

# Families in court

A multi-perspective sociological analysis of court disputes on  
child custody and child maintenance in Sweden

Johanna Finnström





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## A multi-perspective sociological analysis of court disputes on child custody and child maintenance in Sweden

**Johanna Finnström**

Academic dissertation for the Degree of Doctor of Philosophy in Sociology at Stockholm University to be publicly defended on Friday 22 May 2026 at 13.00 in Hörsal 5, Södra huset B, våning 3, Universitetsvägen 10B.

### Abstract

Swedish family policy and law are based on assumptions of gender equality, shared parenting, and amicable separation. However, these assumptions do not always correspond with the heterogeneous lived realities of separated parents in Sweden. This misalignment raises questions about the capacity of the current legal and policy framework to adequately support all families and to prevent social and economic disadvantage among those who do not conform to these ideals. This thesis addresses these misalignments by examining how the Swedish legal system responds to parents who bring conflicts over child custody and child maintenance to court. The aim is to integrate insights from sociology and law to provide an overview of the issues separated parents bring to court, how these are handled and adjudicated, and what barriers parents encounter when asserting or contesting their parental rights and responsibilities. The thesis builds on large and diverse sets of court decisions and includes both parents' and children's perspectives.

Studies I and II concern child maintenance. Study I focuses on liable parents (fathers) who dispute their child maintenance obligations under the guaranteed support scheme and explains why these parents contest their liability despite being legally required to pay. The data build on court decisions on guaranteed support from all of Sweden's administrative courts, 2014–2019 (n = 723). The findings show that economic inability is a primary reason for non-compliance, often arising from a mismatch between how the agency assesses ability to pay and parents' economic circumstances. Study II shifts the perspective to resident parents (mothers) who seek to secure their right to child maintenance through the private law maintenance allowance scheme. It explores whether parents' relative resources affect the monetary outcomes of disputes, comparing cases resolved through mediation and court adjudication. The data consist of court decisions on maintenance allowance from all of Sweden's district courts, 2016–2020 (n = 327). Results show several barriers to pursuing maintenance allowance in court, suggesting that the system has limited capacity to safeguard children's rights to higher payments unless the liable parent complies.

Studies III and IV focus on disputes concerning child custody and draw on the same dataset: court decisions on child custody, residence, and visitation from 35 of Sweden's 48 district courts in 2021 (n = 535). Study III centres parental conflict and analyses the arguments parents use when disputing custody, as well as which argumentative patterns are most likely to lead to sole custody. Five patterns of parental argumentation are identified: 'Victim-Offender', 'Mutual High-Conflict', 'Parenting Capacity Concerns', 'Lone Carer', and '(Re)-Litigating Non-Resident Parents'. Applicants are most likely to be awarded sole custody in the 'Victim-Offender' and 'Lone Carer' contexts, and less likely in the 'Mutual High-Conflict' context. Study IV addresses the perspective of children and explores their opportunities to have their participation rights realized in custody disputes. The findings suggest that children's views are most likely to be reported in contexts characterised by 'Mutual High-Conflict', and least likely to be included in the 'Lone Carer' context.

The combined results of the four studies lead to policy implications spelled out in the introduction.

**Keywords:** *Post-Separation Court Disputes, Child Custody, Child Maintenance, Child Support, Child Participation, Family Sociology, Family Law, Non-compliance, Mediation, Judicial Discretion, Deservingness, Power, Sweden.*

Stockholm 2026

<http://urn.kb.se/resolve?urn=urn:nbn:se:su:diva-253907>

ISBN 978-91-8107-580-9  
ISBN 978-91-8107-581-6  
ISSN 0491-0885



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ISBN print 978-91-8107-580-9

ISBN PDF 978-91-8107-581-6

ISSN 0491-0885

Cover image: National Gallery of Art's Public Domain Collection

Printed in Sweden by Universitetservice US-AB, Stockholm 2026

# Acknowledgements

My deepest gratitude goes to my supervisors, Ann-Zofie Duvander and Johanna Schiratzki, for accepting me into their interdisciplinary research project “*Fragmented Child Law: Consequences of Conflicting Rules on Child Maintenance*” and for allowing me to direct my sociological curiosity toward the field of family law. Someone once called this a “high-risk project,” and, looking at the thesis project in retrospect, I guess that collecting thousands of court decisions without knowing in advance what kind of data (or sociological analyses) could be derived from them could be considered somewhat risky. However, with Ann-Zofie and Johanna by my side, it never felt that way. I am very grateful to have had the opportunity to work with two such accomplished scholars in the respective fields of sociology and law. Together you have formed a perfect supervisory team. Thank you for your wholehearted encouragement and support throughout every step of this process; it has been a true pleasure working with you both.

