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Assessing appeals against emergency placements in Norway: A balancing act

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ABSTRACT

This article explores what the County Social Welfare Boards (CSWBs) emphasize in their decisions on appeals against emergency placements due to concerns of violence. A qualitative document analysis of 23 appeal cases focused on how the CSWBs assess the cause and context of the violence, parents' potential for change, and how children's statements were weighted in decisions. The results show a zero-tolerance attitude toward violence. Exceptions are found in cases where parents have an immigrant background, and where parents are described as resourceful. The child's subjective experience and emotions related to the violence are given due weight in assessments.

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Introduction

In Norway, all forms of violence against children have been prohibited since 1987. Section 30 of the Parent and Child Act (1981) states: "The child must not be subjected to violence or in any other way be treated so as to harm or endanger his or her mental or physical state." It was not until 2010 that the Norwegian legislature emphasized that this ban also applies to corporal punishment, even as part of the upbringing of children (cf. Ot.prp. no. 104, 2008–2009, p. 36). In addition, the Parent and Child Act states that frightening behavior "or other inconsiderate conduct towards the child is prohibited." Thus, a stated zero-tolerance policy for physical punishment has only applied in the last decade. The same decade has been characterized by a greater focus on children's rights in Norwegian legislation and the emergence of knowledge about the negative significance of violence for children's development. This development is also reflected in Norwegian child-rearing norms. According to Dullum and Bakketeig (2017), the legal ban on corporal punishment has contributed to a change in attitude toward violence among Norwegian

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parents. The number of children exposed to mild violence, as described later in this paragraph, has declined. From 2007 to 2015, exposure to mild violence from mothers was reduced with 26%, and from fathers with 14%. The extent of children exposed to serious violence has been stable in the same period. This is partly explained by the fact that mild violence is more easily affected by changes in attitudes than serious violence.

Children experiencing violence in family relationships tend to have long-term health, emotional and social problems (Anda et al., 2006; Cloitre et al., 2009). Even though the child's rights to freedom from all forms of violence are enshrined in both Norwegian and international legislation it is reported that between 4% and 5% of Norwegian children have one or more experiences of serious violence or abuse from parents during their childhood, including striking with closed fist, kicking and thrashing (Hafstad & Augusti, 2019; Mossige & Stefansen, 2016). The figures for mild physical violence (hair-pulling, pinching, shaking, striking with flat hand) show a much higher prevalence: about 20% of children in Norway report having experienced this from a parent (Mossige & Stefansen, 2016).¹ Two large-scale Norwegian studies both found that a child's chances of experiencing violence differs according to indicators of the socioeconomic status of the family (Andersen, Smette, & Bredal, 2020; Hafstad & Augusti, 2019). Both studies found that children in socially disadvantaged families are more often exposed to violence than families with high socioeconomic status.

Cases of violence represent a significant proportion of the caseload of the Norwegian child welfare services (CWS), without this being reflected in the decisions of the CWS. On one side, one in three reports of concern received by the CWS in 2018 were about violence (physical, psychological or the child experiencing domestic violence). On the other side, violence was reported as the justification for implementing measures from the CWS in 12% of all cases in 2019 (Statistics Norway, 2020). When it comes to emergency placements, the proportion is even higher. A study we conducted of the CWS's emergency work (Storhaug et al., 2020) shows that when a child was taken into emergency care, 35% of these cases involved physical violence directed at the child, 16% involved children experiencing domestic violence, and 11% involved psychological abuse.

Children from immigrant families are over-represented both when it comes to emergency placements (Bufdir, 2019; Storhaug et al., 2020) and exposure to violence as a reason for placement (Storhaug et al., 2020). The immigrant population in Norway has tripled since 2000 and make up 15% of the population in 2021 (Norwegian Institute of Public Health, 2021).

The Norwegian child welfare system

According to Section 1-1 of the Norwegian Child Welfare Act (1992), the child welfare service shall ensure that children who live in conditions that may be detrimental to their health and development receive the necessary care and

protection. The Norwegian CW system is often characterized as family service-oriented, due to its prioritization of voluntary and preventive measures in the home, and its low threshold for implementing measures. The Norwegian CW system is also characterized as child-centric, due to its focus on measures that are in the best interest of the child. Despite a strong emphasis in the Norwegian CW legislation on the inclusion of the child's perspective in assessments and decisions, several studies show that this is not always the case in practice. Child welfare workers often find it challenging to involve children and their perspectives when making assessments, and children are often not sufficiently heard before decisions are made (Juul & Husby, 2019; Vis, Holtan, & Thomas, 2012)

