

EFFECTS OF THE 2010 CIVIL CODE ON TRENDS IN JOINT
PHYSICAL CUSTODY IN CATALONIA. A COMPARISON WITH THE
REST OF SPAIN

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I.N.E.D | « Population »

2016/2 Vol. 71 | pages 297 - 323

ISSN 0032-4663

ISBN 9782733210666

This document is a translation of:

Montserrat Solsona, Jeroen Spijker, « Influence du Code civil catalan (2010) sur les décisions de garde partagée. Comparaisons entre la Catalogne et le reste de Espagne », *Population* 2016/2 (Vol. 71), p. 297-323.

Available online at :

http://www.cairn-int.info/article-E_POPU_1602_0313--effects-of-the-2010-civil-code-on.htm

How to cite this article :

Montserrat Solsona, Jeroen Spijker, « Influence du Code civil catalan (2010) sur les décisions de garde partagée. Comparaisons entre la Catalogne et le reste de Espagne », *Population* 2016/2 (Vol. 71), p. 297-323.

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Montserrat SOLSONA* and Jeroen SPIJKER*

Effects of the 2010 Civil Code on Trends in Joint Physical Custody in Catalonia. A Comparison with the Rest of Spain

In Europe, the proportion of separated parents who opt for joint custody of their children is increasing. After divorce or separation, this living arrangement ensures that the children maintain their relationship with both parents, and that childcare responsibilities are shared more equally. It also reduces the likelihood that the children will lose contact with one or other parent, a situation often observed in cases of sole custody. To what extent can family laws encourage this type of custody, and influence overall trends? In 2010, Catalonia added new family clauses to the civil code that include practical recommendations for judges and parents aiming to facilitate communication between the former partners and to encourage shared parenting after the divorce. On the basis of this example, and by comparing Catalonia with the rest of Europe using individual microdata on divorce decrees issued between 2007 and 2012, Montserrat SOLSONA and Jeroen SPIJKER analyse changes in the prevalence of joint physical custody and its main determinants. They also discuss the legal and behavioural aspects of these new custody arrangements in terms of the sharing of parental responsibilities.

Since the 1960s, intimate and family relationships between sexes and generations in western societies have undergone profound transformations, marked by individual freedom of choice and the diversity of behaviours (Bauman, 2003, 2005; Beck and Beck-Gernsheim, 1995; Giddens, 1991; Kaufmann, 1993, 2007; Lesthaeghe, 1983). Spain was a late starter because it was still under a fascist authoritarian regime at the time and allied with the Roman Catholic Church in family and civil law.⁽¹⁾ However, the death of Franco

(1) An exception occurred during the brief Second Republic (1931-1936), when French Republican ideas of antimonarchism and anticlericalism inspired many laws on family relations, resulting in the introduction of innovative reproductive rights. These were similar to those implemented decades later in many other Western European countries, and included the regulation of abortion and divorce on the basis of mutual consent. However, when Franco came to power, these legal changes were repealed (Moran, 1995).

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led to a rise in democracy that provided individuals with more legal rights by adapting the law to ongoing cultural shifts in sexuality, relationships and demographic behaviour. Specifically, these adaptations occurred through legalization of contraception (1978), divorce (1981), abortion (1985) and, more recently, marriage between same-sex partners (2005). New family practices also superseded the patriarchal family model that had flourished throughout the nineteenth and twentieth centuries.

These legislative changes legitimized sexual diversity, the break-up of marital relationships and the control of fertility. However, if the new laws were to actually have an effect, it was necessary to openly challenge two “gendered” issues: the sexual division of paid work and family care; and the power relations between the sexes and generations. The issue of parental responsibility and child custody after separation or divorce is at the heart of all these transformations because it tests the extent to which childcare responsibilities are shared equitably between the parents. As joint custody is a situation where childcare is (more or less) equally shared, it could be considered as a reflection of the progress towards gender equality.

The main aim of this study is to explore whether the distinct legislation in Catalonia on parenting after divorce compared to the rest of Spain is one of the factors behind the higher prevalence of joint custody granted by Catalan judges involved in marital divorce procedures.

The article begins by providing a summary of the 2005 Spanish Divorce Reform and the 2010 Catalan Civil Code (CCC) on joint physical custody. We will then describe how physical custody arrangements of minor children, as adjudicated by judges, have changed over time and vary according to individual, marriage and divorce characteristics, based on micro data on divorce decrees. Analyses are performed for the period 2007-2012 and the results for Catalonia are compared with the rest of Spain. We conclude by discussing the extent to which Catalan legislation explains the observed territorial differences in joint physical custody.

I. Joint legal custody and joint physical custody: two different concepts and realities

The concept of joint legal custody can be seen as a system for managing transitions after a separation or divorce. Specifically, it seeks to reconcile spouses' individual rights with their parental responsibilities; and this includes the sharing of important decisions related to their children's health and schooling. Legislation of this kind was first approved in the US state of North Carolina in 1957, and between the late 1970s and 1990s similar reforms followed in most other US states, as well as in English-speaking and European countries (Escobedo et al., 2011; Folberg, 1991; Graversen, 1986; Halla, 2009; Savolainen, 1986; Spruijt and Duindam, 2009).

In Spain, however, joint legal custody is not named as such; in the Divorce Law of 1981, the term parental authority is used (*patria potestad*).⁽²⁾ Since 2010, it has been defined in Catalonia, by the Catalan Civil Code as parental responsibility. Regardless of whether both parents are in a union or separated, married or in de facto a relationship, they are afforded this right independently of who has physical custody of the children – unless a judicial decision revokes this right for one or both parents (Ibanez-Valverde, 2004; Solsona, 2014).

Joint physical custody refers to the residential arrangements that are stipulated by the judge, i.e. the place where the child will live during a specific period. From the child's perspective, joint physical custody has more relevance than joint legal custody per se, as it provides arrangements for care by both parents and enables the child to have ongoing contact with both parents (especially the father). An exception may exist for very young children, as it has been shown that frequent changes of residence can be significantly associated with attachment insecurity. For these very young children, sole custody with regular daytime visits by the secondary parent could be considered more beneficial than joint physical custody (Tornello et al., 2013).⁽³⁾

In addition, joint physical custody is known to improve children's self-esteem and to further facilitate post-divorce adjustments by enhancing father-child relationships. What's more, contrary to the frequent experience of mothers and fathers with sole custody – particularly noncustodial parents – it reduces parental stress, workload and conflict, and reduces the risk of relitigation between ex-spouses (Bauserman, 2012; Turunen, 2015). The fact that neither parent is threatened with the loss of their children plays a crucial role in their wellbeing.

It should be noted, however, that joint physical custody in a legal sense often does not coincide with perfect symmetry between both parents in terms of childcare tasks and time spent with the children, as this is usually not attainable. Between countries (and in the case of the United States, between states),⁽⁴⁾ there is no uniform definition of joint physical custody (in some cases, no definition exists) in terms of the minimum amount of time that children must live with each parent (Bjarnason and Arnarsson, 2011; Sodermans et al., 2013).⁽⁵⁾ This is also the case for Spain and Catalonia.

(2) The 1981 Spanish Divorce Law provided for the joint exercise of parental authority after divorce and granted rights to the mother that were historically given only to the father (Lathrop 2012).

(3) Several authors argue for caution in interpreting correlational studies, due to likely non-random selection into different custody arrangements (Bauserman, 2012; Cheadle et al., 2010; McClain, 2011). This is because, on average, fathers with joint physical custody have better education, higher incomes, older children at the time of separation, and better co-parenting and parent-child relationships. This is why Tornello et al. (2013) investigated mainly children born to low-income parents.

