

SOME LEGAL ASPECTS OF FATHERH'S ROLE IN EDUCATION IN SLOVENIA

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ABSTRACT

The author deals with the legal aspects of the most common consequences of father's role changed in the event of a divorce and the separation of unmarried parents' community. After a brief against the legal aspects of paternity, termination of marriage in certain European countries, the author presents the legal aspects of paternity in the Slovenian legal system and particularly stresses the importance of the compromise agreement on the allocation of the parents of the child after the divorce, which is governed by 64.člen ZZZDR-UPB1; child's right to receive payment of duty and his father (or agreed. specified) maintenance, and the right child to both parents - even to his father, and the right child to personal contact with both parents and thus also with his father, who has a great importance upon his educational achievements.

Keywords: Father, child, family, education, parents, government, divorce, separation, socialization, family law.

INTRODUCTION

Upon termination of the marriage or the partnership of parents, the child's status is changed significantly since the changed family relationships, as well as the relations between parents are often either broken or hostile to such an extent that their participation in the care and education (total) of the child is disturbed. This also often causes disturbed or even broken relationships (among others), between parents and children, especially between father and the child.

Given the fact that in Slovenia the majority of children after a divorce or dissolution of the parent's partnership the court granted the mother's care because the various sources indicate that fathers in care receive only 2 % to 6 % of children, the father's bond after the collapse of a partnership relationship with the child's mother often only one dimension reduces the father's role. They do it after the divorce or the father meets divorce with alimony payments and other cash compensation and certain specific meetings or time periods of cohabitation with the child. Post-modern views on fatherhood definitely want to go swollen state with a view to fathers after the termination of marriage and go in the direction to the right to maintain optimum quality and relationships with their children in order to realize the role of partner, friend, protector, caregiver, educator, provide it (necessary) moral support to teachers. In short: the father, to which the child obtains all rights even after the separation and divorce, has the right to obtain the possibility of optimal relations with his child, regardless to quality of parents 'relations.

SOME STATISTICAL DATA ABOUT FATHER'S ROLE IN SLOVENIA

A growing number of fathers are present at deliveries of their children. In 1991 they were present at birth in 9.2 %, in 2005 68.3 %. Of the ten mothers in central Slovene region and only two give birth without the presence of the child's father. Among men aged 15 years or more, 42 % are fathers. Most fathers in the family were living with his wife and children (87 %), slightly less than 9 % of fathers were living with partner and children. 4 % of fathers were single parents and lived alone with children.

The average size of lone parent father's families was 2.3 members. Families made up of fathers with children, they are indeed rare, but their number is growing. At the 1981 census, among all such families with children they count less than 2.3 %, ten years later 3.1 %; the last census was 3.4 %. At the 2002 census the average family size with children was 3.4 members. The most numerous were families of married parents (3.7 members) and family with parents, who lived in consensual union (3.5 members); the smallest were single-parent families (3, 5 members).

The father's was a at child's birth in 2005 on average of 33 years; in 1985 29 years old (mother 25.5 years), ten years later, he was already two years older (31 years) in 2003 32 years, and in 2005 he was 33 years old. Two-thirds of the fathers of children born in 2005 were aged between 30 and 40 years. Only 7 % were in the category of very young fathers-under the age of 25 years.

Paternity leave was exploitable by almost two-thirds of fathers. Paternity leave in Slovenia fathers avail for themselves since 2003. The full length has been recognized by January 2005 in the length of 90 days. The father's paternity leave may be taken to the child's eighth year, of which 15 days must tap into the mother's maternity leave. Shares of fathers making use of paternity leave, is the lowest in north-eastern Slovenia, the highest where the birth rate is relatively high. This probably means that in an environment where the father gets involved in the earliest child care, education and upbringing there is a better possibility for a second or third child.

FATHER'S ROLE IN HIS CHILD EDUCATION AFTER THE DIVORCE AND SEPARATION

Despite the many features of the contemporary Slovenian society, which placed its expected post-modernity, in the pragmatic life experience we are still more or less confronted with strong interplay between the content of the traditional role of the father (when the natural father of the family is to assert his patriarchal authority and acting) and his post-modern role in the same social system and different social environments, which are all the more present the content of the post-modern father. This can, can and wants to express in relation to child tenderness, emotion, which is expected to be achieved, even after separation with the mother of his child.

