The Social Sanction of Divorce: Who Ultimately Pay the Social Costs of Its Adverse Effects?

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Abstract Like marriage, divorce has remarkable effects on individuals, family and society. Marriage performs many basic and social functions whereas divorce involves diverse social impact (both positive and negative) on the divorcees. In Bangladesh, divorce has not received significant attention from the research community yet, though both marriage and divorce are socially sanctioned that recognize the changing patterns of the most important institutions - family and marriage - in the society. In order to explore the adverse effects of divorce, a cross-sectional study was conducted in 2007 over Sylhet district (north-east part of Bangladesh) by applying ‘Case Study’ as method and ‘Interview and observation’ as data collection techniques with a sample of twenty divorced women. The study elicited that child marriage still occurs though the rate is not higher than that of before. Polygamy is increasing at high rate resulted from the exercise of modern norms and values, satellite culture, professional and occupational diversity, reconstitution of nuclear family breaking down the joint family, poverty, and the like. Divorce rate is steadily increasing and its social effects are many and multi-facets. Women are the primary victims who carry most of the instantaneous consequences of divorce and ultimately pay most of the costs of its adverse effects.

Keywords Woman, Marriage, Divorce, Social Sanction, Social Costs, Adverse Effects

1. Marriage

Marriage is a socially and legally sanctioned union between a man and a woman regulated by laws, rules, customs, beliefs, and attitudes of the society (Encyclopedia Britannica 2008). The universality of marriage does not attribute only to the concept of erotic harmony but also indicate a union of many sided persons. The social magnitude of marriage accredits some basic non-erotic functions like love and affection, carries a community of traits, and considers feelings of interests in a shared life (Strong and Cohen 2011; Pedersen 2012; Fonseca 1966). The connotation of conjugal lives clutch a workable means in making joint decisions invested over various areas. The social sanction of marriage helps two different persons harmonize the inherent meanings of both marriage and conjugal life. As social institution, marriage teaches the couples how to develop their reciprocal relations and roles, adapt with the conflicting facts of their personalities and encounter the challenges in conjugal life arisen from the ever changing social situations (Fonseca 1966). Marriage as cultural universal has many facets that prescribe the rights and duties of the partners; recognize sexual unity; procreate the children for regulating the lines of decent and accord status to their offspring; deal the financial matters; take part in recreational activities; and maintain the in-laws relationships. Thus, pairs of male-female come into a joint venture of the life with differences in daily routines, eating, habits, personal tastes and ways of thinking and dealings (Rahman 2007).

2. Divorce

Divorce is another potential aspect of the woman life integral to marriage (WB 2008). The culture of nuptial life may permeate through many disagreements and profound differences of opinion that sometimes turn into marital conflicts. Long-lasting and divergent quarrels and conflicts may be dissolved by several ways like abandonment, annulment, desertion, adultery, separation but ended up by divorce that ensconce both the couples as divorcee in the society. Divorce, thus, takes up the social sanction that formally separates husbands-wives from their conjugal life, puts the adjective as ‘divorcee’ beside their social status and creates many effects in their social life (Rahman 2007). Like marriage, divorce is almost universal in all societies but varies in the degrees and conditions imposed by the legislations and procedures of the society (Parvez 2011; Ahmed 2005; Bertrand 1967).
The incidences of divorce are seen different among the social classes of society. Migratory divorce and divorce by extramarital relationship are most common among the nouveaux riches. Marriages among the middle-class professionals, bureaucratic and upper-class groups are notably stable. In general, groups with less education and lower social status have high rate of desertion. The individuals with financial solvency and social mobility are more apt to solve their marital problems. The people who have those in society, their marriage may contain a possibility to be ended by extramarital experimentation or by divorce (Rahman 2007; Ahmed 2005).

Many causes can accelerate the motion of divorce irrespective of societies. The wife’s labour force participation and the husband’s employment and urban residence seem to influence the probability of divorce, irrespective of the stage in the marital life course. At the same time, the effect of the wife’s education appears to decrease the probability of divorce in the early marital duration but to increase in the later duration (South and Spitze 1986). Many researchers have found that modernization and urbanization processes foster anonymity and impersonalization of social interaction, which in relation to the family weakens the stigma of divorce, and in turn increases divorce (Ahmed 2007). The rapid urbanization and industrialization, development of urban and industrial economy, improved education and employment opportunities for women, heterogeneity in sexual relations, extramarital relations and the socio-economic status of spouses have also been identified as causally related with the changes in conjugal perceptions and the consequential rise of divorce in modern societies (Parvez 2011; South and Spitze, 1986).