(4) In the United States, the term shared physical custody is also used to mean that each parent has "significant" or "substantial" periods of physical custody, in order to ensure that a child has frequent and continued contact with both parents (Buehler and Gerard, 1995; Cancian and Meyer, 1998).

(5) Neither is there a common criterion used to define joint physical custody in survey research (Kitterød and Lyngstad, 2012). This affects the reported prevalence of shared residence, with higher proportions found under a broad rather than a narrow definition (Masardo, 2009).

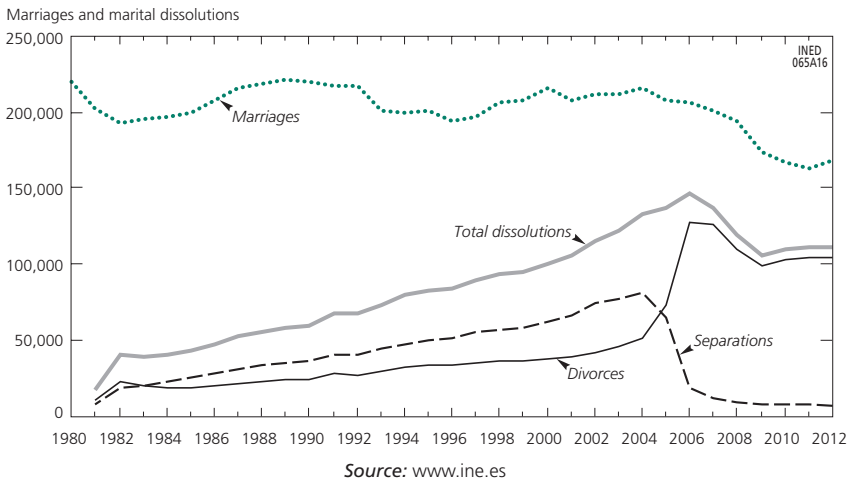
II. Spanish and Catalan legislation on divorce and joint physical custody

The legal dissolution of marriage⁽⁶⁾ in Catalonia and the rest of Spain became possible through the Divorce Law of 1981 (L30/1981), although it was rather restrictive. For example, the law required justification for breaking up the marriage. By the end of the last century, increasing rates of legal separation and divorce were starting to strain the judicial system, which thus led to inevitable legal reforms. The result was the Spanish Divorce Reform of 2005, which eliminated the requirement to seek judicial separation prior to divorce or to provide grounds for divorce. This led to a large drop in legal separations and a rise in divorces (95% of all marriage dissolutions in 2012, up from 40% in 2006; see Figure 1).⁽⁷⁾ Notwithstanding, as the total number of marriages had begun to drop several years earlier, the ratio of marriage dissolutions to marriages has remained about the same since 2006.

The Spanish divorce reform (Law 15/2005)

What is more important to this study, however, is that the Spanish divorce reform explicitly included the possibility, alongside sole custody, for physical custody to be legally granted to both parents so that children could live alternatively with the mother and father. Previously, this type of residential arrangement could be set up informally, as long as the parents agreed, but was

Figure 1. Marriages, separations and divorces, Spain, 1980-2012



(6) The Spanish Divorce Reform of 2005 also provided the legal framework for dissolution of non-marital unions, as has been the case in Catalonia since the 1998 Law on stable consensual unions (*Llei 10/1998 d'unions estables de parella*).

(7) The Spanish National Statistics Institute does not collect data on non-marital union dissolutions (but see also note 13).

rarely practised. The new Spanish legislation (as well as the 2010 CCC) not only provided a legal framework for shared parenting after divorce, but also stressed the co-responsibility of parents towards their children. In addition, a fund was created to guarantee child-support payments in case of non-payment by the liable parent, and the legislation made provision for family mediation services that could be attended by parents on a voluntary basis (Simó and Solsona, 2010).

A proposed settlement agreement (*convenio regulador*) is drawn up defining the personal and economic relations between the spouses with respect to the children. Even if both parents ask for joint physical custody, it is still the judge who carefully assesses the merits of the request. The judge can request a Public Prosecutor's report, listen to the minor if necessary, and evaluate each party's statements regarding spouse-spouse and spouse-child relationships. Likewise, in exceptional circumstances, the judge can decide to award joint custody against the parents' wishes (Catalán-Frías, 2011; Solsona, 2014).

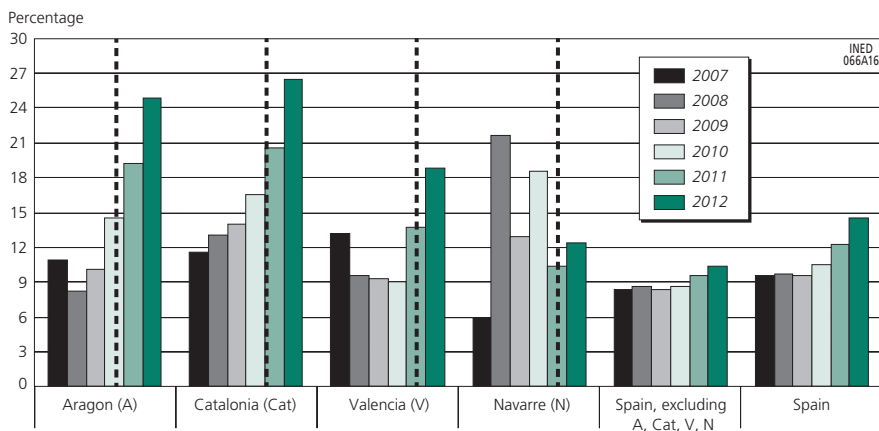
Aside from the changes to the law that provided a legal framework for joint physical custody, traditional gender roles have greatly influenced the awarding of sole custody to the mother. According to Catalán-Frías (2011), fathers were often reluctant to solicit custody, because they believed that women were better prepared, or that they would be accused of taking the children away from the mother. Moreover, lawyers often discouraged their male clients from soliciting sole custody, given the small chance of obtaining it; it was commonly believed that paternal custody would indicate that the mother was either lazy or incapable of caring for the children. There is some empirical support for this: according to a content analysis of 782 contested divorces between 1993 and 1999 in Spain (Arce et al., 2005), fathers were more often required to establish grounds for their request than mothers when applying for sole custody (62% versus 40%). This was also based more often on criteria of exclusion of the mother than the other way around. However, during a Spanish conference of female lawyers in 2006, it was emphasized that the low proportion of sole-custody fathers did not so much reflect discrimination against them in the courts, but rather their low propensity to solicit custody (Catalán-Frías, 2011).

When the Spanish Divorce Reform made it easier to arrange joint physical custody of children after a divorce or separation, it was believed that it would improve continuity in the children's family life, reduce conflicts between parents, and allow fathers to feel more responsibility for their children's education and development. At that time, it was estimated that about 2% of physical custody arrangements in Spain were joint, while in 5% custody was granted to the father and in 93% to the mother (*ibid.*). In 2007, the year when data on custody arrangements were first registered by the courts (see Section III), 9.7% of custody rulings in Spain were for joint physical custody, suggesting that the new law still had only a small, though significant, effect.

In 2010 this figure had risen to only 10.5%, but since then, joint physical custody has shown a more steady increase, accounting for 15.3% of all rulings in 2013 (INE).

Recently, however, several Spanish autonomous regions, which have the power to legislate on civil matters, have produced their own laws concerning the care of children after marital breakup, namely: Aragon (Law 2/2010), Catalonia (Law 25/2010), Navarre (Law 3/2011) and Valencia (Law 5/2011). These laws go further than the 2005 Divorce Reform in promoting joint physical custody as they actively encourage shared parenting. In the case of Catalonia, this is explained in more detail below. Prior to the implementation of these laws, these autonomous regions already awarded joint physical custody in a higher proportion of cases than in the rest of Spain in most years, and the differences have increased since then (in all regions except Navarre). This is particularly the case in Aragon and Catalonia, where more than a quarter of custody rulings are for joint custody, versus just 10.4% in the rest of Spain (Figure 2).