The question is, however, is the father after the termination of marriage or the partnership in pursuit of its parent's (father's) applications often formal (legal) and informal (social) lost. Even if the statutory guarantee of equality, and despite the court decision, and only in granted and exceptional cases, a child is allotted in the care and upbringing in mother's awarded custody of the child. Often the court makes these decisions in the child's mother purpose that is full of hostile emotions towards the former partner, and (often) in desire for revenge and in fear that the child with his father will manage to set up and maintain a qualitative relationship. These and also other processes, prevent the father participation in child's education and rearing in his everyday life.

Bezenšek (2010) has pointed in the early eighties of the 20th century that fathers argued (and proved!) inequities in the allocation of a child after divorce and separation of the partnership. Specifically he highlighted the mother's amoral behavioral as she prevented the father's contacts with their children, as she is accusing, mudding, gossiping, implementing various forms of pressure the child. Even if, conscious of the father's legal rights, she did not always explicitly prohibit child's contact with his father. But in several occasions she "found "excuses" ("disease and poor welfare, etc..) in the fear "that the child could be inherited in his feeling when being with his father, who" have left for those reasons the family....", as he is drunk to exhaustion and in any case irresponsible, as he wasted all the money only for himself and on their own, etc. All divorced and separated fathers argued that the courts feminization and Social Work centers for social work "add" his part to the "solidarity of women".

Women (mothers, judges, and social workers) have of course objected, arguing that they are in a better position to train and supply the children and those they are more willing to sacrifice and they were in time still living together more occupied with their upbringing and education. Therefore, children are more attached to them, they need to fight and desire to continue to live with them. But if it is assumed Freud's interpretation of psychodynamic personality development, which provides that the father exercises mediatory role between mother and child and the outside world, it is undisputed that its function is symbolic, but also fundamental. It is therefore not necessary that when father lives the family, the child wishes somebody else to overtake his father's role. This consequently means that it would be desired and optimal for the child if the father could exercise his educational quality role and perform it adequate even after the cessation of living with the child and his mother.

Therefore we recall that on the contrary, the mother must recognize the authority of a person, which should be capable not only to overtake but also to realize father's role for the benefit of (mostly) child to achieve optimal goals of child's upbringing and education.

SOME LEGAL ASPECTS OF THE FATHER'S ROLE OF RESPECT AFTER PARENT'S SEPARATION AND DIVORCE IN SOME EUROPEAN COMMUNITIES

In the event of divorce, separation and disintegration of family life, father in Slovenia exercise and perform its role most as the "absent father" less often as single parent (e.g. in the case of mother's death, her addiction, disability, lost legal capacity, etc.). In some European countries are pursuing the total child's protection together as custody (mostly as joint custody), which is a result of consensual decision of both parents for the optimal development of their child. For better understanding of the differences of different types of rights, duties and their implementation we will present some legal solutions in some European countries, which depend on (certain) family law, and state's ability to adapt the conditions encountered in family life and family on family policy and family law: Sweden, Federal Republic of Germany, Republic of Austria, Great Britain and France.

Swedish law does not speak explicitly of the parent's right to contact with the child, but of the need for adequate child's contact with parents. Court decisions should contact the child's need to pursue exclusively and for child's benefits and they do not have the purpose to penalize the parents or set up a "border" of fairness between them. The child's contact with a parent is achieved together as the decision on the protection of the child. In Sweden the target of family law in recent decades has been the development of real-time tracking and of current social conditions in which the child is living. The Basic Law for Children and Parents Code (CPC) was completed in 1998 on the basis of joint responsibility of both parents for the child with the guidelines for good conflict resolution in the interests of the child in those parts which are explicitly based on the child, the child's residence and the right to contact with parents who do not live with him more permanently. If the child lives with only one parent, he is obliged to cover all expenses, such as travel expenses in order to facilitate personal contact between the child and the parent, in accordance with their financial capabilities and their living conditions.

The additions to the bill was to facilitate an agreed resolution of conflict issues between parents in divorce, and proceedings based on complementary joint protection and enforcement and the principle of best interests of the child in family disputes.

In the Federal Republic of Germany on family-law matters, and therefore also on personal contacts with the child's parents, decides the Family court (Familiengericht) under the provisions of civil procedure. Only it may restrict personal contacts between parents and the child, revoke or (even) confiscate them in order to present them and allocate them to a third person. The right for personal contacts may be restricted or even withdrawn if the child's best interests could be required.

