



Centre d'Estudis Demogràfics

**TRENDS IN CUSTODY ARRANGEMENTS IN SPAIN
SINCE THE DIVORCE REFORM OF 2005**

Jeroen SPIJKER

404

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Resum.- *Tendències del règim de custòdia, a Espanya, des de la reforma del divorci de 2005*

A Espanya, junt a la transició democràtica, es van produir importants canvis en les lleis que afectaven a la família i als comportaments demogràfics, entre ells, la legalització del divorci, al 1981 (un dels últims països d'Europa en legalitzar el divorci). Malgrat això, aquesta llei era bastant restrictiva i la separació legal i el divorci van ser relativament poc comuns fins a la dècada dels noranta. Posteriorment, la pressió per accelerar el procediment legal va portar a la seva reforma amb la Llei 15/2005 que va facilitar el procés de divorci, va impulsar la co-responsabilitat dels pares cap als seus fills i va regular legalment la custòdia compartida.

A partir dels Butlletins estadístics de sentències de separació, divorci i nul·litat del Consejo General del Poder Judicial, aquest document ofereix una descripció de les característiques dels cònjuges, la durada del matrimoni i el procés de separació (1996-2010) i les anàlisis dels patrons i característiques dels acords legals de custòdia (2007-2011). Els resultats mostren que al 2011 (entre parèntesis, dades de 2005) la custòdia compartida va ser atorgada, en el 12% dels casos (3% el 2005); només al pare, en un 5% (3%); i, a la mare, en un 82% (94%). La regressió logística va mostrar que l'edat per contreure matrimoni, les diferències d'edat entre els cònjuges, la durada de la sol·licitud de divorci, si el marit és el demandant del divorci, si el divorci/separació era consensuat, afavoria la custòdia exclusiva al pare o bé compartida, a costa de la custòdia exclusiva per a la mare.

Paraules clau.- Matrimoni, divorci, separació, custòdia exclusiva, custòdia compartida, sentències, Espanya.

Resumen.- *Tendencias del régimen de custodia, en España, desde la reforma del divorcio de 2005*

En España, junto a la transición democrática, se produjeron relevantes cambios en las leyes que afectaban a la familia y a los comportamientos demográficos, entre ellos, la legalización del divorcio, en 1981 (uno de los últimos países de Europa en legalizarlo). Sin embargo, esta ley era bastante restrictiva y la separación legal y el divorcio fueron relativamente poco comunes hasta la década de los noventa. Posteriormente, la presión para acelerar el procedimiento legal llevó a su reforma con la Ley 15/2005 que facilitó el proceso de divorcio, impulsó la co-responsabilidad de los padres hacia sus hijos y reguló legalmente la custodia compartida.

Usando los Boletines estadísticos de sentencias de separación, divorcio y nulidad del Consejo General del Poder Judicial, este documento ofrece una descripción de las características de los cónyuges, la duración del matrimonio y el proceso de separación (1996-2010) y los análisis de los patrones y características de los acuerdos legales de custodia (2007-2011). Los resultados muestran que en 2011 (entre paréntesis, datos de 2005) la custodia compartida fue otorgado en el 12% de los casos (3% en 2005), sólo al padre en un 5% (3%) y, a la madre, en un 82% (94%). La regresión logística mostró que la edad para contraer matrimonio, las diferencias de edad entre los cónyuges, la duración de la solicitud de divorcio, si el marido es el demandante del divorcio, si el divorcio/separación era consensuado, favorecía la custodia al padre único o compartida, a costa de la custodia exclusiva para la madre.

Palabras clave.- Matrimonio, divorcio, separación, custodia exclusiva, custodia compartida, sentencias, España.

Abstract.- *Trends in custody arrangements in Spain since the divorce reform of 2005*

In 1981 Spain was one of the last countries in Europe to legalize divorce. Accompanying the transition from dictatorship to democracy were shifts in family laws and demographic behaviors that included the legalisation of divorce. However, the initial Divorce Law was quite restrictive and legal separation and divorce were still relatively uncommon until the 1990s. Subsequent pressure to speed up the legal procedure led to the Spanish Divorce Reform of 2005 that facilitated the divorce process, stressed the co-responsibility of parents towards their children and legally regulating shared custody.

Using the General Council of the Judiciary's data on "Decrees of separations, divorces and annulments", this working paper provides a description of the characteristics of the spouses, marriage duration and separation process (1996-2010) and analyses the patterns and characteristics of legal custody arrangements (2007-2011). Results showed that in 2011 (2005) joint custody was awarded in 12% (3%) of cases, father 5% (3%) and mother sole custody 82% (94%). Logistic regression showed that age at marriage, spousal age difference, duration of divorce application, the husband being the divorce claimant and a marital separation with consent favoured either sole father and/or joint custody at the expense of sole custody for the mother.

Keywords.- Marriage, divorce, separation, sole custody, joint custody, shared custody, decrees, Spain.

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TRENDS IN CUSTODY ARRANGEMENTS IN SPAIN SINCE THE DIVORCE REFORM OF 2005¹

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1.- Introduction

In 1981 Spain became one of the last countries in Europe to legalize divorce. The 1981 Divorce Law was the consequence of substantial political and social change that had taken place in Spain since the death of Franco in 1975. Accompanying the transition from dictatorship to democracy were substantial shifts in a wide range of family and demographic laws and behaviors that included the legalisation of divorce². However, initial legalisation of divorce in Spain, as in many countries, only allowed divorce on the basis of ‘fault. Under a fault regime, a divorce could only be granted to the innocent party if he/she presents proof of fault in court, i.e. demonstrating the effective cessation of married life or serious or repeated violation of marital duties. This typically included adultery and physical violence. If the divorce initiative was abandoned (e.g. because not enough proof could be provided) it sometimes led to the unrealistic situation of forced reconciliation. Another feature of the initial divorce law was the long duration of the legal process of separation and divorce due to its bi-tapic nature, i.e. a legal separation was required before divorce could be granted. This was because divorce was considered as the ultimate resort and only when it was clear that, after a long period of separation, their reconciliation was no longer feasible (Simó and Solsona 2010).

¹ El document forma part de la recerca “Paternité et divorce en Espagne”, Centre Norbert Elias, Marsella, França (Ref.: 274331/1B1INSHS).

The initial Divorce Law was thus quite restrictive and perhaps too restrictive for many who wanted to opt out their marriage legally. Moreover, while legal separation and divorce were still relatively uncommon during the 1980s rates continued to increase and by the turn of the century there was pressure to speed up the legal procedure. As a result, and similar to what other countries had done several decades earlier, the Spanish Divorce Reform of 2005 introduced important reforms that facilitated the divorce process. It eliminated the requirement of prior separation which accelerated the divorce process, which in case of mutual agreement between both spouses meant that divorce could be effective within 2-3 months. In addition, the required proof of fault was also abolished (so-called ‘no-fault’ divorce), in which case the spouse could initiate the divorce process without the consent of the other (‘unilateral divorce’). Finally, divorce could be solicited three months after marriage instead of at least one year as previously was the case. All together, the Divorce Reform considerably reduced the duration of the divorce process as well as its economic and emotional costs, particularly the removal of the requirement of culpability.

Besides easing the divorce process, the Spanish Divorce Reform of 2005 also stressed the co-responsibility of parents towards their children. For the first time the possibility that divorced parents could share the custody of the children was legally regulated so children could alternatively live with the mother and the father whereby a fund would be created to guarantee the payment of pensions for the children. In addition, it regulated the possibility for parents to attend voluntary family mediation services and. Until then, the distribution of the traditional gender roles had a much clearer influence on the designation of the custodia to the mother.

For instance, fathers were reluctant to solicit custody, in part because they believed that women were better prepared, or that people may think that he took the children away from their mother. On top of that, lawyers often discouraged their male clients to solicit for sole custody because of the small chance in obtaining it, in part because it would provide a signal that the mother was either lazy or incompetent to care of the children (Catalán-Frías, 2010). Indeed, according a content analysis of 782 divorce sentences between 1993 and

² Divorce had been temporary legal between 1932, during the Second Republic, and 1938, the year that Franco abolished it and annulled all divorces that had been conceded until that moment.

1999 that also established the children's custodian – awarded just 8,4% of the time to the father compared to 91,6% to the mother – not only showed that fathers more often required a ground of motivation than mothers did when custody was awarded to them (62% vs. 40%), it was much more often based on criteria of exclusion of the mother than the other way around (Arce et al, 2005). However, some lawyers have emphasised in the past that the low proportion of sole custody fathers is not so much because they are discriminated against in the courts but more because they just do not solicit it (Catalán-Frías, 2010).

Thus, when in 2005 family law was reformed to facilitate the possibility of joint child custody (also termed shared custody, see Folberg and Graham (1979) for definitions) after a divorce or separation, it was considered that it would provide a better continuity to the family life of the child, reduce conflicts between parents, and allow fathers to feel more implicated and integrated in their child's education and development (Catalán-Frías, 2010). At that time, about 2% of custodies were joint, 5% went to the father and the rest to the mother. By 2010 10,5% of custody sentences were a joint arrangement and sole custody to fathers in 5,7% of the cases (INE, 2011). Yet, the figure could be higher if Spanish legislation would consider joint custody as the preferred option like is the case in several US states and France, among other countries, rather than being an individual choice where both parents have to agree. Some therefore say that the Divorce Reform did not go far enough (Ibañez-Valverde, 2004). It should be mentioned that Aragonese and Catalan family law already provides some provision for prioritising joint custody.

Objectives

Based on the Divorce Reform, there are therefore two basic research questions that this article seeks to answer:

Q1. Has the recent law change had an effect on current custody arrangements?

Considering that the objective of the Divorce Law Reform was to increase the co-responsibility of the parents, one would expect that the divorces with mutual agreement would have become more frequent and, if this is so, that joint custody sentences are more common today.

Q2. What are the main demographic characteristics of each type of custody arrangement?

Are especially older fathers those who obtain sole custody? Are marriages which lasted the longest more likely to obtain joint custody and did mothers and fathers who obtain sole custody of their children have shorter marriages?

2.- Data and method

Since the adoption of the 1981 Divorce Law, and its implementation in September 1981, efforts to harmonize the activities of legislators, justice administrators and those responsible for demographic and justice statistics continued until 1995. Under an agreement between the National Statistics Institute of Spain (*Instituto Nacional de Estadística*, officially abbreviated as INE) and the General Council of the Judiciary (*Consejo General del Poder Judicial*, abbrev. as CGPJ) on February 14, 1995, INE included for the first time in its publication *Estadísticas Judiciales* (Justice Statistics) data on the decrees of separations, divorces and annulments and the characteristics of the spouses. The information comes from a statistical bulletin that the courts must fill each time a sentence is dictated (so-called *Boletines estadísticos de sentencias de separación, divorcio y nulidad*) and return it to the CGPJ who is responsible for delivering it to INE. This way anonymised information of about two-thirds of the decrees becomes available each year in the form of microdata that can be used for research purposes. Before 1996, one could only keep track of trends in separations and divorces in Spain through the Judiciary's Annual Report, which besides the total number of decrees provided information on the degree of conflict associated with the divorce process. However, the 2005 Divorce Law Reform accelerated the judicial process and with it it also improved the statistical recording of the separation, divorce and annulment decrees. This allowed the workload of the courts (i.e. those responsible for completing the corresponding statistical bulletin) to become more bearable and thus potentially improve the conditions to study the demography of divorce. The latter was briefly assessed by the author by way of obtaining the non-response rates of each variable. Results showed that while about the same amount of statistical bulletins ended up by INE in the years after the Reform (about two-thirds of

all decrees), returned statistical bulletins indeed had less information missing on certain variables than before. For example, in the case of information on who the claimant is (husband, wife or both), between 1999 and 2006 the proportion of bulletins with missing information was around 5-7% and since then practically zero.

Data on the separation, divorce and nullity decrees were obtained from INE for the entire period for which detailed microdata are available at the time of writing, i.e. from 1996-2010. Only those pertaining to heterosexual couples were analysed (since 2007 data on homosexual union dissolutions are also available). Each register contains information on the judicial process and the decree, but also provides marriage and personal details, states who demanded the union dissolution and the person required to pay alimony. An example of its content is provided in Table 1. The high response rate allows a detailed descriptive study of the decree outcomes and its marriage characteristics as well as those of the individuals involved (similar to what previously has been done by Solsona and Simó (2007)). However, for the purpose of the present study, we will mainly concentrate on custody arrangements, which became formalized in divorce and separation decree in 2005 and was first registered in the statistical bulletins since 2007. However, before doing so, a brief overview of overall divorce trends in Spain since its legalisation in 1981 is provided.

