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## Divorce Practices Among Some North American Indian Tribes

GEORGE E. DICKINSON\*

The objective of this study is to present an overview of marriage termination practices among North American Indians and to compare the practices of these early inhabitants of the continent with contemporary practices. The Human Relations Area File was utilized to gather information on marriage termination practices of North American Indian tribes. Divorce was the most common practice used by the Indians; and divorce grounds available to them proved to be similar to contemporary North American customs. The consequences of divorce varied with different Indian tribes, but all tribes studied had similar attitudes toward caring for children of divorced parents.

North American inhabitants have a history of divorce which is very similar among both Indian and non-Indian populations. While the procedures of divorce differ, the grounds for divorce remain basically similar. Bohannon (1963) states that anthropologists have failed to study patterns of marriage termination in various cultures; thus this research will relate the various grounds for divorce as well as the consequences of divorce among these early inhabitants of North America and contemporary dwellers on this continent.

### Theoretical framework of the study

Despite the fact that social systems are not designed according to a blueprint, they are nevertheless organized (Loomis, 1960). There are accepted ways for earning a living, distributing rights and privileges, assimilating new members into groups, holding competition and conflict at a minimum, and establishing means whereby order is developed and maintained. In spite of the fact that individual differences occur between members of a social system, people are able to cooperate in carrying out transactions and to carry on in a somewhat orderly manner.

This "miracle of social organization" is due to the elements and processes which comprise the system. The elements tend to constitute the social structure of the system; whereas the processes fuse, support, and change the relations between the elements through time (Loomis, 1960).

Marriage, which is sometimes followed by termination through means other than death, is an element in this social organization. The various social systems devise ways which are acceptable for terminating marriage. According to Merton and Nisbet (1960):

All marriage systems require that at least two people, with their individual desires, needs, and values, live together, and all systems create some tensions and unhappiness. In this basic sense, then, marriage "causes" divorce, annulment, separation, or desertion. But though a social pattern must be able to survive even when many individuals in it are unsatisfied, it also will contain various mechanisms for keeping interpersonal hostilities within certain limits. Some family systems prevent the development of severe marital strains, but offer few solutions if they do develop. Two main patterns of prevention are discernible. One is to lower the satisfactions that the individual may expect from marriage; and the second is to value the kinship network more than the relation between husband and wife.

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Societies vary in their definitions of what is a bearable level of dissension between husband and wife as well as in their solutions for marriage difficulties. Devices to divert dissension, to avoid trouble, to train individuals to put up with difficulties, or to seek alternative relationships to ease the burden of marriage, show that societies generally do not place a high value on divorce. Divorce grows out of dissension, but it creates extra conflict between both sides of the family lines with prior commitments being severed and problems of custody and child support often resulting.

### Review of termination practices

In analyzing the literature concerning divorce among North American Indians, numerous causes and grounds for divorce were noted. According to Bohannan (1963), grounds for divorce must be distinguished from causes of divorce. The first is legal and can always be traced to nonfulfillment of rights or obligations assumed at marriage. The second is familial and is more varied and more difficult to examine than grounds for divorce. Divorce by mutual consent implies that no cause has been given and that grounds are not necessary to dissolve a specific marriage. The substance of this paper is such, however, that the terms "ground" and "cause" are used somewhat interchangeably, mainly because extensive study of divorced individuals would be required to establish underlying causes of divorce, and that was not the purpose of this study.

Among the Tarasco stated causes of divorce included drunkenness, wife beating, failure to support the family, or abandonment of a family by the man for another woman. Infidelity on the part of the woman was an important cause, while lack of children was seldom the direct cause of divorce (Beals, 1946).

Causes of divorce for the Tarahumara (Bennett and Zingg, 1935) were sterility, maltreatment on the part of the husband, carelessness of the woman in watching the animals, failure of the woman to be industrious around the house, not preparing food or making clothing, scolding or talking too much on the part of either the man or woman, adulterous relationships or too much liberty at fiestas on the part of either husband or wife, and failure to work the fields or to provide for the family on the part of the man.

The reason for divorce among the Plateau Yumans (Smithson, 1959) was adultery. Divorce among the Papago (Joseph, Spicer, and Chesky, 1949) was usually for incompatibility. Sterility on the part of the woman was reason enough for divorce among the Yokuts; the man would then seek out another spouse by whom he could have children (Gayton, 1948).

Divorce was easily obtained among the Pawnee. If on the wedding night the husband concluded his bride was not a virgin, he could leave her at once. If the wife proved unfaithful, divorce was effected merely by the husband's leaving the lodge. A man who committed adultery or one who was lazy or an incompetent provider could be driven out of the house by his mother-in-law or wife's grandmother (Dorsey and Murie, 1940). It is of significance to

note that in this group the wife herself had no authority to leave the husband or to ask him to leave.