Ann-Zofie, it is hard to meet such a humble, grounded and at the same time outstanding researcher as you. Thank you for all your tireless reading and commenting on my drafts. Your distinct and highly constructive feedback has provided me with the essential tools for writing—and rewriting—the manuscripts. Thank you also for your consideration, and for constantly checking in on me to make sure I am faring well, both academically and personally.

Johanna, your sharp analytical lens and remarkable ability to map overall patterns and think beyond established conventions have been a constant source of inspiration. Thank you for so generously sharing your knowledge, commenting and reflecting on my drafts, and for pedagogically introducing me to the world of family law. Our continuous interactions, conversations, and exchange of ideas have been crucial in keeping me moving forward. For that—and for a thousand other things—I am truly grateful.

I am also grateful to the academic community and all the scholars who supported me throughout this journey. I thank Stefanie Möllborn for providing constructive feedback on my manuscript during the final seminar; your insightful comments helped improve the quality of this thesis. I also thank my second readers, Sunnee Billingsley and Michael Gähler, for their helpful comments and suggestions, and Jani Turunen for useful feedback during my half-time seminar. I am grateful to Vanessa Barker and Anna Lund for reading and commenting on an early draft of my first study, and to Sunnee Billingsley for generously sharing her knowledge on Latent Class Analysis. I also wish to thank the editors and the anonymous reviewers who engaged with my studies. Whether published or still under review, their comments have helped me improve the papers.

I wish to thank all knowledgeable, friendly and supportive colleagues at the Department of Sociology. I was very fortunate to work in such a professional and inspiring research environment. A special thanks goes to the Stockholm University Demography Unit (SUDA) for so warmly including me in their community. I have always felt happy coming to the office at the 8<sup>th</sup> floor, and I have enjoyed all chats and laughter: by the coffee machine, at lunch and during Christmas pot-lock dinners. I had the great pleasure to share office with Weiwen Lai. Weiwen is one of the kindest and most considerate souls I have ever met, he also has a great sense of humour. I always felt very at home whenever he was around. I also wish to thank my new room-mate Daniel Enström for his considerate support during these last months of thesis writing and for his efforts in making our shared office a more pleasant workspace. I thank my PhD colleagues who have shared parts of their doctoral journeys with me: Ane Tømmerås, Anna-Karin Nylin, Anni Erlandsson, Daniel Dahl, Flore Debruyne, Frankseco Yorke, Ida Ljungström, Jasper Darin, Kristin Jung Stähle, Konstantin Kazenin, Lovisa Backman, Mimmi Aurora Lounela, Olivia Öhman Granström, Sanni Kuikka, Signe Svallfors, and Wooseong Kim—the list goes on. It has been a true pleasure to get to know you all. I am also grateful for the support I have gotten from the administrative staff at our department, you have saved me more than once.

I would like to thank the excellent scholars connected to the Stockholm Centre for the Rights of the Child for so generously welcoming me into their community: Anna Kaldal, Caroline

Åvall, Denniz Sabo, Emelie Kankaanpää Thell, Pernilla Leviner, Tim Holappa, Vera Yllner, and many more. Having had the opportunity to participate in conferences, workshops, seminars, and writing sessions with you has not only sharpened my understanding of the legal aspects of my thesis, but also provided a continuous source of inspiration and joy. A special thanks goes to Caroline Åvall for her continuous encouragement and insightful feedback on my work, as well as for her friendship and support. I am grateful that my thesis engages with public law, as this led me to Clara Bergstrand, and the many vibrant conversations that have grown out of our friendship. I also thank Lotta Dahlstand and Sanne Andersson at Familjens Jurist for interesting conversations and knowledge exchanges— and delicious breakfast seminar sandwiches.

