



UMEÅ UNIVERSITY

Gendered law as a tool to approach intimate partner violence

- A socio-legal study of the Swedish Social Services Act in practice

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Abstract

The aim of this study is to render understanding about how gendered law can function as a tool to approach IPV. The focus is on how social workers experience the responsibility towards victims of IPV, in relation to the gendered paragraph in the Social Services Act. The study was made with a socio-legal theory foundation. The current law regarding the Social Services' responsibility is studied, as well as a few social workers experiences of it. A combination of methods is used to reach the aim of the study: the descriptive doctrinal method, and the qualitative research method semi-structured interviews. The result shows a multi-layered law pointing at the same direction: victims of IPV has the right to support and protection, and the state/municipality is responsible to provide this. In the interviews a reality where factors such as the views of the social workers, the current housing market, local differences, and collaboration with others affected this responsibility was found.

1 Introduction

1.1 Problem formulation

To the Social Committees' duty belongs to promote that the victims of crime and their closely related ones get support and aid.

The Social Committee should pay special attention to that women who are or have been exposed to violence or other assaults from someone closely related can need support and aid to change their situation.¹ [writers' translation]

This quote from the Swedish Social Services Act pinpoints the Swedish ambition to approach intimate partner violence (IPV) as the social problem it commonly has been defined as. The Social services' responsibility to give women who are victims of IPV the support and aid they need was established in 1998 through the Swedish governmental proposition Women's peace. The new law paragraph that was implemented as a result of this proposition was the first step of several to target the support for victims of IPV by law. The reason behind the implementation of the new law paragraph was the severe shortcomings that had been found within the Social services' work with violence against women, which made it necessary to clarify their responsibility.²

What makes this regulation unique, both in Sweden but also internationally, is its gendered character. Equality before the law is established within the Swedish constitution³, and most of the Swedish law is gender-neutral, but the Social Services' (committees'⁴) responsibility is here expressed as gendered. Women exposed to violence can need support, something that needs special attention. The gendered law paragraph is an active choice by the law makers. As it is stated in the preparatory work it is more common for women to be victimized of violence and other assaults from intimate partners compared to men being the same. This makes it, according to the Swedish government, reasonable to highlight female IPV victims more than male IPV victims, even though the responsibility of the Social Services at large is gender neutral.⁵ This study will focus on how gendered law can be working as a tool to approach IPV.

The regulation considering the Social Services responsibility for victims of IPV has been going through several adjustments since the first implementation in 1998. The aim of these

¹ Social Services Act (SoL) 5 ch 11§

² Prop. 1997/98:55 Kvinnofrid p. 37

³ Prop 2006/07:38 Socialtjänstens stöd till våldsutsatta kvinnor

⁴ The Social Committee is the political committee responsible for the Social Services, while the Social Services' is the professional part where the Social Services are provided for the population. The Social Services are ruled by the committee.

⁵ Prop 2006/07:38 Socialtjänstens stöd till våldsutsatta kvinnor p 30

adjustments has been to emphasize, and thereby assure, the right of the victims of crime who the regulation is directed to.⁶

Alongside the responsibility expressed within the Social Services Act, Sweden as a state and thereby also its municipalities where the social services are provided, has a responsibility in relation to international agreements. Except in the general Universal Declaration of Human Rights, where for example everyone's right to life, liberty and security of person is written down⁷, there are also specific agreements on women's rights and on the elimination of violence against women. For example, in the United Nations *Declaration on the Elimination of Violence against Women* the states responsibility to protect women from any form of violence is expressed. This includes ensuring that women are not re-victimized by laws' insensitiveness to gender considerations or by specific enforcement practices.⁸ The states are also expected to promote the victims' safety, including physical and psychological rehabilitation and to ensure that women subjected to violence have specialized assistance such as counselling, social services and other support structures.⁹ The work of ensuring victims of IPV care and support is hereby a matter of ensuring human rights.

Research studies on the subject support for IPV victims are scarce, and studies with a legal or socio-legal approach is almost absent. This is a gap this study aims at filling up. This is a socio-legal study of gendered law in practice, focused on the Social Services Act. The aim is to study the social workers, who typically are situated between the law and the people the law is directed to, and how they experience the responsibility towards IPV victims as laid down in the Social Services Act.

⁶ Nationellt Centrum för Kvinnofrid, "Socialtjänstens lagstadgade ansvar" (2020-02-22)
<www.nck.uu.se/kunskapsbanken/amnesguider/kommunernas-kvinnofridsarbete/socialtjanstens-lagstadgade-ansvar/>

⁷ UDHR Article 3

⁸ DEVAW Article 4 f)

⁹ DEVAW Article 4 g)

1.2 Aims and objectives

The aim of this study is to render understanding about how gendered law can function as a tool to approach IPV. The focus is on how social workers experience the responsibility towards victims of IPV, in relation to the gendered paragraph in the Social Services Act. The purpose is not to present objective knowledge about gendered law in general but to describe and analyse a few social workers experiences of it. The purpose by this is to give a deeper understanding about the Social Services Act in practice, and thereby get a picture of how the Social Services Act works to assure human rights for IPV victims.

To achieve this aim, the following research questions will be answered:

- How is the Social services' responsibility concerning victims of IPV regulated in current law?
- How do the social workers experience the responsibility concerning victims of IPV?
- From a socio-legal theory perspective, what can thus be said about the gendered paragraph in the Social Services Act in practice?

1.2 A socio-legal perspective

The aim of this study is, as it is stated above, to conduct a socio-legal study of the Social Services responsibilities in relation to victims of IPV. With a socio-legal perspective the law is understood as something else than the objective and independent entity it commonly is described as by the doctrinal legal perspective. Rather, law is understood as a socially constructed matter among others, meaning that it is both affected by and affecting the social reality it is situated within.¹⁰ The socio-legal perspective uses typically social science theories for the understanding of law.¹¹

Law will hereby in this study not be seen as a closed system of rules and doctrines that is to be studied isolated from other features, but as related to several extra-legal factors.¹² With this

¹⁰ Ruth Mannelqvist, "Social Insurance Law – The Core of Swedish Welfare Law" in Åsa Gunnarsson, Eva-Maria Svensson and Margret Davies (Eds.), *Exploiting the limits of law*, (2007) p 143; Rosemary Hunter, "The Gendered 'Socio' of Socio-Legal Studies" in Dermot Feenan (Ed) *Exploring the 'socio' of socio-legal studies*, (2013) p 208

¹¹ Anna Hollander, "Rättsociologi" in Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009) p 40

¹² Reza Banakar, *Normativity in Legal Sociology*, (2015) p 41-46

perspective the study will be able to reach beyond what is written in the law, and thereby bring what exists in between the lines to the surface. The black letters of the law book will not necessarily provide information on the social effects of the law.

As it is described by for example Åsa Person the line between law and politics is not as obvious as the doctrinal legal perspective claim. Legal matters are as a matter of fact also political matters.¹³ They reflect the power structures as well as conflicts between different societal actors.¹⁴ What is interesting from a socio-legal perspective is usually the law in action rather than law in the books, commonly associated with the “gap problem”. This refers to the disparity between the intentions of a law, and what its actual impact on a certain social condition is.¹⁵ One can see it as the study of law from the outside, compared to the doctrinal perspective which has its starting point from the inside.¹⁶ Within the field of social work, the researchers lately have been discussing the complex relationship between the law and the social work, and what social effects the law can have, bringing a socio-legal discussion to the social work field.¹⁷

The feminist legal theory widens the perspective on law even further and for example critiques the refusal of law to incorporate gender differences and women’s experiences into the constitution of the legal, as well as to see its role in the constitution of the gendered socio.¹⁸ The Feminist legal theory works for the reveal of how law reflects, constructs and reproduces gendered power relations. By this, it questions law’s claims to autonomy and instead explain it as a practice which is affected by social, political, and economic forces which constantly seep through its made-up boundaries. The claim is that law, as the important social institution it is, is structured by the same gendered and hierarchical order as society at large.¹⁹

The typical critique from the feminist socio-legal angle is how the legal object within the supposed gender-blind law is a masculine object, which does not include or consider women’s experiences.²⁰ The objectivity of the law is from this perspective viewed as founded on the man

¹³ Åsa Person, “An Apparent Boundary Between Law and Politics” in Åsa Gunnarsson, Eva-Maria Svensson and Margret Davies (Eds.), *Exploiting the limits of law*, (2007) p 61-65

¹⁴ Ludvig Beckman and Carina Ljungwald, ”Idéanalys” in Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009) p 74

¹⁵ Banakar op. cit. p 52

¹⁶ Hunter, op. cit. p 205

¹⁷ Sam Larsson, ”Samhällsvetenskapliga och rättsvetenskapliga teorier och metoder i socialt arbete” in Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009) p 81

¹⁸ Rosemary Hunter, op. cit. p 207-208

¹⁹ Nicola Lacey, *Unspeakable Subjects. Feminist Essays in Legal and Social Theory*, (1998) p 3

²⁰ Hunter op. cit. p 207

as the norm, which incorporates the male supremacy in the law. A gender-blind law is just blind for the gender norms it reproduces. Even laws that are supposed to protect women, or aim for equality, can reproduce the hierarchal order between the sexes.²¹ On the other hand, the critiques states, law can also be too gendered in a sense that it will enforce present gender roles and represent a specific understanding of gender differences. In the long run this means that law can limit the options available to women in the ways they live their lives.²² With this theory in mind, feminists and feminist legal theorists debate to what extent law can or should be used to change present gender relations.²³

For the study of how social workers experience the responsibility to support victims of IPV as laid down in the Social Services Act the socio-legal and feminist socio-legal perspectives will be used as the theoretical foundation. This means that what is written in the law will not be taken for granted, and the focus is how the studied law paragraph is managed in practice.