A child generally remains even after a divorce or separation of parents in the care and education of both parents, unless one of them requires the court to transfer the right of custody solely to him, in case that other parent express consent application, and provides that the child can accept this. The return of the child and parents is the primary child's right and therefore the contact with the child is required to each parent and is also entitled to them. Parents and other persons, by which the child is in care, are required to give up any negative impact of their behavior what could have negative implantations on the relationship between one and the other parent or the child's difficult upbringing. The court may call the parents to responsibility talk, tells them that their actions are not benefited the child, and seeking for optimal resolution of the conflict could refer them to counseling for optimal child's education on the youth office (Jugendamt) (Bezenšek, 2003).

In the Republic of Austria were the first right to personal contacts not later than in 2001 and only for parents whom children of divorce have been entrusted to the care and upbringing. Since 2001, however, is this also the child's right, with whom parents must reach an agreement? If no agreement can be agreed, the court on the request of, either the child or one of the parents, assess on the basis of the child's initiative and desire to rule in his favor the implementation of the right to personal contacts and. As older juvenile (upon reaching the age 14) has its own right, without a legal representative, the court must submit a request to regulate access rights on the basis of his beliefs. He can also explicitly reject the exercise of personal contact with one or both parents, although it seems that the child's need for optimal regulation of contacts with both parents is for his upbringing and education optimal.

In Great Britain the court after a divorce in the parental responsibility explicitly without prejudice, however, decides otherwise only in the case of protecting the child. Thus, both parents (usually) stay the right up to the protection and right to custody. English family law rights of access between children and parents are treated separately. But at the request of one of the child's parents with whom he does not live, can also request the illegitimate father, and the issue of such and with final decision orders the other parent the duty to enable the connection with the child by another parent.

In the Republic of France, parents who are either divorced or separated, generally along realize the contents of exercise of parental rights. Only in exceptional cases and if this is true in the child's best interests, the court determined to pursue custody of one parent only. However, it is necessary to emphasize that even in this case, to the other parent belongs the right to personal contacts with his child.

FATHER'S EDUCATIONAL ROLE AFTER DIVORCE AND SEPARATION

Even after the divorce or parents' separation they normally continue with their own behavior, but because of (generally) degraded peer relationships the role of divorced or separate father changes dramatically. However, we note that the majority of divorced or separated fathers after divorce or separation want and intend to maintain the exercise of their parental role.

The supreme law governing relations between human beings and, thus, contact between children and parents, the Constitution of the Republic of Slovenia, explicitly governed by the Marriage and Family Relations Act, the Equal Opportunities for Women and Men, Criminal Code of the Republic of Slovenia Law Amending the Penal Code, Code of Civil Procedure Act, the Judicial Service Act Amending the rights of the Judicial Service Act, the Law on Free Legal Aid Act, the Ombudsman and the Rules on expert witnesses more closely regulate the content of the problem. Those documents and legal documents are in line with the United Nations Convention on the Rights of the Child, the Convention on the Protection of Human Rights and Fundamental Freedoms.

In the Republic of Slovenia, the courts of judicial power shall be distributed to the county graded, higher and Supreme Court. The violations of family relationships involved in local courts, according to the following

appeals court will be subject to liability. Although the Amendment to the Marriage and Family Relations Act also provide the establishment of these family courts, this is unfortunately not the case. The establishment of these courts has been interdisciplinary, and addressed the problem through science and knowledge in the field of social work, psychological, sociological, educational and other knowledge. The proposal also provided the preservation of family mediation or voluntary. Mediation, by the English model, to parents in divorce, which proceedings should provide free professional help to optimize the assessment and achievement of consensual solutions in the role of both parents.

Statistical data for Slovenia show that role of father after the divorce or separation troops into organizational, emotional, economic and social aspect of the paternity.

The organizational aspect of the institute includes custody. Data on the allocation of a child shows that in Slovenia in 1986, 6.1 % of children assigned to fathers and 89.7 % mothers, two years later by divorce the children were granted 91.75 to mothers and only 5.7 % to fathers; in the year 1991 90.35 % to mothers and 6.25 % to fathers, in the year 1994 7.1 % to fathers and 90.3 % to mothers and in the year in 1998 57 % to mothers and only 2 % of the total to both parents. After 2000, we remark again the "automatic" allocation of child to mothers, which is necessary not always an optimal solution for the child's development. Data which is reinforced by the belief that the government and Slovenian society, namely that the mother is still (and even less as a child) a greater security and guarantees for child's normal development, because of child's emotional bond and mother's biological givenness which is irreplaceable by another substitution.