I thank Michael Tåhlin for inviting me to engage with sociological research and thinking outside the area of family law and write a book chapter on intersectionality in the labour market, and for his constant encouragement and support throughout the process. I am grateful that I got to share the experience with Katayoun Keshavarzi, our writing sessions meant a lot to me, both intellectually and emotionally. I also wish to thank the members of the 'All-Inclusive'- group for thought-provoking and engaging discussions. I also wish to thank Johanna Schiratzki for including me in her research project 'Who Decides on a Child's Health Care,' as well as the project members Ann-Zofie and Ylva Lorentzon for their fruitful collaboration and the joint interdisciplinary studies that have grown out of the project so far.

I am grateful to have taught seminars in 'Macro-sociology' under the guidance of Vanessa Barker. Vanessa has always been one of my academic role models: she has an incredible ability to spark a passion for sociology, is an amazing researcher and is truly committed to the wellbeing of students, colleagues, and the academic community. I also want to thank my fellow seminar leaders: Ely Strömberg, Erik Anund, Jasper Darin, Max Thaning, and Pär Dahlén for great teamwork. I thank Livia Oláh for providing guidance and support as I supervised bachelor's theses. I am also grateful to Johanna Schiratzki for inviting me to teach seminars on child maintenance at both undergraduate and advanced level at the Law Faculty, and thank Helen

Fotiadis Forssjö whose administrative skills made everything run smoothly.

To become enrolled in the doctoral program in the first place was made up of a series of event and enabled by a chain of people. In that regard, I am especially thankful to Ackson Mwale, who was my study buddy at the time; Eleonora Mussino and Moa Bursell, who supervised my master's thesis; Johanna Rickne, who offered me a position as a research assistant at the Swedish Institute for Social Research (SOFI), as well as Dan-Olof Roth and all the other brilliant scholars I had the pleasure to work with during my time at SOFI. Working with you not only sharpened my skills, but also made me realize that academia is not (only) a place of hard elbows and competition, but primarily one of solidarity, support, and collegiality—an insight that has stayed with me since.

The court cases analysed in this thesis involve over 2,500 children whose parents were involved in court disputes over their custody, residence and visitation or child maintenance. This thesis builds on their experiences. I wish to thank the funder, the Swedish Research Council for Health, Working Life and Welfare, FORTE (Grant # 2019-00534) who made this research possible.

Last, I wish to thank my family, my friends, and all the wonderful kids in my life. The past six years have not only been about writing a thesis, but have also included parental leave, family dinners, summer holidays at the beach and in summer houses, concerts, hikes, workout challenges, travels, Midsummer celebrations in Sälen, late-night dinners, and countless hours of play. Thank you all for providing such a supportive and loving environment, and for constantly reminding me that there is more to life than writing a thesis.

Till Johan, jag hade aldrig kunnat skriva den här avhandlingen utan dig! Tack för att du alltid tror på mig och stöttar mig, i stort och i smått. Att dela livet och föräldraskapet med dig är min största lycka. Jag hoppas du vet hur tacksam jag är.

Till Sigrid och Olle, tack för att jag får vara er mamma. Ni är allt!

## List of studies

The thesis is based on the studies below. These studies are referred to in the text as Studies I, II, III and IV.

- I. Finnström, J. (2023). Individual Realities and Legal Responsibilities: a Study of Non-Resident Parents who Dispute Child Maintenance Obligations in Swedish Administrative Courts, 2014–2019. *International Journal of Law, Policy and The Family*, 37(1), ebad011 <https://doi.org/10.1093/lawfam/ebad011>
- II. Finnström, J. (2026). Bargaining Against Poor Odds: A Power Resource Analysis on Legal Disputes for Child Support in Sweden. *Social Politics: International Studies in Gender, State & Society*, jxaf063., <https://doi.org/10.1093/sp/jxaf063>
- III. Finnström, J., & Duvander, A-Z. “The (Un)deserving Parent: Exploring Parental Argumentation and Sole-Custody Decisions in Swedish Courts” (Revised and resubmitted)
- IV. Finnström, J. “No Access, No Say? A Frame Analytical Study on Differences in Child Participation in Custody Disputes in Sweden” (Submitted manuscript)

## Author shares

Studies I, II and IV are solo-authored by Johanna Finnström. Study I is published in *International Journal of Law, Policy and The Family*. Study II is published in *Social Politics: International Studies in Gender, State & Society*. Study IV is currently under review.