Figure 2. Proportion of joint physical custody rulings in Spanish autonomous regions with their own family laws, in the rest of Spain, and in Spain as a whole, (2007-2012)



Note: As shown by the vertical bars, the autonomous region family laws came into force on 26 August 2010 in Aragon, 1 January 2011 in Catalonia, 25 May 2011 in Valencia and 28 June 2011 in Navarre.

Source: www.ine.es

Catalonia was chosen for comparison over other regions because the Catalan Civil Code contains specific provisions to encourage shared parenting rather than merely joint physical custody. This region represents one-sixth of the Spanish population, and there has been a consistent upward trend in joint custody since 2007 (as compared to the U-shaped trend observed in other regions such as in Valencia, and the higher levels in Navarra before the new CCC than in the following years).

Catalonia has historically specific sociodemographic behaviours and is often seen as a precursor region. Mortality and fertility started declining in Catalonia before most other Spanish regions (since the first demographic transition). Similar patterns can be observed for the so-called second demographic transition. Age at marriage, the proportion of extramarital births and the divorce rate began to increase earlier and/or they are currently higher in Catalonia than in Spain as a whole (Solsona, 1997). In addition, there was a clear difference between Catalonia and the rest of Spain in terms of social and economic development over the last century. Catalonia has always been wealthier and, for instance, labour force participation among Catalan mothers with a partner is also higher (66% compared to 57% in the rest of Spain according to the 2011 census). As such factors affect demographic behaviour, they are likely to explain part of Catalonia's territorial specificity (Cabr  Pla, 1999; Sim  et al., 2000; Spijker and Blanes-Llorens, 2009).

The 2010 Catalan Civil Code

The second book of the CCC, on persons and family, was approved on 29 July 2010 and came into force on 1 January 2011. Among other aspects,⁽⁸⁾ it deals with the consequences of marital breakup for minor children.

As mentioned earlier, joint legal custody in the Spanish Divorce Reform of 2005 falls under the purview of parental authority, while the CCC emphasizes parental responsibility (Article 233-8). Another difference is that the term joint physical custody is not specifically mentioned anywhere within the entire CCC; instead, it alludes to guardianship regimes and the conditions for establishing agreements and rulings related to the break-up of any relationship which involves decisions concerning the care of minor children. Single-parent custody is also rarely mentioned. The Catalan Law tends, therefore, to consider that the mutual agreement between the parties and all related judicial decisions must be in accordance with the emotional and material living conditions of both former partners and the children they have in common.

The main ambition of the new CCC is to encourage forms of co-parenting and mediation. It introduces two powerful tools to recognize and advocate shared parenting: the description by the judge of circumstances and agreements (Article 233-11), and the parenting plan (Article 233-9).

First, the judge must consider the circumstances for determining the regime and form of child custody on the basis of the following clearly established criteria:

- The emotional bond between the children and their parents;

(8) The second book of the CCC on Person and Family (Law 25/2010) is divided into 4 sections: I) Natural Persons, II) Personal protection regimes, III) Family, IV) Relations of cohabitation for mutual assistance. See also <http://civil.udg.es/normacivil/cat/ccc/Index.htm> (in Catalan) or <http://www.boe.es/boe/dias/2010/08/21/pdfs/BOE-A-2010-13312.pdf> (in Spanish).

- The time devoted by each parent to the care of the children before the couple's break-up;
- The ability of parents to ensure the welfare of children and a suitable living environment;
- The attitude of each parent to cooperate with each other to ensure maximum stability in the child's relationship with both parents;
- The views expressed by the children;
- The agreements made in anticipation of the union's dissolution;
- The location of each parent's home and the schedules and activities of the children and parents.

The CCC also stipulates that the parents' proposals after family breakdown should be included in the judicial proceedings. This takes the form of a parenting plan, which details the parental commitments concerning the children's custody and care, and the cooperation between the mother and the father after divorce. Specifically, the CCC stipulates that the Parental plan must include agreements on the following items:

- The place or places where the children usually live. This should include rules for determining which parent is the responsible guardian at all times, including for the organization of daily activities;
- The home-stay arrangement of the children with each parent, including holiday periods and other important dates for the children, parents and family and, if appropriate, how costs are shared;
- The arrangements for communicating and maintaining a relationship during periods when a parent does not have the children with him or her;
- The type of education (including extracurricular), training and leisure activities, as appropriate;
- The obligation to share information regarding the education, health and welfare of the children.

In case of disputes, or if the children's needs change, family mediation may be used to resolve such disputes or adapt the plan to the different stages of the child's life.

If the divorce is by mutual consent, the judge usually accepts the parenting plan, which is generally included in the settlement agreement. Otherwise, the judge will decide how parental responsibilities are to be exercised and, in particular, who obtains custody of the children, based on the parent's characteristics and above all, the interests of the child.

The parenting plan does not impose any specific type of organization. Even if the divorce is contested, it encourages parents to cooperate in finding ways to responsibly care for their children and to anticipate problems (and possible solutions) or decisions that will affect them. The parenting plan also

facilitates collaboration between both parties' attorneys and the psychologists, psychiatrists, educators and independent social workers who are involved in specific aspects of the break-up before the parents file for divorce. This makes it easier to reach agreement, to ensure transparency and to fulfil assumed commitments. Another novel aspect of the parenting plan is that the failure of the parents' relationship does not automatically mean that children are separated from one parent and entrusted to another.

The objectives of both the Spanish Divorce Law Reform of 2005 and the 2010 Catalan Civil Code were thus to increase the co-responsibility of the parents in case of relationship breakdown and to encourage mediation in case of conflict. However, not only does the CCC explicitly establish specific criteria for deciding on child custody, it also introduces into the judicial proceedings a parenting plan that makes it easier for parents to cooperate in organizing care for their children. The judge decides on alimony as well as the use of the family dwelling until the youngest child reaches 18 years of age. These decisions are made according to the parents' levels of income and are therefore not necessarily related to who obtains custody.

So, while Catalonia already had higher proportions of joint physical custody than the rest of Spain before the 2010 CCC, we hypothesize that these differences have widened since then, particularly after controlling for individual, marriage and divorce characteristics known to be associated with joint physical custody in Spain and Catalonia (Solsona et al., 2014; Spijker, 2012).

III. Data and methods

The data we use in this study come from the Spanish National Statistics Institute (INE). Under an agreement between the INE and the General Council of the Judiciary (CGPJ) on February 14, 1995, the Justice Statistics (*Estadísticas Judiciales*) published by INE included, for the first time, data on the separation, divorce and annulment decrees recorded by the courts.⁽⁹⁾ The 2005 Divorce Law Reform accelerated the judicial process and improved the statistical recording of these decrees.⁽¹⁰⁾ For research purposes, annual anonymized statistics on approximately two-thirds of the decrees are made available on request from INE in the form of microdata (66,988 decrees in 2012).⁽¹¹⁾ Since 2007, they have included data on custody arrangements and homosexual marriage dissolutions (both legally formalized in 2005),

(9) A statistical bulletin is completed by the court each time a decree is pronounced (*Boletines estadísticos de sentencias de separación, divorcio y nulidad*).

(10) Since 2007 this is done directly through a virtual judicial office called *Punto Neutro Judicial*.