2.1. Statistics of Divorce

Global divorce rate is increasing notably in industrialized countries. In the US, 50% of first marriages, 67% of second and 74% of third marriages end in divorce (Marthamamabella 2012). In 2011, economic problems accounted for more than 24% divorce cases in Indonesia (Marthamamabella 2012). In Malaysia a Muslim couple gets divorced by every 15 minutes (Onislam 2011). There was a slight but steady increase in the number of divorces recorded over a 10-year period, with over 33,000 couples splitting up in 2010 (Sipalan 2012). In Bangladesh, the scenario: mean age of marriage and rate of widow, divorced and separated population is different. At the beginning of twentieth century the average age of marriage found less. It had increased at a slow motion over few decades. In 1980s the divorce rate along with marriage had significantly declined. From 1990s the ratio of widowed, divorced and separated in both sexes has dramatically increased. According to a report of BBS on marriage, divorce and separation in Bangladesh, the number of divorced and separated people in 1994 was 0.19 million. By 1996, this had increased to 0.23 million (Rahman 2007; BBS 1998). In the first decade of twenty-first century, the rate of divorce has increased but paid less attention to the Bangladeshi society, perhaps due to the culture and social sensitivity of the issue (Parvez 2011). Moreover, divorces may increasingly be initiated by both men and women. According to the BBS report, the crude divorce rate for women was petty higher than men (BBS 2009; Ahmed 2007) due to considerable socio-economic development and changing values relating to women’s education, age at marriage, changes in health conditions, life-expectancy, employment opportunities, family structure, and women’s family status (WB 2008; Sultana and Karim 2005). The incidences of divorce are furthering among the new couples due to higher education, dynamism of profession, acculturation, and westernization of traditional domestic values (Ahmed 2005; Rahman 2007). These socio-economic changes have also affected the family life including marriage and divorce (Parvez 2011).

2.2. Consequences of Divorce

Divorce has received significant attention in many developed and least developed countries because of its striking effects on individuals and society (Parvez 2011). Its consequences are unequal for men and women but may vary according to gender, ethnicity, life cycle, social support, and changing values relating to women’s education, age at marriage, changes in health conditions, life-expectancy, employment opportunities, family structure, and women’s family status (WB 2008; Sultana and Karim 2005). The incidences of divorce are furthering among the new couples due to higher education, dynamism of profession, acculturation, and westernization of traditional domestic values (Ahmed 2005; Rahman 2007). These socio-economic changes have also affected the family life including marriage and divorce (Parvez 2011).

Most formal divorces follow a complex legal process and involve highly charged feelings about custody, property, and children (Berlin 2004). Divorce, formal or informal, may contain the probability of stressful events in personal life. Divorced people tend to experience increased depressive feelings over time and pass the days with great psychological pain and disapproval of divorce, both men and women experience greater decline in friends, relatives and neighborhood contacts after divorce (Kalmijn and Uunk 2007). One of the most damaging consequences of the no-fault divorce is that systematically impoverish divorced women and their children. Due to divorce, women are very prone to live under the disguise of social stigma than men in the society (Rahman 2007). In contrast, women are primarily responsible for both rearing children and providing economic support for their survival (Maccoby et al. 1993). As a result, after dissolution of marriage women are at a greater risk of poverty than that of men. Many developmental psychologists argue that family problems, including discord and divorce, affect children primarily by disrupting parent-child relationships (Amato 2001 and Sobolewski; Davies and Cummings 1994; Hetherington and Clingempeel 1992; Hanson 1999; Jekielek 1998).
2.3. Legal and Judicial Arrangement for Marriage Dissolution in Bangladesh

Both secular laws and Shariah (Muslim) laws are present in the regulation of women’s lives in Bangladesh (Parvez 2011). The contract of marriage under those laws may be dissolved in any of the forms: (1) by the husband at his will without the intervention of a court; (2) by mutual consent of the husband and wife without the intervention of a court; (3) by a judicial decree at the suit of husband or wife. Despite having the legal procedures of divorce, gender biased polygamy and divorce are practiced and prevalent in Bangladesh. Many socio-psychological, economic and administrative causes: women’s lack of awareness about the legal procedure of divorce, deprivation of local administrative support at divorce, various illegal processes like holding a second marriage without the permission of the first wife, divorce without paying any alimony, and verbal divorce without following legal procedures help the aspirants practice the divorce culture in Bangladesh (Sultana 2004).