Study III is co-authored with Ann-Zofie Duvander from the Department of Sociology, Stockholm University. Both authors initiated the study and developed the coding scheme used to generate the dataset. Finnström wrote the first draft, prepared and coded the data, and conducted the analyses. Both authors contributed to revisions and improvements of the draft. Finnström led the research process, including two rounds of revise-and-resubmit, although both authors were continuously involved in the process. Author share: Finnström 80%, Duvander 20%.

## Sammanfattning

En utgångspunkt för den svenska familjepolitiken och familjerätten är att två föräldrar som tar gemensamt ansvar för barnet—det vill säga delar omsorgs- och försörjningsansvar—är bra för både barn och föräldrar även när föräldrarna lever isär. En utmaning med denna utgångspunkt är att särlevande föräldrar inte är en homogen grupp: vissa föräldrar har barnet växelboende, i andra fall tar en av föräldrarna nästan allt ansvar för barnet och vissa föräldrar har en pågående konflikt. På liknande sätt har vissa föräldrar en mycket god försörjningsförmåga, medan andra har en svagare ekonomi.

I avhandlingen studeras hur det svenska rättssystemet hanterar föräldrar med utmaningar att fördela omsorgs- och försörjningsansvar: föräldrar som tar frågor om barns vårdnad, boende och umgänge, samt underhåll till barn, till domstol. Avhandlingens syfte är att skapa en översikt av olika typer av problem som särlevande föräldrar tar upp i domstol, hur dessa hanteras och avgörs, samt vilka eventuella hinder föräldrar stöter på i samband med dessa domstolsprocesser. Avhandlingen integrerar insikter från både sociologi och juridik och bygger på ett stort material av domar, från tre typer av rättsliga tvister, och analyserar dessa ur såväl föräldrarnas som barnens perspektiv.

De två första studierna behandlar föräldrars försörjningsansvar (underhåll). I Sverige regleras detta på två sätt: som statligt administrerat underhållsstöd eller som privaträttsligt reglerat underhållsbidrag. Den första studien undersöker underhållsstödet ur de betalningsskyldiga föräldrarnas (ofta pappors) perspektiv. Syftet är att förklara varför vissa betalningsskyldiga föräldrar menar att de inte ska betala underhåll trots att Försäkringskassan har beslutat att de ska betala. Studien bygger på domar som avgjorts i samtliga svenska förvaltningsdomstolar mellan 2014–2019 (n = 723). Resultaten visar att ekonomisk oförmåga är en vanlig anledning till att föräldrar överklagar betalningsskyldighet, ofta härlett till att det finns en diskrepans mellan hur Försäkringskassan beräknar betalningsförmåga och föräldrarnas ekonomiska situation. Den andra studien undersöker det privaträttsliga underhållsbidraget ur boendeföräldrarnas (ofta mammors) perspektiv. Syftet är att undersöka om maktobalanser—föräldrarnas relativa resurser—påverkar storleken på de underhållsbelopp som beslutas i tingsrätt, med ett särskilt fokus på skillnader i betalningsbelopp mellan de tvister som avgjorts av domstol och de som avgjorts genom medling. Studien bygger på domar om underhållsbidrag som avgjorts i samtliga svenska tingsrätter mellan 2016–2020 (n = 327). Resultaten visar på flera hinder att erhålla underhållsbidrag genom en domstolsprocess, vilket indikerar begränsade garantier från rättssystemet för boendeföräldrar vars barn har rätt till högre betalningsbelopp att erhålla dessa om den underhållsskyldiga föräldern inte självmant betalar mer