In addition to a mandate of contributing to the welfare of the child and family, the CWS has a mandate of protecting children from harm, and to implement coercive measures when necessary (Falch-Eriksen & Skivenes, 2019). The welfare orientation of the Norwegian SCW has, however, become less prominent over the last years. From 2013–2020, there was a significant decrease in the provision of measures from the CWS aimed at the economic welfare of families (Statistics Norway (2021 10660: Measures from the Child Welfare Services during theyear, per 31December and new cases, by measure (C) 2013– 2020)). Prior to this development, the Social Services Act (2009) clarified the responsibility of the labor and welfare services toward families. In the new Child welfare Act (to be implemented in 2023), the mandate of the current CW Act of contributing to children's and families' living conditions is removed. It is emphasized that challenges in families' living conditions are important for children's care situation, and that the CWS should assist families in establishing contact with the labor and welfare services (Prop L.133, 2020–2021). A study of the Norwegian CWS and their work with low-income families also show that most child welfare workers, in line with political guidelines, do not consider families' socio-economic conditions as a part of their responsibility. The same study also show that many low-income families fall between two chairs and doesn't get help from any of these agencies (Paulsen, Ulset, & Øverland, 2021).

When assessments deem that *“there is a risk that a child will suffer material harm by remaining at home, the head of the child welfare administration or the prosecuting authority may immediately make an interim care order”* (Section 4–6 of the Child Welfare Act), placing the child in an emergency foster home or institution. This decision must be approved within 48 hours by the County Social Welfare Board (CSWB or “the board”). There are 10 boards serving different counties in Norway. The CSWB is a state judiciary body that serves as a tribunal and is responsible for making decisions regarding compulsory measures, pursuant to the Child Welfare Act (fylkesnemndene.no). These decisions are usually made by a group of three decision-makers: the leader, who is a lawyer; a professional with expertise on child matters; and a lay

person (Magnussen & Skivenes, 2015, p. 706). In some cases, the parents and/or child disagree with the decision of placement made by the CWS (and approved by the CSWB). In this case, they may appeal to the CSWB within three weeks of the decision. Appeal cases are assessed by the leader of the board alone within one week. The leader usually assesses: 1) whether the criteria for placement were met at the time of the placement, and 2) whether the criteria for continuing the placement are still present, or if the situation is no longer assessed as an emergency. Around one third of all emergency measures are appealed (NOU 2020, p. 5).

Child welfare professionals' understandings of violence

There are numerous studies exploring consequences for children of different forms of violence, and theories on why parents expose their children to violence (see e.g. Browne, 2002 for an overview). There is, however, a lack of studies exploring child welfare professionals' understanding of how violence in a family affects the care situation and best interests of a child. One of the questions we explore in this article is how different understandings of violence, specifically its context and severity, affect the CSWB's assessments and decisions in appeal cases. To our knowledge, there are no studies examining County Social Welfare Boards' understandings of violence. One relevant study in this context, however, is a study conducted by Naughton, O'Donnell, Greenwood, and Muldoon (2015). The authors examined Irish family court judges' assumptions about the interests of children in situations of domestic violence in child custody adjudications. They found that when it came to the question of the level of access granted to parents who conducted domestic violence, most judges were minimizing and normalizing domestic violence and idealizing the nuclear family.

A literature review that examines the work of the CWS on violence in close relationships concludes that there is scarce knowledge about the CWS's understanding of violence (Kojan et al., 2020). Some studies, however, show that CWS workers' understanding of violence will affect the response and assistance triggered by the support services (Aadnanes, 2020). This is relevant because the CWS and the CSWB are both a part of the Norwegian child welfare system, and the same political, legislative and societal context.

In the few studies that have explored CWS workers' understandings of violence in a Norwegian context, it is clear that most CWS workers participating in these studies understand all forms of violence against children to be harmful. However, several CWS workers also express that violence that is used as a means of discipline is somewhat less harmful than other forms of violence, because the child knows why the violence occurs (Roberts, 2014). It is also emphasized by CW workers in these studies that it is important to acknowledge that there are different degrees of violence, as this has implications for

how the CWS chooses to work with a family (Jakobsen, 2018). Whether CW workers felt they could trust the parents was also an important element in how they assessed the severity of the violence and the parents' potential for change. If the parents acknowledge that the violence has happened, and if they are willing and able to see the situation from the child's perspective and show self-insight, the violence and the child's care situation was understood to be less severe. The cause of the violence is also understood as important for the issue of trust: violence that is understood to be caused by drug abuse or mental illness instills less trust than if the CWS workers perceive the violence as having disciplining purposes (Dahle & Hennem, 2008; Jakobsen, 2018; Wejden, 2005). This is especially relevant in cases involving ethnic minorities, as violence is understood as a cultural child-rearing practice. When violence is framed as a cultural issue, typical risk factors like stress, drug abuse and psychiatric issues are omitted (Aadnanes, 2017, p. 347). Aadnanes (2017, p.346) also found that cases involving high-status parents were also understood and responded to differently than cases involving parents with low status. Cases involving high-status parents were often dismissed or returned due to concern for the child's behavior instead of a concern for violence.