1.3 Methodology

To reach the aim of this study, multiple research methods have been used. The use of method has thus not been limited to one kind, but a combination of methods regarded suitable for reaching the study aims were applied. The Social Services' responsibility concerning victims of IPV has been described and analysed with a descriptive doctrinal perspective, standing as the foundation of the study to which the socio-legal analysis was related. With a social constructive approach, the social workers' experiences have thereafter been examined with a qualitative research method – the semi-structured interview. The material gathered has then been analysed from a socio-legal theory perspective, as described in the previous section, with the aim of rendering deeper understanding about the gendered law as a tool to approach IPV in mind. In this section the methodological considerations of this study will be presented more closely.

1.3.1 Descriptive doctrinal perspective

The purpose of using the doctrinal methodology in law is to reconstruct a legal rule for a specific legal case or matter. By scrutinizing the sources in law – in Sweden defined as the laws, the case-laws, the preparatory works and the doctrine - one can with this method conclude what the

²¹ Catherine A. MacKinnon, *Toward a feminist theory of the state*, (1989) p 249

²² Rosemary Hunter op. cit. p 210-213

²³ Lacey op. cit. p 8

applicable law consists of and how it should be regarded.²⁴ It is thus an analysis of the sources in law and can be done with a critical perspective including questions of what consequences the applicable law has, and if there are possible alternatives to it.²⁵ For this study the doctrinal perspective has been used to establish the current law concerning the social services responsibility for IPV victims. This means that the Social Services Act has been read through and analysed together with other laws and regulations that is related to it. Together with the preparatory works and the case-law that is to be found, all the laws and regulations constitute the current law.²⁶ Where applicable some legal literature (doctrine) have been included in the analysis.

1.3.2 Qualitative research method – the semi-structured interview

To reach the research aims, and to examine social workers' experiences of the responsibility towards victims of IPV a qualitative research method was chosen. The qualitative research can have a wide range of different orientations, but common for the method at large is its concern of understanding the social world. From a qualitative research perspective this understanding can best be reached by examining how the social world's participants interpret it. This methodology has an ontological position that is constructionistic, in which the world is understood as constructed through social interactions rather than existing "out-there" independent of the interpretation of it. One preoccupation of the qualitative researcher is consequently to see through the eyes of the people they are studying, to acquire social knowledge.²⁷

By applying a qualitative research method to a study, the researcher is enabled to approach their study subject with flexibility. Compared to the quantitative research, that usually is concerned with in beforehand established concepts and its indicators, qualitative research can adjust to the research findings and adjust to what comes up during the study.²⁸ For this study this for example meant that I conducted interviews with a broad idea on what to study in my mind, and during the process of meeting the interviewees this was refined in relation to the answers I got. What

²⁴ Anna Hollander, "Rättssociologi" in Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009) p 39

²⁵ Jan Kleineman, "Rättsdogmatisk metod", in Maria Nääv & Mauro Zamboni (eds), *Juridisk metodlära*, (2013), 33-35

²⁶ The case-law was found using the database infosoc.

²⁷ Alan Bryman, *Social research methods*, (2016) pp 399-401.

²⁸ Bryman op. cit. p 403-404

is studied is thus not a result solely on what I as a researcher decided previously to be important to study, but also what came out as important from the studied objects themselves.

The qualitative research method is however an umbrella over several different methods to use. In this study a semi-structured interview has been used to gather data, since it suits well with the aim and purpose of this study. Bryman describes the qualitative interview as an open-ended approach and emphasizes the flexibility of the method. In semi-structured interviews the researcher develops a so-called interview guide with themes or overarching questions for the interview, connected to the aim of the study.²⁹ This was also done for this study [See Appendix 1]. Since the aim was not to produce generalizable or comparable data, the interview guide was used as a foundation or starting point to follow, but where suitable the order of questions was changed or extra follow up questions was added as a response to the interviewee's answers.³⁰ In this way the flexibility of the method came to its right. This is also why some questions are more visible in the result, than others.

When the data had been produced through the semi-structured interviews, the interviews were firstly transcribed and after that analysed in relation to the study's research questions. This was done by structuring the transcripts of the interviews by codes related to the emerging topics. The codifying process is understood as the process where the material is dissolved, examined, compared, conceptualized, and categorized. The material was thereafter analysed with a theoretical interpretation, meaning the socio-legal perspective was used to get a deeper understanding of the material.³¹

1.3.3 Trustworthiness

To assure a research conducted with good quality, the study has been evaluated in relation to the notion of trustworthiness. This is a tool to use for making methodological considerations regarding qualitative research. Compared to using the concepts validity and reliability, who commonly are used to assess the quality of a quantitative study, the concept of Trustworthiness does not presuppose that research can produce one true and absolute image of the social reality.³²

²⁹ Bryman op. cit. 471; Steinar Kvale and Svend Brinkmann, *Den kvalitative forskningsintervjuen*, (2014) p 172

³⁰ Compare Kvale and Brinkmann op. cit. p 180-182

³¹ Kvale and Brinkmann op. cit. p 235-239

³² Bryman op. cit. p 390

Trustworthiness in relation to research is made up by four criteria. These criteria are credibility, transferability, confirmability and dependability. In this study the three first criteria have been used for assuring the trustworthiness of the study. The dependability criterion is, as Bryman describes, a less commonly used criterion due to the massive amount of work it is associated with.³³

The first criterion, credibility, cares about whether there is consistency between the data collected and the theoretical conclusions made from them.³⁴ The method as well as the theory of this study was chosen with the goal to assure a high level of credibility. With the aim to create an understanding of how social workers experience their responsibility towards IPV victims, I would say that the qualitative method and the socio-legal perspective is adequate. In this study, there is congruence between concepts and observations (data) as Lecompte and Goetz would describe it.³⁵

The criterion transferability measures the degree of generalizability of the research outcomes. Since a qualitative study like this one is not concentrated on the breadth, but rather the dept of certain issues, the outcomes of this study will probably not be generalizable to for example all laws or all social workers in Sweden. However, it can perhaps be transferable to some other circumstances like those studied here. For you as a reader to be able to judge whether it is or not, I have aimed at presenting detailed descriptions on the context surrounding this study as well as on how it has been conducted.³⁶

The criterion of confirmability firstly highlights the impossibility of complete objectivity in social research. Thus, this study will to some extent be affected by me who have conducted it. This however makes it highly important as a researcher to, as far as it is possible, not let personal values and theoretical perspectives influence or determine the conduct of the research or its findings.³⁷ To accomplish this, I have reflected around my own position and my own pre-understandings of the issues studied here.

³³ Bryman op. cit. p 392

³⁴ Bryman op. cit. 390

³⁵ Referred to in Ibid.

³⁶ Bryman op. cit. p 392

³⁷ Bryman op. cit.

1.3.4 Sample

The sample of study objects, or interviewees, for this study was made as a purposive sample. This means that the persons were selected due to their relevance in relation to the research questions being asked. For example the research question “How do the social workers experience their application of the law concerning victims of IPV?” indicates a purpose of interviewing social workers. This is a non-randomized form of sampling, allowing the research questions to be answered rather than the data being generalizable.³⁸ The main criterion for the sampling of interviewees for this study was thus being a social worker, working with exercise of authority in relation to victims of IPV. Since some diversity within the sample is desirable, to be able to make the analysis richer, the criterion was furthermore connected to a geographical spread among the interviewees.

The recruitment of study participants was done with both direct request to individual social workers, and with a general request online for social workers fulfilling the criteria. This resulted in 9 social workers being picked for interview, from 7 different Social Services around in Sweden. Four of the social workers are working in municipalities with a population of more than 100.000, five of them in municipalities with a population of less than 35.000. Every one of the social workers work with assessing the need of, and grant, help and support for grownup individual victims of IPV, 8 of them exclusively and 1 also works with other target groups.

1.3.5 Introduction of the respondents

- Anne works in a municipality with a population of less than 35.000 in the north of Sweden. She also meets with violence perpetrators and drug users at her work. She has been working with IPV victims for seven months.
- Betty works in a municipality with a population of more than 100.000 in the south of Sweden. She solely meets violence victims at her work. She has been working with IPV victims for two years.
- Celine works in a municipality with a population of more than 100.000 in the south of Sweden. She solely meets violence victims at her work. She has been working with IPV victims for 1,5 year.

³⁸ Bryman op. cit. p 418

- Doris works in a municipality with a population of more than 100.000 in the west of Sweden. She meets with violence victims, perpetrators, and children at her work. She has been working with IPV victims for two years.
- Eve works in a municipality with a population of less than 35.000 in the middle of Sweden. She solely meets violence victims at her work. She has been working with IPV victims for two years.
- Felicia works in a municipality with a population of less than 35.000 in the south of Sweden. She solely meets violence victims at her work. She has been working with IPV victims for one year.
- Greta works together with Felicia. She has been working with IPV victims for 2,5 years.
- Hanna works together with Betty. She has been working with IPV victims for 1,5 year.
- Isabelle works in a municipality with a population of less than 35.000 in the south of Sweden. In the last one year she solely meets violence victims at her work. She has been working with IPV victims for 7 years.

