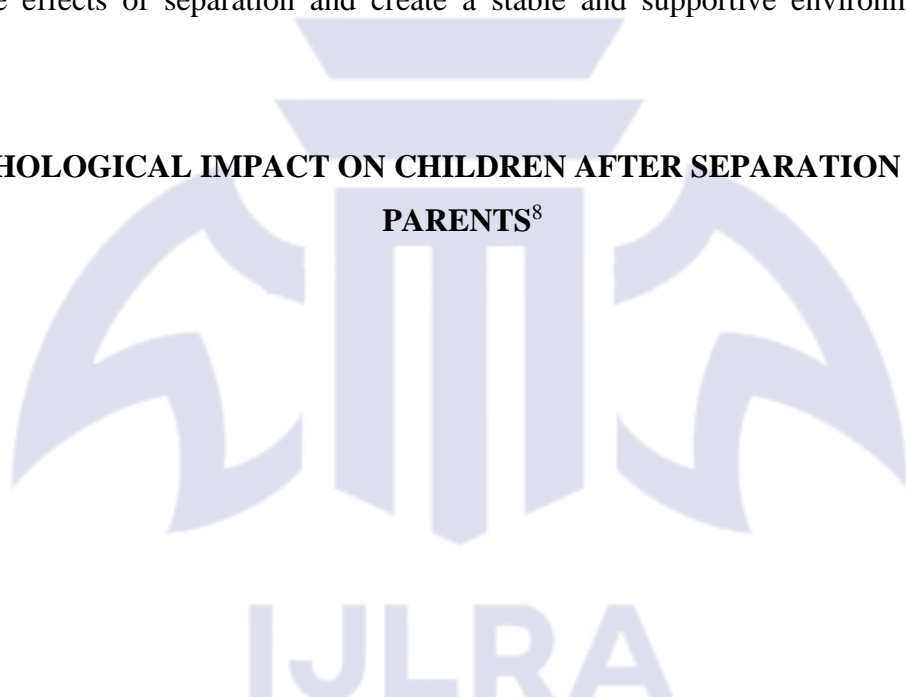
⁶ The Child Labour Prohibition and Regulation Act, 1986, Section 2 (b).

⁷ The Indian Majority Act, 1875, Section 3.

Despite these challenges, children can show flexibility and adaptability when their parents are apart. Supportive relationships with family members, friends, teachers and counselors can provide children with the emotional support and resources they need to cope with life changes. In addition, maintaining consistent routines, open communication, and age-appropriate explanations of separation can help children navigate their emotions and adapt to new circumstances.

Overall, the impact of parental separation on children is complex and multifaceted and can be influenced. due to various factors. factors such as the quality of the parental relationship, the level of conflict and the availability of support networks. By prioritizing the well-being of their children and fostering positive relationships between parents, separated parents can help mitigate the negative effects of separation and create a stable and supportive environment for their children.

2.4 PSYCHOLOGICAL IMPACT ON CHILDREN AFTER SEPARATION OF THEIR PARENTS⁸



⁸ Portnoy, Sandford M, PHD. “The Psychology of Divorce: A Lawyers Primer, Part 2: The Effects of Divorce on Children” American Journal of Family Law; Eau Claire Vol. 21, Issue. 4, (Winter 2008): 126-134.

EFFECTS OF DIVORCE ON CHILDREN

RISK FACTORS

GENDER

Boys are more at risk than girls, primarily because mothers are awarded custody more often than fathers. It is difficult because the same gender parent, the father is no longer living in the home. The absence of male role-model makes it more difficult for boys to adjust to divorce.

SOCIOECONOMIC STATUS

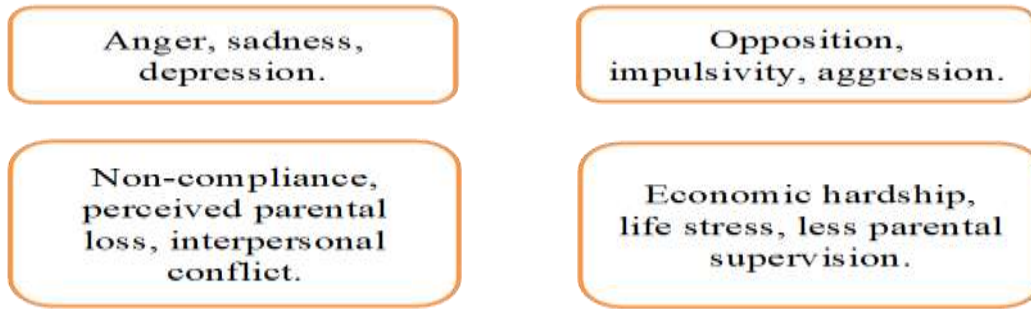
Standard of living often changes following divorce. Less money means some of the children's needs may not be met.