Objective and research questions

The County Social Welfare Boards are a central part of the Norwegian child welfare system, as they have a mandate of making coercive decisions, approving emergency decisions and assessing appeal cases. To our knowledge, no prior studies have examined the CSWB's assessments in emergency cases, and what they emphasize in these decisions. In this regard, knowledge about the boards' understandings of violence, its context and severity, and how they balance the child's view and assessments of the parents is central. The boards' decisions in appeal cases can have a great impact on decisions made by the CWS about emergency placements. This is because the boards' decisions can be regarded as an interpretation of the criteria for emergency placement, and thereby an interpretation of the threshold for deeming that a child will suffer harm by remaining in or being returned to the home.

This article is based on analysis of appeals against emergency placements submitted to the CSWB by parents. In all the cases studied, the CWS' justification for the placement was concerns of violence. This included both physical and psychological violence directed at the child, and children experiencing violence between or toward their caregivers. The appeals include various aspects, including the placement, continuation of the placement and the amount of contact allowed between parents and children. Our analysis focus on the CSWB's written assessments and decisions of whether the criteria for emergency placement were met, both at the time of the placement and for the continuation of the placement.

The main research question is: *What is emphasized in the CSWB's decisions on appeals against emergency placements due to concerns of violence?* We focus on three sub-questions: 1) What understandings of violence are expressed in the documents, and how do these understandings affect the decisions? 2) Which assessments are made in relation to the parents? and 3) What weight is given to the child's statements and wishes?

Although these issues are discussed within the framework of Norwegian child welfare legislation, they are also relevant to other child welfare systems. Understandings of violence and the consequences of violence for a child's care situation, and consequently the thresholds for placement, are central questions to consider also in other countries.

Method

Sample

The data material was originally part of our research project "The Child Welfare Services' work with emergency cases" (Storhaug et al., 2020). In one of the sub-studies, we conducted a qualitative content study of a random selection of 48 appeal cases against emergency placements that were handled by the CSWB between May 2017 and November 2020. The documents were retrieved from Lovdata.no, a public register with a mandate of anonymizing and publishing one in every five cases handled by the CSWB (in 2019, 15% were published). 13 of the cases included in the original sample concerned violence against children or their caregiver (domestic violence). These cases form part of the analysis for this article and are supplemented by an additional 10 cases from the same period. These additional 10 cases were strategically selected due to violence being one of the justifications for the emergency placement, and in order to include cases covering all 10 jurisdictions of the CSWB. In addition, we strategically selected cases involving families without an immigrant background, since the 13 cases included from the original sample were dominated by immigrant families. The decision on the number of cases to involve was considered during the review and coding of documents, when we assessed that we had sufficient information (in extent and variation) to answer our research questions. Our final sample consists of 23² cases.

These 23 cases involve a total of 45 children between 1 and 14 years of age. In 12 of the cases the parents have an immigrant background (not specified from what country in the documents because of anonymization). In all 23 cases, the CSWB concluded that the criterion for emergency placement (Section 4–6 second paragraph of the CW Act: "*there is a risk that a child will suffer material harm by remaining at home*") was present at the time of the placement. With respect to the criterion for *continuing the placement*, the board concluded in 16 cases that the criterion was met and decided to continue

the placement until the CWS decided upon a further course of action. In 7 cases, the board concluded that the criterion was no longer met, and the children were returned home. In 3 cases, different decisions were made regarding various children in the family.

Analysis

A qualitative content analysis of the documents was conducted (Krippendorff, 2004). The first step was to gain an overall impression of the material, before developing a coding scheme. The coding scheme was an operationalization of our research questions, focusing on multiple issues: the CSWB's understandings of violence; what the boards emphasize as harmful to the child; what is emphasized in the assessments of the parents; and how the child's statements are assessed. Each document was coded independently by two researchers to ensure reliability. The codings for each document were compared to ensure similar understandings of the content of the documents. When discrepancies in coding were detected in a few instances, the interpretation was discussed by the authors as a group, and a common understanding established. The next step was to summarize the content of these thematic categories into an analytical text; a generalized description of the topics that were identified as most central to our research questions.

Limitations of the data

The documents were retrieved from Lovdata.no. As noted, 15% of all cases handled by the CSWB in 2019 were published (Fylkesnemndene, 2020), which is a lower number than intended (20%). It is therefore unclear how representative these appeals are of decisions made in cases involving violence. There is also some uncertainty associated with the information that is included in the documents, since these kinds of documents may contain incomplete or incorrect information about the case (Aarseth & Bredal, 2018). The description of a case is based on a limited reiteration of the facts, which is based on the CSWB's interpretation (Gerds-Andresen, 2020).