(11) The majority of married couples with minor children who decide to divorce or separate do so formally through the courts, even though they are not obliged to do so. Although we have no survey or other data source to provide confirmation, this is the perception of lawyers we spoke to on this matter who gave as main reason the fact that the divorce process deals simultaneously with child custody and the division of property (in Spain there is a high proportion of homeowners).

but they do not include information on non-married couples who have separated.⁽¹²⁾

For the purpose of this study, microdata on decrees were obtained for the period 2007-2012, but only formally married heterosexual couples who legally divorced were analysed.⁽¹³⁾ Each divorce register contains demographic details of each spouse and information on the marriage and the legal process. Individual data includes date of birth, sex, marital status before current marriage and nationality of each spouse. The data also contains the date of marriage and the dates when the marital dissolution was requested and became effective. We were thus able to calculate ages at marriage and divorce, length of marriage (up to both the start of the divorce process and the pronouncement of the decree) and the length of the divorce process itself. Regarding the legal process, information includes which spouse (or both) filed for dissolution, the decree (divorce, separation or nullity), whether there was a prior separation, if the judicial process was contested, who is required to pay child maintenance and alimony, the number of minors involved and – of special interest to our study – the type of physical custody arrangement. However, no information is included on the children's ages or the parents' educational level and income.

Regarding the method of analysis, we first examine the prevalence of each type of custody from 2007 to 2012, comparing Catalonia with the rest of Spain, before describing the prevalence of joint custody for both regions according to the abovementioned variables. The data are aggregated into two periods: 2007-2010 and 2011-2012, i.e. the periods before and after the introduction of the CCC. Finally, we conduct a multivariate logistic regression analysis of the same variables (excluding those which are strongly correlated with each other), to ascertain the independent effect of each factor on the propensity to award (versus not award) joint custody in Catalonia and in the rest of Spain. In this case, the years are no longer grouped.

IV. Findings and discussion

In 2007, the first year that data on custody arrangements were registered, 11.6% of physical custody rulings in Catalonia that concerned a divorce were

(12) The outcomes of the judicial union dissolution procedures are also publically available on the online database of the CGPJ (www6.poderjudicial.es/). However, while it does not include details of individuals, the marriage characteristics of couples or the established custody arrangement, the database does provide dissolution totals for non-married couples with minor children. We were therefore able to estimate that in 2012 about 33% of union dissolutions involving minor children concerned non-married couples (up from 18% in 2007).

(13) The sample therefore also excludes married couples who legally separated but did not divorce (10% of the total number of 2007 marital dissolutions in Spain, declining to 5% in 2012). The legislation required a previous legal separation prior to divorce until 2005, and this is still possible today; therefore, the figures of separation and divorce cannot be analysed together, as such two-stage marriage dissolutions would be counted twice if they took place during the study period. For this reason, we excluded separations.

for joint custody, compared with 9.2% in the rest of the Spain. This difference of just 2.4% suggests that the Spanish divorce reform of 2005 had an immediate initial effect throughout Spain. Until 2010, the year that the CCC was implemented, the proportion stayed level in the rest of Spain, but increased in both relative and absolute terms in Catalonia to 16.6% of all rulings. While two years later the proportion of joint physical custody rulings had risen by a third in the rest of Spain to 12%, it had increased to more than double that level in Catalonia, namely 26.4%. This widening difference is therefore a likely consequence of the new CCC (Table 1).

Given the clear territorial differences in joint physical custody, the question we subsequently ask is whether we can identify characteristics from the decree data that increase or reduce the probability of physical joint custody being awarded. Table 2 shows the probability of obtaining joint custody according to individual, couple, divorce and judicial process characteristics for the periods before the CCC (2007-2010) and for the period since then, for which micro data are available at the time of writing (2011-2012). Results are provided for both Catalonia and the rest of Spain, and the main findings are summarized below in three main points.

The first results concern the prevalence of joint physical custody. In the period 2007-2010, the proportion of joint custody arrangements was on average

Table 1. Physical custody arrangements of divorcees in Catalonia and the rest of Spain, 2007-2012

Custody (%)	Year						Relative change (%)	
	2007	2008	2009	2010	2011	2012	2007-2010	2010-2012
Catalonia								
Mother	83.5	82.1	79.4	77.8	73.1	67.6	-6.8	-13.1
Father	5.0	4.5	6.0	4.9	5.4	5.1	-1.8	+3.8
Joint	11.6	13.1	14.0	16.6	20.6	26.4	+43.3	+59.7
Other	0.0	0.3	0.6	0.8	1.0	0.9		
Overall	100.0	100.0	100.0	100.0	100.0	100.0		
Total	11,967	10,540	9,533	10,242	9,775	9,962	-14.4	-2.7
o/w joint	1,383	1,384	1,333	1,696	2,014	2,634	+22.6	+55.3
Spain excluding Catalonia								
Mother	86.1	86.7	85.1	84.5	83.5	82.1	-1.9	-2.8
Father	4.8	4.0	5.5	5.8	5.4	5.4	+22.8	-7.6
Joint	9.2	8.9	8.7	9.1	10.4	12.0	-1.3	+32.5
Other	0.1	0.3	0.8	0.6	0.7	0.5		
Overall	100.0	100.0	100.0	100.0	100.0	100.0		
Total	53,025	48,598	42,856	44,169	45,202	45,380	-16.7	+2.7
o/w joint	4,866	4,332	3,713	3,999	4,715	5,445	-17.8	+36.2
<p>Note: The category "other" pertains to rare instances when custody is awarded by the court to a third party (a grandparent, other relative or person close to the child, or if this is not possible, an institution). The relative changes are not calculated for this type of arrangement since the figures are too small.</p> <p>Coverage: Divorcing couples with minor children in 2007-2012.</p> <p>Source: www.ine.es</p>								

Table 2. Percentage of divorcees awarded joint physical custody according to the characteristics of the couple, the union and the legal process, 2007-2010 and 2011-2012, Catalonia and the rest of Spain

Variable / Categories	1. Catalonia		2. Spain (excl. Catalonia)		Ratio 1/2	
	2007-2010	2011-2012	2007-2010	2011-2012	2007-2010	2011-2012
Year of divorce						
2007	11.5		9.2		1.3	
2008	13.2		8.9		1.5	
2009	14.1		8.7		1.6	
2010	16.7		9.1		1.8	
2011		20.8		10.5		2.0
2012		26.7		12.1		2.2
Spouses's characteristics						
Father's age at marriage						
< 25 years	12.8	19.7	8.4	9.6	1.5	2.1
25-29 years	14.1	25.1	9.3	11.6	1.5	2.2
30-34 years	14.4	26.3	9.4	12.3	1.5	2.1
35+ years	14.0	22.8	9.1	12.1	1.5	1.9
Mother's age at marriage						
< 25 years	13.3	22.0	8.8	10.2	1.5	2.2
25-29 years	14.6	25.6	9.5	12.5	1.5	2.0
30-34 years	13.7	25.1	8.8	11.5	1.5	2.2
35+ years	12.7	22.3	8.5	11.3	1.5	2.0
Father's age at divorce						
< 30 years	10.7	15.7	7.2	9.1	1.5	1.7
30-34 years	12.4	21.3	8.1	9.6	1.5	2.2
35-39 years	13.9	24.8	8.7	10.8	1.6	2.3
40-44 years	14.2	26.1	9.4	12.1	1.5	2.2
45-49 years	14.4	24.2	9.6	11.8	1.5	2.0
50+ years	13.6	20.1	9.4	11.7	1.4	1.7
Mother's age at divorce						
< 30 years	11.2	19.0	7.6	9.5	1.5	2.0
30-34 years	13.2	22.8	8.4	10.2	1.6	2.2
35-39 years	14.1	25.6	9.1	11.4	1.5	2.2
40-44 years	14.2	24.2	9.3	12.0	1.5	2.0
45-49 years	14.1	23.7	9.5	12.1	1.5	2.0
50+ years	13.8	20.5	9.6	10.7	1.4	1.9
Father's status before the marriage						
Single	13.9	23.9	9.0	11.3	1.5	2.1
Divorced / widower	12.2	21.2	8.6	10.4	1.4	2.0
Mother's status before the marriage						
Single	13.9	23.9	9.0	11.3	1.6	2.1
Divorced / widower	11.8	22.0	9.7	10.0	1.2	2.2
Marriage characteristics						
Spouses' age difference						
Same age	14.4	24.0	9.1	11.6	1.6	2.1
W younger than M	12.7	23.5	8.2	10.4	1.5	2.3
W older than M	13.4	23.7	9.1	11.3	1.5	2.1

