The Protection Paradox

A Study of Children’s Rights to Participation and Protection against Violence in Swedish Child Welfare Practice

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Abstract

Child participation is considered crucial for the authorities’ ability to protect children from violence – yet children’s actual participation is limited, and participation and protection rights under the UN Convention on the Rights of the Child are often understood as opposites. This article aims to explore children’s rights to participation and protection against violence in Swedish social services’ handling of violence against children. Child welfare reports, investigations and child social records, were analysed using quantitative content analysis and thematic analysis. Insufficient conditions for child participation and poor access to protection and support were indicated. Upon closer analysis of cases that did not lead to protection or support, different aspects of an overarching theme, The Protection Paradox, were identified, which meant protection against participation or unprotected autonomy.

Keywords

1 Introduction

Protecting children from violence is difficult, and children exposed by parents or other caregivers are particularly vulnerable (Pinheiro, 2006). Child participation is considered crucial for the authorities’ ability to protect children (Jobe and Gorin, 2013; Linell, 2017a) – yet actual participation is limited, and one reason is the understanding of participation and protection rights as opposites (Collins, 2017). The current article addresses child participation and protection against violence in Swedish social services’ handling of violence against children by parents or close relatives from a child rights perspective according to the UN Convention on the Rights of the Child (CRC). In 1990, Sweden ratified the CRC which, since 2020, has been applied as Swedish law (Act 2018:1197 on the CRC), and increased knowledge of children’s rights to participation and protection against violence in child welfare (CW) practice is important. Within the context of “critical” children’s rights studies, however, it is emphasised that the discussion of children’s rights lacks criticism in the sense of questioning and analysing assumptions embedded in current practice, and a critical approach, aimed at increasing understanding of how the child rights framework can contribute to greater respect for children, is highlighted (Reynaert et al., 2012). It involves critical reflection of underlying norms, values and logics that shape children’s rights practices – but without questioning the very framework of children’s rights (Reynaert et al., 2015; Desmet et al., 2015), which is also the starting point for this study.

The rights to protection, provision and participation are considered the overarching rights of the CRC and interdependent (Reynaert and Roose, 2015). Participation is seen as the most radical right; protection and provision are more easily accepted as obligations towards dependent and vulnerable children (Tisdall, 2015), while an overemphasis on participation has been associated with risks of placing excessive responsibility on the child (e.g., Sandbæk, 2004). Recent research instead emphasises the importance of a central position for children in decision-making processes; involving children respects their right and dignity to have a say and enables decisions to be responsive to their needs (van Bijleveld et al., 2015; Kennan et al., 2018). Although “participation” can be understood in different ways, as a legal right, it is guided by Article 12 of the CRC and refers to children’s right to express their views on issues affecting them and their views being given due weight (Checkoway, 2011; Kennan et al., 2018). Aspects related to children as bearers of knowledge can also be asserted, and when children are not allowed to interpret a situation or are not judged fairly, it can be understood as epistemic injustice (Fricker,
The realisation of children’s right to participation is strongly influenced by conditions that enable a safe and inclusive space for children to express their views and have their views considered – and a positive, trusting and stable relationship to the caseworker is instrumental (Kennan et al., 2018).

The interpretation and practice of children’s rights is, among other things, related to the design of the CW system. The division into “risk-oriented” and “service-oriented” systems was previously common, while both risk and service elements are now identified in most systems (Gilbert et al., 2011; Burns et al., 2016). Sweden’s is considered a family support system that emphasises risk prevention through early service interventions with a focus on cooperation with parents and voluntary support for the family. Compulsory placements are the last resort, with the goal being to reunite children and parents (Gilbert et al., 2011; Svensson and Höjer, 2016). There is no separate child protection, as it instead forms an integral part of the Swedish CW system; the handling of reports, investigations and voluntary support measures are governed by the Social Services Act (2001: 453), which is largely consent-based, and if consent to necessary measures is lacking, the Act (1990: 52) on the Care of Young Persons must be applied. For suspicions of violence, CW investigations are mandatory (SOSFS 2014:4), as are immediate protection assessments, and the investigation must clarify the need for protection and support (SOSFS 2014:6). The Swedish family-oriented system is assumed to lead to a focus on parents’ views at the expense of children’s needs and views (Svensson and Höjer, 2016), and difficulties in identifying children in need of protection as well as insufficient help for children exposed to violence in their families have been indicated (UN Committee on CRC, 2009; Cocozza et al., 2010; cf. Leviner, 2014). However, difficulties in dealing with children’s vulnerability and participation are seen in most systems, and creating conditions for an accurate understanding of the child’s situation is a major challenge in creating responsive child protection (Munro, 2011; Backe-Hansen and Falch-Eriksen, 2018).