Results

We examined which factors the County Social Welfare Boards emphasize in their assessments of whether parental appeals against emergency placements should be successful (with the consequence of the child moving home) or dismissed (the placement of the child continues). These factors are divided into three main categories: understanding of the violence; assessments regarding the parents, and the significance of the child's statements.

Understanding of violence

All case documents include a description of the violence that the child is suspected as being exposed to. Physical violence directed at the child is the most prominent form of violence described, but psychological violence and violence between and/or toward the child's caregiver(s) (domestic violence) is also described in several cases. In the descriptions of forms of violence, we find a pattern of a zero-tolerance attitude toward violence. This is expressed both through references to research, and the statement of the CSWB in several cases that it is *generally known* that violence, regardless of form, is harmful: *"It is generally known that it is extremely damaging for a child to live with violence. This includes both physical and psychological violence. It is regarded as equally harmful for a child to be a witness to violence as to be subjected to it themselves."* In one case, it is argued that violence *"is generally regarded as morally reprehensible by most people."* In our analyses we focus on how the CSWB understands the cause and the context of this violence.

The cause and context of the violence

In some cases, the boards emphasize the importance of considering the factors that triggered the violence, with the view that this has a bearing on the parents' potential for change. The boards' understanding of the cause and context of the violence is therefore a key part of its assessments.

Violence that is understood by the boards as disciplinary is interpreted differently than violence that has other causes. In several of these cases, the violence is presented in the CSWB's arguments as instrumental (deliberate and purposeful) and predictable, and thereby less harmful to the child. In one of the decisions, the board states that: *In some cultures, it is common for parents to deliberately make use of physical correction of their children for disciplining purposes. If this is practised reasonably predictably and is "buffered" with a great deal of love and care, this violence represents much less risk to a child's health and development than cases that are unpredictable and tend to be connected to personality deviations.*

In several of these cases, the appeal was successful, and the children were returned to their parents with the justification that the situation could be improved with parental guidance measures. The parents in these cases tend to be portrayed as resourceful, partly based on their educational background, and the boards emphasize that the children are functioning well socially and academically. Among the boards' assessments are the arguments that *"the practical care has been satisfactory,"* that the children *"despite the use of violence have also received a great deal of good care in the home,"* and that *"no other*

factors have been discovered that give grounds for concern.” It is also emphasized that *“neither of the parents are described as having mental problems or personality deviations that give reason to fear uncontrolled behaviour on their part.”*

Most cases where violence is understood to be linked to discipline involve families with an immigrant background, but we also find violence used for disciplining purposes in families without an immigrant background. The descriptions in these cases include *“harmful and unacceptable methods of upbringing,”* with the children in one case being described as *“having been subject to unacceptable and harmful corporal punishment.”* In all these cases the appeal was dismissed, and in the majority of cases where the parents do not have an immigrant background, the violence appears to be understood as perpetrated in a context of anger and stress, and not as instrumental and predictable. Van der Weele, Ansar, and Castro (2011) criticize the distinction between instrumental and impulsive/anger-driven violence and highlight that it is problematic to conceptualize instrumental violence as absent of a negative emotional state.

In cases where violence is not linked to a disciplinary context, weight is given to descriptions of high levels of conflict between the parents, substance abuse and mental problems. A common feature throughout the case study is for the violence to be linked to explanations at an individual level, and that it is the unpredictable and uncontrolled aspects of the parents’ behavior that is emphasized as harmful to the child. In one case, the board’s justification for dismissing an appeal was that the CWS’s initial decision contained descriptions of the father as giving *“grounds for serious concern about his mental functioning and his ability to control his own emotions.”* In other cases, it is also emphasized that the parents’ temper appears to be unpredictable.

Anger problems are linked to fundamental personality issues throughout the assessments. This understanding has an impact on assessments of parental potential for change. In one case, the board states: *“Anger management problems are often related to fundamental personality issues which are difficult to change.”* Parents’ ability to handle stress is another factor that is linked to causes of violence. There are descriptions of *“the inadequate resources of the parents to handle internal and external stress,”* and a high degree of *“emotional frustration.”* Violence is again directly linked to the parents’ stress and exhaustion: *“She has now been beaten more often than before, because the parents have been more tired and stressed.”*

The parents’ potential for change is considered to be lower in cases where the violence is associated with the parents’ personal characteristics, than in cases where the violence is understood as more predictable and instrumental. The latter is considered more likely to be remedied with guidance measures.