Probably this data as well as magistrates' feminization of the profession and the presence of "women's solidarity" caused the discriminatory practices in the courts. Probably also because as indicated, whereas the Slovenian society is still dominated by traditional performances of the always sacrificed mother and an absent father, although the situation recently has changed considerably. Modern fathers are present not only at child birth, but completely sovereign command the household chores, are good educators and in care for their children while developing their professional careers. The resulting situation requires a radical change in family law. Also because legal norms began to change the patterns and values of family life, the role of both parents and especially the realization that the child, even after parents' divorce or separation has the right of both parents.

Parents' divorce or separation raises the question of the individual integrity identity of two adults involved. Fathers are after divorce or separation in the first period of trouble less willing in the feelings of loss and disruption which are logical companions of changed family relationships. Zavrl (1999, 153-155) states that in some families rivalries and tensions after the divorce and separation, stop and stifle back, but in the others not. Be because of economical and social be psychological consequences for both, mothers and fathers, She also notes that in the case the child after divorce and separation maintains and further develops its relations with both parents at the same time, even if the family has disintegrated into a so-called binuclear system. However, not insignificant fact is, that fathers, who do not live permanently with their children, are especially vulnerable by psychological distress and problems in the first year are less efficient in their role as educators, but within the time they eventually return to normal and intensified way of living.

The following incident, which is often accompanied by collapse of a partners' relationship of parents, is paying out maintenance.

In particular, fathers who never lived with their children are resisting paying alimony and demanding its argumentation and control of its use. The problem is even more acute when fathers are unemployed or difficult to employ or low-wage earners. The most common reasons for non-payment of maintenance in the Slovenian society are clearly low wages, a focus on the new offspring, and life in the newly created family and community, short duration and quality of connection to the child's mother, "automatic" granting children to

mothers by Slovenian courts, marginalization of the father's role and its only limitation as payers' maintenance, and limiting contacts with the child, the child's mother emotionally reluctant to others. Statistics show that fathers who regularly exercise their role of fatherhood, also regular realize the obligations of maintenance.

SOME RESEARCH DATA ABOUT THE IMPORTANCE OF FATHER'S PRESENCE IN CHILD'S EDUCATION

Family processes of education in view of the socialization of children in the level normally operate two components:

- emotional attachment and support, or emotional entanglement of the father, which suggests, in terms of socialization, productive relationships between parents and children,
- control by the father.

Both components can be observed attached to both parents together, or separately. The question is largely empirical in nature - if the father shows as connected to reality, then it is permissible and effective, if not, there the educational result could not be foreseen.

For Family Process, Vazsonyi and colleagues (Vazsonyi et al., 2003) operationalised as consisting of emotional affiliation, which includes the exercise of closeness and support, to each of the fathers and the control of the father in the component of attachment to father and control by the father). Research findings show that these categories appear as predictive of academic success (Klanjšek et al., 2007; Vazsonyi et al., 2003; Vazsonyi and Klanjšek, 2008) and the absence of delinquency, which is, as indicated, a significant correlate of school success.