The inherent problems with the Swedish system based on partnerships with parents have been illustrated in research on child participation in child social investigations and point to the connection between inadequate child participation and lack of adequate protection and support measures (Heimer et al., 2018). A less elucidated issue is how the social services’ application of participation and protection rights in CW practice can be understood. Exploring participation and protection can lead to important knowledge about weaknesses in the realisation of children’s rights and thus also to knowledge about the conditions of children to have access to their rights. This study aims to explore children’s rights to participation and protection against violence in Swedish
social services' handling of violence against children by parents or close relatives, and addresses two main questions:

– What characterised children's participation and access to protection and support in the social services' handling of violence against children?

– How were children's rights to participation and protection applied in cases not leading to protection and support measures?

By doing so, this study contributes important knowledge about how children's rights to participation and protection are understood in CW practice and the consequences for actual participation and access to protection and support. This advances understanding of how the child rights framework can contribute to increased respect for children and has implications for both Swedish social and legal policy considerations as well as for the actual CW practice.

2 Background and Framework

2.1 Children's Right to Participation and Protection Against Violence

The right to protection against violence under Article 19 (CRC) implies the recognition of violence as a comprehensive assault on children's human dignity and a violation of their human rights, and includes all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, and maltreatment or exploitation, including sexual abuse (Lenzer, 2015). From a child rights perspective, professionals have an obligation to ensure children the right to protection in individual cases, and child participation can thus not be understood as adults leaving the decision to the child with reference to the child's autonomy (Sandberg, 2018). However, participation is a central right with implications for other rights (Lister, 2007), and the right to participation under Article 12 (CRC) is not arbitrary. A child should be presumed to have the capacity to form a view, and non-verbal communication should be recognised. Children should be supported to participate and given the opportunity to express their views “freely” without being unduly influenced or pressured. The child's views must be given “due weight” and children should have feedback on how their views have been taken into consideration (UN Committee on the Rights of the Child, 2009). The discretionary assessment of the best interests of the child under Article 3 (CRC) may nevertheless lead adults to silence or fill in the child's views (Tisdall, 2015). Participatory aspirations that deviate from their original intentions risk overriding existing legitimate decision-making processes, reinforce already strong interests, and risk becoming a way of controlling disagreement and returning individuals to the existing order (Tisdall, 2015).
2.2 **Different Images of the Child**

Assumptions about children and childhood are central to child social work and a key concept is agency (Reynaert and Roose, 2015). The Child Rights Movement arose in the 20th century as a reaction to the view of the child as an object in need of protection due to vulnerability and lack of adult competence and capacity, referred to as the incompetent child. Instead, the image of the autonomous child was highlighted, which recognised children as social actors and autonomous individuals with the ability to act (Reynaert and Roose, 2015; see also Bendo, 2019). Both images form the basis of the CRC and are expressed as protection and participatory rights (Reynaert et al., 2012). The starting point is that children have special needs and interests that need to be protected, but also that children are individuals with their own rights, legal subjects and citizens with the same fundamental rights as adults – and a central question is how these different views can be combined (Singer, 2012). Recent developments in the conceptualisation of human rights highlight the idea of children’s rights as “agency rights” as opposed to welfare rights enforced by adults (cf. Liebel, 2012), which is considered contrary to the CRC and risks making children an unprotected social class, as protection and support are central to realising children’s human rights (Lenzer, 2015). However, the emphasis on children as vulnerable and in need of protection is also seen as a threat to participation (van Bijleveld et al., 2015). Objections to participation stem from the socio-cultural image of the vulnerable child and depend on the seriousness of the case; as such, social workers are less likely to involve children in more serious cases (e.g., violence) and when children are seen as vulnerable and incapable, they are consulted and informed but without their views making any major difference. Professionals’ views of children as autonomous individuals and competent actors are therefore considered crucial for improving child participation (van Bijleveld et al., 2015). The concept of autonomy is central to the discussion of human rights, and notions of autonomy decisive for how individuals are treated (Holmqvist, 2019). Autonomy is often understood in terms of the rational human being with the capacity to make decisions independently of others (Holmqvist, 2019) – and the image of the “autonomous child” is thus not unproblematic. It has been questioned how the idea of the autonomous child works in practice and whether the interpretation of autonomy, as it relates to rational reasoning, corresponds to reality (Reynaert and Roose, 2015).