Table 2 (cont'd). Percentage of divorcees awarded joint physical custody according to the characteristics of the couple, the union and the legal process, 2007-2010 and 2011-2012, Catalonia and the rest of Spain

Variable / Categories	1. Catalonia		2. Spain (excl. Catalonia)		Ratio 1/2	
	2007-2010	2011-2012	2007-2010	2011-2012	2007-2010	2011-2012
Spouses' nationalities						
2 Spanish	14.2	25.3	9.0	11.6	1.6	2.2
1 Spanish, 1 foreign	11.0	18.8	9.0	10.4	1.2	1.8
2 foreign	9.3	10.6	7.6	8.1	1.2	1.3
Marriage duration						
< 5 years	12.0	20.8	7.7	9.5	1.6	2.2
5-10 years	14.4	24.4	8.5	11.3	1.7	2.1
10-20 years	13.7	25.1	9.6	12.0	1.4	2.1
20+ years	14.0	21.2	8.9	10.5	1.6	2.0
Number of minor children						
1	12.9	21.8	8.5	10.7	1.5	2.0
2	15.2	26.8	9.8	12.2	1.5	2.2
3+	13.8	20.9	9.0	10.9	1.5	1.9
Judicial process						
Claimant						
Husband	13.0	23.3	8.7	12.0	1.5	1.9
Wife	9.4	15.8	6.4	6.6	1.5	2.4
Both	17.2	29.5	11.4	14.5	1.5	2.0
Previous separation						
Yes	10.5	16.8	7.0	7.9	1.5	2.1
No	14.5	24.5	9.5	11.6	1.5	2.1
Duration of procedure						
< 6 months	15.2	27.7	10.1	13.1	1.5	2.1
6-11 months	11.0	17.9	7.2	8.2	1.5	2.2
12+ months	9.9	12.9	6.6	7.0	1.5	1.8
Divorce decree						
Mutual consent	15.8	27.8	10.9	14.0	1.4	2.0
Contested divorce	8.5	13.3	6.0	6.6	1.4	2.0
Alimony						
Paid by husband	16.7	27.2	10.9	10.3	1.5	2.6
Paid by wife	20.0	31.6	18.2	11.2	1.1	2.8
Paid by both	13.4	23.3	8.7	11.4	1.5	2.0
Food allowance						
Paid by husband	7.6	10.1	5.5	4.7	1.4	2.1
Paid by wife	8.0	11.5	6.5	8.5	1.2	1.3
Paid by both	83.7	90.2	73.7	87.1	1.1	1.0
Total	13.8	23.8	9.0	11.3	1.5	2.1
N (unweighted)	28,246	12,435	124,357	55,216		
<p>Note: Weighted proportions (to the annual number of divorces) and unweighted total number of divorces. The category with the highest proportion and the highest ratio between Catalonia and the rest of Spain is marked in bold.</p> <p>Coverage: Divorcing couples with minor children in 2007-2012.</p> <p>Source: Authors' calculations based on micro data from the divorce decrees obtained from INE.</p>						

1.5 times higher in Catalonia than in the rest of Spain. This ratio increased by about 0.2 per year, a trend that continued in 2011-2012, when the ratio averaged 2.1 (23.8% of custody arrangements were joint custody in Catalonia versus 11.3% in the rest of Spain).

Secondly, we analysed the characteristics of the spouses, marriages and legal process. Despite the differences between Catalonia and the rest of Spain in the absolute proportion of joint physical custody rulings, both territories have virtually the same personal characteristics associated with higher or lower probabilities. For instance, fathers aged 30-34 and mothers aged 25-29 at the time of marriage are most likely to obtain joint custody (this applies to both periods). Moreover, the ratio between Catalonia and the rest of Spain is identical for most variable categories (1.5), particularly in 2007-2010. Turning to the variables associated with marriage characteristics, most categories show few differences in the proportion of joint physical custody rulings when compared to the average or with respect to the ratio between Catalonia and the rest of Spain. A notable exception is when both spouses are foreign, as the territorial difference in custody arrangements is relatively small (e.g., 10.6% joint custody in Catalonia in 2011-2012 versus 8.1% in the rest of the country compared with 25.3% and 11.6%, respectively, when both spouses are Spanish). In both territories, divorcing parents with two children are more likely to obtain joint physical custody than when there are one or three or more children involved. Although findings from other research on the effect of the number of children are mixed, similar results were obtained by Juby et al. (2005) and Turunen (2015). Unfortunately, neither study provided an explanation, but we could speculate possible reasons. First, many mothers do not wish to relinquish exclusive custody after divorce (Seltzer, 1994). It would be interesting to see if this is more likely in the case of couples with one child. Second, larger families more often have a traditional division of labour. Last, it has been suggested that many separating couples do not have the financial means to provide two homes big enough for a large family (Juby et al 2005), thereby reducing the likelihood of requesting shared physical custody.

Regarding the probability of a joint physical custody ruling according to the characteristics of the judicial process, this appears to be higher when both spouses are claimants (as both may agree in advance on joint physical custody), when there is no previous separation, when the divorce process ends quickly and, of course, if divorce is by mutual consent. Again, the joint physical custody ratio between Catalonia and Spain remained at approximately 1.5 during 2007-2010 and close or equal to the average of 2.1 in 2011-2012 for most categories.⁽¹⁴⁾ The increase in joint custody in Catalonia was more modest and, among divorces that took a long time to finalize (12+ months), the difference with the rest of the country was smaller in 2011-2012. The last two

(14) One notable exception was when the wife was the claimant.

variables associated with the judicial process for which information is registered concerns financial support. This is determined after the judge decides the custody arrangement. Under joint custody, in 90% of cases, both spouses pay the food allowance (amount determined according to the children's basic needs: food, clothing, schooling costs, healthcare). For alimony, joint custody in Catalonia is highest when only the wife pays. Both results suggest that joint custody is an option often chosen by non-traditional families in which the mother works. This is simply a tentative assumption as no information exists on employment or income, but it is a plausible hypothesis. These women with economic autonomy and greater bargaining power share parenting time more equally, while they also contribute to child support payments. This is directly related to the participation of married women in the labour market, which has been higher in Catalonia than in the rest of Spain for many decades (Solsona, 1997).

Third and last, a multivariate analysis was conducted to ascertain the independent effect of each characteristic⁽¹⁵⁾ on the awarding of joint physical custody. To determine the influence of the CCC on the propensity for joint physical custody to be awarded in Catalonia, it was analysed separately from the rest of Spain. This also enables us to directly compare the odds ratios of the variable categories and therefore to ascertain whether certain specific characteristics contribute to the much higher joint custody in Catalonia. Results showed that, despite the consistently higher level of joint custody in Catalonia, the effect of most characteristics on the awarding of joint custody is not very different from in the rest of Spain. As we found in the bivariate analysis, the main exception is the spouses' nationality: In Catalonia, both mixed couples and foreigners are less likely to obtain joint physical custody than native-born couples, while in the rest of Spain, foreign couples have only a slightly lower odds of obtaining it. A possible explanation is that in Catalonia there are proportionally more migrants from regions with more traditional gender roles (particularly Latin America and northern Africa) and fewer migrants from more egalitarian countries (e.g. most European countries).

