

## PARENTAL EQUALITY

# Report of the International Conference on Shared Parenting held in Langeac, France from 25th to 30th July 1999.

## INTRODUCTION

Four delegates from Parental Equality attended the International conference on shared parenting, which was held in Langeac in southern France. The conference consisted of intensive discussions, a series of workshops, presentations from groups and individuals, all related to shared parenting, as well as a variety of social activities. Parental Equality delegates found the conference to be educational and informative and helped to establish and strengthen contacts with similar organisations in other countries. Various issues of concern common to most or all countries were identified and a series of measures to promote shared parenting were agreed. Structures have now been established which will enable comparisons to be made between various States and facilitate co-operation between groups promoting shared parenting on an international basis.

Delegates from all countries gave presentations on family policies, laws and practices in their respective countries and the manner in which these affect the promotion of shared parenting and a report on the activities of parents groups. For comparative purposes all delegates were asked to deal with five topics in their presentations and respond to the following five direct questions;

## QUESTIONS:

1. What is the most likely outcome of separation in your country – joint custody or sole custody?
2. Is there any difference in the status and treatment of married and unmarried fathers?
3. Are domestic violence laws and sex abuse allegations used as a tactic against fathers?
4. Is parental alienation syndrome (PAS) commonly used against fathers?
5. Do you have family courts or tribunals dealing exclusively with family law?

The following is a synopsis of the answers;

**1. *What is the most likely outcome of separation in your country – joint custody or sole custody?***

Sole custody is the norm in all countries with a strong bias in favour of mothers. While in all but one country the legislation is worded in gender-neutral terms there is a gender bias in practice. Chile is the exception as far as gender neutral legislation is concerned - Chilean law states that mothers must get custody. Legislation introduced in Holland in 1978 gives preference to joint custody. However, despite this, sole custody is still awarded to mothers in most cases. The Dutch delegates said that this was due in part to the Judiciary emphasising their independence of the legislature. Difficulties in retaining joint custody were similar in most countries. Many delegates expressed the view that for a man to get joint custody he must prove that the mother is totally dysfunctional as a parent. Fathers in some States in the USA and in Scandinavian countries appear to have less difficulty in retaining joint custody.

**2. *Is there any difference in the status and treatment of married and unmarried fathers?***

The majority of delegates said that unmarried fathers had greater difficulties than married fathers in terms of their parental status and their parental roles. As in Ireland mothers can have a decisive influence, or sometimes a veto, in deciding whether or not an unmarried father and his child can have meaningful relationships with each other. Delegates from a number of North European and South American countries said that marriage had declined so much that the question was irrelevant - both unmarried and married fathers were treated equally badly. In general mothers, married or unmarried, are automatically deemed to be parents but unmarried fathers are required to prove their credentials.

**3. *Are domestic violence laws and sex abuse allegations used as a tactic against fathers?***

Delegates from all countries said that domestic violence laws and false allegations of child abuse were regularly used as a means of cutting fathers off from their children. In many countries, including Ireland, allegations of domestic violence need not be supported by any proofs - in fact the principle

of 'innocent until proven guilty' is reversed. Powerful feminist groups have created a climate where men are always presumed to be guilty and women always innocent. False allegations of child abuse are also common in most countries although in most cases less common than false allegations of domestic violence. Fault-based divorce in some countries, such as Spain, generated these problems. In France persons accused of sex abuse can be imprisoned on the basis of allegations alone.

#### **4. *Is Parental Alienation Syndrome (PAS) commonly used against fathers?***

Parental Alienation Syndrome (PAS) is a common practice in all countries however there is a wide divergence in the manner in which it is dealt with. Because it is such a difficult problem to deal with the authorities in some countries deny its existence - Ireland falls into this category. In France parents are afraid to raise the issue in courts because if they do it usually backfires on them. In certain US States the problem is very efficiently dealt with by removing children from the guilty parent and only re-establishing contact in a gradual and monitored manner. Despite the fact that this practice has proven to be very effective authorities in other countries haven't yet adopted it. In Germany many psychologists are now recognising this syndrome but, unfortunately, the judiciary are stubbornly refusing to deal with it or in some cases even to recognise it. PAS was regarded by the conference as one of the most difficult barriers to shared parenting.

#### **5. *Do you have family courts or tribunals dealing exclusively with family law?***

Approximately 70% of the delegates reported that specialist family courts dealing exclusively with family law existed in their countries. Spain has a dual system with specialist family courts in cities and large towns but not in smaller towns and rural areas. Many of the delegates felt that family courts had low status in their judicial systems and would not be regarded as attractive postings for judges. In some countries the less competent judges, i.e. too old or too young, were assigned to family courts and overall female judges were in the majority in family courts.