1.3.6 Ethical considerations

The conducting of an academic study is a task associated with several ethical demands that must be considered. As a researcher, I have the ultimate responsibility for assuring the moral acceptability of my study.³⁹ The main principle to follow in this sense is that the research should be of no harm to anyone. In Sweden only research that can be done with respect for the human dignity will be approved by the research ethics board.⁴⁰ Since this study is of a lower degree, it does not have to be approved by the ethics board, but the ethical demands will still have to be considered. As Guillemín and Gillam state – research must be a reflexive process including critical reflections on 1) what kind of knowledge that will be produced from the research and 2) how the knowledge is generated.⁴¹ This means me as a researcher should not only take time for methodological considerations and reflect on how my values affect my choice of research subject, choice of theory and who will be included in the research and not – but also how my research might affect the ones included.

³⁹ Codex, *Professional Ethics* (2020-10-18) <<http://www.codex.vr.se/en/forskarensetik.shtml>>

⁴⁰ Vetenskapsrådet, *God forskningssed* (2017) p 31

⁴¹ Marilys Guillemín and Lynn Gillam, “*Ethics, Reflexivity, and “Ethically Important Moments”* in Research, *Qualitative Inquiry*, Vol 10 No 2, 274-277 (2004)

For the latter, the Act concerning the Ethical Review of Research Involving Humans (SFS 2003:460) has been used as ethical guidelines for this study. The act is not formally binding for this study but is in any way applicable as a guideline for the ethical considerations. In 9§ it is stated that the scientific value must outweigh any risks for the participants health, safety, or personal integrity. In this study, when the interview topic is concentrated on the interviewees' professional life the risks of personal harm were assessed to be very low. The goal was never to touch upon private matters of the participants' lives, neither did it happen during the interviews.

The demands concerning information and on consent (§16-17) were fulfilled by the information letter that was sent to the participants before the interview took place, and the written confirmation that was done in connection to the interview (see Appendix 2 & 3). In the two interviews done by phone, an oral confirmation of the will to participate in this study was made. McCormick emphasizes, in addition to this, the need for feminist researchers to fulfil the demand for informed consent, and to thereby guard against harms to the respondents involved. Especially when the participants are from a vulnerable population, something I do not consider professional social workers to be.⁴²

1.3.7 Reflection on my position

This study is based on a believe that there is not one objective truth. Even if the goal is to approach the study with an open mind, leaving personal interests or ideas behind, this can not be done to 100 percent. What is been studied, what is found as well as what is written can be affected by who the researcher is and what experiences she has. The result of this study is interpreted by me and are thereby not an exact version of the social reality studied. Led by this awareness, I have throughout the study made sure to use time for reflection on how my own values or preconceived ideas have affected the study. For example, my work in a protected shelter for IPV victims has inspired me in the choice of research topic, and to the choice of a socio-legal perspective. Some of the respondents for this research I have also met within my work. This enabled a quite easy sample of respondents, at the same time as I had to make sure that our professional relationships or experiences would not affect the study result, for example by not working while I was writing.

⁴² Melinda McCormick, *Feminist Research Ethics, Informed Consent, and Potential Harms*, The Hilltop Review: Vol. 6 : Iss. 1 , Article 5 (2012)

1.4 Previous research

When searching for academic literature on IPV, several hits occur with different approaches to the subject – about the perpetrators and about the victims, from a criminal law perspective, from a historical perspective or from a sociological perspective. However, the socio-legal perspective of the topic is rather undiscovered in research. Despite this fact, there are some research that can be connected to this study's aim and orientation. Hereunder research that can be used as a frame or foundation for this study will be presented.

One of the most prominent researchers on the subject support for crime victims, and victims of IPV in specific is Veronica Ekström. For example, in her doctoral thesis *The troublesome violence* [my translation], in the discipline of social work, Ekström examines the social services' support for women who are or have been victims of IPV. The focus of the research is how the need of these women are interpreted, renegotiated, and adjusted in order to be manageable within the frames of the organization of the Swedish social services. One of the main findings within the study was that there are big differences in what support different women are offered, depending for example on what help is offered in the different counties.⁴³ There are also differences in what requirements different counties have on the women applying for aid or support. The social workers' interpretations are shown to be important when it comes to the negotiation of how the need, and right to support, for abused women is understood. Furthermore is the room for action of the social worker important in this sense according to Ekströms findings.⁴⁴

Ekström has continued to study the topic support of IPV victims also after her doctoral thesis. Within her publications Ekström for example has studied abused women's own experiences of support from the Social services in connection with a police investigation of domestic violence as well as whether social support given at police stations leads to more prosecutions.⁴⁵ In the first mentioned study, it was concluded that support in connection with a judicial process is important and that preconceptions of the social services might prevent the crime victims from

⁴³ Veronica Ekström, *Det besvärliga våldet Socialtjänstens stöd till kvinnor som utsatts för våld i nära relationer*, (2016) pp 87-92

⁴⁴ Ekström op. cit. pp 103-107

⁴⁵ Veronica Ekström and Peter Lindström, *In the service of justice: Will social support to victims of domestic violence increase prosecution?*, International review of victimology, Vol 22 No 3, 257-260 (2016) and Veronica Ekström, *Violence against women : social services support during legal proceedings*, Vol 18 No 5, 661-674 (2015)

accepting support. It might furthermore lead to the victims avoiding turning to the social services for help. Support for women in the legal process increases the chances of her wanting to turn to the police and the courts again for help.⁴⁶

In relation to the prosecution rates, Ekström has found out that support to the victims from the Social services increase the probability of prosecution, even if the impact is smaller than other factors and furthermore uncertain. Ekström thereby concludes that support to IPV victims should not be based on the requirement that the woman has made a police report, but rather be given to all victims of IPV.⁴⁷

The Social services' support to crime victims have been scrutinized also with a focus on children as crime victims. With a sociology of law approach Anna Sonander compares the legal circumstances regarding the work with child crime victims with how the work is performed. Determining existing law is not equivalent to determining the actions of the actors, as it is stated within the thesis, and that is also why it is important to scrutinize different actors' fulfilment of their legal requirements. Sonander lastly aims after what factors that can have an impact on this fulfilment of legal requirements. The law is assumed not to be the only factor in this sense, which is also confirmed by the research findings. Among the factors that have an impact on the work with child crime victims were among others the workers/actors resources in time, and their attitude towards the current legislation. The outcome of the law concerning the work with child crime victims is to a large extent a consequence of individual factors among the workers.⁴⁸

Ljungwald and Svensson have also been studying the Swedish social services and their relation to crime victims. Their focus was how social workers describe crime victims and their own role in supporting these victims. The result in this study shows that social workers give themselves a rather vague role when it comes to giving support to victims of crime. The social workers are furthermore of the opinion that just because a person is categorized as a victim of crime, he or she should not receive support from the social services. The authors conclude that the notion or

⁴⁶ Veronica Ekström, *Violence against women: social services support during legal proceedings*, Vol 18 No 5, 661-674 (2015)

⁴⁷ Ekström and Lindström op. cit. p 265

⁴⁸ Anna Sonander, *Att arbeta med barn som brottsoffer – en rättsociologisk studie* (2008)

category “crime victim” has not yet gained acceptance in the social worker corps and has thereby not been implemented in their work.⁴⁹

In the article *Criminal Justice for Assaulted Women in Sweden – Law versus Practice* Lindgren, Renck and Diesen compare the intentions with the Swedish criminal law with the actual outcomes of it. Their general findings for example show that criminal justice is still not assured for IPV victims, even after making IPV crimes subject for public prosecution. This study might not be directly transferable to the study here, since it covers another legal field than the social support legislation, but their result can be used as an example of how legal justice works in relation to IPV victims.⁵⁰

Situated among the studies presented here on the topic IPV victims and their legal and social rights, this study will contribute to the understanding of how gendered law can function in regards of approaching IPV. The study of the social workers’ experiences of law application will hopefully provide a picture of the social reality of the current law. In the future attempts to defeat this societal problem, this knowledge is needed.

⁴⁹ C Ljungwald and Kerstin Svensson, *Crime Victims and the Social Services: Social Workers’ Viewpoint*, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, Vol 8, No 2, 138-156(2007)

⁵⁰ Maria S. Lindgren, Barbro Renck and Christian Diesen, *Criminal Justice for Assaulted Women in Sweden – Law versus Practice*, *Review of European Studies*, Vol 4 No 1 , 167-178 (2012)

2 IPV as phenomena

Before the current law, and the social workers' experiences of the responsibility that follows with it, will be presented the notion of IPV will here be defined more closely. IPV as phenomena will be presented in three sections with focus on its definition, its causes, and its consequences. To some extent, these overlap and correlate to each other but for the readability of the text they will be presented divided from each other.

2.1 Definition

When it comes to the definition of IPV there are two parts of the phenomena to be defined: intimate partnership and violence. If these two are not defined, the IPV cannot be defined either. The intimate partnership as notion is here used as a translation of the Swedish notion "nära relation" (close relationship), since "våld i nära relation" is how the problem usually is named in Sweden today and since it is the notion closest to a direct translation.⁵¹ An intimate partnership is typically concerned with a relationship to a current or former partner, spouse or dating partner.⁵² As understood from a Swedish legal perspective it nevertheless also includes other kinds of close and trustful relationships, such as the relationship to a parent, a sibling, a child or other relatives.⁵³ It is a gender-neutral definition, and can be assessed from every specific situation. Compared to the notion domestic violence, Intimate Partner Violence does not specify *where* the violence should take place but rather *by whom* and *what relationship* there is between the victim and the perpetrator. Violence is considered more severe if it comes from someone you trust.

