



HIGH-CONFLICT DIVORCE AND CONSEQUENCES IN CHILDREN: IMPLICATIONS FOR RECOMMENDATIONS ABOUT CUSTODY ARRANGEMENTS

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Situations of family break-up are an everyday reality in Spain, and frequently require the intervention of psychologists from both the forensic and clinical fields. However, general and specific literature in this field is still scarce in the Spanish context. In this review we consider the most important current data on high-conflict divorce and its potential effects on the children, offering guidelines and practical recommendations for the professionals working in this area which might help them make decisions that limit the damage done to children.

Key words: Divorce, Conflict, Children, Child custody.

La situación de ruptura familiar es actualmente una realidad cotidiana en nuestro país y frecuentemente requiere de la intervención de los psicólogos tanto desde el ámbito pericial como del clínico. Sin embargo, las publicaciones y estudios específicos sobre la materia aun son escasos en la producción científica española. En la presente revisión se presenta información básica y los principales datos actualizados sobre divorcios conflictivos y sus posibles repercusiones en los niños, aportando pautas y consideraciones de utilidad práctica para los profesionales que atienden estas situaciones y que puedan guiarles en sus recomendaciones contribuyendo a la prevención de perjuicios en los niños.

Palabras clave: Divorcio, Conflicto, Hijos, Guarda y custodia.

Family break-up in Spain is an everyday reality that affects large numbers of families. The most widespread concern among the different professionals working in this field is undoubtedly to help children adjust to the new situation and to prevent, as far as possible, the appearance of psychopathological problems or disorders that might interfere in their appropriate development (Arch, 2008).

Taking as a reference the most recent data from Spain's National Institute of Statistics (*Instituto Nacional de Estadística; INE, 2008*), it is estimated that in the year 2007 alone, more than 100,000 children had to deal with the break-up of their parents' marriage. For many years there has been a tendency to consider divorce as a traumatic situation with negative consequences for the children's development (Kelly, 2000). However, the evidence from research with increasingly solid methodological foundations has pointed to various specific factors that influence this negative result, especially significant among which is exposure to inter-parental conflict. Indeed, authors such as Camara and

Resnick (1988) reported that the children of divorced parents who were not exposed to conflictive situations presented better long-term adjustment than those whose parents remained together but with high levels of conflict in the relationship.

Among the conflicts most difficult to resolve in processes of family breakdown, and which generate most anxiety in all members of the family – especially the children – are those which arise over contact or visiting schedules and the relations established between the parents and their children after the separation or divorce (Galatzer-Levy & Kraus, 1999; Johnston & Campbell, 1988); these types of conflict, indeed, currently constitute a substantial public health problem (Lebow, 2003). In our country, and according to figures from the General Council of the Judiciary (Consejo General del Poder Judicial, 2008) of the 141,108 separations and divorces processed in the year 2007, 61.78% were contentious, so that over half of legally married couples, in the process of break-up, were likely to be involved in a legal wrangle over custody of their children and/or visitation schedules; added to this percentage would be that of the break-up of cohabiting couples, for which there is no data as yet in the statistics consulted. When couples split up in this way the child finds him or herself at the very centre of the conflict, and

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the negative effect on children of their exposure to custody battles is well documented (e.g., Johnston, 1993, 1994).

In high-conflict divorces it is common for inter-parental disputes to persist for several years, involving the whole family in a traumatic situation for a considerable period of time. One of the reasons why divorce can be particularly stressful for children stems from the likelihood that it is preceded and followed by a period of conflict between the parents (Amato & Keith, 1991); moreover, and although research shows that hostility between parents decreases significantly in the three years following the divorce (Bacon & McKenzie, 2004; Emery, 1999; Maccoby & Mnookin, 1992; McIntosh & Long, 2005; Whiteside, 1998), between 5% and 12% remain at very high levels of conflict for longer (Fischer, De Graaf, & Kalmijn, 2005; King & Heard, 1999; Maccoby & Mnookin, 1992). Similar percentages are cited by Mitcham-Smith and Henry (2007) in referring to the number of couples who maintain high conflict levels and who use the courts as a means of perpetuating their disagreements; the vicious circle that ensues represents a burden on the courts, involves high financial costs for the couple themselves and contributes to maintaining the perception of one's partner as an enemy, hindering the possibility of positive communication. Several authors (Amato & Keith, 1991; Emery, 1999; Hetherington, 1999) have shown how the children who suffer most are those who, in addition to having to cope with family breakdown, are witnesses to this inter-parental conflict that persists after the divorce. The most damaging effects of the continuance of such situations fall on children who continually find themselves caught up in their parents' confrontations (Kelly, 2002; Kirkland, 2004; Ramsey, 2001; Weinstein, 1997), often because the child is the only remaining link between the former partners for maintaining their disputes (Emery, 1999; Wallerstein & Corbin, 1999).

