



Loyalty Conflicts and Parental Alienation

Recommendations for Parents and Authorities

Loyalty Conflicts and Parental Alienation?

Introduction

In the event of a separation or divorce, parents have the challenge of meeting the needs and interests of their children under changing and new conditions. While shared custody is the norm and the welfare of the child takes priority in many other countries, the process for settling differences of opinion in Switzerland can be long and exhausting.

In cases with a lot of conflict, it can take two or more years before new patterns get to settle in. However, this does not mean that the emotional injuries incurred during the process have been overcome. In such cases, the burden on the children is all the greater and they can face an arduous path forward as they mature. Many of them become alienated from one of their parents under these conditions.

At present, the authorities are not always able to provide parents with appropriate, sustainable solutions when their custody battle is highly conflicted.

The purpose of this brochure is to help parents and authorities take better account of children's needs with tips and professional advice.

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What is loyalty?

Loyalty is an inner attachment to one or more persons based on shared values, ideas, and maxims that shape your life significantly.

This is expressed both in how you behave towards the person (or group) you're loyal to and how you behave towards others.

The mother-father-child triad is defined in child psychology as the primary driver of child development. All children have to live with this and many other triads (teacher-parents-child, for example). As they grow up, they will time and again experience contradictions between these different relationship systems, resulting in pressure from conflicting loyalties. So that children can become stronger and over time develop our own personality and be true to themselves, as they grow up, they develop a differentiated world view instead of one-sided, monolithic values systems.



However, if children are constantly **torn** between contradictory loyalties (especially in the case of unequal custody rights), this can make them mentally ill.

With separated parents, this triangulation can be dangerous, because the triad is in an imbalance. **The children need help.** There are subliminal expectations that children will make a choice, which is an insurmountable hurdle, since they love **both parents** and want to support both of them, because the triad continues to exist for them despite the parents' separation and must be protected. This is why it's so important for separated parents not to demand onesided loyalty nor **denigrate** the values and lifestyle of the other parent.



It is the responsibility of the authorities to root out such "power games" and guide parents to behave respectfully and cooperatively with one another, and, if necessary, force them to do so.

What are loyalty conflicts?

For children, it's only natural to assume that parents belong **together**. It's hard to imagine or understand that parents might break up. They feel **loyal to both parents** and see them as being of **equal value**. They cannot classify this contradiction. Children often want their parents to get back together just to show them that they love both equally. To avoid making the child live with this contradiction (and not to force a loyalty conflict), shared custody is the best solution .



While the parents no longer live together when they take turns caring for their children, the children still experience **the same support and stability as before**. They can still support and be supported by both parents.

Some parents are in such a state of conflict (often resulting from aggression and rage against the ex-partner or also for narcissistic or other pathological reasons) that they can't manage to adjust to a shared custody model. Besides the fact that a separation or divorce is hard for the children to comprehend, they are often also exposed to strong conflicts .



Current Swiss law does not provide **practicable regulations to ensure equal contact with both parents**. This forces the children **into loyalty conflicts, which can be harmful to their mental health**.

Millions of francs are spent each year on divorce and child custody cases in Switzerland. Many parents are forced to scrape by and go into debt until judgements are rendered.

Most conflicts arise from the generally recognised custom of the parent with primary custody having the say.

This imbalance is not only reflected in disputes over alimony and child support, but also by the fact that the child no longer sees the parents as **equals** . **One parent usually wants more support, while the other wants more contact with the child, which they use to put pressure against each other.** The children feel this, are left insecure, and don't know if they're even still allowed to like their other parent. They feel torn apart in their feelings. In this kind of conflict situation, any and all means, both legal and non-legal, get used until the children are forced to **decide** for one parent over the other



In short, the children frequently have no choice but to show loyalty to the parent who has physical custody.

What the children are afraid of

During long court disputes, children think they must reject one parent to avoid losing the affection of the other. They mirror and endorse the parent with custody by trying to please him or her.



Due to the length of the proceedings and the failure to adopt cooperative solutions, **children's welfare is at risk.**

What is parental alienation?

Not infrequently, the **parent with custody** has a traumatic past that leads him or her to demonise the other parent, trying consciously or unconsciously to **protect** the children so that they would not have to go through **similar experiences** . This can result in a tremendous alienation of children from the other parent. The younger they are, the more serious the consequences. They begin to malign the other parent unfairly, constantly degrade him or her, and eventually **reject contact**. In practice, **parents with custody** often refuse visitation rights to the other parent for threadbare reasons. If two separated parents are so divided that they cannot agree on child custody, shared custody will not work, according to the law.