The Mandan woman could divorce her husband by simply telling him to leave if they were living in the wife's parents' lodge; if living in her husband's parents' lodge, she collected her personal belongings and returned to her own parents' home (Bowers, 1950). A woman could divorce because of cruelty or adultery on the part of her husband, while a man could leave because of trouble with the wife's family or infatuation for another woman. Thus, divorce was simply a matter of leaving one's spouse for an "acceptable" reason.

The Crow also had an easy way to dissolve the marriage — a husband could divorce his wife for "crankiness, caprice, or adultery" (Lowie, 1935).

A form of divorce occasionally found among the Southern Ojibwa was referred to as the dance of divorce or the "throwing-wife-away-song" (Landes, 1938). The dance was a public occasion upon which the man displayed his bravery in discarding something that was dear to him. Since a wife was in this culture considered the love of a man's life, his act of throwing away his wife ceremonially would merit the term bravery. However many Ojibwa viewed the act with disfavor since the man was giving away something for nothing. If a man attempted this, his wife could retaliate with "bad medicine" or by spurning his favors if he solicited her again.

On the Northwest coast, the Bella Coola could seek a divorce when sterility and impotency existed (McIlwraith, 1948). Childlessness was the most common cause of divorce among the Nootka; cruelty and adultery were not grounds for divorce but might lead to divorce. If husband or wife had cause to leave the other, that person just walked out and it constituted the divorce (Drucker, 1951).

An unusual cause for divorce was found among the Aleut. According to Alexander, "If the baby did not resemble the father, family discord, maltreatment and divorce resulted" (Alexander, 1949).

It appears from available literature that not all North American Indian tribes practiced divorce, yet they approved other techniques for termination of an unsuccessful marriage. For example, among the Tewa (Pueblo) "divorce was almost unknown." Yet men and women could change partners as often as they wished (Whitman, 1947). Thus, no formal divorce existed.

Formal divorces were unknown to the Minnesota Chipewewa (Southern Ojibwa). One marriage partner could leave the spouse and return to his own family, and could remarry another (Hilger, 1939). (It should be noted that there is some conflict in the literature on the Southern Ojibwa, with one source stating that this society did not practice divorce and another saying it did. Apparently "separation" was commonly practiced, but since one was allowed to remarry after a separation, the practice is similar to what others call divorce. Allowing marriage to another after a separation also is contrary to the legal status of separation in contemporary North American society.) The Southern Ojibwa occasionally utilized desertion to sever relations with an unwanted spouse. The man would take his wife along on a trip to an uninhab-

ited island with the pretense of taking her for company and assistance. This arrangement enabled him to desert the wife by abandoning her to probable death. Such behavior was rationalized to "in-laws" by asserting that the wife was lost in a storm or in some other way (Landes, 1938).

Thus, all the North American Indian tribes considered here had ways of terminating marriage. The "plaintiff" in most divorce proceedings could be either the wife or the husband.

### Consequences of Divorce

The consequences of divorce among Indian tribes also may be analyzed. Among the Zuni "divorce apparently carried little or no social stigma" (Smith and Roberts, 1954). "Divorce" among the Southern Ojibwa approximated the status of "desertion" in the United States today; it was institutionally ignored. No one had the right to interfere seriously with the affairs of another couple. One did not lose face because of a number of separations (Landes, 1938).

The Bella Coola saw the most unfortunate consequence of divorce as the stigma it would cast on the children (McIlwraith, 1948). The Bella Coola wife usually kept the younger children while the older children used their own discretion and sometimes passed back and forth from one parent to the other. Both parents continued to take personal interest in their welfare (McIlwraith, 1948). Thus, the available information shows that these Indian tribes provided for children who were victims of divorce.

Divorces were also viewed negatively by the Yurok, who considered a divorce to be a disgrace upon posterity and a shame upon moral society. A divorce in this group usually resulted in bloodshed (Thompson, 1916).

Among the Tlingit a man was not held accountable if he cast off his wife. The wife went to her people, and little or nothing was done about it. Yet it was deemed as such a disgrace for a wife to be cast off that she would endure the most brutal treatment and sometimes even death itself before she would leave him (Jones, 1914).

Among the Kaska, the deserted spouse sometimes accepted that status immediately; this was especially true of the women. However, when the deserted one was the husband, his typical reaction was to contest the woman to counteract the shame (Landes, 1938).

The Nahane judged divorce as neither arousing shame nor criticism, although the deserted spouse might display more or less resentment (Honigmann, 1949).

One's reputation was not damaged by changing mates several times during a lifetime in the Nootka tribe (Drucker, 1951).