DIVORCE AND CONFLICT: EFFECTS ON THE CHILDREN

The potential impact of high-conflict divorce on children has been described as devastating, traumatic and extremely stressful (Boyan & Termini, 1999; Mason, 1999; Ramsey, 2001), and is associated with an increased presence of mental health problems (Davies & Cummings, 1994; Grych & Fincham, 1990). In addition, there is evidence that involvement in such conflicts is highly likely to damage the relationship between the children and one or both parents (Elrod, 2001; Ramsey, 2001). Furthermore, significant relationships have been identified between risk factors – such as high family

conflict in divorce cases – and the emergence of physiological dysfunctions in response to the stress, dysfunctions which can persist in stable fashion into adulthood and contribute to the development of pathologies such as hypertension, coronary illnesses and infectious diseases (Markovitz & Matthews, 1991).

The different lines of research that have explored the relationship between high level of conflict in the period of divorce or post-breakup and the children's well-being indicate the following:

- ✓ High levels of conflict increase the risk of negative effects for both children and adults during and after the divorce (Lebow, 2003). In the case of minors, depending on their personal characteristics and other mediating factors, the effects will manifest themselves in the internalization of problems (e.g., in depression) or in their externalization (e.g., in behaviour problems). In the case of adults, the range of associated repercussions includes depression, anxiety disorders, problems of self-esteem, and so on.
- ✓ For children who have to cope with family breakdown, the most stressful aspect is exposure to their parents' conflicts (Wolchik, Ruhlman, Braver, & Sandler, 1989).
- ✓ Inter-parental conflict is the strongest predictor of child maladjustment in divorce cases (Amato, 1993, 2001; Amato & Keith, 1994).
- ✓ It is common to find a relationship between exposure to these situations and various types of psychopathological disorder, with significant levels of stress and anxiety, in both children and adults (Grych & Fincham, 1990). In general, such exposure is associated with negative effects in the functioning of the children and adolescents involved (Gould, 1998; Otto, Buffington-Vollum, & Edens, 2003).
- ✓ Affective regulation and emotional arousal mechanisms can be disrupted in young children exposed to severe inter-parental violence or repeated parental conflict (DeBellis, 1997; Lieberman & Van Horn, 1998).
- ✓ The negative effects of exposure to inter-parental conflict on children, such as depression, have been observed to persist into adulthood (Schmidtgall, King, Zarski, & Cooper, 2000).
- ✓ The long-term consequences of exposure to inter-parental conflict include effects on physical health (Katz & Gottman, 1997; Luecken & Fabricius, 2003; Michael, Torres, & Seemann, 2007).



At the extreme end of inter-parental conflict we find situations of family violence; exposure of children to such abusive situations is extremely harmful, with a range of potential physical and psychological consequences, and may result in inappropriate social learning as regards the roles the children are perceiving in their immediate environment (McDonald & Jouriles, 1991; Otto & cols., 2003; Patró & Limiñana, 2005). Moreover, the child is at clear risk of the effects of direct physical violence (Chamberlain, 2001; Dowd, Kennedy, Knapp, & Stalbaumer-Rouyer, 2002; Edleson, 1999; Feerick & Haugaard, 1999), though it should also be borne in mind that children do not have to be physically maltreated for them to be considered victims of domestic violence (Olaya, Tarragona, de la Osa, & Ezpeleta, 2008). For example, in research with the children of women who had been abused by their intimate partner, it was reported that the child's exposure to this abuse was significantly associated with behaviour problems – regardless of whether there was also child abuse of a direct nature (Kernic, Wolf, Holt, McKnight, Huebner, & Rivara, 2003).