Table 1.- Available information from the 2010 statistical bulletin of the decrees of separations, divorces and annulments

Variables	Name	Initial Position	Final Position	Length	Valid values
PROV	Provincia	1	2	2	50 provinces, Ceuta and Melilla
AÑOD	Year of divorce application	3	6	4	1900-2010
MESD	Month of div. application	7	8	2	1=Jan., 2=Feb., .. 12=Dec.
DIAD	Day of divorce application	9	10	2	01-31
AÑOS	Year of decree	11	14	4	Reference year
MESS	Month of decree	15	16	2	1=Jan., 2=Feb., .. 12=Dec.
DIAS	Day of decree	17	18	2	01-31

AÑOM	Year of marriage	19	22	4	1900-2010
MESM	Month of marriage	23	24	2	1=Jan., 2=Feb., .. 12=Dec.
DIAM	Day of marriage	25	26	2	01-31
HIJOS_MENORES	Minors	27	28	2	0=0, 1=1, 2=2, ..., 10= 10+; 98=Missing
HIJOS_MAY_DEP	Dependent adult children	29	30	2	0=0, 1=1, 2=2, ..., 10= 10+; 98=Missing
AÑONO	Birth year of 1 st spouse	31	34	4	1900-2099
MESNO	Birth month of 1 st spouse	35	36	2	1=Jan., 2=Feb., .. 12=Dec.
DIANO	Birth day of 1 st spouse	37	38	2	01-31
SEXONO	Sex of 1 st spouse	39	39	1	1=Male; 6=Female
NACNO	Nationality of 1 st spouse	40	42	3	101=Albania; 102=Austria, 999=Missing
ECIVO	Marital status of 1 st spouse	43	43	1	1=Single, 2=Widowed; 3=Divorced; 9=Missing
AÑONA	Birth year of 2 nd spouse	44	47	4	1900-2099
MESNA	Birth month of 2 nd spouse	48	49	2	1=Jan., 2=Feb., .. 12=Dec.
DIANA	Birth day of 2 nd spouse	50	51	2	01-31
SEXONA	Sex of 2 nd spouse	52	52	1	1=Male; 6=Female
NACNA	Nationality of 2 nd spouse	53	55	3	101=Albania; 102=Austria, 999=Missing
ECIVA	Marital status of 2 nd spouse	56	56	1	1=Single, 2=Widowed; 3=Divorced; 9=Missing
SENT	Sentence ruling	57	57	1	1=Separation by mutual agreement; 2=Contested separation; 3=Divorce by consent; 4=Divorce without consent; 5=Marriage nullified
DEMANDANTE	Claimant	58	58	1	1=Husband; 2=Wife; 3=Both; 4= Attorney General
PCOM	Alimony	59	59	1	1=Husband;

PALI	Food allowance	60	60	1	2=Wife; 9=Not stated, N/A 1=Husband; 2=Wife; 3=Both; 9=N/A
CUSTODIA	Custodia	61	61	1	1=Husband; 2=Wife; 3=Both; 4=others; 9=N/A
PREVIA	Previous separation	62	62	1	1= Yes; 2=No; 9=N/A
CCAA	Autonomous Community	63	64	2	17 Autonomous Communities, Ceuta and Melilla

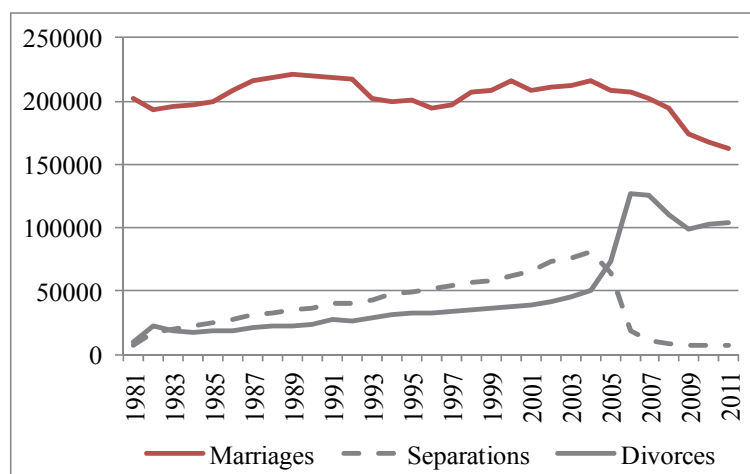
Source: INE.

3.- Results

3.1.- General overview of divorce trends since its legalisation in 1981

During the almost 40 years of dictatorship divorce was illegal in Spain. Separations were possible, but rarely occurred as it was socially not well considered and could only be obtained through the Catholic Church. Than on January 1979, in accordance with an agreement between the Spanish State and the Holy See, the Spanish church renounced to the jurisdiction of separations and marriage annulments and it thus became a matter of the civil courts (Iglesias de Ussel, 1998). 2,5 years later, the approbation of the Divorce Law legalized divorce for both civil and religious marriages. As a result, and as shown in Figure 1 and Table 2 the number of legal marital dissolutions increased sharply in both separations and divorces from virtually 0 in 1980 to 22.578 divorces and 17.879 separations in 1982. However, particularly the initial rise in divorces stabilized as by 1996 it had only increased to 32.571, while 51.317 separations took place. This slow but steady increase continued until 2004 when there were 50.974 divorces and 81.681 separations.

Figure 1.- Marriage and divorce per 100 marriages. Spain 1981-2011



Sources: National Statistics Office (INE) (www.ine.es) and Consejo General del Poder Judicial (various years).

Notes: As legislation required a previous legal separation prior to divorce until 2005, the figures of separation and divorce should not be added; Important law changes can result in a break in the trend, as can be seen by the 2005 Divorce Law Reform that abolished the need for previous legal separation as well as a condition for divorce and a divorce could be requested after just three months of marriage (Solsona and Simó, 2007).

Table 2.- Decrees of separation and divorce according to spousal age difference (% of total). 1996-2010*

Year	Same age	Wife > Husband	Husband > Wife	Total
Separation				
1996	36,9	8,1	55,1	100.
2000	38,4	9,8	53,2	100.
2010	37,7	11,2	51,2	100.
Divorce				
1996	37,1	8,2	54,8	100.
2000	38,4	9,4	52,4	100.
2010	39,4	10,1	50,5	100.

Under the same age it is understood those marriages whereby the age difference is 23 months or less.

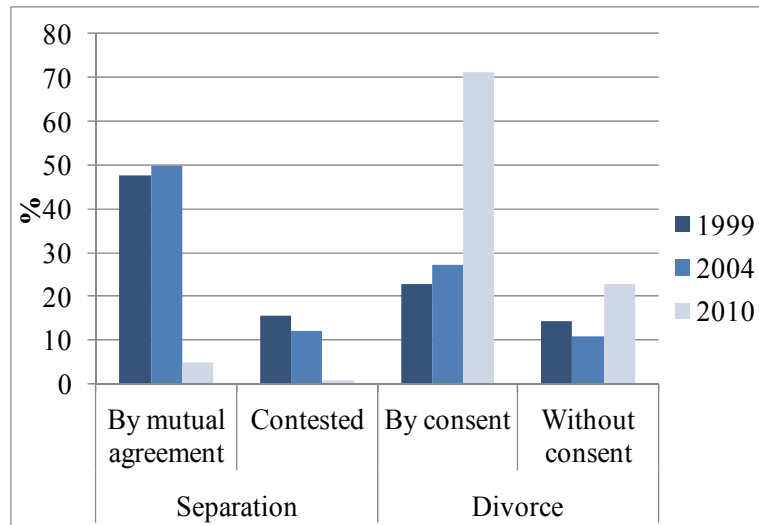
However, when from 2005 separation was no longer an obligatory procedure as a result of the Divorce Law Reform, the number of divorces increased while at the same time separations declined. In 2006 126.952 marriages dissolved due to divorce (historical maximum and 149% more than in 2004) but only 18.793 separations (a decline of 77% respect 2004). This rise in divorces and decline in separations was expected given that the new legalisation facilitated the divorce process. In the case of the introduction of “no-fault” divorce this is not only because it eases the breakup of unsatisfied partnerships but also because it reduces the financial costs of obtaining a divorce by removing the requirement of presenting proof of fault in court. Indeed, since 2009 the number of divorces have stabilised to around 100.000 (103.604 in 2011), while separaciones continue its decline as only 6.915 cases were registered in 2011 (or 6.2% of all legal dissolutions). Less than one in thousand decrees were nullities (no important change here with respect to earlier years). Also in relation to the number of marriages, the separation to marriage ratio increased steadily from 1981 to 2004, while its increase was more gradual for the number of divorces per marriages. However, all this changed with the 2005 Divorce Law Reform. In 2011 there were 64 divorces per 100 marriages but only 4 separations. Although the denominator maintained quite constant since the legalisation of divorce until 2008, fluctuating between around 193 and 221 thousand marriages per year, since 2004 the annual number of couples who marry has also declined substancially (from 216.149 to 161.345 in 2011) (Solsona and Simó 2007; INE 2012).

3.2.- General characteristics of the separation and divorce decrees

3.2.1.- Who initiated the divorce and the duration of the divorce process

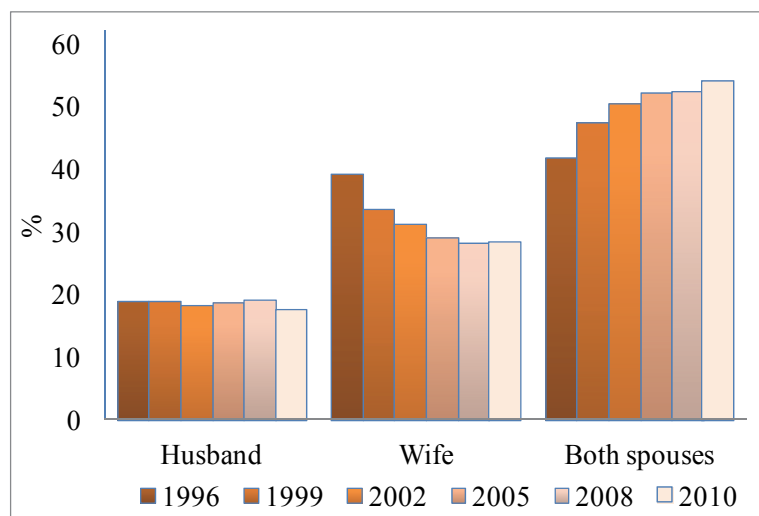
One of the effects caused by the change in divorce legislation was the increase in marriage dissolutions with mutual consent. Although the proportion of disputed divorces also increased (from 10% en 2004 to about 20% in 2010), the proportion of marriage dissolutions that ended in a divorce without dispute increased from just over a quarter to 70%. Finally, the few separations that took place were mainly under agreement (Figure 2).

Figure 2.- Sentence ruling in Spain 1999-2010



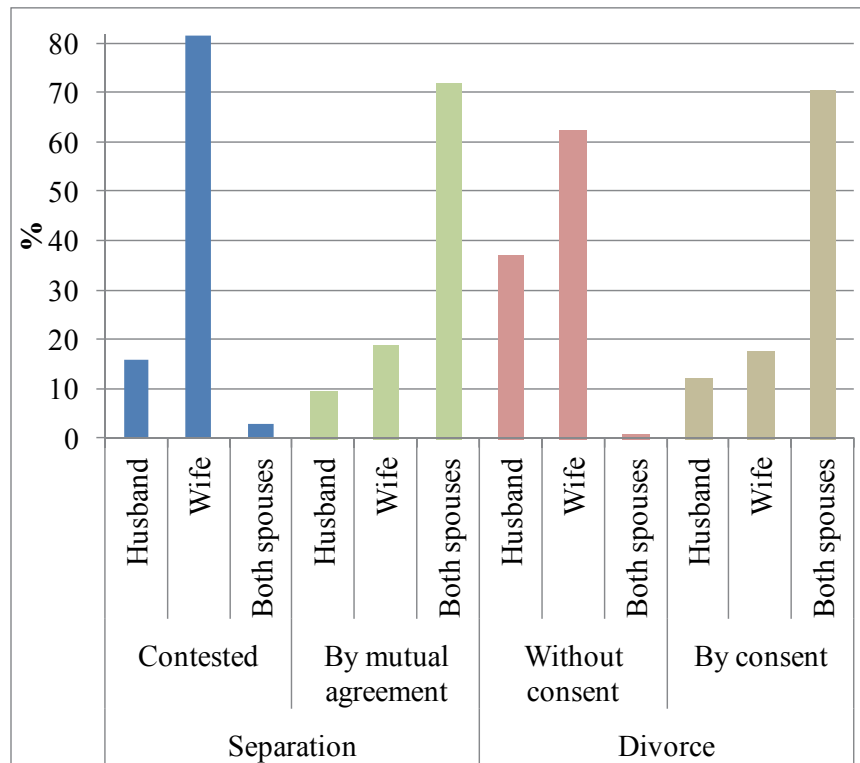
In terms of who filed for divorce, almost one out of every five marriages it is the husband, a proportion that has been stable since the mid-1990s. On the other hand, fewer wives now file for divorce (40% en 1996 a 28% in 2010) as it is now most common that both partners do so (54% en 2010, 42% en 1996; Figure 3).

Figure 3.- The claimants. Spain 1996-2010



While it is true that it is most common that both spouses ask for the union to be dissolved, this is almost exclusively the case if it is a mutual separation agreement or divorce by consent (both 70% of cases in 2010). Conversely, regarding contentious separations 80% of cases it is the wife who started the demand (little change over last 10 years) and 60% in non-consent divorces (up from 2000 when both spouses had an equal chance to initiate the process of if the outcome was non-consenting) (Figure 4).