Another exception should be noted. Aside from marriages that lasted 5-10 years, those lasting 10-20 years are also more likely to obtain joint physical custody in the rest of Spain, while this is not the case in Catalonia. However, the main result of the analysis finds that the CCC has an additional effect beyond the already existing territorial trend differences in joint custody rulings. As shown in Table 3 and Figure 3, we observe that, after controlling for the decree characteristics, the odds of joint physical custody being awarded increased by 44% (from 1.00 to 1.44) in Catalonia between 2007 (the reference

(15) The variable wife's age at divorce was highly correlated with the husband's age and was therefore not tested in the multivariate analysis. Age at marriage for both types of couples was also excluded because it can be derived from the variables age at divorce and marriage duration. Neither were alimony and food allowance tested, as deciding who pays depends very much on who obtains custody, not the other way around.

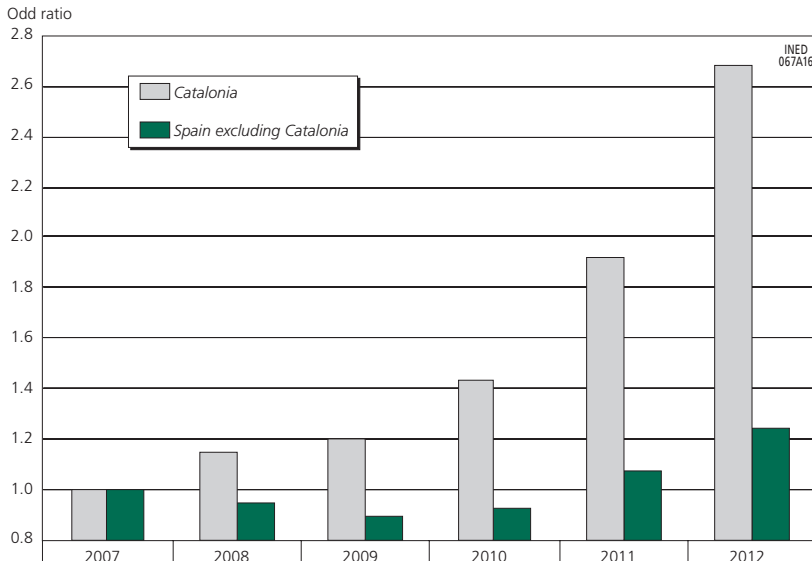
Table 3. Logistic regression of joint physical custody rulings after divorce, Catalonia, and Spain excluding Catalonia, 2007-2012 (odds ratios)

Variable / Categories	Catalonia Odds ratio	Spain excluding Catalonia Odds ratio	Difference ^(a)
Year of divorce			
2007	1	1	
2008	1.154 ***	0.947 *	Yes
2009	1.201 ***	0.896 ***	Yes
2010	1.438 ***	0.925 *	Yes
2011 (CCC)	1.921 ***	1.074 ***	Yes
2012 (CCC)	2.722 ***	1.263 ***	Yes
Father's age at divorce			
< 30 years	1	1	
30-34 years	1.129	1.003	No
35-39 years	1.282 ***	1.056	No
40-44 years	1.391 ***	1.171 ***	No
45-49 years	1.434 ***	1.256 ***	No
50+ years	1.365 ***	1.361 ***	No
Marriage characteristics			
Spouses' age difference			
Same age	1	1	
W younger than M	0.955	0.896 ***	No
W older than M	0.976	0.981	No
Nationality			
2 Spanish	1	1.	
1 Spanish, 1 foreign	0.797 ***	1.056 *	Yes
2 foreign	0.587 ***	0.899 *	Yes
Marriage duration			
< 5 years	1	1	
5-10 years	1.123 *	1.116 ***	No
10-20 years	0.982	1.167 ***	Yes
20+ years	0.915	1.010	No
Father's status before the marriage			
Single	1	1	
Divorced / widower	0.867 **	0.896 ***	No
Number of minor children			
1	1	1	
2	1.201 ***	1.115 ***	No
3+	1.093	1.069	No
Judicial process			
Claimant			
Husband	1	1	
Wife	1.510 ***	1.527 ***	No
Both	1.512 ***	1.400 ***	No
Previous separation			
Yes	1	1	
No	1.371 ***	1.357 ***	No

Table 3 (cont'd). Logistic regression of joint physical custody rulings after divorce, Catalonia, and Spain excluding Catalonia, 2007-2012 (odds ratios)

Variable / Categories	Catalonia Odds ratio	Spain excluding Catalonia Odds ratio	Difference ^(a)
Duration of process			
< 6 months	1	1	
6-11 months	0.952	0.941 **	No
12+ months	0.827 ***	0.893 ***	No
Divorce petition			
Divorce by mutual consent	1	1	
Contested divorce	0.627 ***	0.585 ***	No
Constant	0.065 ***	0.059 ***	No
Nagelkerke R^2	0.06	0.03	
Number	40,038	175,599	

(a) "No" means that the 95% confidence interval of the risk ratios of both territories overlap and that the effect of the variable is not significantly different in Catalonia and the rest of Spain.
Notes: Dependent variable: joint physical custody (yes versus no). CCC: Book II of the Catalan Civil Code, which came into force on 1 January 2011. "1": reference category.
Significance levels: * $p < 0.01$; ** $p < 0.05$; *** $p < 0.1$.
Source: Authors' calculations based on the micro data from the divorce decrees obtained from INE.

Figure 3. Odds ratio of joint physical custody being awarded after divorce, Catalonia, and Spain excluding Catalonia, 2007-2012

Note: Odds ratios after controlling for the variables listed in Table 3. The reference year for both territories is 2007 (odds ratio = 1).

Source: Authors' calculations based on micro data from the divorce decrees obtained from INE.

year) and 2010, but declined in the rest of Spain by 7% (from 1.00 to 0.93). Moreover, this difference widened between 2010 and 2012 as the odds ratio increased by 86% (from 1.44 to 2.68) in Catalonia and by just 35% (from 0.93 to 1.25) in the rest of Spain.⁽¹⁶⁾

As shown in Figures 2 and 3 and Table 1, joint physical custody is currently more than twice as frequent in Catalonia as in the rest of Spain. The clauses of the CCC related to child custody have accentuated this difference. Compared especially to the autonomous communities in Spain that do not have their own family law, the CCC contains a particularly important addition that favours joint physical custody in Catalonia – namely that a parenting plan should detail the commitments assumed by each divorcing parent with respect to the children’s custody, care and education.

While it is perhaps surprising that the term “shared” or “joint physical custody” is not specifically defined in the CCC, there are clauses that facilitate the decision to award (or not) joint physical custody, in particular the parenting plan and the criteria and circumstances that the judge uses to determine the type of custody, as was summarized in Section II.

The likelihood of awarding joint physical custody therefore increases if both parents wish to share custody and the judge’s evaluation of the circumstances is positive. The first point can be illustrated with the decree data. For instance, our results showed that, in 2011-2012, joint custody was awarded in Catalonia in 27.8% of divorces by mutual consent, compared to 15.8% when divorce was contested. When the data are analysed the other way around, the findings are even more telling, as the proportion of divorce decrees by mutual consent was 84.4% when joint custody was awarded, compared to 69.6% when sole custody was awarded to the mother, and 59.7% when it was awarded to the father.