Assessments of the parents

Parents' acknowledgment of violence

In none of the 23 appeal cases did the parents acknowledge that they had subjected the child to violence. There are various opinions among the boards as to whether parental acknowledgment of the violence is a prerequisite if the parents are to be considered to have a potential for change, and thereby whether supportive measures can remedy the situation.

In cases where the appeal was dismissed and the emergency placement continued, the parents' lack of acknowledgment was a central factor in the assessment. One board argues that "*change essentially requires an admission of fault and desire for guidance on how to do things differently in bringing up children.*" In every case where the appeal was dismissed, the CWS involved in the case argued, in the initial formal decision for the emergency placement, that there must be acknowledgment in order for change to happen. This is in line with what several scholars claim, including Heltne and Steinsvåg (2011, p. 186): "*In order to achieve real change in a harmful care situation and quickly reverse a negative development, it is essential for the caregivers to be able to understand the harmful effects of their own behaviour on the child and take responsibility for their own actions.*" However, some of the boards express that they disagree with the assessments of the CWS and point out that there may be good reasons why the parents do not acknowledge violence. It is claimed that even if the parents do not acknowledge the use of violence in words, they can indirectly acknowledge it through their actions and willingness to cooperate. It is further claimed that, in these cases, it may be appropriate to implement assistance measures, even if these measures put greater demands on the CWS workers. In some cases, the CSWB legitimizes the parents' lack of acknowledgment of the violence on cultural grounds: "*It is an extremely common phenomenon in many cultures to deny matters that result in a loss of face or honour.*" It thereby appears that a denial of violence is not understood by most of the boards as a barrier to the parents' ability to change.

Assessments of parents' potential for change

In most cases, assessments associated with the parents' potential for change form a key part of the boards' arguments, which involve discussions relating to the parents' opportunities to make adequate changes to their parenting skills and to the child's care situation. Even if the parents do not acknowledge that the child has been subjected to violence, in many cases they still communicate willingness to cooperate on assistance measures in the home. The parents' *willingness to change* was thereby a key element of the parents' arguments in most of the appeals. The boards accept this argument as credible in some cases, particularly where the parents had taken the initiative

to participate in measures to change conditions in the home. In other cases, the boards consider that the parents do not have sufficient potential for change. This view is based especially on the CWS's descriptions of negative experiences with previous measures in the family. In all decisions where the appeal was successful and the child was returned home, the parents were considered to have a sufficient potential for change. The board also emphasized in these cases that the CWS has not tried other measures to a sufficient degree.

Assessments of parental potential for change is closely linked to other aspects of the analysis, as described earlier. CSWB's understanding of the cause of the violence is a central part of this assessment. Most prominently, the board considers violence that is understood as instrumental and predictable as more likely to be remedied through assistance measures. This was the case in several cases involving violence for disciplining purposes. If, on the other hand, violence is interpreted as originating in the parents' emotional state, as anger-driven and unpredictable, often associated with mental problems or substance abuse problems, the potential for change is considered to be lower.

The significance of the child's statements and wishes

The child's right to participate, a central right in Norwegian and international legislation, involves the child's rights to information about the case, to state their opinion before decisions are made, and for their views to be given due weight in accordance with their age and maturity. We have examined how the child's perspective is given weight in the boards' decisions.

In the handling of the appeals, most of the children over the age of six in the sample are heard through an appointed spokesperson, or through conversations with the CW worker, emergency foster home or chair of the CSWB.

The credibility of the child

In most cases, the emergency placement was triggered by the child's statements about violence (most often to a teacher or other trusted adult). These statements are emphasized in the CSWB's assessments of whether the criterion for emergency placement was met, both at the time of the placement and for the continuation of the placement. The credibility of the child is a key factor in these assessments. Factors that seem to strengthen the child's credibility are when the child reports the violence to several people; appears to be consistent in their statements; and is backed up by siblings' accounts. It is also emphasized that the child's descriptions "*appear specific and detailed and at the same time balanced.*"

In cases where the parents' statement contradicts with the child's, and where the board expresses some doubt about what has happened, the question of credibility is considered in conjunction with the potential for harm if the child is returned. If the potential for harm is considered to be high, the threshold for considering the child to be credible appears to be lower.

In all of the cases studied, it is expressed that the board trusts what the child says – not necessarily all the details, but the general account of violence. A recurring statement by the CSWB is that there does not appear to be any reason why a child should lie about violence: *“The Board cannot see that the child has any reason to state that violence has taken place if it has not.”* The boards consistently deem the child to be more credible than the parents: *“A consequence of the fact that the board bases its decision on the child's account of violence is that the board does not trust the mother's account.”*

The child's expression of fear

The extent to which a child expresses fear of the parents is emphasized as a key factor, both in the assessment of whether the criterion for an emergency placement were present at the time of the placement, and of whether the placement should be continued. A high proportion of the children expressed fear of sanctions from the parents after they told someone about the violence: *“The child expressed fear that the parents would find out about what he had said.”* We also found that in some cases, the boards come to different conclusions for the various siblings in a family, on the basis that some of the children express fear of the parents and others do not.