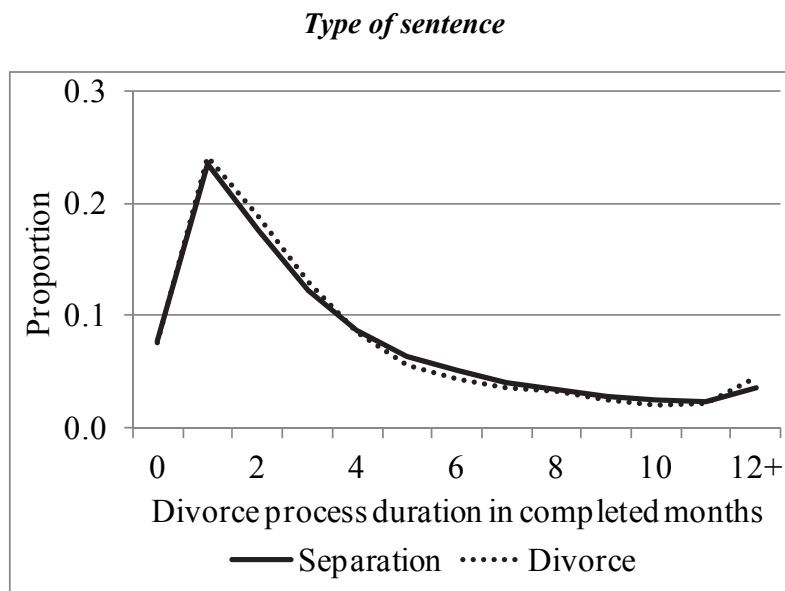
Figure 4.- Type of separation and divorce decree according to who initiated the lawsuit. Spain 2010



Regarding the duration of the divorce process, i.e. between the demand and decree, approximately 60% is resolved within three months, independent of the type of sentence (Figure 5i) and without major changes over time since 2000 despite the law changes in 2005 that put an end to the requirement of prior separation (not shown). On the other hand,

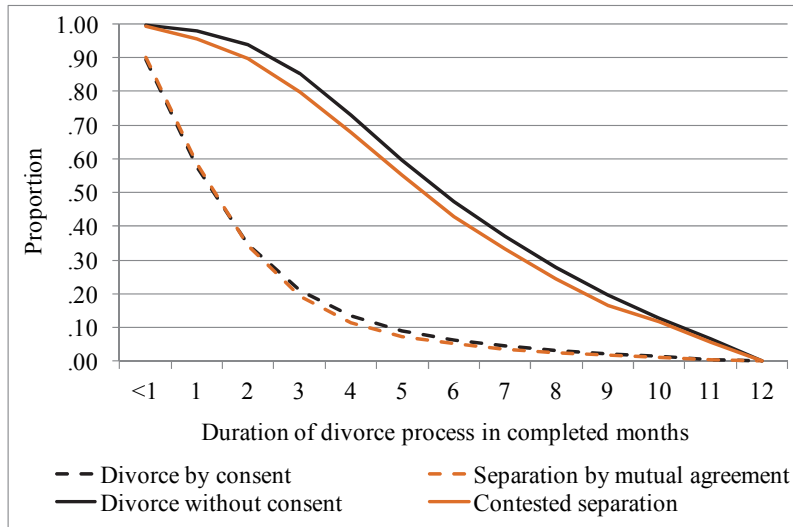
looking at the sentence ruling in more detail, (Figure 5ii), we see that when dealing with contested separation or divorce without consent the average duration of the process is vastly prolonged (respectively, 6,4 and 6,8 months) compared to those where there is separation by mutual agreement or divorce by consent (respectively, 2,3 and 2,4 months). Finally, the duration is also affected by the presence of children, although only in disputed separation or divorce. For instance, in the case of consented divorce the duration of the process in 2008-10 was just 2,8 months compared to 6,9 months when the divorce was without consent (Figure 5iii).

Figure 5.- Duration (in months) between judicial demand and decree according to i) type of sentence; ii) specific sentence ruling; and iii) the type of divorce and presence of children. 2008-2010

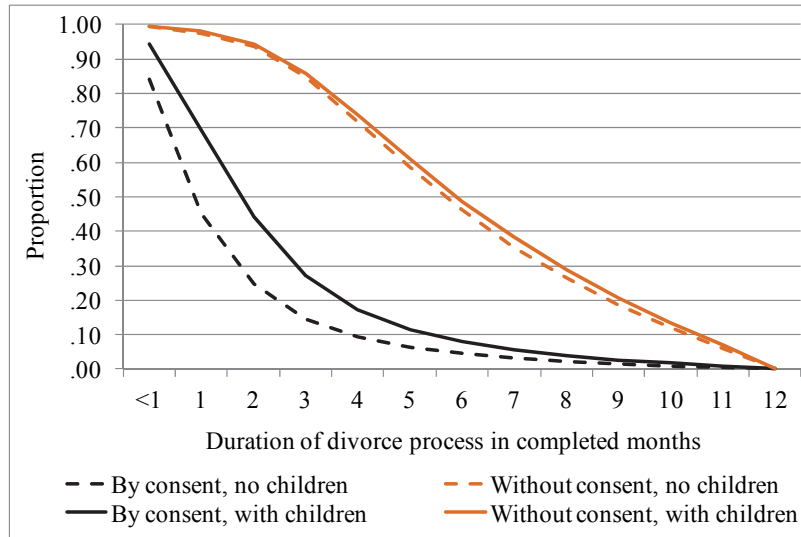


(Continues)

Specific sentence ruling (disputed or not)



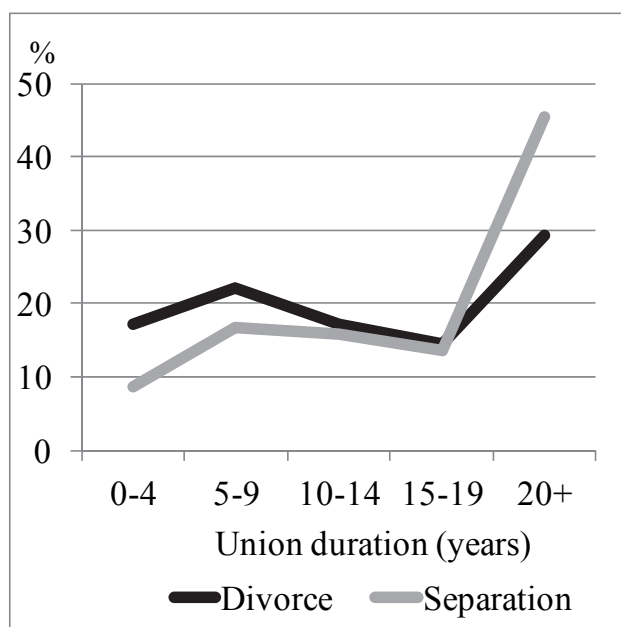
iii) Type of divorce and presence of children



3.2.2.- Marriage and individual characteristics of the divorced and separated

With respect to the marriage characteristics the *Boletines estadísticos de separación, divorcio y nulidad* collect information that permits to calculate marriage duration, spousal age difference and the presence and number of minors. Figure 6 exhibits marriage survival (i.e. duration) curves of unions that were eventually dissolved by decrees of separation and divorce in 2010. As one can observe, 9% of marriages lasted less than 5 years in the case of separation and 17% in the case of divorce, while at the other end 45% of separations and 29% of marriages took place more than 20 years of marriage, i.e. those who filed for divorce tended to come from marriages of shorter duration.

Figure 6.- Decrees of separations and divorce according to marriage duration (2010)



Early age at marriage has repeatedly been identified as a determinant of union dissolution as the couple's relative inexperience can be a source of destabilization (Solsona and Simó, 2007). At the same time, the age at marriage has continued to increase since the mid-1970s

and men tend continue, on average to marry younger women. As a result, most women who separate or divorce married at the age of 20-24 years, although this proportion has decreased over time (35% in 2010), with few differences between separation and divorce. In the case of formally married men, the most common age they married has been 25-29 years since around the year 2000 (Figure 7).

Alternatively, spousal age difference did not appear to affect the type of decree that was given by the court. In 2010 the husband was older than the wife (according to the definition used) in half of the marriages that dissolved through either divorce or legal separation, in both instances a decrease of about 4 percentage points compared to 1996. At the same time, there were small increases in the proportion hypogamic marriages that split up (reaching about 10% in 2010 for both types of decrees) as well as homogamic couples until the mid-2000s in the case of separations and throughout the period regarding divorce, accounting for almost 40% marriage dissolutions (Table 2).

Yet, differences between the two types of decrees in the presence or not and number of dependent children under the age of 18 did show some change since 1996 (Figure 8) as the proportion of divorcing couples without children increased slightly to around 40% in 2010 as well as those with two children (from 23% to 25%). Conversely, the proportion of divorcing couples with just one child declined slightly (from 34% to 29% in 2010). Meanwhile, separating couples were more likely to be childless (about 50%, down from 55% in 2003/4) but fewer had two (20% in 2009/10) or more children, although this was up from 2003/4.

In terms of the previous marital status of the spouses, the proportion of divorcing persons who were divorced when they married increased from 2% in 1996 to 5% in 2010 for women and from 2,5% to 6% for men. For those who separated, the proportion has hovered around 3% for women and 4% for men since 2000.

Figure 7.- Separation and divorce decrees according to the age at marriage, 1996-2010

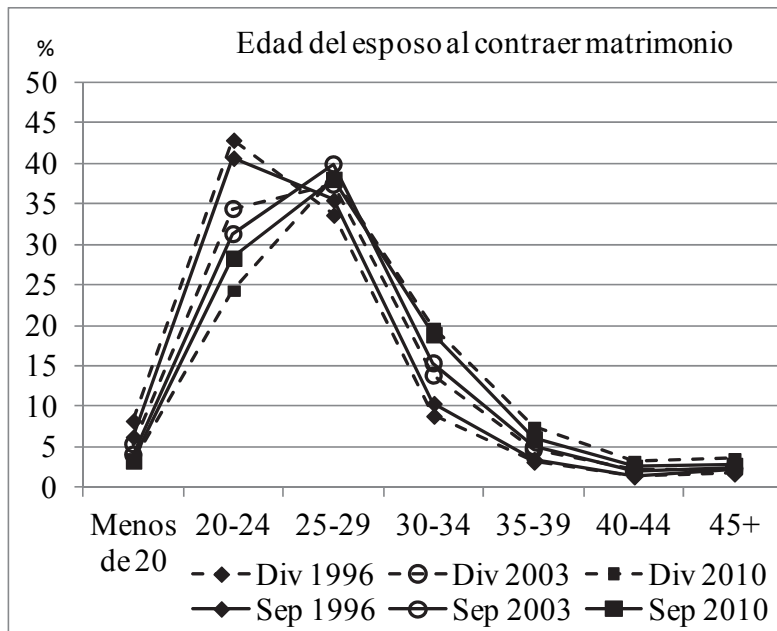
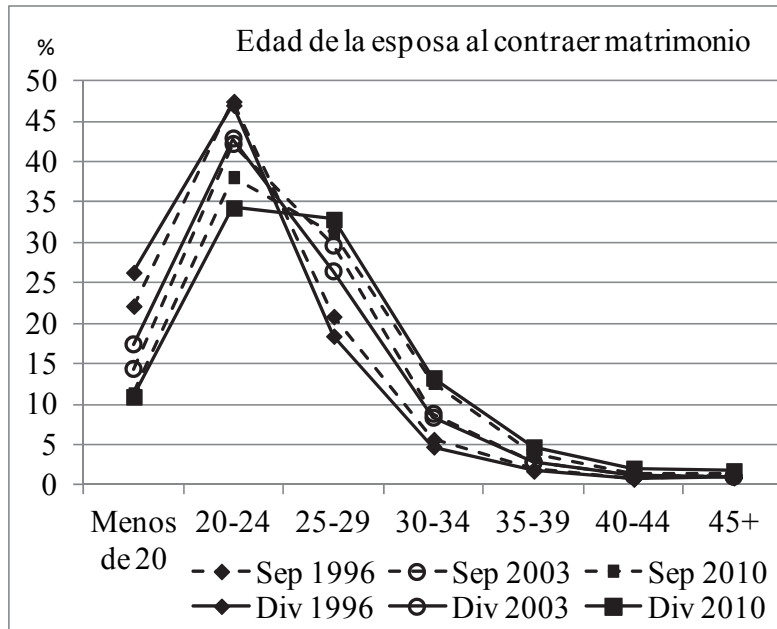
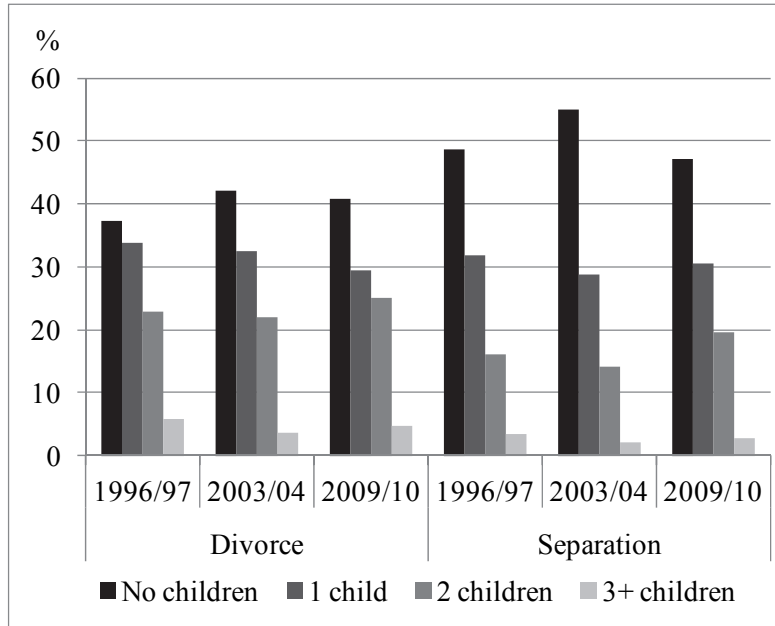


Figure 8.- Separation and divorce decrees according to the presence of under-aged children (1996-2010)



3.2.3.- Alimony and food allowance payments

Finally, patterns of alimony and food allowance payments (whose function is to correct differences in living standards due to marriage breakdown) have also changed over the years, especially since the 2005 Divorce Reform. Even though separation only accounted for 7% of all marriage dissolutions in 2010, of those marriages with minors who obtained a decree of separation a quarter were ordered to pay alimony, compared to just a ninth of divorces. Both were up from 2004 when the lowest levels were recorded since 1999 when this information was first registered in the bulletins. When alimony was paid, about 90% of the times this was done by the husband, down from 96% in 1999 and with little difference by the type of sentence. Over the same time, the proportion of wives who has had to pay alimony to their former husband has increased.