However, depriving the right to regular, intensive (everyday) contact between the child and the other parent is precisely the cause of the conflict. When the parent with the "power" refuses to compromise, the law rewards him or her with sole custody. The more (often intentionally) uncooperative they are, the more successful they are at avoiding shared custody. Many authorities are overwhelmed with such situations, also for legal reasons. For the sake of simplicity, it is more likely that the child will be entrusted to the sole custody of one parent, instead of the parents assuming their obligations to demand and promote genuine cooperation.

On the contrary, the **common practise in Swiss courts forces a harmful, adversarial process** between the parents. In addition, the process takes several months or even years to reach a result, while a large proportion of the children **suffer extremely** under the strain of the parents' verbal and non-verbal communication during the proceedings and **beyond**.



If the other parent is removed from the child's everyday life or even demonised, this is extremely harmful for the child.

Child abuse

Psychological abuse is defined as a **passive form of harm** against the child. This includes **abandonment or withholding of experiences or relationship with the other parent** that are necessary for healthy emotional development.



Since the effects are not immediate, but often only **detectable after years**, psychological abuse is usually more difficult to diagnose than physical abuse. In terms of their severity, the consequences are certainly comparable to the damage caused by **physical violence**.

All forms of psychological abuse impair the **trust** that should exist between the parent and child and **stunt** the child's mental and emotional development into an independent, life-affirming individual

What are the signs of loyalty conflicts?

Loyalty conflicts express themselves as follows:

- Conflicting statements to parents (for example, children saying that they don't want to go back after or telling the other parent they no longer want to visit).
- Children can change their minds quickly, especially during custody proceedings. Not because they've actually thought it all through, but because they fear losing the parent.
- At school, this situation can lead to concentration and learning difficulties, because they are distracted by inner conflicts.
- Due to a lack of inner stability, children often experience similar patterns in later relationships.
- In many cases, these children move from one parent to another as they grow up.

The consequences of breaking off contact with one's biological parents



Loss of contact with parents still alive has been shown to have a significantly greater effect than the **loss of contact** due to **death**, about twice as severe and three times as long.

Children need constant, reliable contact with both parents.



Losing contact with their living biological parents **turns children into sick adults.**

Emotional uncertainty, insecure attachment behaviours, problematic parent-child relationships, impairments in identity and personality development are the result. Quite a few of them need psychological care.

In many cases, however, psychotherapeutic treatment fails because the problem cannot be solved due to the actual causes and feelings of shame towards the other parent.

Breaking off contact is not for the good of the children: whoever does this is consciously, unconsciously, or unknowingly acting against the welfare of the child. The authorities urgently need to counteract this kind of shunning.

In short,

- breaking off contact with a parent leads to an impairment of identity and personality development in children.
- They often show behavioural issues in school, in their environment, and especially when they become adults. A remission from this serious developmental impairment is less and less likely the longer the parents' conflicts endure.



This research finding still remains inadequately considered by experts, authorities, and family courts. They are often of little help in preventing or remedying this situation that can be so harmful to the health and welfare of the child .

It is worth every attempt to try to find a solution without the authorities, courts, or experts, e.g. through mediation.

How to reduce or eliminate a conflict of loyalty



The following tips are aimed at those parents who find it difficult or impossible to obtain visitation rights. Please also note the measures on page 14.

In the event of a separation or divorce, parents are usually busy with getting their lives straightened out and the children often go unheard. Depending on their age and maturity, they need to be included in the decisions about their future, instead of being forced to accept whatever changes are thrust upon them. In such a situation, the first commandment is **NEVER** to speak badly about the other parent. If there is a desire to talk about the separation or divorce, it is important to do so in "I" messages. There are also some children's books that help children cope with this situation. The wishes and realistic suggestions of the children should definitely be taken seriously. A sensible, solution- and future-oriented method to approach conflicts is **mediation** or **shared custody**.



If the custodial parent is **being unreasonable**, then **targeted** and **planned** measures must be taken to protect the children's welfare.

Concrete tips against loyalty conflicts during and after visits

Give the child enough time when coming and going. Don't expect your new abode to appeal to your child right away. Depending on the nature of the conflict, they might need sufficient time to "acclimate". In such cases, children are often excitable or look for places to retreat to. A welcome ritual with a familiar object might help. (See the article "Handing over a child" at kisos.ch) Prepare them for goodbye about 20 minutes in advance by telling them that the other parent is looking forward to seeing them again. This makes it easier for the children to negotiate the transition.