AGE

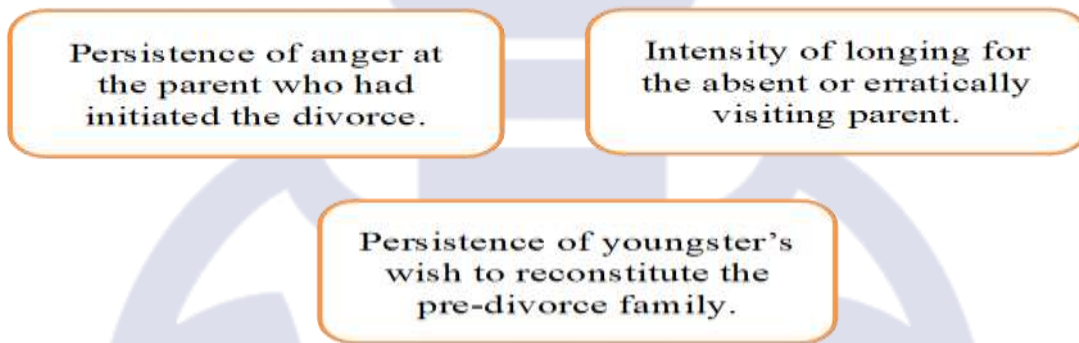
Preadolescent and adolescent children are more at risk over the long-term, because in the short term their close alignment with their peers represses their feelings regarding their parents' divorce.

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SHORT-TERM EFFECTS



LONG-TERM EFFECTS



The psychological impact on children following parental separation can be significant and multifaceted, affecting their emotional well-being and development. Children often experience a variety of emotions in response to parental separation, including sadness, anger, anxiety, confusion, and sadness. Family breakdown can disrupt children's sense of security and stability, leading to feelings of abandonment, abandonment and loss.

One of the main psychological effects of parental separation is an increased risk of emotional distress and mental health problems. children Research shows that children of divorced parents are more likely to experience symptoms of depression, anxiety and low self-esteem than children of intact families. The turmoil caused by parental separation can lead to feelings of insecurity and insecurity, which increases children's emotional vulnerability.⁹

In addition, children may internalize feelings of guilt or responsibility for their parents' separation, believing that they somehow caused it or could be; prevented it. that. differential This false sense of guilt can exacerbate children's emotional distress and self-esteem problems, leading

⁹ Conger, et al. "Explaining the Higher Incidence of Adjustment Problems among Children of Divorce Compared with Those in Two-Parent Families" November 1999 Journal of Marriage and Family 61(4):1020.

to feelings of inadequacy or worthlessness. Additionally, children may have difficulty reconciling their parents' conflicting loyalties and may feel torn about whether they want to maintain relationships with both parents while addressing their own emotional needs.

Paternal separation can also affect children's behavior and social functioning, causing changes in how they interact with peers, family members and authority figures. Children may develop behavioral problems such as aggression, defiance or withdrawal as they struggle to cope with the stress and upheavals of the family situation. In addition, changes in family routines, living arrangements, and caregiving responsibilities can disrupt children's stability and predictability, affecting their ability to form and maintain healthy relationships with others.

Children of academically inactive parents may experience difficulties in school attendance, including decline academic success, attending problems and decreased motivation. The emotional turmoil and stress associated with parental separation can interfere with children's concentration, focus and participation in learning activities. In addition, disruptions in their home life and routines can increase absences, tardiness or behavior problems at school.

In simple day-to-day practice, children can never forget this fact. In one or another way they are constantly reminded that their parents are separated. For example, when the school distributes corrected answers or releases results, it must be signed by both the parents, or children must attend the school with their parents for a parent-teacher conference. At this time, children really face many problems. He worries about how he would gain the courage to ask to sign the answer sheet.

Slowly and gradually child's mental health is hampered and sometimes it becomes so worse to the extent that child feels like committing suicide. It is often difficult to quantify the amount of love, care and affection that people in societies show to each other. Children of divorced parents face the same situation. Before custody is granted, when the child is asked who he/she loves, it is seen that the child will remain silent or answer in favour of the one who is either asking the question or is present there.