On the other hand, since 2007 there is 100% coverage of food allowance that has to be paid by one of the former spouses or both (83% in 2006), though usually this is the former husband. This was around 95% in 1999, which dropped to about 90% in 2010 as not only slightly more mothers are having to pay (about 4% in 2010) but also both parents at the same time (about 7% in 2010). Again few differences in payments between type of decree could be discerned.

3.3.- Custody arrangements

While the 2005 Divorce Reform first legally regulated the custody of the children, the statistical bulletins on separation, divorce and nullity did not register this information until 2007. The only approximation we could make is from the food allowance payments arrangements that was stipulated by the court. For instance, between 1999 and 2005 in about 3% of the decrees both parents were made to pay, which could suggest that before the Reform a small proportion of divorces and separations opted for joint custody, even though this arrangement was not settled legally. Similarly, in slightly under 3% of the cases the mother was ordered to pay, suggesting that about 3% of the custody arrangements was awarded to the father. The remaining 93-95% of food allowance was paid by the father to the mother who most likely had sole custody. In 2005 and 2006 when custody arrangements were regulated but were not yet registered in the bulletins, about 4% of the food allowance was paid for by both parents. When finally in 2007 information on custody arrangements was collected, joint custody was given in 9,7% of the cases that came to court, a level which was maintained until 2009 (Table 3). Since then, joint custody has experienced a small increase to 12,3% in 2011. On the other hand, in the same year 81,7% of marriage dissolutions sole custody was awarded to the mother, which was a decline from 2007 when this was given to 85,5%. Sole custody to the father fluctuated between 4,0% and 5,7% during the same period (5,3% en 2011).

Table 3.- Child custody arrangements, 2007-2011

Year	Fath	Mothers	Joint	Other	Total
2007	4,8	85,5	9,7	0,0	100,
2008	4,0	86,0	9,7	0,3	100,
2009	5,6	84,0	9,7	0,7	100,
2010	5,7	83,2	10,5	0,6	100,
2011	5,3	81,7	12,3	0,7	100,

Source: INE (2008-2012).

3.3.1- Demographic differences in custody arrangements (age, sex, previous marital status, marriage duration, number of children)

The age at marriage for both men and women who divorced or separated increased about a year between 2007 and 2010 irrespective of the type of custody that was granted. In 2010 the average age was 25,9 and 28,5 years for men and women, respectively, when they married whereby those who were granted joint custody were only slightly older than when sole custody was given to the mother. Parents of split-up families where the sole custody was given to the father were on average the youngest at marriage (though only by a couple of months) (Table 4i). At the time of marriage, 36% of women who divorced or separated in 2010 were aged 20-24, 35% were aged 25-29 and 13% were 30-34 years old. Among men, the largest proportion of divorcees was 25-29 year old (42%) when they married followed by age groups 20-24 (24%) and 30-34 (20%). However, among both sexes proportions in the youngest age categories (up to age 24) were higher if sole custody was awarded to the father, while the age category 25-29 was highest in the case of joint custody (see Appendix Table 2).

Regarding the age of each parent at the moment of the law suit, in 2010 women were on average 40,0 years old if custody was awarded to the father, 39,0 if awarded to herself and 39,6 if joint custody was the outcome. For fathers the respective averages were 43,1, 41,5 and 42,2 years (Table 4ii). Thus, the older the father at the moment of the divorce application the more likely he would to obtain sole custody. In terms of age categories, in

2010 fathers had a 7,5% chance in obtaining sole custody if older than 45 compared to 4,9% if younger than 35 years of age. A similar result was obtained for joint custody (11,3% if older than 45 compared to 8,6% if younger than 35 years of age) (see Appendix Table 3).

In relation to the age pattern at sentence ruling, results are similar to the above with a difference of about 4 months due to the average time it takes for the divorce or separation case to be executed (Table 4iii).

Table 4.- The age at marriage, at the moment of divorce application and sentence ruling of both parents according to type of custody

Age at marriage

		Mothers			Fathers		
		2007	2010	Change	2007	2010	Change
Type of custody	Father	24,17	25,22	1,05	27,48	28,28	0,79
	Mother	24,90	25,92	1,03	27,49	28,44	0,99
	Joint	24,89	26,12	1,23	27,52	28,71	1,19
Total		24,86	25,89	1,03	27,49	28,49	1,00

ii) Age at moment of divorce application

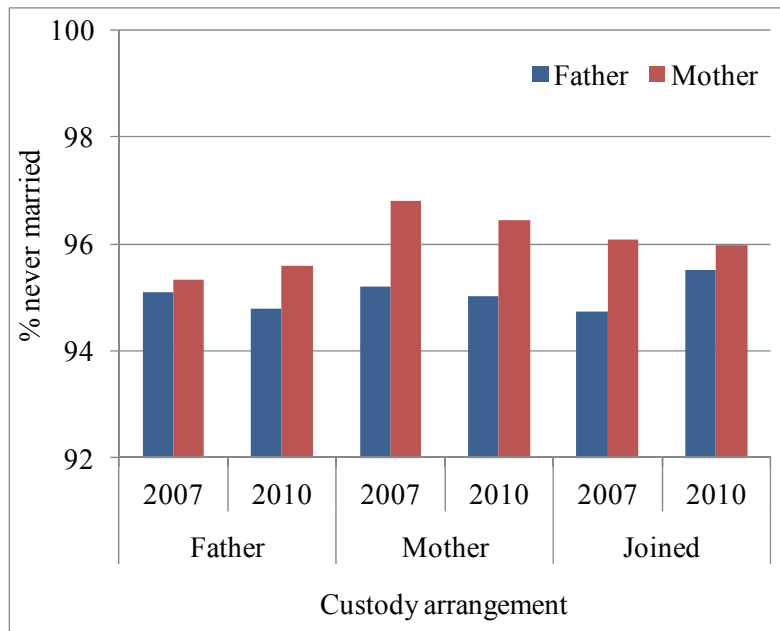
		Mothers			Fathers		
		2007	2010	Change	2007	2010	Change
Type of custody	Father	39,53	40,04	0,51	42,85	43,10	0,25
	Mother	38,38	38,99	0,60	40,97	41,54	0,56
	Joint	38,69	39,64	0,95	41,32	42,24	0,92
Total		38,47	39,12	0,72	41,09	41,71	0,62

iii) Age at sentence ruling

		Mothers			Fathers		
		2007	2010	Change	2007	2010	Change
Type of custody	Father	40,08	40,61	0,53	43,40	43,67	0,27
	Mother	38,81	39,42	0,61	41,40	41,97	0,58
	Joint	39,07	39,98	0,91	41,70	42,58	0,88
Total		38,89	39,55	0,66	41,52	42,15	0,63

In relation to the previous marital status of couples who were in the process of separation or divorce, almost all were single before marrying, namely 96% of women and 95% of men. However, this proportion is about one percent lower among women when joint custody is granted to the father. A clear trend over time cannot be distinguished.

Figure 9.- Proportion of never married parents at sentence ruling according to type of custody

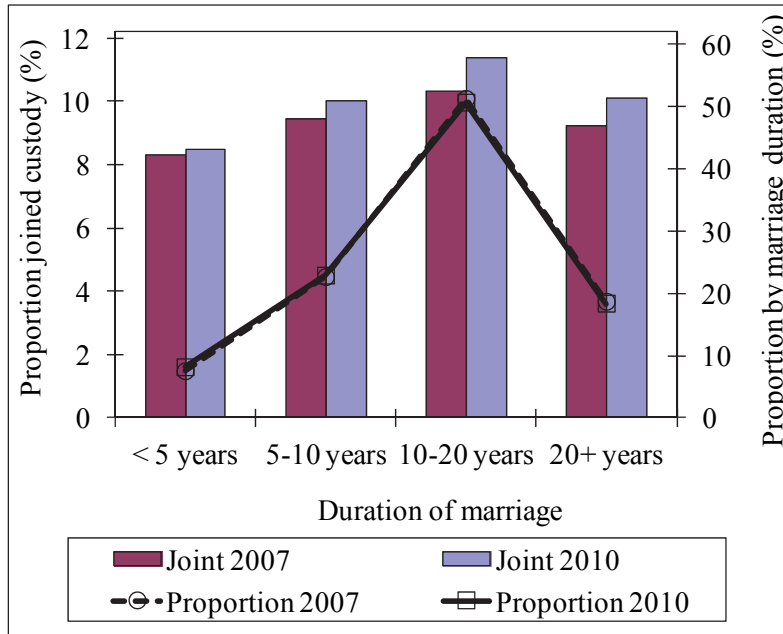


As for the duration of marriage (Figure 10), joint custody is more likely when the marriage lasted between 10 and 20 years (11,4% in 2010 compared to 10,5% overall), which is incidentally the most common marriage duration category for those who separated or divorced. Meanwhile, sole custody to the father is more likely to be granted to those men who have been at least 20 years with their former partner (8,5% compared to 5,7% overall). In all but the less than 5 year marriage duration category for joint custody proportions have increased since 2007. Conversely, mothers, who usually obtain the custody over the children anyway, are even more likely to do so if their marriage lasted less than 5 years (see Appendix Table 6). As a result, the average marriage duration is

longest of couples where custody is given to the father (15,4 years in 2010), which is followed by joint custody (13,9 years) and sole-mother custody (13,5 years) (Figure 11).

Figure 10.- Type of custody (%) according to marriage duration

i. Joint custody



ii. Father has custody

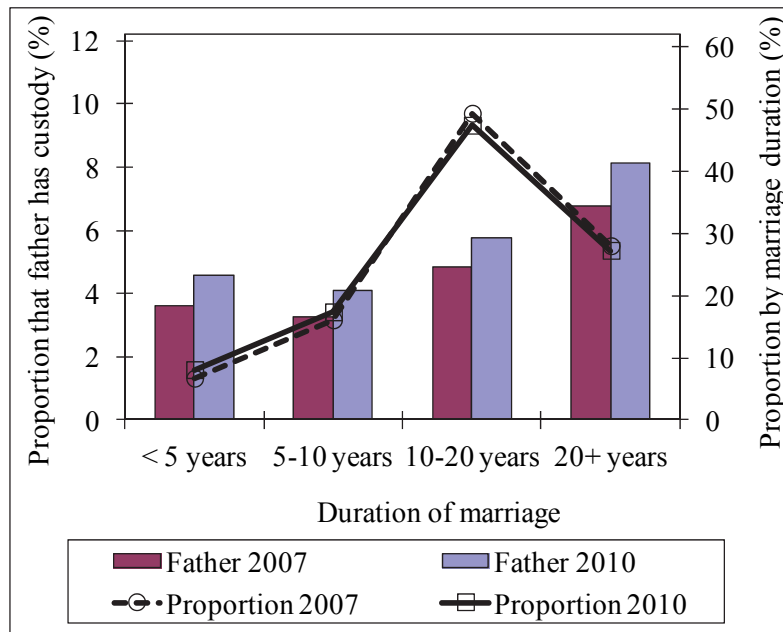
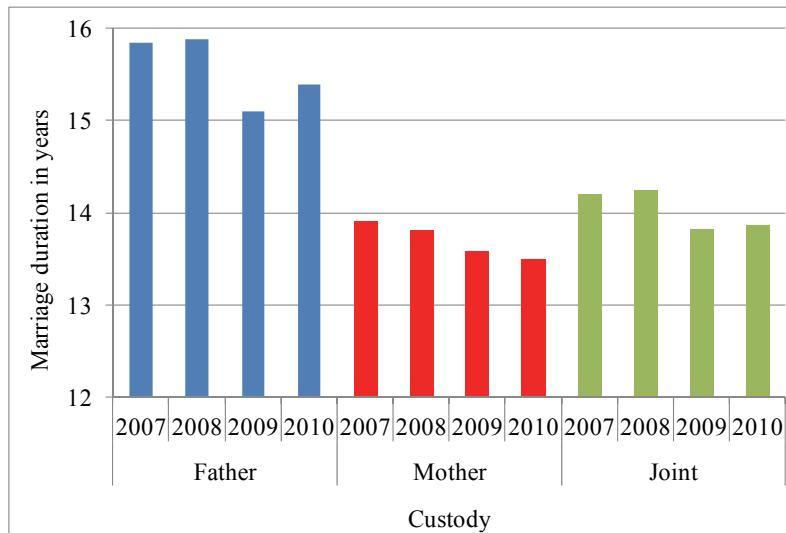


Figure 11.- Average marriage duration by type of custody

In the period 2007-10 in 57,0% of the sentences of dissolved marriages with minor children it concerned one child, 37,1% two and 6,0% three or more. While we know that those most affected by divorce are the children, what we don't know is whether there are differences in the number of children involved according to the type of custody. Although the sentences that determine child custody only pertain to children under the age of 18, according to the statistical bulletins on the decrees of separations, divorces and annulments, if the custody is given to the father, it is slightly more likely that this pertains to one child only (60.0% of the cases) than in the case if custody is given to the mother (57.2%) or is joint (53.8%). On the other hand, if joint custody was awarded there were relatively more cases of former couples who had had two children (Figure 12i). Figure 12ii shows the same data the other way around, i.e. custody arrangements according to parity. Here one can also observe that among mothers who obtain sole custody, this is most common when there is only one child involved and for joint custody this is when there are two children involved, although differences are not large with the other categories (just a percentage point). Why the proportion of custody to sole fathers is highest when there are three children is unclear although the relatively small number of cases may play a role (it was yearly given to about 200 fathers).