2.3 **Homogenisation and Abuse Dynamics**

The idea of the autonomous child rests on the assumption that children can understand, represent and enforce their rights and risks leading to a norm that
does not recognise differences between children in terms of, e.g., socio-economic and cultural background (Reynaert and Roose, 2015). The underlying dynamic refers to homogenisation; the image of the autonomous child is generalised to all children and thereby excludes those who do not meet the standard of being autonomous (Reynaert and Roose, 2015). Applying the same norm in unequal situations creates inequality – and not acknowledging that abuse dynamics can prevent children from speaking for their own interests creates unequal conditions (Linell, 2017b). Previous research points to the difficulties of disclosing abuse by close relatives, often described as an ongoing, complex and ambivalent process that relates to cognitive, emotional and contextual barriers (Jobe and Gorin 2013, 2014; Jernbro et al., 2017). Similarities between child abuse and men’s violence against women in close relationships have been emphasised, e.g., the unequal balance of power, exploitation of the victim’s feelings and dependency, and active concealment of abuse in the family, but the power dynamics are often undercommunicated in the understanding of child abuse (Messing, 2011; Linell, 2017c). The importance of social authorities recognising the inhibitory effects of abuse dynamics on child participation is emphasised; active pressure and threats from relatives and feelings of fear, guilt and ambivalence, both before and after disclosure, are important factors to consider (Linell, 2017b). Considering agency – and in a broader sense, participation rights – as an individual competence, without acknowledging the interdependence of rights, ignores important differences in individuals’ living conditions that affect the realisation of agency and rights (Reynaert and Roose, 2015).

3 Methodology

3.1 Sample
Three municipalities with the most cw reports of physical violence and sexual child abuse within a Swedish region were selected to achieve diversity and breadth of cases (see further, van Ufford et al., 2022). All cw reports in 2018 on direct physical or sexual abuse of children (aged 0–17 years) by a parent or close relative were included in the study – a total of 291 reports that were handled within 208 cw investigations (74 reports were processed in ongoing investigations included in the study, and nine reports did not lead to an investigation). The reports concerned 211 children (116 boys and 95 girls), and 86.7 per cent were between 4 and 17 years old.
3.2 Data Collection and Analysis
All cw reports and associated file material (immediate protection assessments, preliminary assessments, cw investigations and child social records), protected by confidentiality in accordance with the Act on Public Access and Confidentiality (2009: 400), were obtained from the social services. Quantitative content analysis was used comprehensively to explore children’s participation and access to protection and support in the social services’ handling of violence against children. A data collection form, based on the various phases of the case management process (report, immediate protection assessment, police reporting, investigation, assessment and decision) and estimates of the severity of violence (see further, van Ufford et al., 2022), was applied to all file material. Each case was recorded in separate forms, and reports processed in ongoing investigations were given customised codes and response options. The different types of file material enabled data control through triangulation and, if necessary, the social services were contacted for further information. Following the separate coding procedure, all data were recorded in IBM SPSS Statistics and analysed using non-parametric statistical methods.