Although in more latent fashion, we also find in extreme cases of inter-parental conflict processes that can lead to so-called Parental Alienation Syndrome, or PAS (Gardner, 1985). In the opinion of some authors (e.g., Gerber & Biringuer, 2006), parental conflict is the best predictor of PAS. The effects of finding themselves in this situation are highly detrimental to children, and have a decidedly negative effect on the parent-child relationship (O'Donohue, Beitz, & Cummings, 2008); moreover, the effects of the harm done to the parent-child relationship persist into adulthood (Furstenberg, Hoffman, & Shrestha, 1995; Lye, Klepinger, Hyle, & Nelson, 1995).

RELEVANT ASPECTS IN THE ASSESSMENT OF INTER-PARENTAL CONFLICT

The scientific literature also addresses questions related to aspects such as the specific type of conflict, its form of expression or the way in which conflicts are resolved, with a view to better understanding this multidimensional variable and as a way of identifying the types of repercussions to be expected in children (Drapeau, Gagné, Saint-Jacques, Lépine, & Ivers, 2009). Thus, although frequency of exposure to conflict is undoubtedly a very important risk factor, it is not in itself the element with the greatest impact: as research shows, type of conflict may carry greater weight in the explanation of harmful consequences. Canton and Justicia (2000)

highlight those conflicts which revolve around the child – such as custody disputes – and those which make children feel physically threatened – those involving physical violence, for example (Cummings, Inital, Goeke-Morey, & Papp, 2001; Hetherington, 1999).

The form of expression of the conflict and its relationship with possible negative effects in the children has also been the object of research. At a basic level, the couple can express their conflict in open or closed fashion. The former case may involve physical and/or verbal behaviours, with the expression of diverse emotions and attitudes (e.g., belligerence, contempt, scorn) and aggressive forms of conduct (e.g., shouting, insults, threats, blows). In cases involving such manifestations of aggression, the tendency observed in children is toward difficulties associated with the externalization of problems (Buehler, Anthony, Krishnakumar, Stone, Gerard, & Pemberton, 1997). However, conflicts can also manifest themselves in a covert way, involving passive-aggressive strategies with greater or lesser degrees of subtlety; thus, one parent may try to convince the child that his/her arguments are the right ones, the child may be used to obtain information about the other parent, or as a go-between, or one parent may try to denigrate the other in the presence of the child. In such cases we find more of a tendency toward the internalization of problems (Buehler & cols. 1997).

As regards particular conflictive issues after the divorce, research carried out with divorced mothers and fathers (e.g., Bonach, 2005) identifies the following as the most common: disagreements about the way the child is brought up, disputes because one parent uses the child as a go-between, arguments about the nature of one parent's relationship with the child, difficult personality in one of the parents, the fact that the child is living with a parent's new partner, and lack of parental competence. A significant variation was found according to parent's gender, insofar as only mothers expressed their concern that the father might spoil the child, whilst only fathers mentioned the possibility that the mother would be unable to control the child.

Finally, it is important to take into account the way in which the couple attempt to resolve their conflicts (Johnston, 1994). Prior to the divorce they can employ two basic strategies for sorting out their disagreements; the first, the more positive, involves dialogue and negotiation; the other strategy would be based on negative methods such as conflict avoidance or verbal



and/or physical aggression. According to O'Donohue, Beitz and Cummings (2008), it is highly likely that they will go on using the same conflict resolution strategies after the divorce, so that it is advisable to assess this aspect in child custody evaluations and for appropriate family counselling (AACAP, 1997; APA, 1994; Gould, 1998).

CUSTODY SYSTEMS AND VISITATION SCHEDULES IN HIGH-CONFLICT DIVORCES

One of the most complex and controversial issues in expert assessments for rulings on custody – exclusive vs. joint – and/or on visitation schedules for the parent without custody is found precisely in families where there is inter-parental conflict. In some US states the judicial regulations take specific account of this aspect (e.g., Michigan Custody Act, 1970). In Spain, the most recent modification of the divorce legislation – the 2005 Divorce Law (*Ley 15/2005, Art. 92 CC*) – also refers to the

infeasibility of joint custody arrangements in cases in which there has been physical, psychological or sexual violence against one of the partners or against the children.

Within the Psychology context, some authors have also stressed the drawbacks of broad-based custody arrangements that imply the need for responsible shared parenting (Coller, 1988; Stahl, 1994); elsewhere (Johnston, 1994; Tschann, Johnston, Kline, & Wallerstein, 1989), it has been suggested that joint custody systems involving greater inter-parental contact can lead to higher levels of conflict. Nevertheless, as Fabricius and Luecken (2007) point out, although research has documented both the benefits of extensive contact between children and both parents after the divorce and the negative effects of minors' exposure to inter-parental conflict, little is known about the possible interaction of these two factors.