Figure 12i.- Distribution of the number of children according to type of custody. 2007/10

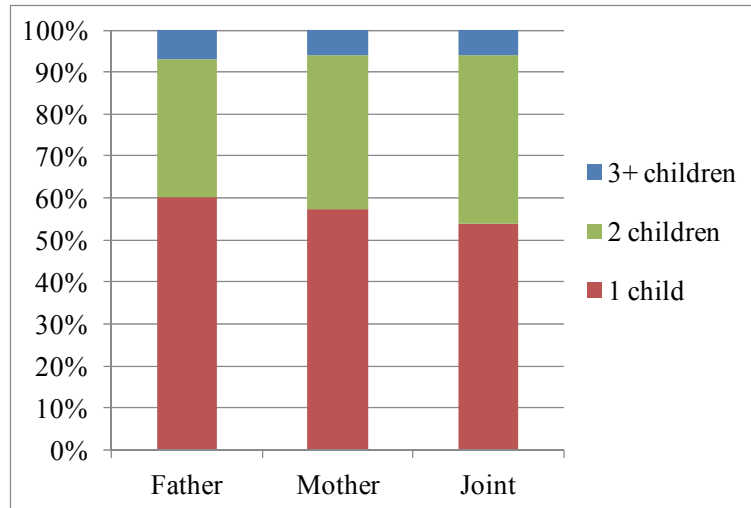
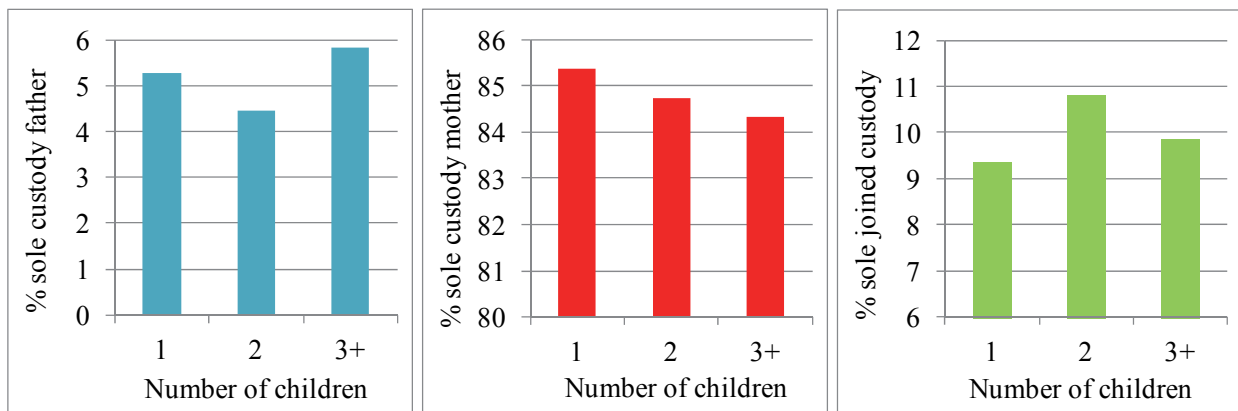


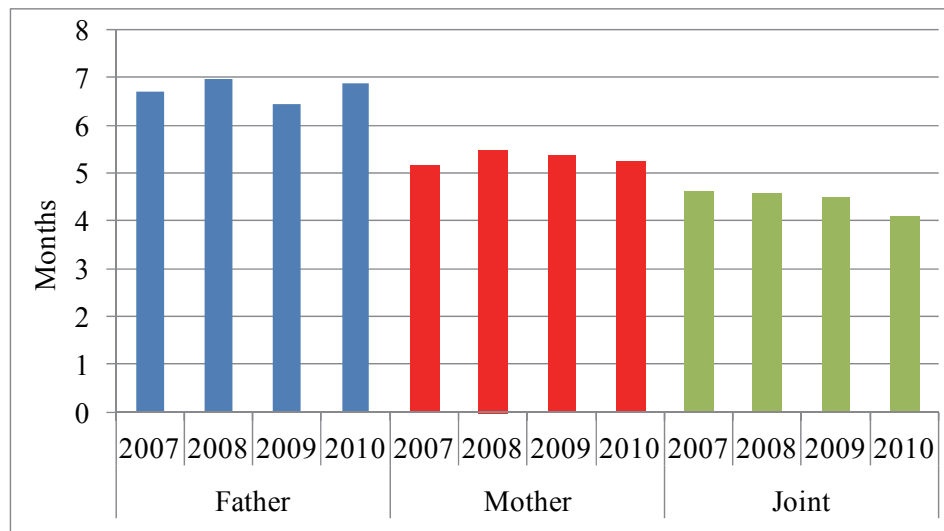
Figure 12ii.- Type of custody according to the number of children. 2007/10



Sentence characteristics

The average duration between the moment an application for divorce is made and the sentence to take place is less when the judge pronounces a joint custody: In 2010 about 4 months compared to 5 months when sole custody is given to the mother or 7 months when the same is given to the father (Figure 13). One can also observe the relative stability since 2007 even though the divorce reform which regulated custody arrangements was only in vigour since late June 2005.

Figure 13.- Average duration (in months) between the application for divorce/separation and the decree according to type of custody



If we would look at custody patterns according to who filed for divorce, we see that when sole custody is awarded to fathers, the proportion who obtained sole custody was double when they filed for divorce themselves than the overall proportion (10% vs 5%). A similar but opposite pattern was found for mothers, while if joint custody was awarded, this was only less likely in case the mother filed for divorce (Figure 14a).

Although the vast majority of custody cases are granted to mothers even if the father was the one who filed for divorce, if we'd graph the data the other way around we can observe an association between who the applicant is and the final custody arrangement (Figure

14b). For instance, when the sentence dictates joint custody it is more likely that both ex-partners also filed for divorce rather than just one of them (55% of all claimants).

As few changes over time were observed between 2007 and 2010 both figures are averages for the period.

Figure 14a.- Custody arrangement according to divorce claimant (average 2007-10)

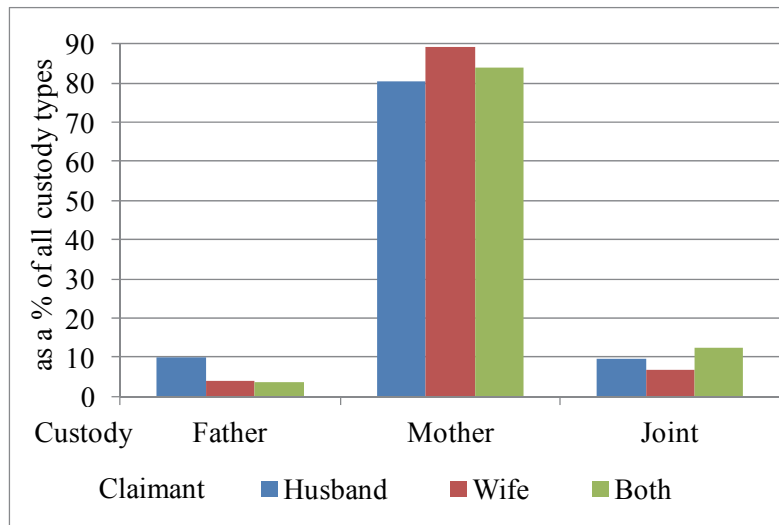
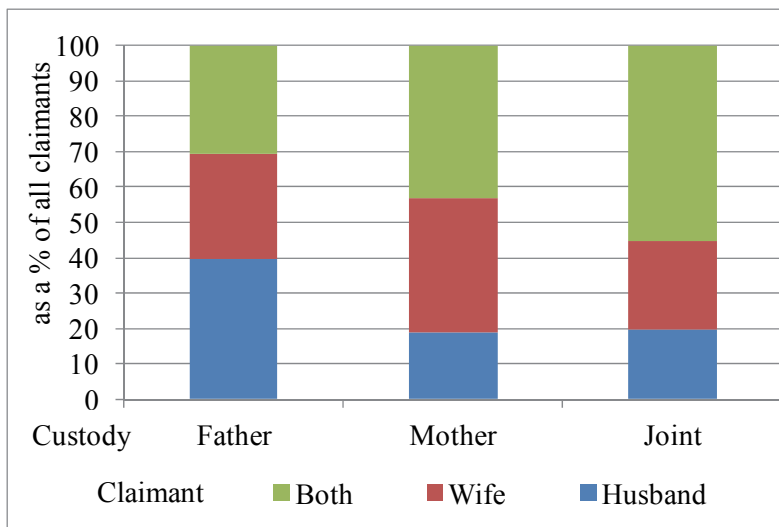
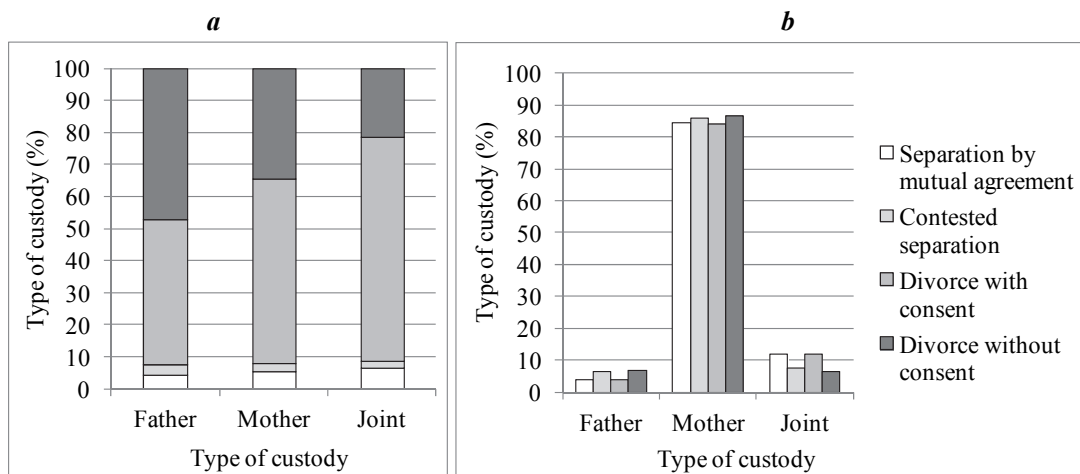


Figure 14b.- Divorce claimant according to custody arrangement (average 2007-10)



As we learned earlier, separation is a form of marriage dissolution that is becoming less frequent and today comprises 7% of the total (INE, 2012). However, of those few legal separations that exist, just 71% are by mutual agreement. Also divorce by consent is more common than without consent (67% vs 33%). Not surprisingly, there is a clear link between the sentence ruling and the type of custody that is awarded: according to the decree data, among those who obtained joint custody in 2007-2010, 70% had divorced with consent compared to “only”, respectively 45% and 58% of fathers and mothers who obtained sole custody. In contrast, while only 5% of fathers were granted sole custody, in 47% of the cases this pertained to divorces without consent (Figure 15a). If we would look at this the other way around, joint custody is more likely to be granted to consented divorces and separations by mutual agreement than when there is disagreement in the sentence ruling (11,9% against 6,4%), while the reverse is true for sole parent custody (Figure 15b). The type of dissolution itself (ie, divorce or separation) had little relation to the type of custody (see Appendix Table 10), although if we would consider those divorces with a previous legal separation, then there a 1-2% higher chance that sole custody would be given to the father or the mother and about 3% less chance that joint custody is awarded.