Studie III och IV behandlar föräldransvar i vidare bemärkelse, vårdnad, boende och umgänge, och bygger på ett datamaterial av vårdnadsdomar som avgjorts i 35 av Sveriges 48 tingsrätter under 2021 (n = 535). Studie III fokuserar på föräldrarnas konflikt, och analyserar de argument som föräldrarna använder när de tvistar om barns vårdnad, samt vilka argumentationsmönster som har störst sannolikhet att leda till ett beslut om ensam vårdnad. Utifrån föräldrarnas argumentationsmönster identifieras fem typer av vårdnadstvister: 'Offer-Förövare', 'Ömsesidigt hög konfliktnivå', 'Oro över den ena föräldrarnas omsorgsförmåga', 'Ensamstående *de facto* omsorgsgivare' och '(Åter) processande umgängesföräldrar'. Ensam vårdnad är mer troligt bland mål som karaktäriseras av en 'Ensamstående *de facto* omsorgsgivare' eller 'Offer-Förövare' dynamik och mindre troligt inom tvister karaktäriserade av en 'Ömsesidigt hög konfliktnivå'. Studie IV lyfter barnens perspektiv och undersöker barnets rätt att komma till tals i vårdnadsprocesser. Resultaten visar att sannolikheten att barn fått komma till tals är högst i de

typer av vårdnadstvister som karaktäriseras av en 'Ömsesidigt hög konfliktnivå', och lägst i de som karaktäriseras av att det finns en 'Ensamstående *de facto* omsorgsgivare'.

Diskrepansen mellan politiska och rättsliga utgångspunkter om delat omsorgs- och försörjningsansvar och föräldrars heterogena verkligheter väcker frågor om det svenska välfärdssystemets förmåga att stödja alla särlevande familjer på ett likvärdigt sätt och motverka social och ekonomisk ojämlikhet mellan olika familjekonstellationer. Hur detta kan åtgärdas i det svenska systemet diskuteras i avhandlingens introduktion.

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## Conceptual definitions

**Appellant:** The person who files an appeal in an administrative court. That is, the parent who files an appeal to challenge a prior guaranteed support decision from the Swedish Social Insurance Agency.

**Applicant:** The person who initiates a district court procedure. That is, the parent who files a petition regarding maintenance allowance or child custody, residence, or visitation with respect to the other parent. Although this party could also be referred to as the ‘plaintiff,’ this thesis uses the term applicant.

**Respondent:** The person who responds to a petition filed by the applicant or appellant. In administrative court proceedings, the respondent is the Swedish Social Insurance Agency, in district court proceedings the respondent is the other parent.

**Separated families** refers to families in which parents live apart, regardless of whether they were previously married, cohabiting, or never lived together. Consistent with this definition, the terms **post-separation arrangements**, **post-separation court disputes**, and **post-separation family law** are used without distinction based on parents’ prior marital or cohabitation status.

**Child custody:** refers to legal—and not physical—custody. Legal custody entails the rights and obligations to decide in all matters concerning the child. Legal custody, according to Swedish law, is in a formal sense separated from physical custody; it is a right and responsibility to decide for the child, without a responsibility to actually care for the child. A court decision on residence can only be given to a parent who is legal custodian. Visitation, on the other hand, can be determined regardless of custodial status meaning that visitation rights can be granted when both parents have legal custody, but also if one of them has sole custody (e.g., Schiratzki, 2023).

**Child maintenance**, also referred to as **child support** in some countries, is a financial transfer between separated parents in which the minority care-time parent is obligated to transfer money to the resident parent, in order to contribute to the costs of child upbringing.

The kappa will use the term *child maintenance*. However, the individual studies adopts both child maintenance and child support interchangeably. This is the result of differing language conventions in different journals. Study I, uses the term child maintenance because the journal the study was published in adhere to British English. Study II, uses the term child support because American English was requested by the journal to which that study was published. Importantly, Study II further uses the term child support when referring to the specific part of the Swedish maintenance scheme that, elsewhere in this kappa, is referred to as maintenance allowance.

In Sweden child maintenance obligations can either be arranged as guaranteed support or as maintenance allowance.