Some authors propose that in cases where there is evidence of high conflict, visits by the parent without

TABLE 1
FAMILY TYPOLOGIES BY LEVEL OF CONFLICT AND COOPERATION.
ADAPTED (CAMARA & RESNICK, 1988)

CONFLICT	COOPERATION	CHARACTERISTICS	RECOMMENDATION
HIGH	HIGH	Parents who harbour mutual resentment but are capable of talking about issues related to their children. Tried to make sure the children were not present when they had arguments. Function better with highly structured and ritualized agreements.	A system of joint custody can be set up, as long as it is highly structured. In case of specific difficulties, it may be beneficial to initiate a process of family mediation and/or to carry out a technical assessment.
HIGH	LOW	The parents remain immersed in their disputes, devoting considerable energy to them. They openly criticize one another in relation to their character/lifestyle and their parenting behaviour. The child/ren is/are used to being at the centre of the disputes. They argue in front of the child about custody or visitation arrangement and parenting styles.	The contact and communication arrangements must be highly structured, and the possibility of the parents' interacting during handovers should be actively avoided. These families require specialized attention.
LOW	LOW	Parents try to avoid one another and live separate lives. If they do have arguments it is about the children, rather than about each other. In general, they have no wish to maintain contact with the other parent, and that hinders their knowing and communicating about important issues to do with the children.	The contact and communication arrangements must be highly structured. It would be highly beneficial for the parents to participate in a psychoeducational programme.
LOW	HIGH	The couple maintains a positive relationship, with mutual support and respect. They make decisions jointly on matters affecting the children and are highly flexible as regards contact and communication arrangements.	No specific recommendations.



custody should be restricted, as a strategy for avoiding harmful exposure of the child to such conflict (e.g., Amato & Rezac, 1994; Johnston, Kline, & Tschann, 1989). However, the results obtained by Fabricius and Luecken (2007) suggest that the combination of high conflict and scarce contact with the non-custody parent involves greater risk for the child, who is subject to the effects of both factors; the authors stress, however, that in cases in which increased contact time leads to higher conflict levels, the benefits of the first factor are cancelled out.

On assessing the adequacy of custody arrangements or visitation schedules in high-conflict divorce or separation cases, it is also highly relevant to monitor these families over time. Some of the research in this direction suggests a strong probability that high levels of conflict at the time of the break-up tend to decrease with the passage of time (Emery, 1999; Fischer, De Graaf, & Kalmijn, 2005; Maccoby & Mnookin, 1992). However, other authors (e.g., Graham, 1997) point to cases that deviate from this tendency, identifying up to five relational patterns after the split. These would include patterns involving gradual breaking off of the relationship, a stable and normalized pattern, deterioration of the relationship, or an erratic course characterized by fluctuations in the inter-parental relation. Estimation of how the family will develop can assist professionals in their decision-making. The factors that can influence the course of that development after divorce are described in studies such as the one by Bonach (2005), carried out with parents who were involved in custody battles at the time of their divorce and who had been apart for at least three years. The results from that study suggest that satisfaction with the financial arrangements over maintenance, the offer of forgiveness from the other parent, and a low level of hostility in the divorce process predict inter-parental cooperation that benefits the children. Among these factors, the author considers forgiveness to be the strongest predictor of the viability of shared parenting.

Finally, we should consider the possibility that parents who maintain a state of conflict between them might be capable of some degree of cooperation for the benefit of their children. According to Camara and Resnick (1988), up to four typologies can be identified, requiring different arrangements and possible interventions. Table 1 shows the typologies identified and some recommendations based on them.

As it can be appreciated, recommendations for post-breakup contact arrangements in high-conflict divorce

cases involve considerable technical difficulties, which make necessary a thorough assessment of all the relevant factors to allow an estimation of the parents' ability to avoid dragging the children into their conflicts. Only through such thorough evaluation and from a "case-by-case" perspective will it be possible to reach conclusions that permit the appropriate decisions on custody arrangements which benefit the minors involved.

At both the preventive and palliative levels it is necessary to promote the development in Spain of psychoeducational intervention and family mediation programmes that enhance cooperation and make effective contributions to the reduction of inter-parental conflict.

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