Figure 15.- Custody arrangement according to sentence ruling (a) and vice versa (b). Average 2007-10

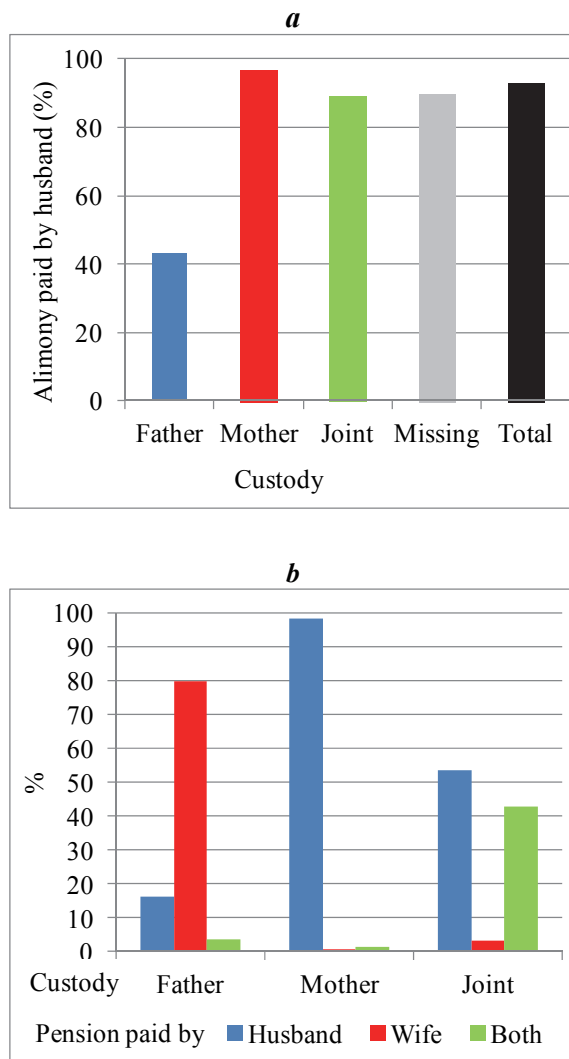


Pensiones

The last information that is obtained by the statistical bulletins on the divorce and separation decrees is on the existence of alimony and food allowance payments. Regarding the former, whose function is to correct for differences in living standards as a result of the marriage breakdown, it should be mentioned that in about 88% of cases (average for 2007-2010) either no alimony was awarded in the sentence ruling or this information was not provided. Questions as to its reliability may therefore be raised. Yet, when alimony was awarded during the observed period it was in 93% of the cases the ex-husband who had to pay. Moreover, this was not only when the mother was given the sole custody, also in 89% of joint custody cases and even in 43% of cases when it the father himself had the sole custody (Figure 16a). The data do not allow us to deduce why this gender difference in the relationship between alimony and the type of custody exists.

Regarding food allowance payments that is meant for the maintenance of their children, in virtually all custody cases since 2007 an arrangement had been dictated by the sentence ruling. Again in almost all (89%) cases it is the husband who has to pay. However, while almost all ex-wives paid pensions to the few fathers who had sole custody in 2007 and 2008, in 2009 and 2010 one third of the husbands had to pay the food allowance themselves. The contrary was not the case: in 2010 97% of the food allowances were paid by the husband if the wife had sole custody. Also in the joint custody cases there is a gender bias as in 2010 the fathers paid 45% of the allowances, 51% both parents and in just 3% only the mother (Figure 16b). Again the data do not allow us to ascertain why this discordancy exists, although one could suspect that the difference in personal disposable income would be an important reason. One notable trend worth mentioning, however, is that the proportion that both parents pay in joint custody cases substantially increased between 2009 and 2010 (not shown).

Figure 16.- Alimony (a) and food allowance (b) payments according to custody arrangement. 2007-2010



4.- Custody arrangements: a synthesis

Short after the 2005 Divorce Reform the number of divorces increased sharply and separations declined as it was made easier to divorce. While overall levels of marriage dissolutions increased, over the last couple of years the trend has stabilized. More detailed research is required, however, whether this is due to a normalization of the effects of the

new divorce law, the effect of the current economic crisis, or a combination of factors. When legal custody arrangements are made for minor children, we know that in most cases this is awarded to the mother. However, part of the purpose of the Reform was to also get divorced fathers to become more involved in parenting, which is why the option of joint custody became legally regulated.

In order to see whether this has really had an effect on the proportion of joint custody arrangements, data from the *Boletines estadísticos de sentencias de separación, divorcio y nulidad* (Statistical bulletins on the decrees of separations, divorces and annulments) were analysed. Since 2007 the bulletins provide information on who obtains custody over the children as well as the usual data on the divorce process itself and basic demographic characteristics of the marriage and spouses. As has been mentioned, joint custody was 9,7% in 2007 as well as in 2008 and 2009, but rose to 10,5% in 2010 and 12,3% in 2011. Sole father custody stood in 2011 at 5,7%, up from 4,8% in 2007. Mothers who obtained sole custody is still the norm, but has declined by about 4%. Yet, data showed that certain characteristics made it either more or less likely that a particular custody arrangement was made. As certain characteristics are related, such as the age at marriage for men and the age at marriage for women, the best way to ascertain the so-called independent effect of each characteristic on the awarding of each type of custody arrangement is to conduct a multivariate analysis. Given that joint or sole father custody are both fairly uncommon each is tested using logistic regression against all remaining cases (i.e. those who obtained the other custody type as well as sole mother custody). Results are provided in Tables 5 and 6. Table 5 also provides some additional methodological notes. Just for the sake of completeness Annex Table 12 provides the results for sole mother custody (regressed against sole father and joint custody). The main pattern in custody arrangements for the period 2007-2010 can be summarized as followed:

While the granting of sole custody to the mother is declining this was only so for the last two years that were analysed as joint custody was only proportionally higher in prevalence in 2010, while this is since 2009 for sole father custody.

Table 5.- Multivariate logistic regression analysis of variables associated with father obtaining sole custody

Variable	Categories	B	E.T.	Wald	d.f.	Sig.	Exp(B)
Reference year	2007			175.1	3	.000	Ref.
	2008	-.119	.035	11.4	1	.001	.89
	2009	.214	.033	40.9	1	.000	1.24
	2010	.284	.034	71.6	1	.000	1.33
Age at marriage of husband	<25 yrs			33.7	3	.000	Ref.
	25-30 yrs	-.127	.029	18.7	1	.000	.88
	30-35 yrs	-.056	.038	2.1	1	.147	.94
	35+ yrs	.090	.049	3.4	1	.067	1.09
Spousal age difference	homogamy			38.2	2	.000	Ref.
	hipogamy	.118	.044	7.2	1	.007	1.12
	hipergamy	.166	.027	37.7	1	.000	1.18
Marriage Duration	< 5 yrs			317.0	3	.000	Ref.
	5-10 yrs	-.015	.053	.1	1	.783	.99
	10-20 yrs	.334	.049	46.4	1	.000	1.40
	20+ yrs	.637	.053	146.6	1	.000	1.89
Previous marital status of husband	Single	.069	.059	1.4	1	.245	Ref.
	Divorced / widowed						1.07
Duration of sentence ruling	< 6 months			103.7	2	.000	Ref.
	6-11 months	.212	.032	43.7	1	.000	1.24
	12+ months	.404	.042	94.1	1	.000	1.49
Continues							
Claimant	Husband			964.1	2	.000	Ref.
	Wife	-.897	.031	823.7	1	.000	.41
	Both	-.751	.034	495.0	1	.000	.47
Decree	Separation by mutual			70.4	3	.000	Ref.

	agreem.						
	Contested separation	.384	.105	13.3	1	.000	1.47
	Divorce by consent	-.008	.054	.0	1	.886	.99
	Divorce without consent	.266	.061	19.1	1	.000	1.30
Minor children	One			38.1	2	<i>.000</i>	Ref.
	Two	-.157	.027	34.7	1	.000	.85
	Three+	.028	.051	.3	1	<i>.579</i>	1.03
	Constant	-	.080	1395.1	1	<i>.000</i>	.05
		2.980					

Notes: Dependent variable: Father has custody (yes vs. no). Nagelkerke R²: 0.05. Variable significant if p<0,01 (in *italics*). Category significantly different from reference if p<0,01 (in **bold**). Variables that were previously analysed but excluded from the multivariate analysis due to their high correlation (>0,99) with the husband's age at marriage: wife's age at marriage, wife's and husband's age at moment of divorce application and at sentence ruling. Previous separation (prior to divorce) was excluded given that this characteristic is only possible in case of divorce and, logically speaking, not when separating. Similarly, the alimony and food allowance pensions could not be tested, as who pays depends on who obtains custody, not the other way around. In some instances categories of variables with few cases or no statistical differences with other categories have been aggregated.

Table 6.- Multivariate logistic regression analysis of variables associated with joint custody being granted

Variable	Categories	B	E.T.	Wald	d.f.	Sig.	Exp(B)
Reference year	2007			16.3	3	.001	Ref.
	2008	-.010	.019	.3	1	.583	.99
	2009	-.021	.019	1.1	1	.286	.98
	2010	.052	.019	7.4	1	.006	1.05
Age at marriage of husband	<25 yrs			61.3	3	.000	Ref.
	25-30 yrs	.083	.017	23.7	1	.000	1.09
	30-35 yrs	.135	.022	38.0	1	.000	1.14
	35+ yrs	.198	.028	48.4	1	.000	1.22
Spousal age difference	homogamy			10.4	2	.006	Ref.
	hipogamy	-.081	.025	10.2	1	.001	.92
	hipergamy	-.020	.015	1.7	1	.189	.98
Marriage Duration	< 5 yrs			88.0	3	.000	Ref.
	5-10 yrs	.105	.028	14.2	1	.000	1.11
	10-20 yrs	.211	.027	62.2	1	.000	1.23
	20+ yrs	.225	.030	55.9	1	.000	1.25
Previous marital status husband	Single						Ref.
	Divorced / widowed	-.037	.035	1.1	1	.290	.96
Duration of sentence ruling	< 6 months			2.8	2	.247	Ref.
	6-11 months	-.022	.020	1.3	1	.257	.98
	12+ months	-.044	.029	2.3	1	.130	.96
Claimant	Husband			445.0	2	.000	Ref.
	Wife	-.373	.021	329.1	1	.000	.69
	Both	-.019	.021	.8	1	.368	.98
Decree	Separation by mutual agreem.			616.1	3	.000	Ref.

Continues

Minor children	Contested separation	-.268	.057	22.5	1	.000	.76
	Divorce by consent	.019	.028	.4	1	.510	1.02
	Divorce withouth consent	-.528	.034	236.8	1	.000	.59
	One			93.8	2	.000	Ref.
	Two	.141	.015	90.8	1	.000	1.15
	Three+	.117	.030	15.0	1	.000	1.12
	Constant	-	.044	2527.6	1	.000	.11
		2.229					

Notes: Dependent variable: Joint custody (yes vs. no). Nagelkerke R²: 0.02. See also Table 5.

After controlling for other factors, divorced parents where sole custody was given to the father was least likely when the husband married at ages 25-30 and more likely if he was older than 35 years of age. On the other hand, joint custody increases with age at marriage. Similar results are obtained if the age at marriage of the mother is taken. Spousal age difference (at least 24 months) also makes a difference to the type of custody that is granted: joint custody becomes *less* likely when the wife is older than the husband and sole father custody becomes *more* likely if there is an age difference, irrespective of whether the ex-husband or ex-wife is older.

Previous marital status (single, widowed/divorced) to the marriage that is being dissolved has no influence on the custody ruling.

The longer the duration of the sentence ruling the higher the odds that sole custody is granted to the father. There is no effect for joint custody.

Similarly, if the divorce claimant is the husband, the odds that sole custody goes to the father is about double than if the mother is the claimant or both are. Joint custody is least likely to occur if the mother is the claimant.

In terms of the effect of the type of separation or divorce decree, it is clear that those legal breakups that are not contested favour joint custody, while the opposite is the case for single-parent custody.

Finally, divorcing couples with two or three children are more likely to share custody than if they have one child, while singletons raise the odds for sole custody for either parent. The presence of three children also increases the odd of sole custody for the father.

5.- Concluding remarks

Considering that the objective of the Divorce Law Reform was to increase the co-responsibility of the parents, one would expect that the divorces with mutual agreement would have become more frequent and, if this is so, that joint custody sentences are more common today.

Divorce became legal in Spain in 1981 but divorce rates really began to take off after the 2005 Divorce Reform that facilitated the divorce process. The Divorce Reform also

provided a legal framework for joint custody with the intention to increase the co-responsibility of the parents. Up until then, in more than 90% of sentence rulings the mother was given sole custody, but, as summarized in the previous section this has declined by about 4% since then. In other words, in answer to the first research objective, the recent law change has had a limited effect on current custody arrangements. It is unclear, however, whether the recent small increases in joint and sole father custody are temporary or are set to continue. Some insights may be provided, however, by the multivariate logistic regression analysis that was carried out. Results showed that certain characteristics favour either sole custody for the father or joint custody at the expense of sole custody for the mother, i.e. (and to respond to the second research objective):

If the husband was 35+ at time of marriage

If there was an age difference between spouses (sole father custody only)

Long duration of divorce application (6+ months, sole father custody only)

Divorce claimant is the husband

Separation or divorce is by mutual agreement or consent

1 dependent child favours sole custody for fathers and mothers, 2 children favours joint custody and 3+ children favours (in relative terms) sole custody for fathers.