As per the provisions of Shariat Law, the wife could not divorce her husband without his consent except under a contract made before or after marriage but she might, in some cases, obtain a judicial decree for the dissolution of her marriage. And as per the section 24(1) of ‘Muslim Marriages and Divorces Registration Rules, 1975’ and the section (8) of ‘Muslim Family Law Ordinance, 1961, if the right to divorce is delegated to the wife in the Nikahnama, the wife can affect the divorce by exercising her right of divorce) on any one or more of these eight grounds: (i) the whereabouts of husband unknown for four years; (ii) negligence or failure to provide her maintenance for two years and taking an additional wife without her consent; (iii) imprisonment for seven years or upwards; (iv) failure to perform marital obligation for three years; (v) impotence of husband at the time of marriage and continues to be so; (vi) husband’s insane for two years or leprosy or virulent venereal disease; (vii) child marriage before the age of eighteen or repudiation before the age of nineteen; (viii) husband’s cruel dealings (Choudhury 1997).

2.4. Theoretical Perspective of Divorce

‘The Four Phase Theory of Divorce’ was considered to explain how marriages in Bangladesh come to an end. The theory compresses four general phases: deliberation; litigation; transition: and post-divorce or redirection. The deliberation phase involves the decision to divorce. The spouses often allege to have the experiences of dissatisfaction, alienation, loneliness and despair, and commence to emotionally withdraw from the relationship. There are a variety of attempts to manage their feelings but harmful attempts to quiet pains may lead to alcohol or drug abuse, extra-marital affairs, or other distracting behaviors. The second phase involves the appeal of legal proceedings from the court when both bride and groom or the concerned parties fail to attend to the emotional gaps, find the mitigation process painful and explore the conjugal life a source for long-term conflict. Once the decision to divorce surfaces, couples enter the "transition" phase and thereafter feelings of hurt, fear, humiliation, loss, abandonment and powerlessness drive their behaviors. Anger and pressure mount as couples face an uncertain economic division and the challenges of child custody. Spouses may reconstruct their picture of each other in negative terms to justify harsh treatment. The adversarial nature of litigation pushes all the...
emotional buttons brought on by the transition phase. Efforts to diminish the impact of litigation ease and shorten transitions, lower the potential damage to children’s development, and help in the final phase of post-divorce life. Therapeutic support during this emotional phase and the use of alternatives to litigation, such as mediation, are effective in lowering the negativity in post-divorce phase (Zaroff and Keane 2012).

3. Materials and Methods

The study was cross-sectional in nature. To explore the diverse impact of divorce on the ‘wives’ was the prime objective of the study. The study was conducted in Sylhet district of Bangladesh. All of the divorcees (women) of the district were counted as population and each divorcee was taken as a case of the study. Twenty divorcees, who came to Bangladesh Legal Aid and Services Trust (BLAST) and Women Support Program (WSP) either for arbitration of their marital conflicts or having legal action against the illegitimate steps of divorce by husbands, were included in a purposively selected sample. Both qualitative and quantitative data were collected from the sample by applying ‘Case Study’ as method and ‘Observation and Interview’ as data collection techniques. In order to interpret the primary data, significant information extracted from the review of few articles, books and research reports are also discussed in this paper.

4. Results

4.1. Socio-Economic Profile

The mean age of the divorcees was about 30 (X=30) years. A half of them were illiterate and able to sign their name. One-fourth had primary education, 20% secondary education and the rest a tertiary level of education. About 30% had gotten remarried and the rest had not. They engaged in manifold professions: housewife, household works, service, business, day labor, handicraft and agriculture. Their monthly income was below $ 35 dollars. More than fifty percent had no income. Majority of them lived in nuclear and few in joint families. Along with guardians the divorcees worked as decision-maker about the family matters. The eldest son of few divorcees shouldered the family responsibilities. The rest divorcees whose parents were not alive used to lead the family and take all decisions concerning familial affairs.