**Guaranteed support** (Sw. *underhållsstöd*) is regulated by the Social Insurance Act, Chapter 17-19. The Swedish Social Insurance Agency is responsible for the guaranteed support; thus, it acts as an intermediary between the parents in the administering and transferring of payments and transactions. If the liable parent has a very low income, they may have the order reduced and the SSIA pays the balance to the resident parent as supplementary maintenance (Sw. *utfyllnadsbidrag*), or:

**Maintenance allowance** (Sw. *underhållsbidrag*) is regulated by the Parents Code, Chapter 7. It builds on private arrangements and transactions directly between the parents, with court-established contracts as a last resort. The vast majority of maintenance allowance arrangements in Sweden are established privately between the parents, and very few are decided in court.

**Resident parent** is defined as the parent with whom a child primarily lives and who serves as the child's main caregiver. The resident parent is always a legal custodian.

**Minority care-time parent** (also referred to as a **non-resident** or **liable parent**) is defined in relation to the resident parent as the parent with whom the child lives less. Given that most children in Sweden maintain regular contact with both parents after separation, the distinction between resident and minority care-time parents has become less clear-cut, and there is substantial variation in the amount of time minority care-time parents spend with their children. However, unless the child spends roughly equal time (at least 60/40) with both parents, the minority care-time parent is still expected to pay child maintenance. In most cases, a minority care-time parent is a legal custodian; however, they are required to pay child maintenance regardless of custodial status (Chap. 7, 1 § Parents Code).

# Introduction

*“Utgångspunkten är att familjen är den grundläggande enheten för ett barn, och barnets föräldrar har det primära ansvaret för att barnets behov och rättigheter tillgodoses. Detta gäller även då föräldrarna inte lever tillsammans med varandra” (Dir. 2025:72, p. 2).*

*“The point of departure is that the family constitutes the child’s basic social unit, and that the child’s parents have the primary responsibility for ensuring that the child’s needs and rights are fulfilled. This shared responsibility remains even when the parents do not live together” (Swedish Government Committee Directive, 2025:72, p. 2).*

With increasing or persistently high rates of divorce, separation, and births outside co-residential parental unions, children’s family constellations have become increasingly complex (Thomson, 2014; Adema et al., 2020). When parents live apart, decisions must be made regarding who should have legal responsibility for the child, how the child’s residence and caregiving should be arranged, and how the costs of raising the child should be divided. Family law and policy set the framework for how these decisions are to be made. As illustrated in the quote above, Swedish family law is grounded on the principle that *parents* bear primary responsibility for their children. Parental rights and responsibilities are allocated equally to both parents, without distinction by gender or by whether parents live together or apart. Thus, the Swedish model supports dual-earner carer families, and upon separation parents are expected to share breadwinning and caregiving responsibilities, equally and collaboratively, and current policy and law are designed to support and facilitate such practices (e.g., Duvander & Schiratzki, 2024; Dir 2025:72).

The assumptions of shared parenting and amicable separation deeply embedded in family policy and law, however, do not always correspond with the heterogeneous lived realities of separated parents in Sweden. While some separated parents divide child-rearing responsibilities relatively equally, in other families children live primarily with one parent (often the mother) while spending regular time with the other parent, and in still other cases one parent assumes almost all responsibility for the child with little or no support from the other parent. In addition, not all parents separate amicably. Whereas some maintain cooperative and low-conflict relationships, others experience high-level conflicts, and some are exposed to violence and abuse. It has been estimated that around 10 percent of all children in Sweden have been exposed to violence between their parents (Jernbro et al., 2023). Research further shows that such violence may continue, and in some cases escalate, following parental separation (e.g., Fleury et al., 2000).

The misalignment between policy assumptions of shared parenting and amicable separation and the heterogeneous lived realities of separated parents raises questions about the capacity of the current system to adequately support all families and to prevent social and economic disadvantage among those who do not conform to these policy ideals. This thesis addresses this misalignment by examining how the Swedish system responds to parents who stand very far from these normative assumptions: parents who bring conflicts over child custody, residence, visitation, and child maintenance before the courts. To this end, the thesis integrates perspectives from both sociology and law.