Most of the societies analyzed had rules regarding the placing of children involved in a divorce case. Among the Nahane little notice was taken of separation unless it occurred between a couple who had children. In divorce, children remained with the mother unless they were old enough to prefer the father and were able to care for themselves (Honigmann, 1949).

Among the Southern Ojibwa (Kinetz, 1947) the man kept the boys and the woman kept the girls in divorce cases.

Among the Pomo the children were left with the mother irrespective of who left whom (Lieb, 1926).

The children of the Aleut always remained with the mother or with an uncle (Venizminov, 1840).

The Plateau Yumans placed the responsibility in most cases upon the father to help support the children, and the wife usually kept the small children (Smithson, 1959).

In some Indian tribes compensation had to be made to the parents of the divorcees. For example, the Tlingit required that if a man sent his wife home because he disliked her, he had to return wedding gifts given by her relatives along with the bride. However, the father-in-law was under no obligation to give back any presents he received from the bridegroom. If a man left his wife because she was unfaithful, he could keep the gifts he received and could demand those which he gave (Krause, 1956).

The Yurok allowed a woman to leave her husband at her discretion, provided her kin were ready to make a refund (Kroeber, 1925). A similar situation was found among the Bella Coola, who required that the wife refund the amounts of purchase money when a separation occurred (Boas, 1892).

### Analysis of Findings

The literature reviewed indicates that sterility and adultery were the most common grounds for divorce. These were found in at least fifty percent of the eighteen tribes cited (Table 1).

Grounds used by these Indians do not differ significantly from grounds acceptable for divorce in the United States today. Adultery is the only ground for divorce which is found in all fifty of the states, and sterility is grounds for annulment in some states. Cruelty is a ground for divorce in the laws of most of the states and is the ground most commonly used today, being cited in almost two-thirds of divorces. Desertion is a common ground for divorce and is used in almost one-third of divorces granted. Thus, of actually-used grounds for divorce in the United States, cruelty and desertion are cited in approximately ninety percent of the proceedings.

TABLE 1. Grounds for divorce among selected North American Indian Tribes

Tribes	Desertion	Sterility	Adultery	Incompatibility	Cruelty	Laziness
Yumans			x			
Papago				x		
Yokuts		x				
Tarasco	x					
Tarahumara		x	x		x	x
Pawnee			x			x
Mandan			x		x	
Crow			x		x	
Bella Coola		x				
Nootka		x		x		
Tlingit				x		
Aleut		x	x	x		
Nahane		x	x		x	
Micmac		x				
Shawnee		x	x	x		
Ojibwa		x		x	x	
Pima	x					
Creek				x		

Non-support or neglect is a ground for divorce in most of the states today. This could be comparable to "laziness," the term used by the Indians, which may be more effectively descriptive. Impotency is also a ground for divorce in most states, yet it is seldom used. Some of the Indian societies could have meant impotency rather than sterility when they refer to "barrenness" and inability to have children. Most of the groups specified sterility, however.

Thus, one could conclude that the grounds for divorce among these early-day inhabitants of North America were not significantly different from the grounds normally accepted today. It appears that some of the Indian societies also had the same problem of divorce that we have in the contemporary United States. The role expectation of the divorcee was not clearly specified. Some Indian societies viewed the divorcee as disgraced, while others thought nothing of that position since it involved a private affair. Post-divorce meetings between the two families were sometimes awkward, and often financial settlements had to be made.

No clear-cut norm exists today regarding one's reaction to a divorcee. Whether to try to console the individual or to praise a recently divorced party is not clearly established. No black-rimmed envelopes are sent out announcing divorce as were white-rimmed ones at the time of marriage. Divorce reactions among contemporary North American society generally do not result in bloodshed, as was true among the Yurok tribes, but this does not eliminate this reaction.

Both early inhabitants of North America and contemporary residents show a concern for children of divorced parents since both groups made provisions for these victims. Contemporary practices generally give the children to the mother if at all possible, while the father is held responsible for child support until the child reaches a certain age. Children of divorced Indian parents also were usually given to the mother. However, some prescribed that boys be raised by the father and the girls by the mother. In some tribes the father had a financial responsibility to the children. These Indian societies did not have a system of alimony as we know it today, but in some cases the husband was expected to return his "wedding" gifts to the ex-wife or her parents. In a few cases the bride's parents had to return the bridal price.

A striking difference in the Indian divorce proceedings and modern non-Indian North American divorce proceedings is that the Indian societies did not have a formal court process as we have today. Rather, in many cases, one party would simply walk out of the lodge. One must keep in mind, however, that these Indian societies did not have the highly complex system of legal record keeping which we have in our society.

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