In relation to IPV and the Social Services Act violence is a wider concept than when seen from a criminal legal perspective. It includes criminalized violence such as battering and other assaults, including sexual violence, that can be severe or "normal" but also actions that right now are not defined as criminal such as verbal sexual assaults, isolation from family or friends, economical abuse or emotional extortion.⁵⁴ It is usually expected to be some kind of

⁵¹ See for example Prop 2006/07:38; nck.uu.se; www.bra.se But see Holmberg, Enander, & Lindgren, *Ett litet ord betyder så mycket* (2015) who discusses the use of "intimate partner violence" and how it removes the gendered features behind the problem.

⁵² National Center for Injury Prevention and Control - Division of Violence Prevention, *Intimate Partner Violence* (9 October 2020) <www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>

⁵³ Prop 2006/07:38

⁵⁴ Socialstyrelsen, *Våld - Handbok om socialtjänstens och hälso- och sjukvårdens arbete med våld i nära relationer*, (2016) p 16

systematization of the violence, thus it can be repeated more or less regularly.⁵⁵ Of the cases of batter reported to the Swedish police in 2019, one of five cases was violence between present or previous love partners. Violence between family members or other relatives stands for an additional 15 percent of the reported cases.⁵⁶ Since it is far from all victims that make a report to the police, the actual number are most probably even higher.

There is also a big difference between the sexes – for 40 percent of the cases where a woman was the victim, the perpetrator was a closely related person. For cases with male victims only 3 percent have a closely related person as perpetrator.⁵⁷ According to the National Board of Health and Welfare (Socialstyrelsen) it is more common that women are exposed to severe and repeated violence in close relationships, than that men are exposed to the same.⁵⁸

2.2 Causes

The causes behind IPV are to be found on four different levels: individual, relationship, community and societal. This is commonly called the ecological model of violence. In general, there is however most scientific knowledge concerning the individual and relationship level.⁵⁹ One important factor, no matter on what level, for violence to occur seems to be other kind of violence. According to the World Health Organization (WHO) exposure to IPV against the mother is one of the most common factors associated with male perpetration and female experience of IPV later in life, at the same time as being exposed to sexual IPV is an important risk factor to also be exposed to other kinds of IPV.⁶⁰ Regarding the deadly violence a separation and/or divorce is a common cause for it to occur.⁶¹

“But why doesn’t she just leave?” is a common question directed to or about victims of IPV. For many it is hard to understand how one can accept to be treated with violence from a loved one, or how one can treat a loved one with violence. This is where the so-called normalization process comes in. The normalization process describes how a victim internalizes the

⁵⁵ Kunskapsguiden *Vad är våld i nära relationer?* (22 May 2019) < www.kunskapsguiden.se/omraden-och-teman/vald-och-fortryck/vald-i-nara-relationer/vad-ar-vald-i-nara-relationer/>

⁵⁶ Brottsförebyggande Rådet, *Våld i nära relation*, (20 May 2020) <www.bra.se/statistik/statistik-utifran-brottstyper/vald-i-nara-relationer.html>

⁵⁷ Ibid.

⁵⁸ Socialstyrelsen op. cit. p 14

⁵⁹ World Health Organization, *Understanding and addressing violence against women*, (2012) <apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf;jsessionid=45ED976868D5480B62BABD7EE01D2FDC?sequence=1>

⁶⁰ Ibid.

⁶¹ Socialstyrelsen op. cit. p 20

perpetrators' demands, motive and violence and can thereby perceive the violence as something normal. The limit for what is okay and normal is constantly pushed, usually leading to a situation where the violence is diminished, and positive actions magnified. This is one of the reasons the victim does not leave.⁶²

2.3 Consequences

Just as the causes, the consequences of IPV are several and is to be found on different levels. According to WHO IPV is a serious threat against the victims' health and security. On a personal level, the farthest consequence of IPV is death. According to the Swedish National Council for Crime Prevention (BRÅ) violence within a family is one of the most common deadly violence within Sweden, standing for around 25 percent of all the deadly violence.⁶³

Besides that violence usually cause several different physical as well as mental problems, on short term and long term basis, for the victim.⁶⁴ The influence of abuse can persist long after the violence has stopped and the more severe the abuse, the greater its impact on the victims health.⁶⁵ Common health problems that occurs more often among IPV victims than by people in regular are depression, alcohol abuse, PTSD, reoccurring headaches or colon-problems.⁶⁶ As it has been mentioned earlier, IPV is considered a public health issue by the WHO. For the victim, IPV can also have severe social or economic consequences. These include, but are not limited to, isolation, housing problem, unemployment or economical dept caused by the perpetrator.⁶⁷

On a societal level IPV causes big expenses for the individual, for the society and for future generations. The costs of IPV are accumulated by the costs for the health care, the court system and for indirect costs such as payment of sick-leave for the victim or the costs regarding the children who grow up as witnesses to violence and thereby are affected with

⁶² Socialstyrelsen op. cit. p 19

⁶³ Brottsförebyggande rådet, *Rapport 2019:6 Dödligt våld i Sverige* (2019) p 44

⁶⁴ Nationellt Centrum för Kvinnofrid, *Medicinska och psykosociala konsekvenser av våld i nära relationer*, (2020-11-03) <[Medicinska och psykosociala konsekvenser av våld i nära relationer - Nationellt centrum för kvinnofrid \(NCK\) - Uppsala universitet \(uu.se\)](#)> Socialstyrelsen op. cit. p 17-18; WHO op cit.

⁶⁵ WHO op cit.

⁶⁶ Nationellt Centrum för Kvinnofrid op. cit.; WHO op cit.

⁶⁷ Socialstyrelsen op. cit. p 18

negative social and health consequences later in life.⁶⁸ Furthermore IPV is an equality problem which stops women from having access to their human rights and freedoms, and everyone from having the same right and possibilities.⁶⁹

⁶⁸ Socialstyrelsen op. cit. p 30; Nationellt Centrum för Kvinnofrid, *Kostnader för mäns våld mot kvinnor* (2020-11-02) <www.nck.uu.se/kunskapsbanken/amnesguider/vald-i-nara-relationer/valdets-kostnader/>; WHO op cit.

⁶⁹ Kunskapsguiden op. cit.

3 IPV in law and policy

In this chapter the Social Services' responsibility for victims of intimate partner violence, regulated in national and international law, will be described. This is a multi-layered legal issue with legislation on the international, European as well as on the national level claiming the rights for these victims, together putting pressure on the state to assure these rights. Since the interest of this study is the national legislation in general, and the gendered paragraph 5:11 in the Social Services Act in specific, this is also what will be in focus here together with a brief summary of the international agreements in action, in order to frame the issue legally.

3.1 The Social Services Act

The Social Services Act (Socialtjänstlag 2001:453, SoL) is usually described as a framework law, controlling how the Social services must and can be provided for the public.⁷⁰ The law states how the Social service has the ultimate responsibility to make sure that everyone gets the help and support they need when it comes to care and support, economical help etc – if it cannot be achieved by any other means.⁷¹ In its portal paragraph it is stated how the social services should promote the peoples economic and social safety and equality in living conditions, with a democratic and solidary foundation.⁷² It is furthermore regulated how the Social Services are supposed to promote good living conditions and initiate measures to create a good social environment for those in need of social support from the society.⁷³

The Social Services Act is by this a law establishing both the right of the individual, and the responsibility of the municipalities when it comes to certain social issues. The legislation consists of both rather vague aims for the Social Services and more concrete and measurable rights which the people residing in the municipality can demand from the social services.⁷⁴ This means that for some parts of the Social Services Act there is room for every municipality to interpret the law themselves without almost any forcing restrictions, while for others a decision from the municipality can be appealed and dismissed by the higher courts if it was not done according to the law.⁷⁵

⁷⁰ Therése F. Montoya, "Introduktion till socialtjänstlagstiftningen" In Therése F. Montoya (Eds.) *Juridik för socialt arbete*. 3d edition (2018) p 54

⁷¹ SoL 3:1

⁷² SoL 2:1

⁷³ SoL 3:1; SoL 3:2

⁷⁴ Montoya, *op. cit.* p 54

⁷⁵ *Ibid.*; SoL 16:3

The right of the individual to get assistance from the Social Services is regulated in 4 ch 1§ of the Social Services Act. If someone's need cannot be achieved by themselves or any other way, the individual has the right to economic assistance, or for assistance in life in general (livsföring i övrigt). The assistance is supposed to assure the individual a reasonable standard of living (skälig levnadsnivå) and strengthen their possibilities to live an independent life.⁷⁶ If there is reason for it, the Social Services can grant assistance above what is stated in SoL 4:1.⁷⁷ This is a gender-neutral regulation, directed to anyone living or staying within the borders of any municipality in Sweden. There are however also paragraphs in the Social Services Act concerning the social services work with specific groups or categories of individuals. One of these categories are victims of crime, where women victimized of IPV is especially highlighted.⁷⁸ Since 2007 the Social Services by this paragraph has been obligated to especially consider that women suffering from IPV can be in need of support and help.⁷⁹