Sociological research has a long tradition of analysing how policy and law structure and stratify the living conditions of different social groups. In relation to contemporary (Swedish) family policy and law, this research shows that the policy framework has been effective—even

beneficial—in promoting welfare among families who conform to policy ideals, yet remains insufficient in preventing disadvantage among children and parents who deviate from them (e.g., Wells & Bergnehr, 2013; Nylin, 2023; Duvander & Lundqvist, 2025). Studies demonstrate that children who rely socially and financially on only one parent tend to experience poorer outcomes than those with two involved parents, with economic hardship and interparental conflict emerging as especially harmful to the well-being and life chances of both parents and children (e.g., Härkönen et al. 2017; Gähler & Garriga 2013; Gähler & Palmtag 2015; Steinbach, 2019). Thus, the sociology perspective is crucial in identifying the structural patterns of advantage and disadvantage that arise as parents negotiate and practise parenthood in the private sphere. According to Swedish law these negotiations and practises mirrors private as well as public law.

If parents are unable to reach workable agreements regarding child custody, residence and visitation or child maintenance they can turn to the courts. If so, these matters are transferred from the private sphere to the legal arena, and courts assume the responsibility for allocating parental rights and responsibilities, guided by the legal framework and the principle of the best interests of the child. Court proceedings therefore play a central role in safeguarding the children’s welfare and wellbeing in situations where parents cannot resolve these issues on their own.

Legal scholarship, however, has drawn attention to the limitations of the legal framework in preventing disadvantage among parents who bring their disputes to court. Because Swedish family law is designed according to the model of ‘two responsible parents, separating amicably,’ it is not always compatible with the realities of families experiencing high-conflict separations. This misalignment risks leaving some families without adequate social and financial support and may even result in decisions that are not in the best interests of the child (e.g., Schiratzki, 2005; 2023; 2025; Kaldal et al., 2023; Singer, 2008a; 2008b; 2023; Rejmer, 2023). Much of this legal research, however, is based on judicial doctrine reasoning, case law and/or relatively small samples of first-instance court cases. While it provides important insights into the normative ambitions of law and its inherent possibilities and limitations, it offers less systematic knowledge about the types of issues parents bring before courts and how courts tend to respond to these conflicts in general.

To better understand what challenges bring parents to court, and to formulate solutions to potential problems, it is necessary to use large quantitative data as to understand what characterizes family law disputes and how courts typically handle different forms of conflicts. Addressing this gap requires an approach that combines sociology’s ability to identify patterns, and make generalizable conclusions, with legal scholars’ focus on the law and judicial decision making.

#### *Aim, research questions and main contributions*

The aim of this thesis is to integrate insights from sociology and law to provide an overview of the types of issues that separated parents bring to court, how these issues are handled and adjudicated, and what barriers parents may face as they assert or contest their breadwinning and caregiving rights and responsibilities. This is done by applying sociological theories, questions and methods to legal material, specifically court decisions on disputes concerning breadwinning (child

maintenance) and caregiving (child custody, residence and visitation). The multiple and sometimes competing interests between resident parents, minority care-time parents, children and the state make post-separation issues complex, not least since structured power imbalances may exist between these actors. To account for these complexities, and to get as broad an understanding as possible, this thesis builds on large and diverse sets of court decisions, and include multiple perspectives.

Studies I and II concern disputes regarding child maintenance. Study I focuses on minority care-time parents (mainly fathers) who contest their child maintenance obligations under the guaranteed support scheme. It seeks to explain why these parents dispute their liability even though they, according to the Swedish Social Insurance Agency, are legally responsible to pay. Data: court decisions on guaranteed support from all of Sweden's administrative courts, 2014–2019 (n = 723). Study II shifts the perspective to resident parents (primarily mothers) and explores their opportunities to receive child maintenance under the private-law maintenance allowance scheme. It further examines whether and how outcomes differ depending on whether they are adjudicated by a judge or established through a parental agreement or settlement. Data: court decisions on maintenance allowance from all of Sweden's district courts, 2016–2020 (n = 327).