As marriages are increasingly dissolved with the consent from both spouses, which in turn is positively associated with joint custody, one could extrapolate from this that joint custody will increase in future. At the same time, in terms of possible structural influences, the continuing increase in the age at marriage and less age homogamy could lead to more sole father custody.

Lastly, while since 2007 the divorce decree data provide information that permits comparing custody arrangements according to the characteristics of the divorcees and of the divorce process, the type of custody relates to the decision of the court but says nothing about the claimant's custody preferences or the claimant's motive for a particular type of custody (see discussion in Scott (1992)) or how the custody is finally carried out (i.e. the *physical* joint custody). For instance, while legal custody may be shared, this does not tell anything about the time that each parent spends with the child(ren), if each parent contributes financially the same or not (corrected for disposable income) or any change in household composition (e.g.). For instance, according to data from the Survey on Income

and Living Conditions (EU-SILC) in 2007 just 1% of households with dependent children were single father households (see Annex Table 13).

Moreover, there are other forms of custody that have not been discussed here, such as split custody where siblings are split up between the divorcing parents, while within the distinct types of custody there are sub-types, such as shared custody where the parents alternate parenting for long periods of time, but whereby the other parent has the right to visit (Ibanez-Valverde, 2004). These aspects should be considered in future research, although to do so this would require specifically designed survey data. Given the models' low R^2 , the inclusion of other (exogenous) factors that are likely to explain differences between the likelihood of sole male custody or joint custody being granted on the one hand and sole female custody on the other should also be explored.

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Annex

Source of all Annex Tables except 13: CGPJ (2007-2010). *Boletines estadísticos de sentencias de separación, divorcio y nulidad*. Microdata obtained upon request by the Centre d'Estudis Demogràfics from INE.

Source of all Annex Tables except 13: Survey on Income and Living Conditions (EU-SILC), 2007. Microdata obtained upon request by the Centre d'Estudis Demogràfics from the European Commission.

Table 1A.- Child custody arrangements, 2007-2010 (part of Table 3)

Year	Fath	Moth	Shar	Othe	Total
2007	3398	6111	6958	0	7147
2008	2612	5510	6207	190	6392
2009	3172	4776	5515	395	5645
2010	3326	4886	6133	370	5831

Note: Table 3 also contained the year 2011 but at the time of writing microdata for this year were not yet made available. In the press releases (INE 2008-2011), an “others” category (that includes other or non-relatives) was also included. This category was identified in the microdata after cross-tabulating the “custody” category (“*no procede*”) with “number of minor children” (> 0). Except for Table 3, this category was excluded from further analysis.

Table 2A.- Age¹ (in years) of both parents at marriage according to type of custody (basis for Table 4)

		Wife									
	Custody	< 20	20-25	25-30	30-	35-	40+	Missing	Mean ²	SD	Total*
2007	Father	644	1388	774	260	93	37	203	24.2	5.2	3398
	Mother	8589	23500	17981	5947	1716	504	2881	24.9	4.9	61119
	Joint	928	2722	2078	634	193	60	343	24.9	4.8	6958
	Total	10161	27610	20833	6841	2002	601	3427	24.9	4.9	71475
2008	Father	523	1058	643	281	72	35	0	24.5	5.5	2612
	Mother	7633	20432	17695	6247	2065	1034	0	25.5	5.5	55107
	Joint	786	2378	2059	648	207	129	0	25.6	5.6	6207
	Missing	31	77	56	12	10	4	0	25.0	5.8	190
	Total	8973	23945	20453	7188	2354	1202	0	25.4	5.5	64116
2009	Father	510	1179	987	322	127	48	0	25.1	5.4	3172
	Mother	5896	17104	16218	5845	1892	813	0	25.8	5.4	47769
	Joint	607	1970	1967	678	194	99	0	25.9	5.4	5515
	Missing	97	173	90	24	8	2	0	23.5	4.8	395
	Total	7110	20426	19262	6869	2221	962	0	25.7	5.4	56851
2010	Father	489	1297	953	414	140	32	0	25.2	5.3	3326
	Mother	5163	17295	17283	6519	1939	659	2	25.9	5.1	48860
	Joint	517	2131	2350	841	216	77	0	26.1	4.9	6133
	Missing	75	150	103	27	15	0	0	24.0	4.7	370
	Total	6244	20873	20689	7801	2310	768	2	25.9	5.1	58689

(Continues)

Husband

	Custody	< 20	20-25	25-30	30-35	35-	40+	Missing	Mean#	SD	Total*
2007	Father	166	1063	1155	493	175	143	203	27.5	6.1	3398
	Mother	2362	17811	23328	9583	3202	1952	2881	27.5	5.6	61119
	Joint	239	1941	2745	1106	380	203	343	27.5	5.3	6958
	Total	2767	20815	27228	11182	3757	2298	3427	27.5	5.6	71475
2008	Father	174	854	901	419	135	129	0	27.3	6.4	2612
	Mother	2591	15227	21628	9785	3438	2437	0	27.9	6.1	55107
	Joint	265	1655	2505	1103	349	330	0	28.1	6.3	6207
	Missing	4	68	58	40	13	6	0	27.8	5.7	190
	Total	3034	17804	25092	11347	3935	2902	0	27.9	6.1	64116
2009	Father	150	888	1176	569	196	195	0	28.2	6.5	3172
	Mother	1819	12378	19137	9217	3088	2128	0	28.2	6.0	47769
	Joint	203	1300	2225	1114	390	283	0	28.6	6.2	5515
	Missing	27	133	144	43	35	12	0	27.2	6.1	395
	Total	2199	14699	22682	10943	3709	2618	0	28.2	6.0	56851
2010	Father	137	903	1258	623	247	158	0	28.3	6.2	3326
	Mother	1429	11702	20308	9832	3427	2161	2	28.5	5.8	48860
	Joint	120	1309	2674	1330	452	247	0	28.7	5.6	6133
	Missing	15	121	126	50	38	20	0	28.3	6.8	370
	Total	1701	14035	24366	11835	4164	2586	2	28.5	5.8	58689

Note: ¹Age is calculated by subtracting the date (in month and year) of birth with that of the event in question (e.g. marriage). The exact age categories in months are: 168-239, 240-299, 300-359, 360-419, 420-479, 480+ months. ² Mean age (age in months/12) is weighted and based on all cases that have information on the year and month of each event.

The categories do not always add up to the total due to rounding as they are weighted values.

Table 3A.- Age1 (in years) of both parents at the moment of divorce application according to type of custody (basis for Table 4)

		Wife							Mean ²	SD	Total*
	Custody	< 30	30-34	35-39	40-44	45-	50+	Missing			
2007	Father	283	538	838	867	477	192	203	39.5	7.0	3398
	Mother	6066	11892	16752	14033	7091	2403	2881	38.4	6.6	61119
	Joint	627	1237	2013	1647	799	293	343	38.7	6.5	6958
	Total	6976	13667	19603	16547	8367	2888	3427	38.5	6.6	71475
2008	Father	229	392	672	740	446	132	0	39.8	6.9	2612
	Mother	5050	11011	15510	13744	6999	2791	0	38.8	6.8	55107
	Joint	489	1182	1677	1626	853	379	0	39.4	7.0	6207
	Missing	13	20	44	60	31	23	0	41.5	7.5	190
Total	5781	12605	17903	16170	8329	3325	0	38.9	6.8	64116	
2009	Father	264	533	805	869	500	202	0	39.7	6.9	3172
	Mother	4393	9495	13214	12059	6142	2464	0	38.9	6.8	47769
	Joint	407	1033	1555	1434	795	291	0	39.3	6.7	5515
	Missing	33	80	115	91	60	15	0	39.0	6.9	395
Total	5097	11141	15689	14453	7497	2972	0	39.0	6.8	56851	
2010	Father	250	533	852	848	622	221	0	40.0	7.0	3326
	Mother	4241	9458	13720	12371	6747	2323	0	39.0	6.6	48860
	Joint	358	1115	1761	1642	943	314	0	39.6	6.4	6133
	Missing	23	79	103	102	43	20	0	39.2	6.2	370
Total	4872	11185	16436	14963	8355	2878	0	39.1	6.6	58689	

(Continues)

		Husband										
	Custody	< 30	30-	35-39	40-44	45-49	50+	Missing	Mean ²	SD	Total*	
2007	Father	91	339	709	856	735	464	203	42.8	7.3	3398	
	Mother	3053	8740	14782	15573	10286	5804	2881	41.0	7.1	61119	
	Joint	266	879	1702	1910	1175	682	343	41.3	6.9	6958	
	Total	3410	9958	17193	18339	12196	6950	3427	41.1	7.1	71475	
2008	Father	123	306	465	735	608	374	0	42.7	7.5	2612	
	Mother	2649	7982	13606	14944	9833	6090	0	41.3	7.2	55107	
	Joint	250	769	1501	1705	1210	772	0	42.0	7.4	6207	
	Missing	2	16	32	54	58	28	0	44.3	7.2	190	
Total	3024	9073	15604	17438	11709	7264	0	41.4	7.3	64116		
2009	Father	100	392	611	880	666	523	0	42.8	7.5	3172	
	Mother	2244	6854	11878	12699	8764	5329	0	41.3	7.2	47769	
	Joint	174	726	1304	1557	1076	678	0	42.0	7.1	5515	
	Missing	10	43	92	124	71	56	0	42.7	7.6	395	
Total	2528	8015	13885	15260	10577	6586	0	41.5	7.3	56851		
2010	Father	102	397	635	821	821	550	0	43.1	7.5	3326	
	Mother	2039	6731	12045	13189	9388	5468	0	41.5	7.1	48860	
	Joint	167	705	1432	1755	1319	754	0	42.2	6.9	6133	
	Missing	5	24	95	114	71	61	0	43.4	7.0	370	
Total	2313	7857	14207	15879	11599	6833	0	41.7	7.1	58689		

Note: ¹Age is calculated by subtracting the date (in month and year) of birth with that of moment of divorce application. The exact age categories in months are: 168-359, 360-419, 420-479, 480-539, 540-599, 600+ months. ² and * See Annex Table 2.

Table 4A.- Age¹ (in years) of both parents at sentence ruling according to type of custody (basis for Table 4)

		Wife							Mean ²	SD	Total*
	Custody	< 20	20-25	25-30	30-35	35-	40+	Missing			
2007	Father	246	490	824	877	531	227	203	40.1	7.0	3398
	Mother	5372	11330	16631	14507	7636	2762	2881	38.8	6.6	61119
	Joint	555	1178	1996	1683	871	332	343	39.1	6.5	6958
	Total	6173	12998	19451	17067	9038	3321	3427	38.9	6.6	71475
2008	Father	189	366	644	778	480	155	0	40.4	6.9	2612
	Mother	4397	10406	15361	14120	7626	3194	0	39.3	6.8	55107
	Joint	427	1132	1681	1639	917	411	0	39.8	7.0	6207
	Missing	11	19	38	62	35	25	0	42.1	7.4	190
Total	5024	11923	17724	16599	9058	3785	0	39.4	6.8	64116	
2009	Father	222	506	755	910	549	231	0	40.2	6.9	3172
	Mother	3824	8965	13186	12245	6767	2780	0	39.3	6.8	47769
	Joint	353	971	1546	1473	850	323	0	39.7	6.7	5515
	Missing	31	68	99	116	57	24	0	39.8	6.8	395
Total	4430	10510	15586	14744	8223	3358	0	39.4	6.8	56851	
2010	Father	210	493	831	869	655	269	0	40.6	7.0	3326
	Mother	3707	8914	13640	12649	7261	2689	0	39.4	6.6	48860
	Joint	314	1053	1751	1669	992	353	0	40.0	6.4	6133
	Missing	14	65	106	103	53	29	0	39.9	6.2	370
Total	4245	10525	16328	15290	8961	3340	0	39.6	6.6	58689	

(Continues)

		Husband										
	Custody	< 20	20-	25-30	30-35	35-40	40+	Missing	Mean ²	SD	Total*	
2007	Father	71	310	664	860	761	529	203	43.4	7.3	3398	
	Mother	2661	8162	14417	15765	10781	6452	2881	41.4	7.1	61119	
	Joint	231	811	1670	1910	1270	724	343	41.7	6.9	6958	
	Total	2963	9283	16751	18535	12812	7705	3427	41.5	7.1	71475	
2008	Father	100	286	438	720	645	422	0	43.2	7.5	2612	
	Mother	2222	7404	13315	15074	10353	6737	0	41.7	7.2	55107	
	Joint	211	760	1402	1724	1285	825	0	42.4	7.4	6207	
	Missing	2	16	22	54	62	34	0	44.9	7.1	190	
	Total	2535	8466	15177	17572	12345	8018	0	41.9	7.3	64116	
2009	Father	83	359	562	909	695	564	0	43.3	7.5	3172	
	Mother	1890	6424	11522	12789	9292	5851	0	41.8	7.2	47769	
	Joint	155	668	1276	1535	1139	743	0	42.4	7.1	5515	
	Missing	10	33	85	117	86	64	0	43.4	7.5	395	
	Total	2138	7484	13445	15350	11212	7222	0	41.9	7.3	56851	
2010	Father	70	371	624	765	863	634	0	43.7	7.5	3326	
	Mother	1682	6215	11763	13274	9862	6064	0	42.0	7.1	48860	
	Joint	144	654	1403	1762	1357	812	0	42.6	6.9	6133	
	Missing	4	23	83	108	82	70	0	44.2	7.0	370	
	Total	1900	7263	13873	15909	12164	7580	0	42.1	7.1	58689	

Note: ¹Age is calculated by subtracting the date (in month and year) of birth with that of moment of divorce application. The exact age categories in months are: 168-359, 360-419, 420-479, 480-539, 540-599, 600+ months. ² and * See Annex Table 2.