4.2. Marriage

About 75% family choices got priority to select the groom in marriage and the rest divorcees showed their reservation against the family decision. About 35% family guardians: father, mother, brother and influential relatives forced them to get married. Their likes and dislikes were not evaluated to choose the groom. Majority of the families were conservative regarding the matter. After being finalized the family choice and decision, 35% divorcees informed the guardians about their dislikes but the rest didn’t do that. Only few divorcees got married by their own choice. Most of the couples before marriage didn’t know each other. The close relatives played a role as matchmaker in marriage. In most cases, the guardians selected the groom for their daughter’s marriage. Both the groom and bride who were few in number selected each other as husband and wife ignoring the decision of guardians. Valuable furniture, property, ornaments, goods, and cash money were given as dowry in marriage. The brides paid dowry to the grooms. Few grooms paid dowry exceptionally to the brides who lived in abroad and possessed a ‘Red Passport’ or came of a renowned family. About 30% divorcees ascertained dowry as a condition of marriage which was paid at the time of or immediate after marriage. Only 10% informed not to be paid dowry as was promised. In 70% marriages dowry was not transacted but bride’s party met various demands of the groom’s party.

The dower was a part and parcel of the marriages in the study. A particular amount of money agreed by both parties was mentioned in the Marriage Registration Form. Brides are entitled to receive it from their husbands in consideration of the bride’s prize (Halim 1995). It works as a type of social and financial security for them as quoted in the ‘Muslim Family Law Ordinance 1961’, and ‘Muslim Marriage Registration Rules 1975’. Husbands are bound to pay it immediately after marriage. Only 10% informed not to be paid dowry as was promised. In 70% marriages dowry was not transacted but bride’s party met various demands of the groom’s party.

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4.3. Divorce

The sampled cases were divorced when they were (X=24) years. Most of the marriages were dissolved within the age group 17-26 years. Child marriage was explored as one of the major causes of their early divorce. Only few couples dismissed their relationship after forty years of marriage. Their conjugal life prolonged more than five (X=5) years.
Maximum divorcees cut off their nuptial life after 2-9 years of marriage. Familial conflicts, misunderstanding, maladjustment and violence between husbands and wives accelerated the dissolution process of marriage. However, the following causes were specified from the case histories of the divorces.

First, dowry was found as a curse of disrupting their conjugal life because of shifting the paradigm from dower system to dowry system (Ahmed 1987). In spite of the prohibition of dowry transaction by laws, in Sylhet the bride parties provided dowries: furniture, electronics goods, cash money, ornaments, and properties as demand of the grooms’ party. The poor and poorest parents who had no alternatives sold their assets or borrowed money from moneylenders or relatives to pay large amount of dowries. Majority divorcees accused of unpaid or inability to pay (extra) dowries as the main cause of separation in their conjugal life.

Secondly, no wives could escape physical and mental torture due to maladjustment, and conflicts in their conjugal life. They tried their level best to run off such unjust behaviors of husbands. They cut off the relationship with husbands when oppressions crossed the limit, protracted or became unbearable to them. Those who experienced severe violence, finding no other alternatives, accelerated the process of dissolution of their marriage.

Thirdly, if husbands get second marriage without consent of the first wife, the first wives can divorce their husband or can appeal for a decree from the court for dissolution of marriage (Halim 1995). All divorcees in this case appealed to the BLAST or WSP for having legal action against husbands’ illegitimate steps of second marriage or rampant tortures or reluctance to continue the marital relationship. Some parents didn’t want more hustle subject to the dissolution of marriage thinking their daughter’s remarriage. Majority of the husbands availed this opportunity and divorced their first wives.

Fourthly, illicit love provoked both husbands and wives to accelerate the dissolution process. Majority of the divorcees tried not to divorce their husbands as they got afraid of social stigma as ‘bad women’. The evidence was largely found in urban and lower class families than that in rural, upper and upper middle class families (Kashem 1998).

Fifthly, more than a half of the divorcees (55%) reported family conflicts as one of the major causes of their divorce. These cases were found more in joint and extended families. The divorcees alleged the double standard roles of relatives from both sides who tried to incommode their immaculate conjugal life.