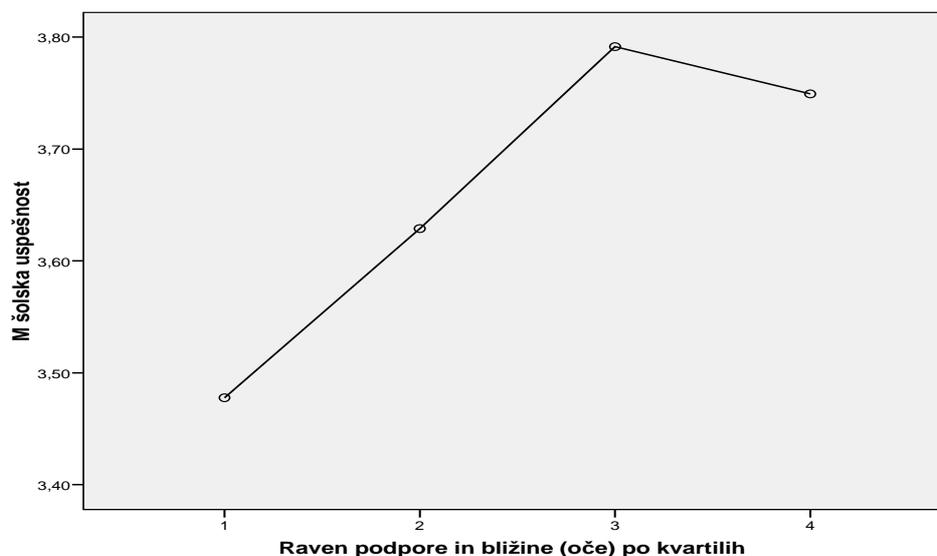


Figure 1
 Father's support (Support and proximity to the father and school success)

In the case of control father, it was shown that the latter shows the impact in the same direction as demonstrated by the school performance of the control mothers, but differences between quartiles were not statistically significant ($p > 0.05$). On the weak impact of father's supervision at the school performance also shows a low coefficient of relationship ($r=0.04$, $p > 0.05$).

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Specifically, the results of the analysis of averages (ANOVA) between individual quartiles showed that membership of a group with lower support and generally close to father a lower academic achievement ($p < 0.05$), while the difference is statistically significant ($p < 0.05$) only between the extreme quartiles (between I and the III., between I and IV). This is even more clearly seen in the case where the support and closeness instead of watching the control mothers (Figure: 1). In the case of control father, it was shown that the latter shows the impact in the same direction as demonstrated by the school performance of the control mothers, but differences between quartiles were not statistically significant ($p > 0.05$). On the weak impact of father's supervision at the school performance also shows a low coefficient of relationship ($r=0.04$, $p > 0.05$).

Table 1
 Multiple regression analysis of school performance in primary school–socio-demographic
 Variables and family processes on School performance

School success (n=1317)	Beta I (model 1)	Beta II (model II)	Beta III (model III)	Beta IV (model IV)
Mother's education	0,23**	0,25**	0,24**	0,25**
Father's education	0,11*	0,11*	0,11*	0,11*
Subjective assessment of the economic situation of families	-0,12**	-0,14**	-0,11**	-0,13**

The results in Table show that in regression analysis, similar to the bivariate analysis, support and proximity to the mother and father's positive (and statistically significant) impact on school performance. The same is true for parental supervision, although important here as indicating the control mothers.

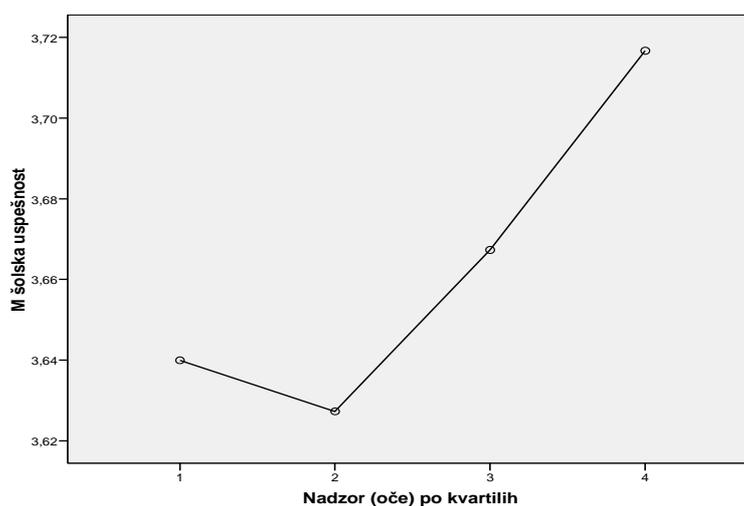


Figure 2
 Father's control

In summary, the results indicate that significant learning achievements are related to the method or the relationship of parents to children (to prove the importance of all dimensions of this relationship, i.e. Support,

closeness and supervision of both parents), that might be really important, what family "is doing and thought" (including parental education) rather than what the family "is". At this point be emphasized that higher education is positively related to parents also argued "To be successful in the last class of primary school, it was important for me," which positively evaluates school performance, economic situation is not. Specifically: while the link between parental education and argument "Being a successful ..." proved to be statistically significant (mother = 0.15, $p < 0.01$; father = 0.14, $p < 0.01$), but this is not in all cases so, it has been introduced in the analysis of the economic situation of families. In doing so, the relevant findings also showed that there is a statistically significant positive correlation between children's school performance and evaluation indicators, which suggest parental support, closeness and Control (mother, closeness and support=0.25, $p < 0.01$; mother, control= 0.27, $p < 0.01$; father, closeness and support=0.21, $p < 0.01$; father, philosophy=0.26, $p < 0.01$) and can be understood within the framework of social capital by Coleman (1988) identifies the level of investment in interpersonal relationships.