The boards give great weight to a child's expressed fear in their arguments in favor of continuing a placement. None of the children who express fear of the parents are returned home. At the same time, one board emphasized that the child's lack of expression of fear was not a decisive factor in favor of continuing the placement: *It is deemed likely that the child has been subjected to unacceptable and harmful corporal punishment. This is also the case if the child does not appear to be traumatized or show fear when meeting the parents. Children react differently to being subjected to violence.*

The child's wishes

When their views are heard in the appeal case, most children express that they want to return home. This also includes children who expressed fear of their parents after telling someone about the violence. Some of the children change their story, take the blame or claim that they are no longer afraid of their parents.

In most cases in which the appeal is successful and the child returns home, the child's wish to return home is a key factor in the boards' argument. This is part of an overall assessment where the child is considered to be functioning well socially and academically, usually are youths, and the parents appear to be resourceful and positive toward assistance measures.

However, in most cases in which the child expresses the wish to return home, the child's statements are presented in the decision, but the board refers to several reasons why they cannot take the child's wishes into account. The risk that the child may suffer material harm by returning home appears to be given the greatest weight. In some cases, the child's wish of returning home is understood by the board as an expression of loyalty to the parents, and the child is not considered capable of understanding the consequences of their wishes. This is partly connected to the child's age and maturity. It is argued that through an overall assessment of the care situation and parents' potential for change, the board cannot take the child's wishes into account. In one case the board writes: *"The board has found that the boy's own stated wish to return home is not considered to be in his best interest. The boy is too young to understand how harmful it is to live in a situation in which he risks being exposed to violence or in which he fears this."*

Some of the children express that they do not want to return home or are ambivalent about this. In all these cases, the parents' appeal is dismissed, the placement is continued, and the child's view is strongly emphasized in the boards' justification of the decision. In some of its decisions, the CSWB describes that there are grounds for serious concern when a child clearly expresses that they do not wish to return home to their parents, and that it would be harmful for the child's mental health to be returned home.

Discussion

Our analysis shows that the County Social Welfare Boards' understanding of the cause and context of the violence is a key factor in their assessments of appeals. This understanding is a central basis for the assessments of the parents' potential for change and for the decision about whether it is safe for the child to return home.

We find a clear difference between cases where the violence is understood by the boards as an expression of personal characteristics or problems (drug abuse, mental problems, parents' regulation of anger and stress), and cases where the violence is understood as having instrumental purposes, i.e. as a means of disciplining the child. The core difference is whether the violence is perceived as uncontrolled and unpredictable, or rational and predictable. The latter seem related to the parents' ability to reason and articulate their intention by using corporal punishment as part of their upbringing. The ability to take a metacognitive perspective on their own care seems to be

significant. Although it may be problematic to expect parents to reflect linguistically on their practice of care (Lorentzen, 2019, p. 12), the parents' potential for change is considered to be by far the highest in cases where the violence is perceived as rational and predictable. This is due to the perceived understanding that the violence is an isolated phenomenon in the family which does not affect the general care situation to the same degree as uncontrolled violence. The violence is thus understood to be less harmful to the child. In several of the cases in which this is a factor, the parents' appeal is successful, as the boards deem that sufficient change can be achieved through voluntary guidance measures. In all these cases, the family had an immigrant background, and part of the boards' assessment is that this is common in some cultures, and if the violence is practiced predictably, there is less risk to the child. There are also cases where violence is understood as having disciplining purposes in families without an immigrant background. In these cases, however, the violence is ascribed to parent's personal characteristics and problems.

The academic literature presents several factors that attempt to explain why children are subjected to violence, e.g, socio-economic and health-related factors that could play a part in raising the parents' stress level and thereby increasing the risk of violence in the family. As mentioned, violence tends to occur more frequently in families that have an accumulation of problems and that are socio-economically marginalized (Hafstad & Augusti, 2019). Family structure and cultural background also appear to have a connection to the prevalence of violence (Andersen et al., 2020; Mossige & Stefansen, 2016), and families with immigrant background are over-represented when it comes to emergency placements (Bufdir, 2019; Storhaug et al., 2020). These contextual factors seem to be emphasized differently in cases where the appeal is accepted by the board, and in cases where it is dismissed.