Implemented with its first version in 1998, as a result of the official rapport *Women's peace* [Kvinnofrid], the aim of this specific paragraph is to raise the level of ambition in the work with IPV victims, and thereby strengthen the position of female IPV victims.⁸⁰ A paragraph like this within the Social Services Act does not change the legal responsibility of the Social services but recognizes the need of what is considered to be an extra vulnerable group.⁸¹ Since lack of support offered to IPV victims has been discovered repeatedly, as well as shortcomings within the assistance provided, the Swedish government consider the knowledge about this groups' specific needs important to highlight.⁸²

As it was concluded in the introduction to this study: unlike the rest of the Social Services Act, this paragraph is not gender-neutral but is directed to female victims of IPV. The gendered feature is argued for since it is more common for women to be victimized of violence and other assaults from intimate partners compared to men being the same. This makes it, according to the Swedish government, reasonable to highlight female IPV victims more than male IPV

⁷⁶ SoL 4:1

⁷⁷ SoL 4:2

⁷⁸ SoL 5:11

⁷⁹ Prop 2006/07:38 Socialtjänstens stöd till våldsutsatta kvinnor

⁸⁰ Prop 1997/98:55 Kvinnofrid

⁸¹ Prop 1997/98:55 Kvinnofrid; Prop. 2000/01:79 Stöd till brottsoffer; Prop 2006/07:38 Socialtjänstens stöd till våldsutsatta kvinnor

⁸² Prop 2006/07:38 Socialtjänstens stöd till våldsutsatta kvinnor

victims, even though the responsibility of the Social Services at large is gender neutral.⁸³ The paragraph aims at women of any age, who are exposed to intimate partner violence. In an earlier version of the paragraph the concept domestic violence was used for the issue. Since the government wanted to remove the connection to a physical place, the concept however was exchanged to IPV. What was important was not where the violence took place, but by whom and what kind of relation the victim had to the perpetrator.⁸⁴

Since the first implementation in 1998 the law paragraph has gone through some adjustments, to assure the right of IPV victims. As mentioned, this has for example meant exchange of concept for the violence in question. It has also meant that the paragraph now states what the Social Services are supposed to do, instead of what they may do in relation to IPV victims.⁸⁵ Furthermore, victims of IPV since 2001 also has the legal right to appeal negative decisions on aid from the Social services. This since the new Social Services Act does not distinguish the financial aid from the *aid for the life in general*, as the previous act did.⁸⁶

The official scrutinization of the applying of the law concerning victims of IPV shows that there are differences in the quality of the social investigations conducted by the Social Services. Some social investigations even have crucial shortcomings. Furthermore, it is found that the social workers working with these social investigations sometimes lack the knowledge needed for conducting it.⁸⁷

The case law concerning the application of 5 ch 11§ in the Social Services Act, or rather the application of 4 ch 1§ in relation to victims of IPV is not big in numbers. From the Supreme Administrative Court, where the legal practice commonly is developed in Sweden, there are no cases to be found.⁸⁸ From the lower court, the Administrative Court of Appeal, four cases can be found in the public databases. Of the four court cases available three concerns the right to protected shelter where the Administrative Court of Appeal in two cases agrees with the Social Services and thereby denies the applicants right to a protected shelter. This is due to a decreased

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Sol 5:11

⁸⁶ Prop. 2000/01:80 Ny socialtjänstlag

⁸⁷ The Health and Social Care Inspectorate (IVO), *Granskning av kommuners arbete med våld i nära relationer 2018*, (2019). P 12.

⁸⁸ As searched for in the data base Infosoc.

need of protection, since the person was assessed not to be under threat anymore, and due to lack of proof of the need of protection.⁸⁹

In the remaining case, the Social Services' decision is changed by the Court of Appeal and the individual's right to stay at a protected shelter is thereby confirmed by the court. The right to a protected shelter is in this case, except the fact that the person is under threat, related to the right of the individual to apply for help and support from another municipality than the one she belongs to – if it is needed for her to be safe from further violence. The Social services had in this case denied this right, and referred the case back to the municipality the person was living in. Something which was dismissed by the court of appeal.⁹⁰

The final case of this kind also concerns the right of an individual to apply for support and help from another municipality than the one he or she belongs to/lives in. In this case the Social services had denied one person's application for accommodation, claiming that the risk of further violence is as high there as where the person already stays. According to the court of appeal this is however not reason enough to deny someone from an extra vulnerable group help and support and her application was thereby approved.⁹¹

3.2 The Swedish National Board of Health and Welfare's regulations

Besides the Social Services Act there are regulations from the Swedish National Board of Health and Welfare (Socialstyrelsen) controlling what the Social services must do in relation to victims of IPV. Despite not being laws, these regulations are binding to the same level as if they were.⁹² The Swedish National Board of Health and Welfare also publishes general advices on the matter, but they are however not binding as the regulations are why they are not included here.

According to The Swedish National Board of Health and Welfare regulations on domestic violence (SOSFS 2014:4) the Social services are obliged to analyse the help provided to the victims and how it corresponds to the needs of the victims (chapter 3:7), have routines for control and monitoring of the service provided – if the service is conducted by some external

⁸⁹ Administrative Court of Appeal case nr 2106-18; Administrative Court of Appeal case nr 8213-18

⁹⁰ Administrative Court of Appeal case nr 2359-19

⁹¹ Administrative Court of Appeal case nr 961-17

⁹² This s to be found in 8 ch 13 § Instrument of Government (1974:152) and in 8 ch 1§ 5 Social services ordinance (2001:937).

part (chapter 3:3) – and make sure that the service given to for example a family is coordinated and does not counteract each other, both within the social services and in relation to any external part (chapter 3:9-10).⁹³

The regulation furthermore states the social services responsibility to conduct a risk assessment of further violence (chapter 5:1), when someone is applying for social assistance because of violence, and to provide both short term and long-term services in relation to the individuals need of protection, support and help (chapter 7:1). If it is needed the social services should provide a suitable temporary place to stay in accordance with the individuals need of protection. (chapter 7:2). Any help offered should be a result of the risk assessment and the social inquiry of the individual need.⁹⁴

3.3 Surrounding legislation and policies

Except the Social Services Act and its related regulations from the National Board of Health and Welfare there are also other Swedish laws controlling the support provided for IPV victims. Being a matter of the public, the issue has its foundation in the Swedish constitution - in the Instrument of Government (Regeringsformen) more closely. Here it is stated that public authority must be run under the laws – any action from the public must have legal support.⁹⁵ The public furthermore must respect everyone's equality before the law. All equal cases should thus be treated equal.⁹⁶ As a representative of the public one must also perform objectivity and impartiality in any decision made. This ban of arbitrariness, and demand of a predictable authority related to the laws is one of the main foundations of the rule of law.⁹⁷ Since the social committee of any municipality is the authority responsible for the applying of 5 ch 11§ SoL, these constitutional rights also refer to victims of IPV. Take note of how these demands to some extent contradict the open-for-interpretation frame law that the Social Services Act constitutes.⁹⁸

⁹³ Socialstyrelsens författningssamling 2014:4 *Våld i nära relationer*

⁹⁴ Ibid.

⁹⁵ Instrument of government 1 ch 1§

⁹⁶ Note that according to the Discrimination act (2008:567) the social services however can treat men and women differently, if it is made for a legitimate purpose and the gender specific means are necessary to reach that purpose. Eg for supporting victims of IPV. (see 2 ch 13§ in the Discrimination act).

⁹⁷ Pia Kjellbom. "Kommunala riktlinjer" In Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009)p 166

⁹⁸ Katarina Alexius Borgström, "Regeltyper och beslutsmodeller inom juridiken i det sociala arbetet" In Anna Hollander and Katarina Alexius Borgström (Eds.) *Juridik och rättsvetenskap i socialt arbete* (2009) p 155

There are also other parts of the Instrument of Government that is of importance for this study. These are the parts concerning the municipalities right to self-government. The municipalities right to self-government means that every municipality is free to administrate their work as it is suitable for the specific circumstances surrounding them – if it is according to current law. The law constitutes at some parts what a municipality must do, but as with the Social Services Act there are also parts regulating what a municipality *can* do. Therefore, different parts of the population in Sweden might have different options of services provided for them, depending on what municipality they are living in. This is an important regulation, also stated within the Municipal act (1991:900), concerning the relationship between the state and the municipalities in Sweden.

What furthermore has an influence on how the work with victims of IPV should be done is the public policies on the matter. These does not work as binding rules but are still guidance from the government, with public goals that is to be achieved by the state. As an authority to make decisions oppose to these goals is thereby not suitable. The current strategy to prevent and defeat men's violence against women was published 2016 and will be running for a 10 years period.⁹⁹ The policy approaches men's violence against women in a broad sense, for example including strategies for crime prevention, increasing awareness of the issue of prostitution and an analyse of the current treatment for perpetrators. What is of interest here is however the parts directed to the social services, and to the support of IPV victims in general.