When visitation is only minimally allowed or not at all

If you have not seen your children for a long time, try not to shower them with gifts. It is extremely important to listen carefully to them, perceive their feelings and wishes, and, above all, to show understanding.

This can be conveyed by clearly showing them that the dispute has nothing to do with them and that they have a say in what will happen. Tell your children that you have missed them, love them, and are happy to see them again. Even if you have not seen them, try to play the parental role by setting limits. It is understandable if you want to make them as comfortable as possible and avoid disputes, but this does mean not setting limits and consistently enforcing them. On the contrary. The children will notice that you mean well with them and take them seriously. The rules encourages togetherness.



Beachte: Notes: The father and mother must also refrain from doing anything that could impair the child's relationship **with the other parent** or complicate the task of the parent with custody. If it is determined that children are being spoken to poorly during visitations, this must be reported to the authorities. Measures should be effective and planned.

When the child starts to make bad, misunderstanding statements about you

When the child starts to talk about you negatively, listen patiently. Show understanding for the fact that your ex-partner has different views. For example, you can ask the child if they agree.

But formulate your questions without reproaches (also avoid talking badly about your ex-partner).

Be the role model and don't unsettle the child even more. Listen to the child. You can intercept and calm many things if the child notices and knows that you have an ear for questions, worries etc. at any time. However, should such statements increase, contact your social worker or competent authority.

For everyday

Use rituals for the visit. These might be small things such as a certain book or another process that you determine and execute each time. This gives the child support, security, and trust.

Make sure that the child is given the opportunity to step back for a while. This means, for example, that when they are tired, they can lie down and rest. Give the child the opportunity to do something on their own during the visit.

Make sure that you don't lie. Children are very capable of sniffing out falsehoods. Avoid blaming the ex-partner. Allow the children to know you're not feeling good. Always talk about it in the first person (I feel...). At the same time, inform the child that it has nothing to do with them.

Encourage the child to talk about emotions: What's making you sad? What's making you angry? Accept their answers .

Legal aspects

Forging a sense of identity

The Federal Supreme Court is of the opinion that, as a rule, a relationship with both parents is important, as it plays an important role in the child's development and **sense of identity**(BGE 122 III 404 E. 3a p. 407; 127 III 295 E. 4a p. 298; 130 III 585 E. 2.2.2 S. 590).

Parents' duties

In principle, it lies within the **competence and the duty of parents** to regulate visiting and holiday rights by mutual agreement. Only when the parents are not in a position to do so, does the KESB step in to make a ruling on these matters.

Time together

Parents are entitled to spend time with their child according to Art. 273 of the Swiss Civil Code. This is not the same thing as joint custody, however. Its purpose is to protect and care for the "inner bond" between the parents and the child (BGE 71 II 209; 89 II 5). The legal father and adoptive parents are also entitled to this time together, even if the child is not biologically theirs (BGE 71 II 208).

Shared custody

In principle, shared custody is always preferable. If the parents are unable to agree on the arrangements, they must ask the authorities to settle the matter.

If required, an additional support person can be arranged. The support person advises the parents and has the competence to regulate the details for a long-term shared custody arrangement (e.g. how transfers are handled, communication, etc.).

See our brochure on shared custody for further details.

What to do if you are not allowed to see your child

There are different options available if you have been refused visitation rights. By this, we mean whether you, as the non-custodial parent, have contact with the child.

Effective measures in the legal sense might include:

- Reporting the risk to the court or the KESB
- Apply to the authorities or courts for enforcement of your visitation rights (see also our brochure "Enforcement of visitation rights" or <https://youtu.be/XxVsiQ4W4bQ>)
- File a criminal complaint under Art. 220 of the Criminal Code (in the case of joint custody)
- File a criminal complaint under Art. 219 of the Criminal Code for breach of the custodial parent's duties
- Obtain therapy under Art. 307 of the Civil Code
- Request a final warning under Art. 292 of the Criminal Code, if the right to visit is repeatedly thwarted.
- Request a rearrangement of custody rights if the right to visit is repeatedly thwarted.

If the child is already estranged:

- Apply for behavioural exposure therapy

Where can I find more information or help?

Further information can be found at www.kisos.ch under the heading Advice.

Legal Notice

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