Many times, children also become victims of domestic violence because they monitor activities at home. Often the mother blames her husband for hitting her in front of the children, who quickly learn physical abuse. Bad behavior makes these children worse when they become adults and criminals then emerge in society.

It has been suggested that there are three elements that the court should take into account when making the final decision on custody. These are "Welfare of child Principles", "Care and Protection of child Principles" and "wishes of child". If the child is an adult or is capable of expressing himself, the court may convince the parties in accordance with the doctrine of child's

welfare or the doctrine of Care and Protection of child. But we have yet to see courts meet all three of these limitations. It is best if the courts uses effective method for child custody matters which is the best interest and welfare of the child should be of paramount consideration.¹⁰

Welfare of the child: The doctrine of child welfare is a basic principle of family law, where the interest and welfare of the child takes precedence over all other considerations. Based on the belief that children are vulnerable individuals who deserve protection and support, this doctrine guides courts and lawyers in making decisions related to child custody, guardianship, visitation rights and other matters affecting the lives of children. Unlike previous legal frameworks that may have favored the rights of parents or other parties, the child welfare doctrine emphasizes the importance of considering the individual needs, preferences and circumstances of each child in determining the outcome of a family law proceeding.

In its core, the child protection doctrine is the recognition that children thrive in an environment that provides love, stability, security and opportunities for growth and development. Courts are tasked with evaluating various factors to determine what arrangement is in the best interest of the child, taking into account the child's age, health, mental well-being and relationship with each parent. In addition, courts may take into account factors such as a child's educational needs, cultural background and special requirements or preferences that may affect the child's well-being. to their long-term well-being and future prospects. This holistic approach recognizes that decisions made in family law proceedings can have far-reaching effects on the physical, emotional and psychological development of children and their overall quality of life. As such, courts aim to make decisions that promote the best interest of the child, not only in the short term, but also in terms of their future well-being and happiness.

In applying the child protection doctrine, courts seek to establish rights of guardian. An arrangement that prioritizes the safety, stability and continuity of care of the child. This may include awarding primary custody to the parent who can provide the most caring and supportive environment for the child, and establishing visitation schedules that facilitate an ongoing relationship with both parents whenever possible. In addition, the courts can intervene in cases where the well-being of the child is at risk, for example due to neglect, abuse or parental incapacity, taking appropriate measures to protect the interests of the child and ensure their protection.

Care and Protection of Children: The care and protection of children is paramount in societies around the world, reflecting a shared commitment to protect the rights, well-being and dignity of

¹⁰ Vijender Kumar, 'Custody of Child : A Critical Appraisal', M.D.U. Law Journal, Vol.XI, Part-I, (2006), p. 78.

the child. This responsibility includes many efforts to ensure that children grow up in a safe, nurturing and supportive environment that enhances their physical, emotional and psychological development.

Child care and protection is fundamentally about creating and protecting, and maintain legal, social and institutional frameworks that promote their well-being and address their unique needs and vulnerabilities. This includes establishing laws and policies that strengthen children's rights, such as the right to education, health care, protection from violence and access to adequate food and shelter. It also includes enforcement mechanisms to fulfill these rights, including child protection services, legal aid and advocacy initiatives.

In addition to legal and political means, the care and protection of children depends on the collective efforts of families, communities and families. governments create nurturing and supportive environments that prioritize the safety, well-being and development of children. This can include promoting positive parenting practices, providing quality health care and education, and fostering supportive social networks that strengthen families and enable parents to meet their children's needs.

At the core of the concept of caring and nurturing, protection is the recognition of children as owners of rights and as active participants in decisions affecting their lives. This requires listening to children's voices, respecting their opinions and involving them in matters affecting their well-being. It is important to give children the opportunity to express themselves, defend their rights and seek support when necessary to create an environment where they feel valued, recognized and have the opportunity to succeed.

In addition, caring for and protecting children is not limited to immediate intervention. address the underlying issues. they are affected by factors such as poverty, discrimination, inequality and social exclusion. By addressing these root causes and promoting equality and social justice, societies can create more inclusive and supportive environments where all children have the opportunity to reach their full potential.

Care and protection of children are ultimately shared responsibilities that require commitment. cooperation between individuals, families, communities, governments and international organizations. By prioritizing children's rights, well-being and human dignity, societies can create a nurturing and supportive environment where every child can grow, learn and develop, laying the foundation for a brighter and more just future for all.