The overall ambition of the policy is to redirect the concentration from a reactive to a proactive approach towards the issue. The goal is to increase the preventive work against violence, to become better in discovering violence and provide support for victimized women and children, to defeat crime more efficient and to improve the knowledge as well as the working methods in use.¹⁰⁰ In the policy the need of coordinating the help and support provided for IPV victims from different authorities and institutions, as well as the need of assuring the provided help is of good quality, is emphasized. In this way the protection for the individual IPV victim will become easier. Furthermore, the need of using standardized working and risk assessment

⁹⁹ Regeringen "En nationell strategi för att förebygga och bekämpa mäns våld mot kvinnor" In *Skr. 2016/17:10 Makt, mål och myndighet – feministisk politik för en jämställd framtid* p 109-155

¹⁰⁰ Ibid.

methods are highlighted within the policy, together with the need of conducting follow-ups of the social services help.¹⁰¹

3.4 International agreements

The Swedish laws and regulations on the support of IPV victims is furthermore situated within an international context. With a global world where multinational agreements and treaties have gained more importance throughout the years, it is important also to consider them when talking about current law. As a member of both the Council of Europe and the United Nations Sweden has signed for obligations further than their national legislations. In terms of signed documents related to IPV, or men's violence against women where IPV is included, the UN *Declaration on the Elimination of Violence against Women* (DEVAW) and the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (CETS No.210) are the most important ones. The previous one once established men's violence against women as a matter of human rights. Among other things the convention declares the states responsibility to protect women from any form of violence, including ensuring that women are not re-victimized by laws' insensitiveness to gender considerations or by specific enforcement practices.¹⁰² The states are also expected to promote the victims' safety, including physical and psychological rehabilitation and to ensure that women subjected to violence have specialized assistance such as counselling, social services and other support structures.¹⁰³ Furthermore, the states are instructed to promote research on how effective the implemented measures for preventing violence against women are.¹⁰⁴

The convention from the Council of Europe connects violence against women to discrimination. It, among others, established the convention parties' obligation to take measures to protect all victims from any further acts of violence, and to ensure an effective co-operation between relevant state agencies involved in the support of violence victims.¹⁰⁵ The convention parties should also ensure the access to services for the recovery of violence victims, and that these services are adequately resourced, conducted by trained professionals.¹⁰⁶ Furthermore, the

¹⁰¹ Ibid.

¹⁰² Devaw Article 4 f)

¹⁰³ Devaw Article 4 g)

¹⁰⁴ Devaw Article 4 k)

¹⁰⁵ CETS No.210 Article 18, 1-2

¹⁰⁶ CETS No.210 Article 20, 1-2

access to shelters is stated within this convention. The shelters should be appropriate, easily accessible, and enough in numbers to provide safe accommodation for victims.¹⁰⁷

¹⁰⁷ CETS No.210 Article 23

4 The social workers experiences of the responsibility towards IPV victims

After analyzing the material gathered in the interviews, codifying and thematizing it, a few patterns in the respondents' answers were recognized. As we will see it is not only the law text that determines the social workers' experiences of the responsibility towards IPV victims, but also other factors. These factors are related to for example the social workers themselves and their personal view of violence victims, to society at large with its organization of the Social Services, and the current housing market in Sweden. Here the most significant factors that were found will be presented, together with an analysis of its meaning. Since the interviews were held in Swedish, the quotes are translated by the author.

4.1 The views of the social worker

To start with, there is a diverse view of the gendered law among the social workers applying it. The respondents present different views of what role the gendered law has. While some of them view it as an important response to the patriarchy we are living in, others think it is important to change the law into gender neutral. They think the gendered law might hinder victims of violence (that are not women) getting the aid they need.

Isabelle stands for the first mentioned view, and states that

It is the men's world, if it is not clearly written to especially consider women, then we fall away in this too, we must step back. [...] I think it is very important that it is written down, and the reason is simply that we have a patriarchal society.

Anne on the other hand considers the law a bit differently and want to have it changed. Anne for example says

But at the same time, I think that that it is gender specific actually is really bad. It is a very, very old-fashioned way of looking at it.

Greta problematizes the gendered law too, by including considerations on male victims and concludes that

Since men are already judged and treated in another way, it is problematic and from that view it would of course have been better if it was gender neutral.

The main part of the respondents however views the law as good and considered it to be good to highlight women within it. Yet, they do not (officially) represent the political position as to refer to patriarchy. One of the respondents claims not to let the gendered feature of the law have an impact of her work, since she considers her work to be aimed for crime victims and not for women. Doris:

It comes from the over representation of men's violence against women I guess, but I think that it is important to erase those borders and look at are you exposed or have you been exposing? It does not matter if you are a man or a woman.

That professionals' view of law, and of IPV, has an impact on what services that will be provided or what solutions will be provided to the clients have been found within previous research.¹⁰⁸ Depending on the professional someone in need meet, the help and support they are offered can vary due to the professionals' personal views. The personal values of the professional can for example affect who is given the custody of a child or how much a child will meet their parent, in cases of IPV.¹⁰⁹ It has also been concluded that the outcome of the law concerning child crime victims is to a large extent a consequence of individual factors among the workers applying it.¹¹⁰ Hence, the different views of the gendered law presented by the respondents of this study indicates, with previous research in mind, that what the law states is not necessarily what is coming out of it.

The same goes for how the respondents viewed the notion "reasonable standard of living" in relation to IPV victims (see Chapter 3). Most of the respondents regarded the notion connected exclusively to financial aid to for example housing or food, while for example Isabelle referred to it as living a life free from violence. In the light of previous research these different views regarding the legal notion might also bring different results for how the responsibility towards IPV victims is managed.

Except the different views of the law and its gendered feature, the conception of IPV victims was another topic that emerged throughout the interviews. The topic of the interview was the gendered paragraph in the Social Services Act, where women are highlighted as a group of

¹⁰⁸ Daniel G. Saunders, Richard Tolman & Kathleen C. Faller, *Factors Associated With Child Custody Evaluators' Recommendations in Cases of Intimate Partner Violence*, *Journal of Family Psychology* Vol 27

No
¹⁰⁹ Ibid.

¹¹⁰ Sonander loc. cit.

victims that needs extra consideration. Within the interviews this led to conversations both on female and male victims of IPV. According to Betty it is

the women that are, it is the women we meet that are the most exposed.

Isabelle on her hand states that

simply it is women that are exposed to intimate partner violence. There are one and another man, but usually they are not exposed to deadly violence.

Celine also states that

to be honest, this is a women's problem. During my 1,5 years I have had two male clients

just as Eve concludes that

it is important to highlight women, since 9 out of 10 victims are women, it is a societal problem and a gendered issue.

On the other hand, some of the respondents were arguing that it is not the gender roles that necessarily are involved when it comes to violence. In some cases, gender roles play an important role while in some it does not. Anne problematizes how the formulation of the law can influence the conceptions of violence both in society and among professionals. She claims

that the law is written as it is shape both society and professionals in ideas that no longer are adequate. They kind of.. they have played their roll somehow [...] I think the way the law is written shape how we think in these situations.

Along the interviews also male victims of IPV came up as a reoccurring subject. In opposite to the view of the law and the view of female victims, that was diverse, a quite similar conception about male victims of IPV occurred among the respondents. The common idea was that male victims of IPV do not take their situation seriously, and that they feel shame for applying for help from the social services.

The discussion of whether IPV is a women's issue, directed to women because they are women, or if IPV is a gender symmetrical issue directed to and by anyone is common. For example, Kimmel refers to the "confusion among policymakers", meaning that policymakers sometimes are affected by these oppositional claims and becomes confused on how to handle the societal problem. There are large differences in the frequency, severity, and purpose of the violence directed to men and the violence directed to women. In general, the violence directed to women is more severe and more frequent than the violence directed to men. However, this does not reduce the importance of being compassionate toward all victims of domestic violence.¹¹¹

¹¹¹ Michael S. Kimmel, Gender Symmetry in Domestic Violence: A Substantive and Methodological Research Review. In. *The gender of desire: Essays on male sexuality*. 197-216 (2005)

The way the respondents reflect upon the topic, with references on one hand to our patriarchal society, and on the other to male victims that does not see the violence they are exposed to as an issue, can also represent the confusion regarding how to interpret IPV as social problem. The confusion might thus not only exist among policy makers, but also among the professionals applying a policy or a law.

4.2 The legal right to protection

The next factor of the social workers' experiences of the Social Services Act is what here is called the right to protection. What is referred to by this is the fact that the law paragraph in the Social Services Act is mainly concentrated on support to victims, which in the preparatory work is defined to be for example by physical protection. This have affected the social workers experiences of the gendered law paragraph.

One of the services available for the social workers to offer the victims of IPV is protected shelters. This means that the women (and their children) get somewhere safe to stay, if needed even far away from their home. Protected shelter, together with support from a counselor, was almost exclusively the support that was available for the respondents to offer their clients. This is all in accordance with the law and its preparatory work. In close to all the interviews the protection provided for the women that had been victims of IPV was problematized.

From the experiences of the social workers, the solution of offering someone a place in a protected shelter is not only for the good, even if it is in line with the law and its preparatory work. As some feminist legal theorists claim, it is impossible to implement laws aiming for real equality, within an unequal society.¹¹² From this standpoint, the law for IPV victims in Sweden can be seen as implemented within a system founded on male supremacy. Implementing new laws within that system will reproduce that foundation, even if it aims at challenging it. According to MacKinnon even laws that are supposed to protect women can reproduce the hierarchal order between the sexes. One example of a gendered inequality that in many ways is reinforced by law is the denial of women having control over their own bodies.¹¹³ Solving the issue of IPV by moving the female victims to a protected shelter can be seen as yet another example of this.