The quantitative analysis indicated that most of the cw investigations did not lead to measures linked to violence (n = 191), and these cases formed the focus for the further in-depth study. To explore how children’s rights to participation and protection were applied in the social services’ handling of these cases, a qualitative thematic analysis was conducted (Braun and Clarke, 2006; Maguire and Delahunt, 2017). This involved a theoretical (as opposed to inductive) approach, where data relevant to the research question were coded. In cases where the child provided information on exposure to violence or was not given the opportunity to speak (n = 144), the significance attributed to the various rights was made visible and enabled exploration. These cases were categorised based on the social services’ handling of information or lack of information from children. By examining the separate data collection forms, in combination with close reading and synthesis of assessments and decision motivations, preliminary codes were developed (children are not given a voice; children provide information about violence; children withdraw information about violence), and during the initial coding, supplemented with subcodes to specify their content. Each case was coded based on whether the child was given a voice, the presence of child interviews and whether the child provided information on exposure to violence, as well as on analysis and synthesis of the assessments and decision motivations. The coding was compiled in tabular form and patterns were identified. Further analysis in terms of defining and naming themes required analytical tools that enable abstraction, and for this purpose a conceptual framework was created.
3.2.1 Conceptual Framework
The different images of the child, named by the Child Rights Movement and represented in the CRC (cf. Reynaert and Roose, 2015), formed the basis for the conceptual framework. The metaphor of the incompetent child was used to indicate that children in the social services’ investigation were assigned a position as incompetent, vulnerable and to varying degrees excluded from the decision-making process, while the autonomous child was used to indicate that children were assigned a position as actors and autonomous individuals with the ability to express views that were considered and given due weight. Analogous with how different aspects of the concept of legal security (the rule of law) can be defined, a distinction was further made in the understanding of “the autonomous child”. Legal security is usually understood in terms of formal legal security – but substantial aspects can also be asserted (Gustavsson, 1988). Formal legal security means that decisions are made in accordance with current legislation, and it is linked to requirements for predictability and equality and values such as objectivity and impartiality. Substantial legal security is instead based on the individual’s dignity and rights and emphasises the justice of the decision from an ethical and moral perspective and compliance with the intentions of the law. While the former is linked to the rule of law and protection of individuals against governmental intervention, the latter is related to the welfare state and the law as a means of redistributing social resources (Peczenik, 1986; Gustavsson, 1988). For asserting “real” legal security when it comes to social welfare rights, both formal and substantial aspects are required, and a further definition has therefore been proposed: substantial justice or social security (Gustavsson, 1988). This means, e.g., that consideration must be given to the individual’s perception of how the needs are met, that the law’s objective is achieved, and that the decision is acceptable based on the individual’s overall situation. When it comes to protecting children from violence, the substantial justice of the decision becomes central and places the child’s own participation in focus (cf. Leviner, 2018). In the same way that legal security can be understood in terms of both formal and substantial aspects, corresponding reasoning can be used to describe differences in the understanding of autonomy. When autonomy was understood in terms of “the rational human”, without regard to context, homogenisation effects or need for resources to realise agency, it was identified as “the formally autonomous child”.

3.3 Reliability of the Data
The social services’ file material is an important source for research and the validity as a research source relates to the research purpose (Lindell and Svedin, 2004; Heinonen, 2015). The file material is, of course, unequivocally a
product of the social services and as such, it is adapted for the purpose of the social services and the quality depends on how and what information is documented (Lindell and Svedin, 2004); however, all relevant information must be recorded, and decisions justified (Social Services Act 2001: 453; SOSFS 2014: 5). In the current study, the social services’ complete file material was used, which provides reliable information about the basis for the investigations and the decisions made by the social services. Use of all file material enabled data control and limited the risk of bias due to possible inadequate documentation. The limitations stem from the difficulties in capturing the child’s actual life situation, which may include other aspects and forms of violence than those focused on. In general, it is also difficult to assess fairly the severity of violence because there is not always a high degree of physical violence but, rather, other power strategies that are effective for the dynamics of abuse (Linell, 2017c). For the key aspects of this study, however, the combined file material provided reliable data on whether children participated in the decision-making process, on children’s documented abuse narratives and whether these were reflected in decision-making. To counteract the limitations associated with the file material being a product of social services, children’s voices were highlighted by using case examples and the quote in section 4.1.3.

3.4 Ethical Considerations

This study was approved by the Social Welfare Board of the municipalities and the Ethical Review Authority in Sweden, number 2019-04859. All case examples presented in the current article have been de-identified by omitting specific details about children and suspected perpetrators and, if necessary, carefully adjusted so that individuals cannot be identified.

4 Results

4.1 Children’s Participation and Access to Protection and Support

Almost all CW reports referred to physical violence (93.5 per cent) while the others concerned sexual abuse, or both physical and sexual abuse. In many cases, the children themselves had told the notifier about exposure to violence; 40.6 per cent of the reports were based on the child having told the notifier, and a further 16.8 per cent were based on siblings communicating about the child’s, and often their own, exposure to violence. Children’s own abuse narratives thus formed the basis for 57.4 per cent of the CW reports, and it was common for disclosure to be made to school staff. There were also examples of children themselves contacting social services directly.
4.1.1  Children's Participation in the Immediate Protection Assessment

Although physical and sexual abuse by parents and close relatives involves risks of continued abuse and the actual need for immediate protection must be clarified (Social Services Act, 2001: 453), it was unusual for children to be heard in connection with this initial assessment. This occurred in only 7.6 per cent of cases (compared with parents being contacted in 24.4 per cent of the assessments). At the same time, in 90.5 per cent of the cases where the child was heard without the presence of a parent, the child provided information on exposure to violence. However, this did not necessarily lead to protective measures, as in the case of the 13-year-old who told social services that he was beaten by his father and did not want to go home but to a safe place; after contacting the father, social services assessed no immediate need for protection (2:106: 1). For only 4.5 per cent of the CW reports, social services assessed an immediate need for protection, and fewer than half of these led to immediate protective measures.