Wishes of the child: In child custody matters, the wishes of the child can be an important factor in court, especially in cases involving older children who are considered adults and are able to express their preferences. The weight of the child's wishes varies depending on factors such as

the child's age, maturity and understanding of the situation and the special circumstances of the case. Although the child's wishes are considered, they are not necessarily determinative and courts must balance them against other factors, such as the child's best interests and welfare.

Courts usually consider the child's wishes through various means, such as interviewing, child through trained professionals, child custody evaluations, or testifying at a court hearing. The aim is to ensure that the child's voice is heard and considered in the decision-making process. However, the courts also recognize that children can be influenced by many factors, such as their relationship with their parents, pressure from the other parent or their own emotional vulnerability.

The weight of the child's wishes can also depend on cultural standards, legal standards and precedents in the jurisdiction where the custody case is being heard. In some cases, courts may prioritize the child's right to self-determination and self-determination, especially in jurisdictions that emphasize the child's rights and participation in the legal process. In other cases, courts may consider the child's wishes as one of several factors to consider, along with other relevant factors such as the child's safety, well-being and best interests.

Ultimately, how much the child's wishes affect the result of custody cases depends on the discretion of the court and the circumstances of each case. While the child's preferences are important, courts must balance them with other factors to reach a custody arrangement that promotes the overall welfare and best interests of the child. With thoughtful and balanced consideration of the child's wishes, the courts strive to make decisions that reflect the child's needs, wishes and rights, while ensuring the child's safety and well-being.

*Nil Ratan Kundu v. Abhijit Kundu*¹¹, in this case the court mentioned that if the child is mature enough to understand the consequences and to make a decision, the court should take the wish of the child into account; but the final decision will be of the court in order to decide in the best interest of the children.

Saraswatibai Shripad Vad v. Shripad Vasanji Vad,¹² in this case the court stated that it is not the father or mother whose welfare is important while deciding rather it is the welfare of child which is to be given paramount consideration.

SHARED PARENTAL RESPONSIBILITY

Shared Parenting means that after separation the child will grow up with the love and guidance of both parents. Shared parenting responsibilities for post-divorce parenting is a strategy designed

¹¹ (2008) 9 SCC 413.

¹² 1940 SCC OnLine Bom 77.

to reduce the existing damage caused to children and families going through the transition to divorce by focusing on the needs of children and families as well as the responsibilities of parents in divorce. Based on these needs.

The "shared parental responsibility" approach to divorce law reform has the following four elements. Each element has been addressed individually with varying degrees of success; but no decision has been made about the model yet:

1. The law requires parents to create a joint or individual parenting plan before a divorce case is filed in court.
2. Create a legal expectation that the relationship between parent and child will continue after the divorce; that is, post-divorce parenting will be related to pre-divorce parenting, that is, the time parents spend with their children. Its purpose is to guide the development of parenting plans and allow parents to submit a plan to the court for approval of the law regarding an existing parenting plan.
3. In case of disagreement, shared parental responsibility (meaning the child spends equal time with both parents) will become the legal decision; that is, the court's "default" position. Therefore, in cases of custody dispute after the divorce, the child will spend equal time with both parents.
4. There will be exceptions for violence and domestic violence, which will continue with third-party interventions, and the protection of children will be a priority. Such cases will be determined by criminal judgments and child protection agency.

Shared custody v/s joint custody: Generally many people use the terms "shared custody" and "joint custody" as if they meant the same thing. However, each term refers to different types of custody. Part of the reason leading to confusion is that some states use them interchangeably. Therefore, you should remember that these are two different types of custody.

Generally speaking, the main points of joint custody are to give both parents equal control over child regarding decisions and to ensure that the children spend time with both of them.

On the other hand, shared custody focuses on the child's level of communication with both parents. In fact, the goal of shared custody is to give parents the opportunity to split the time their children spend with them as equally as possible.

If this definition still sounds the same, it is because shared custody is a sub-type of joint custody. So, to remember the difference between the two, the important thing to remember is that joint custody is more about making legal decisions on behalf of the child, while shared custody refers

to how much time the parents spend with the child.

When considering the impact of divorce on a child, it is important to understand that each child's experience is unique and the impact can vary based on factors such as age, temperament, family dynamics and level of conflict between the parents. Here are some suggestions for understanding and mitigating the impact of a breakup on a child:

Open communication: Encourage open communication with the child so that he can express his feelings, fears and concerns about the breakup. Create a safe and supportive environment where the child feels heard, understood and validated. Reassure the child that his feelings are normal and that he is not alone in his experiences.