Even though most decisions by the boards explicitly state that all forms of violence toward children is harmful, and express a zero-tolerance attitude toward violence, we find that this does not seem to apply to two types of cases: Families with an immigrant background, where the family is also described as resourceful; and resourceful families without an immigrant background. In these cases, the boards demonstrate a more nuanced assessment of the potential risk to the child compared to the CWS that implemented the emergency placement. In some of these cases, the boards explicitly state that they disagree with the assessments made by the CWS. There may be reason to question whether the CWS should have a similarly nuanced understanding of the violence, and to a greater degree emphasize the cause and context of the violence in their risk assessments. In some cases, the boards' nuanced understanding could be an appropriate approach, and it could be in the best interests of the child for the CWS to work with the parents through supportive measures while the child lives at home. According to the law, a fair balance between all relevant matters should be performed in all stages, as pointed out

by the ECHR and the Supreme Court of Norway (European Court of Human Rights, 2019a; HR-2020-361-S). Further, Andersen et al. (2020, p. 65) claims that the zero-tolerance policy for violence exercised by Norwegian society and legislation could obstruct good assistance processes in families and contribute to an underestimation of the complexity of cases involving violence in families. At the same time, several scholars problematize the concept of “corporal punishment for disciplining purposes” and the interpretation of this type of violence as more rational and understandable, and thereby less harmful to the child (Gershoff, 2002; Straus, 2005). In these cases, the CSWB does not appear to have acknowledged this problematization.

The understanding of the violence we find in most cases with immigrant families, where the boards ascribe the violence to a cultural practice in the parent’s country of origin, could be interpreted as a form of culturalization of the violence. This could in turn be contributing to the trivialization of the violence. However, our analysis shows that it is more appropriate to interpret the decisions in these cases as an intersection between cultural background and social class. Because in cases where the parents’ *appeal is successful* and the child moves back home, the parents’ educational and occupational background, presenting them as resourceful parents, is also emphasized in the assessments. This shows the complexity involved in these assessments and the need for the boards to take an intersectional approach and to increase the awareness of how both cultural and class backgrounds affect decisions.

However, in the cases included in this study where the parents’ *appeals are dismissed* and the emergency placement continues, we find that contextual understandings are virtually absent. Rather, the violence in these cases is often understood in the context of anger and stress and included in a psychological and individualized explanatory model which focuses on the parents’ inability to regulate their stress. To some degree, this could be interpreted on the basis of the boards’ mandate in terms of assessments in appeal cases. The boards must decide whether the criterion for a placement or for continuing a placement have been met, by assessing the present state of a child’s care situation, and whether the potential for change within a relatively short time period is sufficient for it to be safe for the child to return home. Further assessments of the family’s context, such as socio-economic factors that could affect parenting skills and may take a longer time to change, are within the scope of the CWS’s mandate to focus on as part of its follow-up of the family, as opposed to the scope of the CWSB.

Socio-economic factors are given weight in cases in which the appellant’s appeal is successful and the child is returned home, both for immigrant and non-immigrant families. In several cases, high socio-economic status is emphasized, with the parents being described as “highly educated” and “resourceful,” and the children as “well-functioning” socially and academically. It is argued by some of the boards that the fact that a child is functioning

well means that they have received good care, even if the boards deem it likely that the child has been subjected to violence. This raises an important question as to whether children in (what the boards consider to be) ‘well-functioning’ families get the same protection from violence in their home as other children. In these cases, the appeals are often successful, and the children returned home to their parents.

There are several references to research in the decisions, and expressions that it is “*generally known*” and that there is “*agreement within the field*” that violence is harmful, regardless of form or degree of the violence. Although this is based on scientific knowledge, it can also be said to form a normative basis for the assessments, and in some cases is attributed great weight in arguments in favor of continuing a placement. In cases where the boards express some uncertainty, this argument nudges the decision in favor of continuing the placement. The fact that the boards use research about violence as a justification for its assessments shows that it practices a knowledge-based decision-making process. However, in some cases we find an unclear connection between the general knowledge about violence to which the justification for continuing a placement tends to refer, and the specific case in question. This could lead to a practice based on a zero-tolerance norm, which is also a normative assessment, in which the complexity and subtleties of a particular case are not sufficiently brought to the fore. This practice is criticized by the European Court of Human Rights (2019a, 2019b), both in the Strand-Lobben judgment and the K.O. & V.M. judgment. In both these cases, the Court points out that the board’s justification is based on general references to the child’s vulnerability or need for stability but is not specific enough about the impact on the child in question. According to Haugli (2020, p. 62), obtaining current research should be made a requirement for claiming that decisions are based on knowledge.