¹¹² Lacey op. cit. p 3

¹¹³ MacKinnon op. cit. p 246

Among the respondents Betty, Eve, Hanna and Doris all give example of women who have been questioning that it is them that have to move and leave all their life behind. Sometimes the women even deny the aid offered by the social services, since they then must move away. The social workers have agreed with their clients that this is not fair, and for example Eve express a wish that sometimes occur: to be able to move the perpetrator instead of the victim. Celine puts it this way

On the other hand, you can question if the problem really decreases by protecting people, maybe one rather should give treatment to those who perpetrate. But what can a single social worker do about that?

While Hanna claims

I begin to understand that it does not solve any problem just to move women away, because the violence will continue. We need a new take. The men must start take their responsibility for the violence they conduct, and why they do it.

The reasoning of the respondents can be related to what Lövestad and Krantz argue for, which is a need of a deeper understanding of the use of violence against both sexes. Without this deeper understanding it will be hard to develop proper interventions against violence.¹¹⁴ Considering how the social workers experience the aid they can offer to the clients, where protected shelter is seen as an unfair solution to the severe social problem that IPV constitutes, this need is shown also within the application of the Social Services Act.

4.3 The housing market

The current housing market in Sweden was also a factor that affected the social workers' experiences of their responsibility towards IPV victims. This was an issue for all the social workers participating in this study and can according to them have huge impact on the IPV victims' recovery.

For example, Betty says that

Many stays at the protected shelter for long since it so hard to get accommodation at many places. Especially if you get financial aid from the social services, maybe you are in dept and then it gets hard to get further.

Doris has some ideas about how this can affect the women and states

A protected shelter is a temporary service, and the idea is not that one should stay there for longer periods. In the long run it is not good for the one that is there, and it is not good for accompanying children either. One needs to get out and land in a normal environment.

¹¹⁴ Solveig Lövestad and Gunilla Krantz, *Men's and women's exposure and perpetration of partner violence: an epidemiological study from Sweden*, BMC Public Health Vol 12 No 945 (2012)

Celine sees a need in her clients to get help to get a new contract, due to the stress it generates to get housing via the social services. According to how the Social Services Act function, they risk losing their place in the shelter during the reconsideration of their case, which of course puts extra stress to the already exposed situation of these women. Celine sees the housing issue

as the foremost development area when it comes to cases of violence, to make sure that clients can get long time accommodation in other municipalities so that they can start their life again. This is what topples them very much otherwise.

Greta has also experienced how the current housing situation has affected her experiences of the responsibility towards IPV victims:

Sara - Is there anything you wish you could help your clients with?

Greta - Yes! Apartments, somewhere to stay. After the stay in shelter, that the social services had a responsibility to find accommodation too. That is not the case right now, and then very many victims turn back to their perpetrator.

Bomsta and Sullivan have concluded that economical support for IPV victims, with the aim to increase their housing stability, can have a good impact on the housing options for victims of IPV.¹¹⁵ A lack of this kind of support can on the other hand decrease the victims' chances to live a life free from violence, and force them to choose between remaining in temporary shelter arrangements, becoming homeless or returning to an abusive partner.¹¹⁶ The experiences of the social workers in this study shows that the legal right to protected shelters can be fulfilled, but there is still hindrance for the victims to continue their life free from violence.

4.4 The collaboration with others

Furthermore, the social workers experiences of working with the Social Services Act and thereby assure the IPV victims human rights was influenced by what is here called the collaboration factor. The collaboration factor refers to the fact that also other parts of the Social Services can be involved in the clients' cases, especially when there are children in the family.

¹¹⁵ Bomsta, H. and Sullivan, C. M. *IPV Survivors' Perceptions of How a Flexible Funding Housing Intervention Impacted Their Children*. *Journal of Family Violence* 33, p 371-380 (2018)

¹¹⁶ Hilary Botein and Andrea Hetling,. *Home Safe Home: Housing Solutions for Survivors of Intimate Partner Violence*. Rutgers University Press. (2016) p 7

Cheng and Lo have found out that the child welfare departments approach to IPV victims can have impact on if the victims achieve services offered to them or not.¹¹⁷ Previously, it has been discovered that the collaboration between different departments (for example family court and IPV professionals) when it comes to victims of IPV is lacking behind. This influence both the services and the outcomes for the victims and comes with a risk of the children suffering.¹¹⁸ It is thus not enough to have a sustainable and well-organized department for the support of grown up IPV victims, but also a child and/or family court department that take notice of and offer good care for IPV victims and their children. If not, the chances of the Social Services to provide IPV victims with their legal and human rights are at risk.

Among the respondents it is mainly Eve, Felicia, Greta and Hanna that witness how the collaboration with social workers responsible for the child and family right part of the cases have had an impact on their work. Hanna discusses how she sometimes are cached in applying law by force, even though she is working with clients who apply voluntarily. Since Hanna sometimes collaborate with social workers responsible for the children, who does not only work with voluntary but also with forced services, she can be involved in their work as well.

I believed I worked with voluntariness but many times now they say to the mothers, from the child section “you have to protect your child. If you don’t move we will forcibly dispose your children” [...] in some cases it is legitimate [...] at the same time I feel that they don’t make it easy for these individuals who are exposed to violence.

This is something Hanna feels is not fair, since it removes all the responsibility from the other parent to protect the child, even if they by law have the same responsibility. She is also problematizing how her work transfers to “semi force” when her colleagues from the child section demand things like this from her clients. It is against everything she knows about the victims’ situation and how it is to break up from a destructive relationship.

Felicia, Greta and Eve on the other hand highlights how it is to collaborate with the family court offices which also can be troublesome. Felicia and Greta describe it as one of their biggest dilemmas. It is established that experiences of IPV have large impact on the procedure of custody cases, including the outcomes of it.

¹¹⁷ Tyrone C. Cheng and Celia C. Lo, *When Child Welfare Caseworkers Intervene, Do Women Surviving IPV Obtain Recommended Services?* Journal of interpersonal violence (2019)

¹¹⁸ Peter Salem & Billie L. Dunford-Jackson, *Beyond politics and positions: a call for collaboration between family court and domestic violence professionals*, Family Court Review Vol 46 No 3, 437-453 (2008)

Some of the social workers in this study describe further obstacles associated with the collaboration with others. The social workers usually make risk assessments of their clients' situation and can for example recommend a woman to not leave their protected shelter since it is high risk for further violence. Despite this, the family court offices sometimes come and give her a totally different advice and for example tell her that she must let her children meet their father. Some clients have even lost the custody of their child after being living in a protected shelter.

Greta: because the victims have followed our recommendations, and then when they come to the family right bureau and the court that makes a completely different decision since she has moved away and followed our recommendations, that is very hard.

When it comes to the collaboration between the department for grown-ups and the family court department, Ekbrand describes a need of eliminating the advantages that violence brings upon some fathers in cases where there has been IPV.¹¹⁹ According to Ekbrand the safety and security of mothers can be at risk due to the family court cases, which also correlates to the experiences of the respondents of this study.¹²⁰ As Hunter describes, the legal construct of a good, post-separation, mother is someone who neglect her own needs, wishes and autonomy in favor of keeping the contact between her children and their father. This can limit where she can stay but may also risk her being exposed to violence or other abuse. If someone does not follow these expectations, pressure from the society is to be expected.¹²¹

Eve witnesses of similar experiences and problematizes how a big part of her work fails if her clients' children must meet up with their father. The protection that is supposed to be upheld by the protected shelter can be destroyed completely, since the other parent can be asking questions about where they live, how it looks like in their new surrounding etc. when they meet with the children. This is something that can have a big impact on the social workers' ability to manage the responsibility as laid down in the Social Services Act, and assure the victims human rights.

4.5 The local differences

What furthermore got obvious while interviewing the different social workers was that there are local differences in how the responsibility toward IPV victims is experienced. The support and aid given to IPV victims differ depending on which municipality someone is living in.

¹¹⁹ Hans Ekbrand, *Separationer och mäns våld mot kvinnor* p 210

¹²⁰ Ekbrand, op. cit. p 204

¹²¹ Hunter op. cit. p 211

One of the questions asked within the interview was “How do you use the law paragraph 5:11 in your work?”.¹²² The respondents’ answers on this question made the local differences clear. While Eve had neither reflected about the regulation, nor used it in her work with IPV victims, Felicia and Greta could give concrete examples of when they had used the specific law in their work with IPV victims. For example, they had used it to argue with their boss about a specific client and the aid they thought she should have, when their boss at first had rejected their suggestion. A few of the respondents use to refer to the paragraph in their writing but do not use it in their practical work. Thus, the use of the law paragraph varied among the interviewees for this study – which has been interpreted as a concrete example of the local differences.

The local differences were also described by the respondent Isabelle. She is happy to be working in the specific municipality she is working in, since she knows from different professional networks how it can be in the surrounding municipalities. She herself is quite free to apply the law in accordance with her professional opinions and knowledge but have met others who are more restricted. Eve has the same experience and describes how “sometimes it has to be on paper for the municipality to do something” while Doris encompass a wish to make the law application more equal around the country by making it impossible for the municipalities to get away from their obligations. According to Hollander this is typical for frame laws such as the Social Services Act. With the goal-oriented expressions of the law, the social workers who apply the law will have to use not only the specific law text, but also their professional knowledges and experiences to make their legal decisions.¹²³

The local differences were furthermore shown in the question regarding demands on the applicants. In some of the municipalities there is close to no demands on the applicants to be assured social aid, while others have a list of requirements for the clients to fulfil. A common demand towards the victims was the demand to search for housing. For example Betty, Celine and Hanna tells about this kind of demand. In the light of section 4.3 in this study, the question is what function this kind of demand has. According to all the respondents the demands are almost none for getting support by a counselor, except being a victim of IPV. When it comes to getting the aid in a protected shelter it however varied. However, the majority of the respondents had never denied someone’s application for social aid.