4.1.2  Children's Participation in Reporting to the Police

It was unusual for the social services themselves to report suspicions of crime to the police, and even cases indicating more severe violence were overlooked. However, information about or consideration of the child's attitude to a police report was found in only three cases, involving a 15-year-old, positive to reporting physical abuse by her mother to the police (1:27:1); a 16-year-old, negative to reporting sexual abuse by an older brother (2:23:1); and a nine-year-old, negative to reporting physical abuse by the father (2:83:1). The other cases did not indicate consideration of children's attitudes, but there were examples of children acting on their own to report to the police.

4.1.3  Children's Participation During the Investigation

In 39.9 per cent of the CW investigations the first meeting with the child took place within one month, while in 35.1 per cent no meeting took place within two months and in 22.6 per cent there was no meeting within three months. In only 31.7 per cent of the investigations was it clarified that the child (to varying degrees) had been informed about the reasons for the investigation, and in less than 1.0 per cent that the child had participated in the planning of the investigation. In many cases, the basic conditions for child participation were thus deficient. In 88.0 per cent of the investigations, some form of physical meeting with the child took place (e.g., “home visits” and observations), while other forms of contact such as telephone calls, text messages or e-mails were unusual. Nevertheless, child interviews were not conducted in 29.8 per cent of the investigations, and this was not only related to the child's young age but
was seen to varying degrees in most age groups. For children under the age of three years, no interviews were conducted. In 39.4 per cent of cases one child interview was conducted, in 13.9 per cent two interviews and in 16.9 per cent three or more interviews. At repeated meetings, two thirds of the children met the same social worker. Individual child interviews (without parental presence) were conducted to a lesser extent and were missing in 45.7 per cent of cases. In only 13.9 per cent of the investigations was the child’s perception of the need for support clarified – and to an even lesser extent considered in assessments and decision-making. Still, there were children who actively signalled their need for help during the investigation, e.g., the teenager (2:71:1) who for a period of a few weeks sent almost a dozen messages to the social worker with the following content:

Fights at home. Don’t know who to talk to ...// Hi. Can’t bear to live here anymore. Fights every weekend ...// Now he has been angry again, he beat my pet ... Should mom call you?// ... Nothing is helping right now. Just want to disappear.// Hi. Now he ... has started arguing again.// My mom don’t want me to write but I choose to do it anyway.// He has been angry again, strangled my brother, I went in between.// We need help. Can we reach you on weekends? I can’t stand it, help.// We call the women’s safety line, and we’ll see. It almost feels like the next time we die.// We are unable to make a call.// I wrote this letter [to a women’s shelter with the appeal for help] because mom would call, but she is weak and can’t speak.

4.1.4 Children’s Access to Protection and Support
In 60.1 per cent of all CW investigations, the child provided information about exposure to violence to either the notifier, the police and/or the social services, and in 35.5 per cent of all investigations, there was information that indicated a serious situation for the child involving severe forms of violence, e.g., being heavily beaten with hand, fists or implements, squeezed around the throat, or kicked, and/or repeated use of violence from a caregiver. In addition, 58.7 per cent included information about violence against siblings, and in 44.2 per cent, violence against other close relatives (especially mothers). Nevertheless, 70.7 per cent of all investigations ended without decisions on protection or support – and only 8.2 per cent led to measures linked to violence. This meant placement of the child with parental consent in 1.9 per cent of cases, and support measures provided by social workers aimed at parents in 2.9 per cent, both parents and children in 2.4 per cent, and only the child in 1.0 per cent of cases.
4.2  Children's Rights to Participation and Protection in Cases Not Leading to Measures

The large number of cases that did not lead to protection and support measures linked to violence were further analysed by exploring how children's rights to participation and protection against violence were applied in the social services' handling, and three main categories were distinguished.