International comparisons

When we compare Catalonia with other European countries (Table 4), we observe that joint physical custody is more frequent only in Belgium, Denmark and Sweden. The case of Italy is also worth noting. Here, there was a legal reform around the same time as in Spain (in 2006), that facilitated joint custody arrangements, thereby giving children the right to have a balanced and lasting relationship with both parents. As a result, court decisions for legal joint custody in cases of separation and divorce increased from 15.4% and 11.6%, respectively, in 2005 to 89.8% and 71.1% in 2010 (De

(16) We also tested a model for the whole of Spain, whereby we added a dummy variable for region (1=Catalonia, 0=rest of Spain) and tested the interaction between region and time. Results (available on request from the authors) were very similar, as the model also showed that while joint physical custody was already increasing in Catalonia before the new civil code came into force on 1 January 2011 (both in relative terms and compared to the rest of Spain where no increase was observed between 2007 and 2010), this increase accelerated after 2010.

Blasio and Vuri, 2013).⁽¹⁷⁾ However, this merely reflects changes in legal custody adjudication, as the post-dissolution financial arrangements and time allocation (i.e. physical custody) continued to be based mostly on sole custody habits: in 2010, only about 2% of rulings were for alternating custody and 3% for joint physical custody (Vezzetti, 2013).

Table 4. Proportion of rulings awarding joint physical custody of minor children in Europe

Country	Percentage	Children's age group	Year	Source
Catalonia	30	All	2013	www.ine.es
Spain, excl. Catalonia	15	All	2013	www.ine.es
Austria	1	All	2001	Vezzetti (2013)
Belgium	33	Adolescents	2006-2011	Sodermans et al. (2013)
Czech Republic	8	All	2011	Vezzetti (2013)
Denmark	39, 39, 22	7, 11, 15 years	Born in 1995	Vezzetti (2013)
France	19	All	2012	Guillonnet and Moreau (2013)
Germany	13	All	2008	Vezzetti (2013)
Greece	3	Adolescents	1998-2007	Vezzetti (2013)
Italy	5	All	2010	Vezzetti (2013)
Netherlands	22	All	2013	http://statline.cbs.nl/
Norway	20	All	2005	Jensen (2005)
Portugal	3	All	2008	Vezzetti (2013)
Romania	< 1	All	2009	Vezzetti (2013)
Slovakia	5	All	2011	Vezzetti (2013)
Sweden	35	All	2012-2013	Statistics Sweden (2014)
Switzerland	< 1	All	2010	Vezzetti (2013)
United Kingdom	6	Adolescents	2009	Bjarnason and Arnarsson (2011)

Conclusions

Our initial research question was: “Does the 2010 Catalan Civil Code affect trends in joint physical custody in Catalonia?” And the answer is affirmative. The comparison of trends between Catalonia and the rest of Spain confirms that the law explains at least part of the increasing trends in Catalonia. Following our analysis that compares the prevalence of joint physical custody in the period before the CCC (2007-2010) with the period after (2011-2012), we can summarize our conclusions in three points: first, the effect of the Catalan law (CCC) on reducing gender inequalities in the family sphere; second, Catalonia’s

(17) While pre-reform arrangements favoured sole maternal custody and fathers’ visitation rights were limited, the new law gives priority to joint legal custody, unless some very specific circumstances make sole custody preferable. These must be documented in a written statement (*provvedimento*). To ensure that the children can maintain a close relationship with both parents, the law introduced several post-separation financial provisions related to child support and the location of the family home, although it would seem that the financial provisions remain unapplied (De Blasio and Vuri, 2013, www.istat.it).

position in Europe in terms of the prevalence of joint physical custody; and, finally, the limitations of our study and the need to continue investigating this research topic.

The effect of the Catalan Civil Code

The CCC, created and approved by a left-wing government in Catalonia, reflects the judicial culture and practice that already existed in the autonomous region before both the 2005 Spanish Reform and the 2010 CCC, probably associated with specific socioeconomic and demographic behaviours in this region. This includes a higher prevalence of divorce, notably by mutual consent, and of joint physical custody than in other parts of Spain. For instance, over the last 15 years, the proportion of divorces by mutual consent averaged 68% between 1999 and 2005 and 74% between 2005 and 2012 in Catalonia, compared to 56% and 64%, respectively, in the rest of Spain. Divorce by mutual consent is not only related to a higher probability of joint physical custody, it also indicates that divorcing parents have a greater capacity for reaching consensus and sharing parental practices (Solsona et al., 2014). These are the core elements of the new CCC, and the new parenting plan will further facilitate this approach.

However, from a sociological point of view, post-divorce custody practices should be placed in the context of current trends in the upbringing, care and education of children. Research on nuclear families has shown that the day-to-day practice of shared parenting of minor children in Catalonia is slowly gaining ground over the norm of mothers taking exclusive responsibility. Changes are significant, although moderate: in 3-4 out of 10 households with minor children, both the father and mother share in the day-to-day parenting, although this is asymmetric in terms of the time spent and the type of care activities. Mothers usually devote more time to domestic chores and childcare, even though they often spend as many hours in the workplace as fathers (Brullet, 2011). While we should continue to recognise that the practice of day-to-day parenting is still not shared equally between mothers and fathers, the increasing prevalence of joint physical custody in Catalonia suggests that a shared parenting model in Catalan society is emerging and, with it, an ongoing transformation of gender identities and power relationships within the family. It is important to note that when spouses agree on the custody ruling it not only reflects the decision of the judge, but also the social consensus on post-divorce parenting practices by judicial officers (lawyers, prosecutors, mediators, etc.) and by the divorcees themselves.

While joint physical custody is a favourable instrument for socialization of children by promoting gender equality and enables children to have ongoing contact with both parents and vice versa, there are cases when joint physical custody should not be the preferred option. This is also specifically stated in the CCC, which stipulates that the judicial authority should order custody to be exercised by only one parent if this is in the best interest of the child

(Picontó-Navales, 2012). This is clearly the case when a parent has either been charged with or prosecuted for domestic or gender violence in which any of the minor children were or could have been direct or indirect victims (CCC article 233.11.3), or when a parent is neglectful or has a serious mental health problem. However, there are also other situations where divorced parents should perhaps not be given equal responsibility for day-to-day care. For instance, some parents may have never really actively participated in the upbringing of their children or were unable to do so (e.g., because of a disability). In these cases, sole custody with the other parent would clearly be preferable, and this should be understood by judges, lawyers, social workers, mediators, psychologists and other professionals involved in divorce counselling and litigation (Bauserman, 2002).

In cases of relitigation involving a modification of the divorce decree, joint custody may be requested by the husband in exchange for a reduction in support payments in cases where exclusive custody was given to the mother in the first instance. This does not reflect a consensus, but rather a constant power struggle between ex-partners.

During a recent international seminar (Space and Time in Post-Divorce Families),⁽¹⁸⁾ the speakers included family lawyers, mediators, academic experts in family law and divorcees. They were invited to discuss their professional and personal experiences, and some of them raised concerns about the over-granting of joint physical custody in some instances in the first years of the CCC's implementation. While the decree data did not allow us to analyse this in detail, we do not believe that joint physical custody is the default option, as it is awarded in "only" just over a quarter of all rulings.

Today, the prevalence of joint physical custody in Catalonia is comparable to levels in Belgium, Denmark and Sweden, and well above those of the other European countries.

Future trends in joint physical custody

Predicting future levels of joint physical custody is a difficult task, given its wide range of determinants that include characteristics such as age at marriage, previous separation, nationality and number of children. Legislation is also an important factor. As both the descriptive and model results have shown, demographic and other factors behaved very similarly between Catalonia and the rest of Spain as absolute levels in joint custody according to the different characteristics were consistently higher in Catalonia (the main exception being the relatively lower odds for mixed and foreign divorcees of obtaining joint physical custody in Catalonia). The new CCC is not the sole explanation for the territorial differences, however, as these were already present before its implementation in early 2011. Nonetheless, the distinctive family laws in

(18) *Espais i temps en les famílies del postdivorci*, <http://institutinfancia.cat/biblioteca/espais-i-temps-en-les-famílies-post-divorci-seminari-internacional-programa/>

Catalonia do seem to have accentuated the observed differences. There is still no sign of decline, especially if we consider the latest data from the Spanish National Statistics Office which show that the proportion of joint custody rulings in Catalonia rose from 26.4% to 29.6% in 2013, while in the rest of Spain it increased from 12.0% to 15.3%.