Provide stability: Maintain routines and rituals as much as possible to give the child a sense of stability and predictability. Consistency in daily routines such as mealtimes, bedtimes and school schedules can help calm a child and reduce uncertainty and anxiety.

Co-parenting: Encourage positive co-parenting relationships between separated parents by emphasizing cooperation, respect and effective communication with children. for the benefit of the child. Minimize conflict and avoid involving the child in arguments or acting as a mediator between the parents.

Reassure the child about unconditional love: Reassure the child that both parents love him unconditionally and that the breakup is not their fault. Emphasize that the parent who no longer lives with them will not abandon or abandon the child and maintain opportunities for regular communication and quality time with both parents.

Seek support: Encourage the child to seek support from trusted adults such as family members, friends, teachers or counselors who can provide emotional support, guidance and perspective during this difficult time. Also consider seeking counseling or therapy for your child to help him deal with his feelings and develop coping strategies.

Empower your child: Empower your child by including him in age-appropriate decisions and discussions about your living arrangements, visitation schedules, and other aspects. . . of her post-divorce life. Give your child choices and opportunities to control and influence their circumstances.

Monitor Behavioral Changes: Pay attention to your child's anxiety or behavioral changes, such as withdrawal, aggression, regression, or academic problems. Monitor your child's emotional well-being closely and, if necessary, seek professional help to address underlying problems or concerns.

Model healthy coping: Model healthy coping mechanisms and problem-solving skills for your child that demonstrate flexibility and adaptability in the face of challenges. . . Show your child

that it is okay to experience difficult feelings and that there are constructive ways to manage and overcome them.

By implementing these suggestions and providing a supportive and nurturing environment, caregivers can help lessen the impact of separation on a child and move their child forward. development feelings well-being and flexibility during this transition period..

CONCLUSION

Despite these challenges, children are often resilient and adaptable and can cope with the complexities of parental separation with the right support and resources. Positive coping strategies such as open communication, emotional expression, and access to supportive relationships and resources can help children cope with the psychological effects of parental separation and the transition to a new family dynamic. In addition, professional counseling or therapy can help children who are struggling with the emotional consequences of parental separation by providing them with a safe space to explore their feelings, process their experiences, and develop healthy coping mechanisms for the future.

Divorce is often caused by misunderstandings. When these trivial things turn into divorce, children suffer the most. Innocent children know that families have fights and anger. Many parents argue in front of their children, and the violence begins in the child's mind. Many children blame themselves for their parents' divorce.

Misunderstandings often arise from lack of communication. Couples should carefully consider the welfare of their children before divorcing and act accordingly. Parents must be taught equal responsibility so that children do not suffer due to divorce. India recognizes the alternative dispute resolution model and encourages this model in domestic disputes. Mediation and negotiation are beneficial in families because it is inexpensive, justice is done quickly, and the decision is a win-win for both parties. Children are the future of the country and they need to be nurtured properly and be protected from the negative effects of divorce on them.

The impact of divorce on a child is profound and multifaceted, affecting their emotional, psychological and social well-being in different ways. While each child's experience is unique, research and anecdotal evidence consistently highlight the challenges and difficulties children can face when their parents divorce. The effects of a breakup can be far-reaching and lasting, from feelings of sadness, confusion, and anxiety to changes in behavior, academic performance, and social relationships.

But among the challenges, there is also room for resilience and growth. . . , and healing. By providing a supportive and caring environment, promoting open communication, and prioritizing

the child's needs and well-being, caregivers can help mitigate the negative effects of separation and promote the child's resilience and adaptability. Positive relationships between parents, stable routines, access to support networks and opportunities for emotional expression and validation are critical factors in helping children cope with the complexity of parental separation.

In addition, it is important to understand that the effects of separation are not static and can evolve over time as the child grows and adapts to new circumstances. By staying tuned to the child's changing needs, providing ongoing support and reassurance, and seeking professional help when needed, caregivers can facilitate the child's journey to healing and adjustment.

Finally, separation can present significant challenges for children and families. It also provides opportunities for growth, resilience and developing strong supportive relationships. By recognizing the impact of divorce on children and treating it with compassion, empathy and understanding, caregivers can help mitigate its negative effects and lay the foundation for the child's continued well-being and happiness.