The first two categories indicated the parents' interpretive precedence in the social services' decision-making process and the image of the incompetent and incapable child emerged. Either the children were excluded from participation in the investigation (category 1), or their abuse narratives were not given due weight in decision-making (category 2). Although the children in the second category were given a voice, the image of the incompetent child emerged by insufficient consideration of the child's abuse narrative in assessments and decisions. The two categories thus constitute different aspects of a common theme assigned to the label the incompetent child. In these situations, however, the children were left without protection against violence, which can be understood as vulnerability and need for protection being assigned the meaning “protection against participation or responsibility in the decision-making process”. In this way, both the rights to participation under Article 12 and protection against violence under Article 19 of the CRC were eroded – and the “incompetent” child became, in a real sense, “vulnerable”. The first category referred to the fact that the children were neither given a voice nor the opportunity to speak and a basic precondition for the assessment was thus lacking – the child's own perception of his/her situation. Here, the image of the incompetent and vulnerable child emerges and is exemplified by the following case concerning a nine-year-old (2:3:1) who, according to information from an older sibling, was subjected to frequent repeated physical abuse (including with implements) by the parents. It was also stated that the boy had previously told school staff about his fear of being abused at home, but the parents claimed “fabrication” and warned him that they would end up in prison if he told anyone. Subsequently, another report of physical violence against the boy and his sibling was received. In consultation with the parents, the social services decided not to burden the boy with an interview, and he was consequently not heard during the investigation. Instead, two interviews were conducted with the parents, who denied any use of physical violence. The assessment was made that during the investigation it emerged that violence was not part of the parents’ child-rearing strategy. The investigation ended without protection or support measures. The second category referred to the fact that the children's own abuse narratives were articulated in various ways by the children describing their exposure to violence to either the notifier, the police and/or the social
services, but their information was not adequately considered in the social services' assessment. And here, too, the image of the incompetent child emerges as illustrated by the following case concerning a seven-year-old (3:3:3:1) who, according to the report, was subjected to repeated physical abuse by his grandmother. During police interrogation, the boy described that he was beaten almost every day, that his grandmother used implements that caused pain and body marks and that his parents were aware of this. Both the grandmother and parents denied the allegations. The parents did not want the social services to talk to the boy, and their wishes were granted. The assessment stated that since the parents did not want support from the social services, the investigation would end without protection or support measures. Another example is the case concerning a ten-year-old (2:3:1) who told school staff about physical abuse by her father. An additional report of further abuse was received, and during police interrogation, the girl described that her father had beaten her on several occasions (on legs, buttocks and face) and that a week earlier he had hit her with clenched fists that caused pain and sadness. In the social services' interviews with the parents, the allegations of violence were rejected, the parents claiming that the girl tended to exaggerate – but in the interview with the girl, the violence was not touched upon. The assessment stated that nothing had emerged that indicated that the girl had been subjected to any form of violence, that the parents showed a good ability to meet the girl's needs, and that they expressed concern that the girl was “distorting” events and wanted support in how to handle it. The parents were granted support in the form of "supportive consultations".