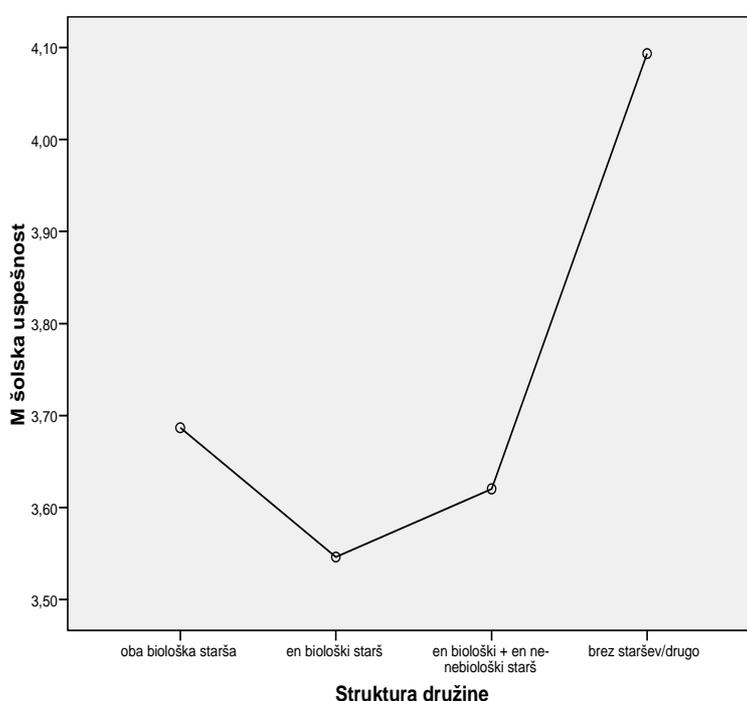


Figure 3
 Structure of family and school performance

The results suggest a negative impact of Single parent family on child's school performance, but the analysis of averages is revealed that these differences were statistically significant ($p > 0.05$). A relatively large variation in the average performance of children who do not live either with their biological or their non-biological father, is due to the fact that this group represented only 0.4% of the entire sample ($n = 5$). Thus, it is also in this case to determine which is contrary to the findings of some studies that show that "non-traditional family forms" (single parent families, families with non-biological parents) (Sun and Li, 2001:28) acts negatively on child's academic success (cf. Aston and McInahan, 1991, Downey, 1994; Rich, 2000), with the most common argument about multidimensional deprivation, which includes economic, cultural and social components in terms of Bourdieu's (Bourdieu, 1996) and cultural capital Coleman's (1988) social capital (cf. Sun and Li, 2001).

CONCLUSION

Father, when living in a family with all "needed family members, provides, along with child's mother, most of the socialization that a child receive in his early years. In the processes of socialization he teaches the child what he needs to know in order to function within the society they live in or social group they belong: language, norms, values, manners, customs, behaviors, rules, and so forth. But when the parents decide to separate and to divorce, is father who in most cases leaves the family and does not have the same opportunity to continue with his educational role. It is a very common situation that father after divorce and separation fades from his children's lives. For many reasons: for some visits to their children may be a painful reminder of the life he left behind, triggering feelings of guilt or sadness; others may be investing their emotional energy in new families formed by remarriage. Few of them do remain involved in their children' lives. Especially, as conflicts between him and the former partner tends to diminish over time. The child may suffer if he is caught up in continuing conflict between his parents, former spouses.

The child experienced the process of separation from his father on many levels, especially on an emotional level. He needs not only his presence, but also the content of father's role. Especially, as many studies show that children who live in single families are more likely to drop out of high schools, have children before marrying, and experience idleness. Apart from exposure to the parents' distress and conflict, the breakup forces the child to adjust to jarring transitions (cf. Father's departure, financial settlement between parents, of the moves to a new location, visits a new school etc.). Nevertheless, we suggest that most children whose parents divorce should have an optimal opportunity to experience his life with both parents and the father as well, if he is not permanently living with the child.

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