Limitations of the study and ideas for future research

While our research provides insights into the magnitude, trends and basic demographic characteristics of custody arrangements, it pertains only to the moment of the divorce ruling, as the decree bulletins do not record whether there was a subsequent legal change to the arrangement. Neither does the decree data from INE disclose information from the parenting plan on how much time each parent proposes to spend with the children or how much time they actually spend. Moreover, most non-custodial parents also have rights to visit their children on a regular basis, and arrangements could become more frequent because of a change in the custodial parent's employment situation or perhaps even because the child wishes to spend more time with the other parent. As a result, the actual time spent with offspring could in fact be greater for non-custodial parents than for some parents with a joint custody arrangement. As elsewhere, joint physical custody in Catalonia does not coincide with a perfect symmetry between parents in terms of tasks and time spent on the children, as this is usually not attainable. In fact, the CCC has no precise definition regarding a minimum amount of time that children are required to live with each parent, although in practice children are expected to spend at least every other weekend with the non-custodial parent and have one overnight stay on an intermediate weekday.

Given the recent increase in joint physical custody, affecting thousands of additional families each year, future research should also examine the decrees in greater depth by analysing the complete text of the mutual agreements, parental plans and judges' decisions in contested divorces. In this way, we could better evaluate the extent to which increased joint physical custody truly means progress in gender equity.

Another limitation to the decree data is that within-population differences cannot be analysed, in particular socioeconomic differences in joint custody arrangements. We know from research elsewhere that parents with higher socioeconomic status are more likely to opt for a shared custody arrangement after splitting up. This is because they have more resources and are more likely to be early adopters of new family behaviours; furthermore, they may have more cooperative personalities, lower inter-parental conflict levels and be more child-oriented in general (Turunen, 2015). It would be of particular social interest to take into account parents and children with different custody arrangements and economic situations after a divorce or separation (both marital and non-marital) and study their residential arrangements in terms of

division of childcare, salaried work and child support payments – especially in the context of the recent economic crisis that hit Spain particularly hard. Such a study would require divorce decree or survey data that includes information on the spouses' incomes, educational attainment and labour force participation. The mothers' situations are of particular interest. For instance, those with a higher income may negotiate a more equitable division of care for the children, because they do not depend as much (or at all) on child support payments. This therefore provides greater potential for joint custody. In addition, as more Catalan women are proportionally more highly educated and more often in paid employment than women in the rest of Spain (according to both the 2001 and 2011 censuses; INE), socioeconomic factors may partially explain the current observed territorial differences in joint physical custody.

Acknowledgements: This study is a product of the R+D+I project “Espacios de vida y usos del tiempo de las familias postdivorcio” (CSO2012-39157) financed by the Spanish Ministry of Economy and Competitiveness. For Dr. Spijker financial support also came from the “Ramón y Cajal” programme (RYC-2013-14851). We would also like to express our gratitude to Marc Ajenjo and Ana Maria Goldani.

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Montserrat SOLSONA, Jeroen SPIJKER • EFFECTS OF THE 2010 CIVIL CODE ON TRENDS IN JOINT PHYSICAL CUSTODY IN CATALONIA. A COMPARISON WITH THE REST OF SPAIN

This article examines whether the Catalan 2010 Civil Code affects trends in joint physical custody in Catalonia, and why joint physical custody more than doubled in Catalonia during 2007-2012, although not in other regions of Spain. It first summarizes the 2005 divorce reform in Spain and the 2010 Catalan Civil Code on joint physical custody. It then describes the patterns and characteristics of physical custody arrangements of minor children, as adjudicated by judges, based on micro data from the Spanish National Statistics Institute on “Decrees of separations, divorces and annulments” for the period 2007-2012 in both Catalonia and the rest of Spain. It concludes that the Catalan legislation partially explains these observed differences, not because it advocates joint physical custody per se, but because it encourages shared parenting through the use of two specific tools: clear criteria for determining the regime and form of child custody; and a parental plan. Both of these elements also have great potential for reducing gender inequality in the family sphere.

Montserrat SOLSONA, Jeroen SPIJKER • INFLUENCE DU CODE CIVIL CATALAN (2010) SUR LES DÉCISIONS DE GARDE PARTAGÉE. COMPARAISONS ENTRE LA CATALOGNE ET LE RESTE DE ESPAGNE

Cet article a pour objectif principal d’analyser dans quelle mesure le Code civil catalan de 2010 influence la garde partagée des enfants après séparation des parents en Catalogne et de déterminer pourquoi la garde partagée a plus que doublé en Catalogne entre 2007 et 2012, alors que cela n’a pas été le cas dans les autres régions d’Espagne. Il décrit tout d’abord la réforme sur le divorce de 2005 en Espagne et les articles du Code civil catalan de 2010 qui concernent la garde partagée. Ensuite, il analyse les motifs et les caractéristiques des accords de garde partagée d’enfants mineurs, tels qu’ils ont été décidés par les tribunaux, à l’aide de données individuelles de l’Institut national de la statistique espagnol sur « les jugements en matière de séparations, divorces et annulations » pour la période 2007-2012 en Catalogne et dans le reste de l’Espagne. La législation catalane explique partiellement les différences entre la Catalogne et le reste de l’Espagne sur la garde partagée, non parce qu’elle recherche spécifiquement ce type d’accord sur la résidence des enfants, mais parce qu’elle favorise le partage des responsabilités parentales par deux outils spécifiques : des critères clairs pour déterminer le régime et les modalités de l’exercice de la garde, et la mise en place du plan parental, pouvant ainsi permettre de réduire les inégalités entre les sexes dans la sphère familiale.

Montserrat SOLSONA, Jeroen SPIJKER • INFLUENCIA DEL CÓDIGO CIVIL (2010) SOBRE LAS DECISIONES DE CUSTODIA COMPARTIDA DE LOS PADRES DIVORCIADOS EN CATALUÑA. UNA COMPARACIÓN CON ESPAÑA

Este artículo tiene por objetivo analizar en qué medida el código civil catalán (2010) influencia las decisiones de custodia compartida de los hijos después de la separación. Se analiza igualmente por qué motivos este tipo de custodia ha aumentado en dicha región más del doble entre 2007 y 2012, mientras que no ha sido así en otras regiones de España. Se presentan primero la reforma del divorcio de 2005 en España y los artículos del código civil catalán de 2010 que conciernen la custodia compartida. Se analizan después los motivos y las características de los acuerdos de custodia compartida decididos por los tribunales, gracias a los datos individuales provenientes del Instituto Nacional de Estadística sobre “los juicios en materia de separaciones, divorcios y anulaciones” durante el periodo 2007-2012. La legislación catalana explica en parte las diferencias entre Cataluña y el resto de España sobre la custodia compartida. No porque dicha legislación busque específicamente este tipo de acuerdo, sino porque favorece el reparto de las responsabilidades parentales gracias a dos instrumentos: claridad en los criterios para determinar el régimen y las modalidades de ejercicio de la custodia; establecimiento de un “plan parental” susceptible de reducir las desigualdades entre los sexos en la esfera familiar.

Keywords: Marriage breakdown, divorce, co-parenting, shared physical custody, demography, gender equity.