The third category referred to the fact that the children initially provided information about exposure to violence and asked for help, but later withdrew the information. In this category, instead, the image of the autonomous child emerged – but the understanding of autonomy seemed to relate to the idea of the rational human, without regard to the possible consequences of abuse dynamics for the child's actual ability to speak for his/her own interests. The child was thus understood as autonomous in a “formal” sense, which formed the basis for the current theme assigned the label the formally autonomous child. With such an understanding of the child's autonomy, the different rights were disconnected from each other, and their interdependence was not addressed – this meant, in a sense, that the child was left to “choose” whether to accept the violence to which he or she was subjected. The child's "participation" was used here to invalidate the violence and thereby legitimise decisions that ultimately risked consolidating power relations and returning the child to the existing order – meaning that the social services left the decision to the child by referring to the child's autonomy. The approach of using the child's expressed views...
to justify the assessment that there was no need for protection or support is illustrated in the case concerning a 15-year-old (2:4:1) who, according to the report, had been abused by her mother since first grade in primary school, was afraid and asked school staff for help. In connection with the social services’ immediate protection assessment, she stated that the mother beat her with various implements (such as belt and cables) and subjected her to strangulation that almost made her faint. On the same day, the mother gave her consent to temporary placement outside the home. During the evening, the girl and her mother had telephone contact, and the next day the girl wanted to move back home. At a joint meeting with the girl and her mother, the information about physical abuse was withdrawn, and the temporary placement was cancelled. Later, an interview was conducted with the girl at home (not individually), and she then claimed that she had lied about the abuse but now understood that it was wrong to try to change her situation, as she wanted to keep her mother. The assessment was made that it had not emerged that the mother had used violence (although it could not be completely ruled out); that the girl had expressed that she wanted to live with her mother; and that it was important, based on the girl’s age, that her views influenced the assessment. The investigation ended without protection or support measures. Another example is the case of a nine-year-old (2:55:1) who told the school staff (detailed description) that she was beaten daily by her mother (pinched and whipped); she showed a mark on her lip and stated that her mother had hit her very hard but she was not allowed to tell anyone. According to the immediate protection assessment, the information was considered serious and should be processed immediately, but not until five weeks later were the mother and girl called to an initial meeting. In a joint review of the report, the mother claimed that she had never beaten her daughter, and afterwards, in an individual conversation with the social worker, the girl stated that the school staff must have misunderstood her. No further investigative measures were taken, and the assessment was made that there was a low risk that the girl’s health and development were being harmed, based on the girl – in a credible way, without external influence from her mother – having declared that the school staff had misunderstood her. The investigation ended without protection and support measures. Yet another example is the case concerning a 13-year-old (2:43:1) who, according to the report, was exposed to physical and mental abuse by his parents. The school assessed acute danger to the boy but emphasised that he did not want the incidents to be reported due to the risk of further abuse, and that the social services would therefore pay special attention to the fact that the boy had repeatedly lied to protect himself and his parents. An additional report was then received stating that the boy, with the support of friends, had contacted
the school health staff due to poor mental health and, according to the friends, he was beaten by his parents, which he rejected. After a few weeks, the friends showed text messages in which the boy confirmed the abuse but asked them not to say anything so as not to aggravate the situation. In connection with the end of school term, the boy sent an email to school staff, in which he said that he was physically abused by his parents and asked for help. One week later, the first social services meeting took place, and the boy rejected both the violence information and the fact that he had sent a message to school staff. The father was contacted the same day and claimed that the boy was not subject to violence. No further investigative measures were taken, and the assessment was made that there was a low risk that the boy’s health and development would be harmed, based on the boy – in a credible way, without external influence from the parents having denied that he was abused by the parents. The investigation ended without protection or support measures.

Although the image of the child in the three categories shifted between the “incompetent” and the “formally autonomous” child, the children were left without protection and support. The application of children’s right to participation and protection against violence that emerged in the social services’ handling could therefore be understood as protection against participation or unprotected autonomy. This implies an inherent contradiction that at the same time reveals a paradoxical order, organised here under an overarching theme, The Protection Paradox, in which children were considered either incompetent and in need of protection against participation/responsibility, or “formally” autonomous and implicitly capable of exercising their rights on their own, but otherwise unprotected.

5 Discussion

By contributing knowledge about the actual application of children’s right to participation and protection against violence in CW practice, this study shows that a more complex understanding of children and children’s rights can contribute to greater respect for children. This contributes to the general discussion of the CRC and has implications for Swedish social and legal policy considerations as well as for actual CW practice. The analysis indicates insufficient conditions for participation and poor access to protection and support and illustrates how a unilateral understanding of children as either incompetent or autonomous, without recognising the interdependence of rights, risks undermining both participation and protection rights. When children were considered “incompetent” and implicitly vulnerable, their need for protection
was understood as “protection against participation or responsibility in the decision-making process”. When children instead were considered “autonomous”, related to the view of the rational human (cf. Reynaert and Roose, 2015), this was understood as “formal autonomy”, not recognising the impact of abuse dynamics on children’s ability to speak for their own interests (cf. Linell 2017b). However, both positions led to the child being left without protection or support, and this “protection paradox” meant protection against participation or unprotected autonomy. A more complex and non-polarised understanding of children and children’s rights, which dissolves the dichotomy “the incompetent child/the autonomous child” and recognises children as autonomous individuals and social actors who are also vulnerable, dependent and in need of resources to realise their rights, is assumed to be more responsive to children’s actual living conditions (cf. Eriksson and Näsman, 2012; Reynaert and Roose, 2015).