## BARRIERS TO SHARED PARENTING:

Following extensive deliberations and discussion a number of barriers to shared parenting, common to all or most countries were identified, including:

- World wide, parenting is still viewed primarily as a women's job, effectively placing the responsibility of childcare on women only.
- There still exists a view that men's nurturing and relational abilities are inferior to those of women.
- State and social reluctance to practice shared parenting is tied up with an entrenched, complicated, interdependent web of socio-economic activities based on traditional and outmoded gender roles.
- Hurdles stopping full implementation of shared parenting range from outright sex discrimination against fathers in family law courts to more subtle forms of discrimination.
- Failure to recognise that children's best interests are served by a high level parenting input from both parents regardless of the relationship between the parents.
- Failure to recognise the destructive impact on children, fathers, mothers and society of pursuing a dysfunctional sole parenting model.
- Adversarial legal systems dictate that there should be a winner and a loser in all cases, which is not conducive to shared parenting.
- The lack of transparency, accountability and public reporting in the family law system due to the rigid In-Camera rules.
- Family law is a major mega-buck industry world-wide, which thrives on hostility between parents.
- Vested interests of powerful professional groups, such as the legal profession, psychologists, social workers in perpetuating hostility and adversarialism rather than being solution focussed.
- Strong pro-mother and anti-father bias in the judiciary and political establishment due to a combination of traditional prejudices, personal conditioning and deference to the gender divisive elements within the feminist movement.
- A strong aversion by a conservative judiciary to recognise social change and reflect it in their decisions.
- Failure of judiciary and state institutions to enforce access/contact orders.
- Pressures on parents to delegate their parental responsibilities to judges, psychologists, social workers and other professionals.

- Power of women's groups to monopolise the social agenda with women's issues to the total exclusion of men's groups and men's issues.
- Success of women's groups in annexing children's welfare and interests.
- Lack of recognition for men's groups and men's issues.
- Lack of financial and other supports for men's and fathers' support groups.

## GROUPS:

Each group was asked to give an account of its history, its objectives, modus operandi and significant achievements. The majority of the groups represented were 'fathers only' groups but there were a number of groups open to both fathers and mothers including Parental Equality from Ireland, the Federation of Parenthood of France and the Association of Separated Fathers and Mothers from Spain. Most of the groups have been in existence for over twenty years but some were established more recently such as Papas por Siempre (Fathers Forever), the youngest group, which was set up in Chile in 1994. In some countries such as Germany and the USA, there are numerous groups dealing with the issue of Shared Parenting. Ireland is one of the few countries where there is the only one national group, Parental Equality, dealing specifically with Shared Parenting issues from a gender-neutral perspective.

The methods used by the various groups were broadly similar i.e. media exposure, lobbying politicians and government institutions, and protests. In relation to the type of protests, there was some divergence with some groups favouring the peaceful picket approach, some opting for peaceful but spectacular demonstrations and others choosing more robust actions such as occupying public buildings.

In addition to political activities the majority of groups provide a help and support service for parents experiencing difficulties with custody and access to their children. Few groups are in a position to provide any sort of financial support, due to lack of funding, though the Association of Separated Fathers and Mothers from Spain assists with the costs of consultations with psychologists and has negotiated a discount deal with lawyers. The Spanish and French groups strongly favour a more decisive role for mediators and psychologists rather than judges. The German and Dutch delegations expressed strong reservations about the value of intervention by psychologists and other so called 'expert' third parties and their lack of impartiality. The U.K. delegation argued strongly for statutory limitations on judicial discretion. The

Irish proposal for compulsory DNA testing at birth, for medical purposes and birth certification, was supported by a majority of the delegates.

Achievements to date in most cases are limited. The USA and Scandinavian countries seem to be the most progressive as far as the promotion of Shared Parenting is concerned. As with most social issues, there are indications that a progressive approach to Shared Parenting is filtering through to other countries. Countries with a strong tradition of Catholic church domination, such as Spain, Ireland and some South American countries have particular problems which inhibit socially progressive developments such as Shared Parenting. Countries with a strong machismo and paternalistic ethos, such as those where the Napoleonic Code prevails, also have problems which militate against Shared Parenting. Ironically, in countries which are regarded as otherwise socially progressive, the gender divisive elements within the feminist movement have created a regressive culture of inequality and one parent families.

## RECOMMENDATIONS;

In the interests of children, parents and society in general it was agreed that the various groups represented at the conference should co-operate in promoting shared parenting. To this end agreement was reached on the following points:

- ✓ As a fundamental principle fathers and mothers should be accorded equal status in a child's life and this principle should be reflected in all Government policies.
- ✓ Parenthood should be based only on the child-parent relationship and not on the relationship between the parents.
- ✓ A child's right to a meaningful relationship with both parents is sacrosanct and of paramount importance and should take precedence over all other issues of contention between parents.
- ✓ The child should have the right to communicate with his or her parents whatever the situation.
- ✓ Establish an international committee for the promotion of shared parenting, for married and unmarried parents and following marriage/relationship breakdown, to encourage a strong spirit of co-operation and solidarity internationally through direct contact between Shared Parenting groups and individuals.
- ✓ The International Committee should clarify and agree the basic principles of shared parenting and develop a coherent set of international policies to promote respect for family rights.