Table 5A.- Spouse's marital status previous to current marriage at sentence ruling according to type of custody (basis for Figure 9)

		Marital Status						
	Custody	Single	Wife Widowed	Divorced	Single	Husband Widowed	Divorced	Total*
2007	Father	3089	9	150	3096	10	142	3248
	Mother	56017	235	2592	56958	178	1707	58844
	Joint	6396	16	339	6486	24	240	6751
	Total	65502	260	3081	66540	212	2089	68843
2008	Father	2367	8	126	2377	8	116	2501
	Mother	50317	169	2205	51046	141	1505	52691
	Joint	5692	21	217	5732	7	192	5930
	Missing	166	0	9	165	0	11	175
	Total	58542	198	2557	59320	156	1824	61297
2009	Father	3001	17	154	3014	11	147	3172
	Mother	45580	146	2042	46086	115	1567	47768
	Joint	5266	14	235	5319	14	182	5515
	Missing	377	2	15	378	0	17	394
	Total	54224	179	2446	54797	140	1913	56849
2010	Father	3153	13	160	3180	10	137	3326
	Mother	46433	172	2255	47115	103	1642	48860
	Joint	5857	10	266	5886	14	232	6133
	Missing	334	5	30	344	2	24	369
	Total	55777	200	2711	56525	129	2035	58688

Total is the same for both spouses (as same-sex marriages are excluded). The sex-specific marital status columns do not always add up to the total due to rounding as they are weighted values. In 2007 and 2008 information on previous marital status was missing for, respectively 2633 and 2813 couples (3,8% and 4,6% of total). The difference between this table's year total and that of Table 2 is due to missing data the spouse's marital status previous to current marriage.

Table 6A.- Type of custody (%) according to marriage duration (basis for Figures 10 and 11)

		Marriage duration				Average duration	Total*
	Custody	< 5 years	5-10 years	10-20 years	20+ years		
2007	Father	227	546	1675	951	15.9	3398
	Mother	5520	14544	29254	11802	13.9	61119
	Joint	522	1574	3564	1298	14.2	6958
	Total	6269	16664	34493	14051	14.0	71475
2008	Father	161	430	1264	756	15.9	2612
	Mother	5176	13045	26401	10484	13.8	55107
	Joint	508	1405	3046	1248	14.2	6207
	Missing	15	27	89	59	17.1	190
	Total	5860	14907	30800	12547	13.9	64116
2009	Father	235	583	1570	785	15.1	3172
	Mother	4838	11597	22621	8711	13.6	47769
	Joint	500	1278	2706	1030	13.8	5515
	Missing	18	47	225	104	16.3	395
	Total	5591	13505	27122	10630	13.7	56851
2010	Father	268	577	1575	906	15.4	3326
	Mother	5096	12039	22635	9090	13.5	48860
	Joint	499	1402	3105	1126	13.9	6133
	Missing	19	45	225	82	15.9	370
	Total	5882	14063	27540	11204	13.7	58689

The categories do not always add up to the total due to rounding as they are weighted values.

Table 7A.- The number of minor children according to type of custody (basis for Figures 12i and 12ii)

		Number of minors			
	Custody	1	2	3+	Total*
2007	Father	2027	1077	294	3398
	Mother	35112	22317	3691	61119
	Joint	3733	2778	447	6958
	Total	40872	26172	4432	71475
2008	Father	1558	870	183	2612
	Mother	31758	20070	3277	55107
	Joint	3287	2509	411	6207
	Missing	80	84	26	190
	Total	36683	23533	3897	64116
2009	Father	1905	1097	170	3172
	Mother	27428	17621	2719	47769
	Joint	3030	2188	297	5515
	Missing	142	191	62	395
	Total	32505	21097	3248	56851
2010	Father	2021	1092	214	3326
	Mother	27556	18507	2798	48860
	Joint	3299	2532	302	6133
	Missing	104	197	69	370
	Total	32980	22328	3383	58689

The categories do not always add up to the total due to rounding as they are weighted values.

Table 8A.- Duration (in months) between the application for divorce/separation and the decree according to type of custody (basis for Figure 13)

		Duration of duration process						
	Custody	< 5 years	5-10 years	10- 20 years	20+ years	Average duration	Total*	
2007	Father	1792	1059	365	182	6.7	3398	
	Mother	40742	14674	3826	1877	5.2	61119	
	Joint	4947	1459	392	160	4.6	6958	
	Total	47481	17192	4583	2219	5.2	71475	
2008	Father	1353	815	284	160	6.9	2612	
	Mother	35724	13468	3851	2061	5.5	55107	
	Joint	4551	1188	291	176	4.6	6207	
	Missing	99	59	16	16	7.5	190	
	Total	41727	15530	4442	2413	5.5	64116	
2009	Father	1779	943	244	206	6.4	3172	
	Mother	31423	11358	3233	1754	5.4	47769	
	Joint	4106	999	272	138	4.5	5515	
	Missing	167	142	37	49	8.8	395	
	Total	37475	13442	3786	2147	5.4	56851	
2010	Father	1782	968	383	194	6.9	3326	
	Mother	32738	11194	3242	1687	5.3	48860	
	Joint	4748	1002	266	116	4.1	6133	
	Missing	148	138	42	43	9.0	370	
	Total	39416	13302	3933	2040	5.2	58689	

The categories do not always add up to the total due to rounding as they are weighted values.

Annex Table 9.- Custody arrangement according to divorce claimant (basis for Figure 14)

Claimant						
	Custody	Husband	Wife	Both		Total*
2007	Father	1447	996	956		3398
	Mother	12379	23284	25456		61119
	Joint	1487	1834	3637		6958
	Total	15313	26114	30049		71475
2008	Father	1102	766	744		2612
	Mother	10267	21633	23206		55107
	Joint	1234	1687	3286		6207
	Missing	73	63	53		190
	Total	12676	24149	27289		64116
2009	Father	1199	898	1076		3172
	Mother	10067	16714	20986		47769
	Joint	1149	1273	3094		5515
	Missing	123	160	112		395
	Total	12538	19045	25268		56851
2010	Father	1209	1068	1050		3326
	Mother	7486	18881	22494		48860
	Joint	1013	1416	3703		6133
	Missing	120	169	81		370
	Total	9828	21534	27328		58689

The categories do not always add up to the total due to rounding as they are weighted values.

Table 10A.- Custody arrangement according to sentence ruling (basis for Figure 15)

	Sentence ruling						Total*
	Custody	Separation by mutual agreement	Contested separation	Divorce with consent	Divorce without consent	Nullity	
2007	Father	126	160	1407	1702	4	3398
	Mother	3198	2259	34241	21393	27	61119
	Joint	488	223	4474	1772	0	6958
	Total	3812	2642	40122	24867	31	71475
2008	Father	92	70	1168	1277	6	2612
	Mother	2844	1454	31185	19612	9	55107
	Joint	371	115	4323	1393	5	6207
	Missing	8	3	71	108	0	190
	Total	3315	1642	36747	22390	20	64116
2009	Father	141	108	1504	1414	6	3172
	Mother	2635	1080	27427	16612	13	47769
	Joint	364	105	3851	1195	0	5515
	Missing	7	11	166	211	0	395
	Total	3147	1304	32948	19432	19	56851
2010	Father	151	93	1569	1508	5	3326
	Mother	2566	983	29593	15693	25	48860
	Joint	368	62	4709	986	7	6133
	Missing	10	6	135	219	0	370
	Total	3095	1144	36006	18406	37	58689

Note: The total number of separations for each category is obtained by adding separations by mutual agreement to the contested separations. Similarly, the total number of divorces equals those obtained with consent plus those without consent.

The categories do not always add up to the total due to rounding as they are weighted values.

Table 11A.- Alimony (a) and food allowance (b) payments according to custody arrangement (basis for Figure 16)

	Custody	Alimony			Food allowance			Not awarded/ missing	Total*
		Father	Mother	Not awarded/ missing	Father	Mother	Both		
2007	Father	0	366	3032	0	3309	90	0	3398
	Mother	7512	0	53607	60352	0	767	0	61119
	Joint	824	93	6040	3957	202	2798	0	6958
	Total	8336	459	62679	64309	3511	3655	0	71475
2008	Father	5	326	2281	8	2461	144	0	2612
	Mother	6670	2	48433	54311	0	794	0	55107
	Joint	1080	101	5027	3514	219	2474	0	6207
	Missing	22	0	168	84	2	103	0	190
Total	7777	429	55909	57917	2682	3515	0	64116	
2009	Father	312	93	2768	944	2081	114	33	3172
	Mother	5271	438	42058	46404	642	689	33	47769
	Joint	834	138	4543	3048	217	2237	13	5515
	Missing	28	8	359	168	16	168	43	395
Total	6445	677	49728	50564	2956	3208	122	56851	
2010	Father	346	93	2887	1090	2107	129	0	3326
	Mother	5022	427	43412	47657	598	605	0	48860
	Joint	636	82	5414	2787	208	3138	0	6133
	Missing	28	1	341	91	16	264	0	370
Total	6032	603	52054	51625	2929	4136	0	58689	

The categories do not always add up to the total due to rounding as they are weighted values.

Table 12A.- Multivariate logistic regression analysis of variables associated with the mother obtaining sole custody

Variable	Categories	B	E.T.	Wald	d.f.	Sig.	Exp(B)
Reference year	2007			226.4	3	0.000	Ref.
	2008	0.03	0.02	3.2	1	0.075	1.03
	2009	-	0.02	43.6	1	0.000	0.90
	2010	0.11	-	138.4	1	0.000	0.83
Age at marriage of husband	<25 yrs	0.19		60.0	3	0.000	Ref.
	25-30 yrs	0.00	0.01	0.0	1	0.892	1.00
	30-35 yrs	-	0.02	11.2	1	0.001	0.94
	35+ yrs	0.06	-	47.6	1	0.000	0.85
Spousal age difference	homogamy	0.16	0.02	25.3	2	0.000	Ref.
	hipogamy	0.02	0.02	0.7	1	0.399	1.02
	hipergamy	-	0.01	19.9	1	0.000	0.95
Marriage Duration	< 5 yrs	0.06		437.6	3	0.000	Ref.
	5-10 yrs	-	0.02	8.5	1	0.003	0.93
	10-20 yrs	0.07	-	144.4	1	0.000	0.76
	20+ yrs	0.27	0.02	258.1	1	0.000	0.67
Previous marital status husband	Single						Ref.
	Divorced / widowed	-	0.03	0.1	1	0.757	0.99
Duration	< 6 months	0.01		69.9	2	0.000	Ref.

of sentence ruling	6-11 months	-					
		0.07	0.02	21.7	1	0.000	0.93
Claimant	12+ months	-					
		0.17	0.02	66.5	1	0.000	0.84
Decree	Husband			1847.5	2	0.000	Ref.
	Wife	0.67	0.02	1841.7	1	0.000	1.96
Minor children	Both	0.31	0.02	329.4	1	0.000	1.36
	Separation by mutual agreem.			127.7	3	0.000	Ref.
Decree	Contested separation	0.02	0.04	0.1	1	0.715	1.02
	Divorce by consent	-					
Minor children	Divorce without consent	0.01	0.03	0.2	1	0.674	0.99
	One	0.18	0.03	38.3	1	0.000	1.20
Minor children	Two	-		45.3	2	0.000	Ref.
	Three+	0.06	0.01	24.2	1	0.000	0.94
Constant	Three+	-					
		0.14	0.02	31.5	1	0.000	0.87
Constant		1.72	0.04	2093.6	1	0.000	5.59

Notes: Dependent variable: Mother has custody (yes vs. no). Nagelkerke R²: 0.02. See also Table 5 in main text.

Table 13A.- Households of single parents, absolute values and as a proportion of all households with dependent children

	<u>Single</u> <u>father</u> household, 1+ dependent children	<u>Single</u> <u>mother</u> household, 1+ dependent children	2 adults, 1 dependent child	2 adults, 2 dependent children	2 adults, 3+ dependent children	Other hhholds with dependent children	Total
<30	3	11	65	29	5	31	144
30- 34	0	30	211	129	24	26	420
35- 39	1	54	262	348	58	49	772
40- 44	5	78	241	511	109	124	1068
> 45	27	97	636	624	124	913	2421
Total	36	270	1415	1641	320	1143	4825
<30	2%	8%	45%	20%	3%	22%	100%
30- 34	0%	7%	50%	31%	6%	6%	100%
35- 39	0%	7%	34%	45%	8%	6%	100%
40- 44	0%	7%	23%	48%	10%	12%	100%
> 45	1%	4%	26%	26%	5%	38%	100%
Total	1%	6%	29%	34%	7%	24%	100%

Source: Survey on Income and Living Conditions (EU-SILC), 2007.