The child rights perspective that the CRC conveys means that social workers are regarded as “bearers of obligations” and must ensure that children’s rights are met in individual cases (SOU 2016:19; Sandberg, 2018). Swedish cw workers operate in a family-oriented context that is likely to affect the interpretation of children’s rights – and how the tension between a child’s rights perspective and a family support approach is handled is crucial for the realisation of children’s rights (cf. Lundström et al., 2021). From a family support perspective, the problems that exist in parents and families are central to understanding the child’s situation, and support measures are primarily aimed at alleviating the family’s problematic conditions, with a focus on cooperation with parents (Gilbert et al., 2011; Burns et al., 2016). Swedish legislation sets high goals for children’s living conditions and protection against violence and vulnerability, while the social services are given vague legal tools with an emphasis on investigations and support measures being made in agreement with parents (Leviner, 2011). The shifting images of the child in the social services’ cw investigations – but which still led to the same result – can be understood as the view of the child being adapted to decisions that are perceived to be compatible with the cw system’s overall intentions. Through a unilateral, non-complex understanding of children as either incompetent/vulnerable or autonomous, the child’s position can be adapted, and their rights become negotiable. In a family support system, this means that the view of the child that promotes consensual solutions with parents is highlighted, and risks leading to the child being left without either protection or support (cf. Heimer et al., 2018). The social workers’ understanding of the cw system thus risks becoming governing and limiting for the position of children, and children’s unclear position thus forms part of the social workers’ scope for action (cf. Lipsky, 1980).
The discussion about the socio-cultural images of the child (cf. van Bijleveld et al., 2015) suggests that these are, so to speak, “a priori” and decisive for how social workers understand and meet children’s rights. However, the results from this study indicated that the image of the child was flexible and the systemic understanding, through the values that the child welfare system implicitly and explicitly honours, seemed to determine how the child was framed; the child seemed to be regarded in a manner that supported decisions consistent with the general understanding of the child welfare system. In the analysis of the legal system, Svensson (1997) problematises various notions that contribute to a gender power order, which are also relevant to age power, e.g., notions of the law as rational and as an object separated from its subject (humans and human relations). Such notions tend to exclude much of human understanding and include a view of humans as free and equal individuals. Applied to the cw system, the analysis can contribute to an understanding of how a dichotomous understanding of agency and vulnerability risks making human complexity invisible and alienating human rights from its subject – and when the view of the child is non-complex and thus possible to alternate, children’s rights risk being eroded. Instead, other values that in an unacceptable way infringe on children’s rights can be indirectly given priority (cf. Svensson, 1997: 332 et seq). An “integrated view of the child”, where agency and vulnerability are not seen as opposites but as interconnected and interdependent (cf. Wall, 2010; Holmqvist, 2019), can be assumed to be less negotiable as well as open to new ways of thinking about how children’s rights can be realised that better reflect their subjective reality and enable the recognition of violence. This study suggests that the starting point for dealing with child abuse should be that children’s agency is dependent on resources that correspond to their actual needs and are thus responsive to abuse dynamics, and that their position in the investigation process must be distinguished from and recognised independently of how the cw system views solutions to conflicts between children’s and parents’ interests. Information on violence must be acknowledged even when a separation of children and parents is not considered an appropriate measure. This places the substantial aspects of legal security and children’s participation in focus (cf. Gustavsson, 1988) and brings to the fore the question of why participation is so difficult to realise. It has been emphasised that the real reason may not have to do with protecting children from being involved but rather with protecting the system from change and with fear of what enhanced rights for children would mean for society (Leviner, 2018).
5.1 Conclusions
This study indicates insufficient conditions for children's participation and poor access to protection against violence in Swedish cw practice; children are assigned limiting positions in the investigation process that are related to a unilateral and non-complex view of children and children's rights that risk eroding both participation and protection rights. Through such an understanding, the child's position can be adapted, and rights negotiated, and the understanding of the cw system risks becoming governing and limiting for the child's position. Instead, an "integrated view of children" is advocated that recognises children as autonomous individuals and social actors who are also in need of protection and support to realise their rights. Central preconditions for the social services' handling of violence against children are the recognition of children as subjects and actors as well as the recognition of power relations and potential conflicts of interest between child and parent. Social services must clearly address violence, initially providing a safe and inclusive space for participation that considers the impact of abuse dynamics and gives children the conditions to express themselves. Children must be listened to, and their views given due weight, without modification to suit the cw system.

References


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**SOU 2016:19** *Barnkonventionen blir svensk lag.*


UN Committee on the Rights of the Child, General Comment No. 12, *The Right of the Child to Be Heard* (2009).