- ✓ Where parents cannot agree on the division of Parenting Time, courts should be obliged to apply a 50/50 division unless there are specific compelling reasons for not doing so and such reasons clearly set out in legislation.
- ✓ A document to be drawn up setting out the basic principles of shared parenting (to be entitled 'the Declaration of Langeac').
- ✓ The promotion of shared parenting should be a key priority in Government policy which should be supported by Government institutions and Government incentives.
- ✓ Based on information from the various national groups and other sources the International Committee on Shared Parenting should identify best practice in the promotion of shared parenting and make recommendations to State authorities and International bodies on a transnational basis.
- ✓ Barriers to the promotion of shared parenting should be identified and measures taken to remove them (especially those listed above).
- ✓ Parental status, responsibilities and rights should be strengthened in law.
- ✓ Parental status of either parent should not be modified or diminished just because a marriage or relationship breaks down.
- ✓ The value of the marriage contract and its impact on parenting and the legal status of parents should be the subject of debate, research and analysis.
- ✓ Both parents should be responsible for the financial support of their children.
- ✓ Biological parenthood should be established at birth by way of DNA testing. All DNA evidence should be destroyed immediately parenthood has been established.
- ✓ Legislation should establish shared parenting and joint custody as the norm unless otherwise justified by extreme circumstances such as abuse or negligence.
- ✓ Governments and State Institutions should take measures to encourage and support parents in taking responsibility for decisions on parenting matters rather than delegating such responsibilities to third parties.
- ✓ All states should adopt and incorporate into domestic legislation the UN Convention on the Rights of the Child in its totality.
- ✓ Legislative measures should be introduced to limit judicial discretion in deciding on parenting and children's issues.

- ✓ Relaxation of In-Camera rule in countries where it exists to allow for public reporting and public scrutiny of cases respecting the anonymity of parties.
- ✓ Legislation should be enacted to incorporate the principle of 'equality' into family law.
- ✓ Parental discretion in relation to the parenting of their children should be respected where both parents can reach agreement.
- ✓ Work and the organisation of work should accommodate and defer to parenting and family life.
- ✓ Measures should be taken by Governments to reduce adversarialism in Family Law and promote and strengthen mediation services.
- ✓ Severe penalties should be provided for and imposed on parents who indulge in parental alienation and take other actions designed to diminish the other parent's status and role as a parent.
- ✓ Financial and other incentives should be provided for separating parents who agree and co-operate with each other in continuing shared parenting arrangements.
- ✓ Governments should provide all necessary supports to assist parents in fulfilling their parental obligations and carrying out their parental functions.
- ✓ Access/contact orders should be strictly enforced and penalties imposed on parents who break them.
- ✓ All social welfare and other parental support payments should be divided equally between parents.
- ✓ All Government policies should be vetted for their impact on shared parenting and amended where necessary.
- ✓ Equal representation of the interests of fathers and mothers on all statutory and non-statutory bodies dealing with parenting, children's issues etc.
- ✓ A list of politicians, judges, psychologists, sociologists, social workers and other main players in social formulation should be created and each individual's stance on 50/50 Shared Parenting should be identified to establish (a) who is supportive (b) who is against and (c) the reasons given for their stance.
- ✓ Groups and individuals should be facilitated to sign up to the Declaration of Langeac when finalised.

## ISSUE OF MAJOR CONCERN:

The development of the concept of the 'social parent' in Holland as reported by the Dutch delegation was regarded by all delegations as an issue of major concern. This concept is also taking root in the USA where there is currently a case going through the courts in which a lesbian woman is seeking access to her female ex-partner's child even though she has no biological links with the child. The Dutch delegates explained that, because of the manner in which social parents are being recognised in Holland, there is a real danger that 'social fathers' will displace biological fathers. Giving legal status to 'social parents' could lead to a situation where a child's legal father could change every time its mother changes partners. While there are limited circumstances where non-biological parents are rightly given legal parental status e.g. death of biological parent, this should not happen where a biological parent is available. The granting of parental status to non-biological parents should be extremely restricted and should never be used to displace a biological parent.

## NEW MILLENNIUM INTERNATIONAL CONFERENCE ON SHARED PARENTING

Next year's international conference on Shared Parenting, the first of the new millennium, will be a landmark conference.

It will set the agenda for the promotion of Shared Parenting both within intact relationships and after relationship breakdown on a transnational basis.

The work which is currently being done in identifying and agreeing principles and strategies to which all can subscribe will come to a conclusion at this conference. The conclusions will have a far reaching impact on social and family policy both nationally and internationally in the new millennium. Prominent international experts will speak on a range of topics relating to Shared Parenting. Attendance will include representatives of men's, women's and parents groups and other organisations interested in parenting and children's issues. Government representatives, policy makers, professionals, academics and other experts in social, family, children's, medical, psychological and legal matters will also attend. Arrangements for the conference will be family-friendly and will include the provision of creche facilities, play areas and a range of family activities.

The Irish delegation put forward a strong case for hosting next year's conference and received a positive response from most delegates. Subject to securing Government support, a provisional decision was taken to hold the conference in Ireland.