Sixthly, economic solvency contributed to strengthening the reciprocal relationship between husbands and wives. Financial crisis, in contrast, created discontents because of unfulfilling the gratifications in conjugal life which also accelerated the process of separation between husbands and wives.

Seventhly, sexual disability made many couples displeased in their conjugal life that compelled wives to divorce their husbands.

Eighthly, only one woman was divorced due to her inability to produce any child during the conjugal life. Reality is if this undesirable symptom comes from the husbands, the wives try to ignore it. But it was of the wives, the husbands did not do the same.

Ninthly, few divorcees were divorced for their inability to produce male issue. Iliterate husbands were ignorant of their wives ‘no-fault’ that was found largely in rural than urban community.

Tenthly, two respondents condemned the long-running cultural conflicts for dismissal of their marriages.

Eleventh, two divorcees dissolved their marriage due to their husband’s drug addiction. They alleged husbands for becoming drunkard most of the time and frequently tortured physically and harassed them sexually and socially.

### 4.4. The Social Sanction of Divorce

In the Muslim community husbands may divorce their wives, whenever they desire, without assigning any cause or contracting with their wives. As per the provisions of Shariat Law, wives can not divorce their husbands without consent. Although the power of divorce belongs primarily to the husbands, if they delegate it to, the wives may divorce their husbands as per the section-18 of the Form of Nikah Nama mentioned in the section-8 of the Muslim Family Law Rules 1961 that is called Talak-e-Tawfeez. In this study the fact was not infrequent since all divorces were socially sanctioned by the interference of BLAST and WSP. Data manifests that husbands and wives mutually agreed to dissolve their marriages providing that husbands would pay due dower or assured to pay it to wives.

### 4.5. Adverse Effects of Divorce

Multifaceted social effects of divorce were found in the study. First, average duration of the divorce was six years when the study was conducted. Within this time about 30% divorcees got remarried. Majority could not go for remarriage because of social stigma as ‘divorcee’. Secondly, dower mentioned in the Kabin (Marriage Registration Form) was kept as a socio-economic security as well as an obligation of payment to the brides immediately after marriage. But 40% divorcees were completely paid while 35% not paid at all and 25% not concerned of it. Thirdly, getting shelter was a great problem to the divorcees. In absence of mother 20% of them were leading a miserable life at their father’s home. About 15% was living with mother. In absence of parents 15% was residing with brother and the rest was abiding with their husband by second marriage. Fourthly, women in the Muslim community usually maintain three months Iddat period immediately after divorce. By this time all expenses of wives must be borne by their husbands but looked after by their parents or family members (Choudhury 1997). In most cases, expenses of the divorcees and their children were partly borne by husbands as they were encountering problems due to be alone, poverty and
less ability to bear expenses, and maintaining a new family by remarriage. Among them, about 40% had one or more than two children who were looked after and met daily expenses by their respective mother, father and their grandparents. Fifthly, the divorcees who did not get remarried, were leading a disappointed life. They reported that societal people alleged them for divorce and considered them as ‘bad woman’. To avoid the situations they usually remained inside the home and pass their times with household works, religious activities, watching television, and hearing radio. No one wanted to survive in the way of being socially disabled but remarriage. Sixthly, those who were not remarried had been passing days with some miserable conditions: mental stresses, depression, anxiety, financial crisis, loneliness, dependency, and difficulties in second marriage. Few of the significant adverse consequences are:

First, many divorcees informed that they felt dependant in the society. Their ‘divorcee’ status degraded the isolation process more in society and thus, they had been suffering from loneliness in social life. Almost all considered them as bad illustration, defamed themselves calling inauspicious, and remarked that divorce enhanced the disgraceful situation more in society. Secondly, rearing up the offspring was a crucial issue for them. As mother most of the divorcees shouldered the duties of love, affection and caring of their beloved children but failed to spend enough time for them when they got remarried and engaged in works to earn money for their livelihood. Thirdly, majority of the divorcees did not remarry but wanted to get remarried. Simultaneously, they deeply concerned about many socio-economic conditions: dowry, children from the previous family, financial inability to maintain expenses of remarriage, likable and same status dramatis personae, and social scandal. Fourthly, after separation many of them got mental shocks. They could not restore the impaired personality due to divorce with husbands. An emotional impasse and metrical irregularity of thinking along with economic penury encompassed their daily life and drove them towards the social and biological sufferings. They could not pay attention to economic activities as much as they needed to face economic crisis. Fifthly, those who got remarried were leading another hazardous life owing to maladjustment with husbands and their relatives.

5. Discussion

All divorced women (divorcees) were from the Muslim community. Child and forced marriages were found in the study. Both early and forced marriages brought sufferings in their conjugal life and simultaneously, posed a threat to dissolution of their marriages.

The divorcees almost came from lower class, lower middle class and middle class families. Data collaborated with Ahmed’s study that divorce was more common among rich and middle class, though it was not absent among poor (Ahmed 2001). The family guardians (fathers) took final decision of marriage concerning their sons and daughters. Majority of them reached to a consensus regarding the decision of separation while in some cases it was not. When an agreement proceeded to the dismissal, husbands used to provoke wives to give them divorce because of evading the dower and concomitant expenses. After closing all payments, the wives took the decision first and divorced their husbands accordingly. But there was a nexus in the agreement as husbands finalized the decision to divorce their wives they forced wives to divorce them first. Whenever the wives exceptionally refused the proposal, husbands started to menace them for mental and physical torture and not giving them dower and expenses. In contrast, finding rampant conflicts, disagreement and realizing the impossibility to continue the relationship, the wives themselves or their guardians launched the dissolution process of marriage being afraid of any obscurity to remarriage, social sufferings and teasing. Both the families remarkably tried to mitigate the mounting tensions between the couples. Sometimes their efforts brought success or resulted in failure. When any party determined to go for the step of separation, all efforts failed to bring them back to normal life and then the mutual contract from both sides was made for dismissal of marriage. Thus, all the cases of divorcees took the form of social sanction by the interference of both NGOs: BLAST and WSP, and family guardians.

No couples desired the dissolution of marriage but expected a happy and benign family life. This is why all of them tried to sacrifice their life thinking that a good adjustment and relationship with husband could make them happy in conjugal life. But vivid causes such as dowry, maladjustment and conflicts with husbands and their family members, husbands’ bigamy, illicit love and extramarital relationship, and inability to produce male issue dismantled their marital lives. The divorcees who belonged to lower class and poor families thought they could not bear the expenses of remarriage as it may bring further social miseries to their lives. The findings explore, although all divorcees including their husbands and children were victimized by the negative consequences emerged from the dissolution of marriage, wives paid most of the costs of social sufferings in their post-divorce life.

Almost all divorce cases followed the general phases of the ‘Four Phase Theory of Divorce’. When BLAST and WSP interfered to mitigate the marital conflicts and difficulties in conjugal life, both husbands and wives deliberately agreed to dissolve their marriage. The NGOs arbitrated the dissolution process without having proceedings from the court. After the decision of separation, both couples commenced to review the previous activities that were responsible to break their nuptial relationship. Both alleged each other regarding the miseries in life and got afraid of the uncertainty of the post-divorce life. Few divorcees reported their comforts by getting exemption from the long-running marital conflicts and tensions, though many adverse effects encompassed their social life and brought physical and psychological
stresses and sufferings in their post-divorce life. The wives were the primary victims as well as paid most of the costs of the adverse effects of divorce in society. Thus, the findings of the current study found consistent and corroborated with those phases of the ‘Four Phase Theory of Divorce’.

6. Conclusion

Multifarious socio-economic problems are making the major detractors on the way of rapid socio-economic growth and development in Bangladesh. Divorce is such a problem that breeds many other social, economic and cultural constraints which compel the divorced women to lead a traumatic life behind the screen of society. Women are disregarded and deprived in all spheres of social life. Moreover the problem like divorce thwarts them to social exclusions. Fundamental rights: feeding, clothing, sheltering of the divorcee women living under hard core poverty remain off their hand inaccessibly auxiliary. They are not equally employed and economically well off as men are in the society. Social miseries of all issues of divorcee remain beyond off the records. Parents fail to make their offspring established in the society owing to scarcity of resources in the family. Consequently, women rely on their husbands and comply with subjugation in all aspects of life. Due to divorcee status children also become deprived of the parental affection substantially that influences their socialization process negatively (Rahman 2007). Thus, due to divorce the divorced women pay a lion share of the social costs of consequences from their familial to social life.

REFERENCES


