

Session: The Culture of Parenthood. Part I

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Family justice and the culture of parenthood.  
A cross-national comparison of gender and  
class entanglements (France-Québec)

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# Legal interventions as observatories of the culture of parenthood

- “The more or less formalized rules and codes of conduct that have emerged over recent years which reflect the deterministic view of parents and define **expectations about how a parent should raise their child.**” (Lee & al., 2014, p.10)
- Key facts:
  - About 1 marriage out of 2 ends by a **divorce.**
  - About 80% of family judicial records regard **children.**
  - Adjudication through the courts is less common, alternative dispute resolution devices are more.
  - Post-divorce arrangements are made « **in the shadow of the law** » (Mnookin & Konhauser, 1979).



# A long-term collective research in France and Québec (Canada)



**Ethnographic fieldwork in lower courts and law firms**



2009-2016

**Policy analysis of reforms regarding family law since the 1990s**

**Quantitative analysis of judicial records**

# Shared parenting (« coparentalité ») is one of the main professional norms.

Both ex-partners should be involved in their child's education after divorce.

- Shared legal **custody**
  - Access rights
  - Shared physical custody
  - Child **support**
- a main component of the « **child's best interest** »

1. Shared parenting is not **gender** neutral.
2. Shared parenting is not **class** neutral.
3. Shared parenting is framed **nationally**.



French Family Welfare Agency, 2018

# 1. Parental roles are still framed by gender.

## Child physical custody in judicial records

Few disputes about physical custody.

To some extent, post-divorce arrangements renew the male breadwinner model.

	France		Québec	
	1985	2012	1982	2008
<b>Sole mother</b>	85%	<b>71%</b>	77%	<b>61%</b>
<b>Shared</b>	5%	<b>17%</b>	7%	<b>20%</b>
<b>Both parents</b>				5%
<b>Sole father</b>	9%	12%	16%	13%
<b>Other</b>	1%			1%
<b>Total</b>	100%	100%	100%	100%

(Festy 1988; Guillonneau et Moreau 2013; Beaudry 1988; Biland et Schütz 2013)

## 2. Class matters regarding parental roles.

- Shared physical custody is more frequent in **middle and upper-class families**, whose both parents have postsecondary education and work outside the home (Pelletier 2016).
- Those fathers are more encouraged to take care of their children on a daily basis because their **parental skills** are more likely to be acknowledged by professionals.
- In lower status families, mothers are still the **primary caregivers**, unless they have serious issues (sole-father custody is more frequent than shared custody).
- **Poor dads** are excepted from child support and are less likely to have contact with their children.



In a French father's judicial record, 2010

# 3. National patterns in the culture of parenthood

- Shared physical custody is more frequent in Québec than in France.
- Mothers from Québec ask more frequently for shared physical custody than French mothers.
- Child support is more often ordered in Quebec than in France.
- Child support is more often paid in Quebec than in France.



Québec books

French website



# Conclusion

	In France : the symbolic framing of shared parenting		In Québec : shared parenting as a practical goal	
	Education	Family economics	Education	Family economics
Mothers	<i>Must</i> make a place for fathers, although this place is mostly decisional and occasional.	<i>Must</i> ask for child support, although this may not be ordered or paid.	<i>Must</i> make a daily place for fathers, providing that the latter ask for this place.	<i>Must</i> ask for child support and are likely to be entitled and to receive it.
Fathers	<i>Have incentives</i> to take decisions about their children, to take care about them from time to time, or on a daily basis (if they are middle or upper-class).	<i>Are likely to be ordered to pay</i> child support, providing that they are at least upper working-class. <i>Are less likely to pay it.</i>	<i>Have incentives</i> to take a daily part... but the latter depends on their socio-economic status.	<i>Must</i> pay child support, unless they are lower status people.



# To go further:

- Biland E. & Steinmetz H., « Are Judges Street-Level Bureaucrats? Evidence from French and Canadian Family Courts. », *Law and Social Inquiry*, 2017, v. 42, n°2, p. 298-324.
- Biland E., Mille M. & Steinmetz H., « National paths towards private ordering : professional's jurisdictions and separating couples' privacy in the French and Canadian Family Justice Systems », in Maclean M., Eekelaar J. et Bastard B. (dir.), *Delivering Family Justice in the 21st Century*, Hart Publishing, 2015, p.87-105.
- Biland E. & Schütz G., « Tels pères, telles mères ? La production des déviations parentales par la justice familiale québécoise », *Genèses*, n°97, 2014, p.26-46.
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