¹²² See Appendix 1

¹²³ Hollander op. cit. P 52

The local differences that is shown relates to what Hollander describes, that the application of the Social Services Act is an act associated with great power. Social needs are complex, and related to the Social Services Act they can be assessed differently in different situations and still be regarded as legally accurate, compared to the goal and reason behind the law.¹²⁴ If the policies from the state are too vague, and the professionals thereby not only realize but also formulate the (meaning of the) law the risk of arbitrariness and power abuse is higher compared to a more distinct law.¹²⁵ The frame law that the Social Services Act constitutes is intentionally left open for interpretation for the law applicants, where the individuals' need is expressed in the law, but not fully described within the preparatory work or other legal documents. This gives room for differences in what support IPV victims get depending on where they live and what social worker they meet.

¹²⁴ Hollander op. cit. P 53

¹²⁵ Hollander op. cit. P 58

Concluding discussion

The aim of this study has been to render deeper understanding about gendered law as a tool to approach IPV. With the gendered paragraph within the Swedish Social Services Act as starting point, the regulations regarding the responsibility towards IPV victims has been scrutinized together with a study of how they are managed in practice.

The current law regarding the Social Services responsibility towards IPV victims has been presented, including national law and other regulations, as well as international agreements putting pressure on the authorities. The regulations are clear – IPV victims are to be specially considered and have the right to emergency aid and security, and to rehabilitation and support in the long run as well. The Social Services has the ultimate responsibility to make sure that everyone gets the help and support they need, if it cannot be achieved by any other means. With a paragraph pointing out female victims of IPV, this responsibility is extra highlighted, and the regulations have been adjusted to make this even clearer. Surrounding laws and regulations, and international agreements points at the same direction.

The social workers' experiences of the application of the law on the other hand give a picture of a reality where the actual outcomes of the law can be varied. Differences are showed regarding how the professionals interviewed for this study view, and use, the paragraph itself as well as how they view victims of violence and the aid they can offer to the victims. External factors influencing the social workers' experiences, such as the current housing market, the collaboration with other authorities and local differences, have also occurred. This has been interpreted as an indication for that what the law states is not necessarily what is coming out of it.

The frame law constitution of the Social Services Act, with its inbuilt room for interpretation, and the Instrument of Government stating that every municipality has the right to self-governance gives room for differences between different municipalities. As it has been shown within this study, depending on the professional someone in need meets the help and support they are offered can vary for the same kind of situation. There are both local and personal differences in how the responsibilities towards IPV victims, as laid down in the Social Services Act, are managed in practice. From a socio-legal perspective this is an example of how the law in books are different than the law in action.

Likewise, this study shows how the collaboration between different departments in the Social Services is lacking behind. This even though it is stated in both the state policy concerning men's violence against women, and in the regulations from the Swedish National Board of Health and Welfare, that the service in IPV cases should be coordinated between different authorities. The result of this study shows that the lacking collaboration can affect IPV victims' access to their legal and human rights.

The gendered law paragraph within the Social Services Act is targeting the gendered character of IPV. Since all the professionals working with the law do not view the problem in the same way as the lawmaker, the risk is that the law does not come to its right. At the same time the risk, even if the law comes to its right, is that existing power relations are reproduced when the female victims are offered to stay in a protected shelter while the perpetrator stays at home. Hence, even if the responsibility towards IPV victims is managed as supposed to by the law makers and the victims are assured their legal right, it is not sure they are assured their human rights. This since even laws that are supposed to protect women can reproduce the hierarchal order between the sexes. The current housing market affects this further, since the legal right to protected shelters can be fulfilled, but there is still hindrance for the victims to continue their life free from violence due to lack of housing.

Thus, the current law regarding IPV victims is multi-layered and points to the same direction – IPV victims have the right to support. This right might however be challenged by factors such as the view of the social worker they meet, the housing market and in which municipality they happen to live. This scrutinization of how the law, concerning the Social Services' responsibility towards IPV victims, functions in practice can hopefully inspire to further studies of the complex relationship between the law and the social work. The next step could for example be to look at how the victims are affected by the gendered law.

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Appendix 1 Interview guide

Orientering med syftet med intervjun, inspelning osv. Har intervjupersonen några frågor?

Vilka arbetsuppgifter har du och vilken målgrupp vänder du dig till? Hur länge har du arbetat med detta?

Vilka insatser erbjuds till våldsutsatta kvinnor i din kommun? Varför just de insatserna?

Finns det saker ni inte kan/ska hjälpa till med?

Särskild bestämmelse för våld i nära relation – vad är syftet med den enligt dig? inriktad mot kvinnor (och barn) – tankar?

Hur använder du paragrafen 5:11 i ditt arbete?

Anledningar till att bevilja bistånd till exempelvis skyddat boende? Anledningar till avslag?

Vad tänker du om begreppet ”Skälig levnadsnivå” i relation till målgruppen? - vad innebär det för målgruppen?

Hur ser du på socialtjänstens roll i relation till offer för våld i nära relation?

Finns det några formella eller informella krav på våldsutsatta kvinnor för att få stöd från er? T.ex. om de inte lämnat sin relation?

Finns det tillfällen du känner dig bakbunden i ditt arbete?

Vad funkar bra i ditt arbete? Vilka utmaningar finns det?

Appendix 2 Information letter

Information och förfrågan om deltagande i intervjustudie

Hej,

Jag heter Sara Aigbomian Häll och just nu skriver jag min masteruppsats i rättskunskap, inom ramen för masterprogrammet Gender, law and society som ges via Umeå universitet. Syftet med min uppsats är att undersöka hur SoL 5:11 används av socialtjänsten, dels i relation till att det är en kommunal skyldighetslag, dels att det är en könsspecifik lag. Syftet är att ge en fördjupad förståelse för socialtjänstlagens relation till offer för våld i nära relation.

Min studie kommer delvis bestå av en rättslig genomgång av bestämmelsen, om varför den kom till och hur den har utvecklats med åren. Studien som helhet görs med en socialrättslig utgångspunkt, varför en intervjustudie med socialsekreterare som arbetar med att tillämpa lagen också kommer att genomföras. En personlig intervju kommer att genomföras med varje person som frivilligt väljer att delta, och exempel på frågor som kan komma upp under intervjun är: hur du använder paragrafen 5:11 i ditt arbete, vad begreppet ”skälig levnadsnivå” betyder för offer för våld i nära relation och om det finns sådant du inte kan/ska hjälpa till med för målgruppen.

Intervjun förväntas ta ca en timme. Intervjun kommer (med Ditt medgivande) att spelas in via diktafon och sedan transkriberas innan analys. Allt insamlat material kommer att raderas direkt efter att min uppsats är färdigställd och godkänd. Uppgifterna kommer alltså endast att användas för denna studie. Urvalet kommer att innefatta runt 10 intervjupersoner vilka har valts utifrån sin yrkesroll, samt med målet om viss geografisk spridning.

I enlighet med Vetenskapsrådets etiska riktlinjer kommer största möjliga konfidentialitet att eftersträvas i undersökningen. Det betyder exempelvis att ingen obehörig kommer få ta del av materialet som samlas in. Materialet kommer förvaras så att det bara är åtkomligt för mig som skriver uppsatsen. I resultatet som rapporteras i form av en examensuppsats på Umeå universitet, som också kommer publiceras i DiVA (Digitala Vetenskapliga Arkivet), kommer informanterna att aidentifieras så att det inte går att koppla resultatet till enskilda individer. Då uppsatsen skrivs på engelska kommer eventuella citat att översättas. Detta kommer göras så ordagrant som möjligt, för att behålla citatens ursprungliga betydelse. De deltagare som önskar ta del av resultatet kommer att få möjlighet till det.

Ditt deltagande i studien är helt frivilligt. Du kan när som helst avbryta ditt deltagande utan närmare motivering. Allt insamlat material som rör personliga uppgifter kommer att förstöras. Härmed tillfrågas Du om deltagande i denna undersökning.

Ytterligare upplysningar om undersökningen kan lämnas av mig Sara Aigbomian Häll. Telefonnummer 0739755823. Mail sara.d.hall@hotmail.com

Appendix 3 Written confirmation

Samtycke från intervjudeltagare

Gällande masteruppsatsen Swedish social workers applying the Social Services Act in relation to victims of IPV (arbetsnamn) av Sara Aigbomian Häll. Studien görs inom ramen för masterprogrammet Gender, Law and Society på Umeå universitet.

Ansvarig för studien är Sara Aigbomian Häll, sara.d.hall@hotmail.com.

Jag har muntligen informerats om studien och tagit del av bifogad skriftlig information. Jag är medveten om att mitt deltagande är frivilligt och att jag när som helst och utan närmare förklaring kan avbryta mitt deltagande. Jag lämnar härmed mitt samtycke till att delta i ovanstående undersökning:

Datum:

Deltagjarens underskrift: