

donna2 (« donnadue » in Italian) : Swiss Association founded by women living with a separated or divorced man

Report for the UN, Child Rights Connect

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How to reduce mistreatment towards children of separated/divorced parents in Switzerland

Introduction

In Switzerland about one child out of two has separated or divorced parents¹. Since 2000, the law has banned the notion of fault in divorce situations. This wise change has sadly increased the use and abuse of children's custody as a reason to fight. In Switzerland, the amount of the child's maintenance is heavily linked to the type of physical custody (sole or shared) and not to the real cost of the child for each parent. The definition of shared physical custody is not clear and each canton, each lawyer, each judge has his way of interpreting and enforcing the law. In case of sole custody, the mother is usually awarded child's maintenance based on the father's income². Even if the law has very recently started promoting shared custody, many judges remain conservative and mothers are much more likely to get the custody. Divorce procedures can last many years, up to more than 20 years in Switzerland. This actual situation can have bad side effects on the child's development.

Child mistreatment in divorce situations

- 1- Children too often hear this kind of devastating sentences "if you live at your father's house, I won't get enough money to make a living" or "your mother wants you to live at her place so she can get more money from me". Indeed if the father's income is correct, there is a strong

¹ <https://www.bfs.admin.ch/bfs/fr/home/statistiques/population/mariages-partenaires-divorces/divortialite.html>

² In Switzerland, child maintenance is usually calculated with the « Zurich tables ». For one child, 15% of the father's income, for 2, 25%, for 3 or more, 30%. <http://www.vaudfamille.ch/N212208/divorce-separation-et-calcul-pension-alimentaire-contribution-d-entretien-br-vos-questions-des-conseils.html>

financial pressure on the mother to get a sole custody and on the father to get a shared one³. Parents' emotional state is altered by the grief of separation. As children naturally identify themselves with both their parents, these sentences have devastating effects on their self esteem, on their trust relation to their parents, on their sense of inner security and even on their sense of identity. As we fight for equality and recognize the importance of both parents for the child, our society should not enable nor allow such sentences to be said. Not only are separated parents mistreating their children but our society is also responsible for it.

- 2- Parent alienation syndrome⁴, emotional incest⁵, false allegations⁶ and children used as "terrorists" against the other parent⁷ are situations that could be better prevented but that occur too often and are usually minimized and not well diagnosed nor treated. These situations impact very negatively children's psychological and physical health.
- 3- Children's protection offices are often overwhelmed with high conflict situations. Judges sometimes too. Lawyers have no financial interest in working towards compromises, nor in shortening procedures. Psychiatric expertises last very long. Thus, children are often torn for years between their two parents and even used as psychological and/or juridical weapons. Parents are not helped in mourning their ancient couple and can get financially ruined by legal procedures.
- 4- In certain cases, children are kidnapped by one parent or simply not brought to the other "visiting" parent. In high-conflict situations, judges tend to give a sole custody to mothers (very rarely to fathers). In Switzerland, 31% children have less contact with their father after parent separation⁸. Depriving children from one parent is not the best solution. The absence of the father also has negative effects on

³ One example on usual child custody and maintenance : a couple from Geneva divorces. The mothers takes care of the children 65% of the time and the father 35%. He earns 7500 CHF/month (average salary in Geneva). He pays the mother 1800 CHF/month (25% of his income). She also gets 600 CHF/month from family allowances. She also benefits from tax deductions and if needed social aid, as the children officially live with her.

In Geneva, 2 school aged children cost in average 2400 CHF/month which is precisely what the mother will get each month for her children (1800+600).

⁴ "Adult recall of parental alienation in a community sample: Prevalence and associations with psychological maltreatment." Amy Baker. Journal of Divorce and Remarriage, 51, 16-35. 2010 or "Syndrome d'aliénation parentale - Thèse du docteur Bénédicte Goudard"

<http://jm2p.e-monsite.com/pages/syndrome-d-alienation-parentale-these-du-docteur-benedicte-goudard.html>

⁵ "Toxic parents" Susan Forward and Craig Buck. Paperback. 2002

⁶ "Tribunal : père accusé à tort" Pierre Aubert. L'Express. 2001

⁷ "Famille éclatée, enfants manipulés" Jean-Pierre Cambefort. Albin Michel. 2016

⁸ "Kinder und Scheidung: Der Einfluss der Rechtspraxis auf familiale Übergänge" Andrea Büchler and Heidi Simoni, 2006 http://www.nfp52.ch/d_dieprojekte.cfm?Projects.Command=details&get=33

children's psychological development⁹, is known to increase externalizing behaviours, risky behaviours, smoking and early childbearing. Preventing or treating an infection is better than letting things go until there is no better solution than cutting off a limb.

Solutions

- 1- In many regions in the world, creative prevention measures have been taken :
 - a. In Nebraska, USA, for instance, **separating parents** get an invitation to follow **classes**¹⁰ on divorce, custody and co-parenting. In order to divorce, they need a certificate from these classes and a "parenting plan".
 - b. In Cochem, Germany, a method includes psychologists, mediators, judges and lawyers trained to deal quickly with separation situations, in a child centred way. The psychologist who cofounded this "**Cochem model**"¹¹, Ursula Kodjoe, is giving a lecture in Geneva on October the 2nd, 2017, invited by the forensic medicine service of the HUG (university hospital of Geneva), that is interested in introducing this model in the canton. Many regions in Europe have started practicing the "Cochem model".
 - c. Ursula Kodjoe also works with **schools** in Germany on the idea of giving **preventing courses to children** on the themes of marriage, parenting and divorce.
 - d. In most places, professionals know they should forbid a parent to talk negatively about the other parent.

- 2- In Switzerland, what could be done ?
 - a. Better **information** about these themes should be given to professionals, parents, children and the whole population.
 - b. In most western countries, there are **family courts** dealing with cases of separation and divorce. In Switzerland, there is only one family court in Aargau. It could be extended to all cantons.
 - c. Multidisciplinary methods are more efficient in case of high conflict. Early **mediation** and **psychosocial measures** are known to prevent high conflict between parents and help them find consensual solutions for their children despite their grievances. In Geneva, there used to be one **mandatory visit to the child protection office** for separating

⁹ "The Causal Effects of Father Absence" Sara McLanahan, Laura Tach, and Daniel Schneider. Annu Rev Sociol. Jul; 39: 399–427. 2013 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3904543/>

¹⁰ <http://lancaster.unl.edu/family/divorce.shtml>

¹¹ https://www.researchgate.net/publication/293419115_The_cochem_model_Two_decades_of_interdisciplinary_cooperation_on_family_conflicts_-_Stocktaking_and_retrospective

parents, but due to budget restriction it is not the case anymore. Should it not be a priority for the state ?

- d. The “**Cochem model**”, for instance, could be used in Switzerland in all cases.
- e. Better trained and experimented professionals on these matters could reduce the length of legal procedures and could improve children’s protection. **Judges and lawyers** should follow **compulsory periodic training**.
- f. **Separating parents** could receive automatically information from the state or even get **compulsory courses** too.
- g. As mentioned in the last CEDAW (UN Committee on the Elimination of Discrimination against Women) 2016 report¹², the **child maintenance** in Switzerland should “reflect the reality in relation to the time and cost allocation between parents”.
- h. As mentioned in the preceding report too, we should “establish a monitoring mechanism to ensure that **shared custody** is practiced”.
- i. Finally, as these problems are public health matters and have tremendous financial¹³ and psychological impacts, the state should increase its financial participation to such measures.

Conclusion

Compared to its neighbours, Switzerland appears to be still quite conservative and not protective enough towards children in separation and divorce situations. The psychological impact of all these situations is enormous and manifests itself sometimes only at adolescence or adult age, with school or professional dropping, increased psychiatric disorders and suicidal behaviours. Our whole society is responsible for the suffering of these children whose parents also need better guidance. We hope this report can have a positive impact on the health and development of these children and we remain available for any question. We would also be very interested in attending a meeting with your honourable Committee.

for the committee of donna2

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¹² http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FCO%2F4-5

¹³ <http://www.relationshipsfoundation.org/cost-of-family-failure-47-bn-and-still-rising/> (impact in GB)