The boards’ emphasis on the child’s and parents’ perspectives could be regarded as a complex balancing act between different laws and considerations: between human rights on one side, that stipulates the parents’ right to family life and to have contact with their child, and the UN Convention on the Rights of the Child on the other side, that stresses the child’s right to a life in safety and freedom from violence. Regarding the child’s statements about violence, which is often what triggered the emergency placements in the cases in our material, our analysis shows that the boards tend to consider the child to be credible, even if the parents do not acknowledge that there has been any violence. The child’s wishes about whether to return home to their parents are also given great weight in the assessments. This could be an expression of a child-centered approach that is claimed to be a distinguishing feature of the Norwegian CWS, with a strong focus on the rights and perspective of the child (Falch-Eriksen & Skivenes, 2019, p. 113). However, the CSWB’s assessments can also be regarded as finding a balance between the various rights of the child, as expressed both in

the UN Convention on the Rights of the Child and the Norwegian Child Welfare Act: the child's right to express their views and be heard, and their right to protection. This is most clearly illustrated in cases where children express that they want to return home to their parents. In several cases, the boards refer to the child's wishes in their decisions, while at the same time arguing that it considers that continuing the placement is in the best interests of the child. In these cases, the consideration of the child's right to protection takes precedence over the child's right to be heard. However, one may still claim that the child's right to be heard has also been met, since the right to be heard does not include the right to have one's wishes fulfilled.

The child's experience of violence, and whether they express fear of their parents, is another factor that is given great weight in the assessments. This indicates that the child's *subjective experience* of violence is a key factor, including in cases where the board expresses some uncertainty about what has happened, in terms of extent and degree of severity. This is also illustrated by the fact that the question of returning home results in different outcomes for different children in a family depending on whether each child expresses fear of their parents. However, there is reason to question the boards' assessment in some cases, particularly where the fact that a child *does not* express fear of their parents is emphasized as an argument in favor of moving the child back home. There can be different reasons why a child does not say that they feel afraid of their parents. In only one of the cases in our study does the board express that, even if the child does not express fear, they consider the situation to be serious and harmful for the child.

Implications

The assessments and decisions made by the CSWB have implications beyond each specific case and family. These decisions constitute case law, which over time will affect the decisions made by the child welfare services, due to their awareness of how the criterion for placement is weighed and which arguments are sufficient to get an emergency placement approved by the board. This case law can be understood by CW workers as objective and neutral guidelines to follow in their practice. According to Jørgensen (2016), the case law of the CSWB constitutes the context for how the child welfare services should understand and frame each child welfare case.

The CSWB's assessments reflect the current status of legislation and knowledge in this field but, as found in our study, are also partly based on normative and value-based understandings of violence. Even though the boards' assessments in practice represent an interpretation of the criterion for an emergency placement, there is a need for an awareness about the knowledge and understandings of violence these assessments are based on, and what consequences this can have for children experiencing violence.

In practice, the boards' decisions give signals to the CWS about when violence toward a child is sufficiently harmful to trigger an intervention. These decisions also signal what constitutes extenuating circumstances, i.e. where it is assessed as safe for a child to live with their parents even if they experience violence in the family. Due to the consequences these decisions have for children experiencing violence in their family, it should be of high importance in all the boards to address how violence is understood, what influences these understandings, and how scientific knowledge about the consequences of violence is balanced toward value-based understandings.

Our findings may be important for policy, practice and research on decision making in cases where children experience domestic violence. The study relieves some weaknesses regarding how families' cultural and class backgrounds affect CW decisions in cases where children experience domestic violence. However, our methodology has some limitations regarding the sample size and more reliable and nuanced data on the families socioeconomic and cultural background. Consequently, there is a need for more large-scale studies on the links between socioeconomic and ethnical background and decisions by CWS and the CSWB.

At practice and policy levels, there is a need for an increased awareness of how families' socioeconomic and cultural background affect assessments and decision making. Given the evidence on the links between SES and cultural background as drivers for domestic violence, we recommend implementing a more consistent and systematically way of considering such background information in child welfare decision making, both at municipality and board levels. This can raise increased awareness of how contextual factors are understood and taken into consideration in cases where violence is a concern. This might contribute to improved and more equal decision-making processes for children experiencing domestic violence.

Notes

1. We have no available data for annual estimation of exposure to violence.
2. FNV-2017-66-OST; FNV-2017-189-OST; FNV-2018-175-MRO; FNV-2017-1062-OST; FNV-2018-2-OST; FNV-2018-7-TRO; FNV-2018-42-ROG; FNV-2019-55-MRO; FNV-2018-71-OPP; FNV-2018-112-OSL; FNV-2018-133-MRO; FNV-2017-21-TEL; FNV-2018-14-OSL; FNV-2019-157-OST; FNV-2020-19-FRO; FNV-2020-14-FTR; FNV-2019-168-ROG; FNV-2019-213-MRO; FNV-2019-138-BUS; FNV-2019-140-MRO; FNV-2019-141-MRO; FNV-2019-132-OST; FNV-2019-238-TRL

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