Studies III and IV focus on court disputes concerning child custody. Study III centres on the parental conflict and analyses the arguments parents use when disputing custody in court, as well as which argumentative patterns are most likely to lead to an award of sole custody. Study IV addresses the perspective of children and explores their opportunities to have their participation rights realised in child custody disputes. Both studies draw on the same dataset: court decisions on child custody, residence, and visitation from 35 of Sweden's 48 district courts in 2021 (n = 535).

Even if the situation of children is only explicitly analysed in one of the four studies, children are placed at the centre in all of these disputes. The conflicts concern the children, and are deeply connected to their welfare and wellbeing as the decisions will affect their contemporary and future lives. According to Swedish law, cases concerning child maintenance and child custody should be resolved according to the best interests of the child (UNCRC, Parents Code, Chap. 6). Therefore, all of the studies—also those focusing primarily on parents—examines the situation of their children, and the ability of Swedish legal system to safeguard their best interests in cases of severe family conflicts.

The experiences of the families explored in this thesis deviate from the experiences that separated families in Sweden face in general. Most parents manage the division of child rearing responsibilities past separation (more or less effortlessly) by themselves, and only a small proportion bring disputes to court. Every year around 60,000 children experience parental separation, and there are about 5000 court cases related to parents' custody of children (SCB, 2023a; Schiratzki & Finnström, 2023), and about 700 court cases on child maintenance annually

(Schiratzki, 2025).<sup>1</sup> All the same, court litigation has a fundamental role in upholding the rule of law. As argued by Eekelaar (2015), the potential of family law to generate family justice is not only dependent on the provisioning of a framework that separated parents can choose to follow (or not) but also a justice system that offers a safe place to fall back on if private attempts fail, with adjudication as a last resort (Eekelaar, 2015; see also Maclean et al., 2015).

The fact that parents in the analysed court cases had initiated court proceedings indicates that they were unable to manage post-separation queries privately; hence, they turned to the courts as this last-resort mechanism for resolving their disputes (cf. Eekelaar, 2015). While it appears to be varying reasons why court proceedings were initiated, the overall picture suggests that it was often the relatively powerless party in the relationship that turned to court.<sup>2</sup> Presumably, they lacked sufficient resources to solve their issues privately and thus turned to the court because they believed the law had something to offer them and their children, whether vindication after feeling mistreated, the enforcement of payments from a non-compliant co-parent, or protection from violence or other forms of harm. As the various studies in this thesis set out, however, parents in court rarely get what they aim for. Thus, while the thesis says little about the struggles that separated parents face when sorting out post-separation life in general, it offers important insight into how the welfare state, through its legal system, responds when cooperation breaks down and families turn to the courts for support. In addition, even when parents make decisions by themselves, they often do so in ‘the shadow of the law’ (Mnookin & Kornhauser, 1978). The thesis may therefore also be relevant to the larger group of parents who struggle to navigate their post-separation arrangements under current policy and legal frameworks, particularly those who negotiate parenthood through cooperation talks with the social services, a form of mediation aimed at helping parents reach agreements regarding child custody, residence, visitation, and child maintenance. This group is far from marginal: over the past decade, between 21,000–23,000 children (aged 0–17) each year had parents who participated in such cooperation talks (MFOF, 2025). By analysing the smaller group of parents who bring post-separation conflicts to court, the thesis adds an important piece to the overall picture of diverse post-separation experiences among families in Sweden. This is important, because, as noted by Zagel (2023), it is by demonstrating differences—not only between separated families and coupled households but also among different types of separated families—that we can more effectively formulate solutions to existing problems and prevent social and economic inequalities between different family forms.

Besides contributing knowledge to the subject matter, the thesis makes both theoretical and empirical contributions to several fields of research. By advancing the application of sociological theory to the legal context, the thesis provide new empirical evidence to sociological theory, and adds to the literature of family sociology and social policy by providing additional insights into how family law shape parents post-separation lives and experiences. It further contributes

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<sup>1</sup> These court disputes, however, involve parents at various stages of separation, from recent splits to those who separated years ago. Additionally, a relatively large share of the annual child custody disputes constitutes recurring cases (Schiratzki, 2025).

<sup>2</sup> While this is the general pattern, custody and contact proceedings may also be used as a means of post-separation coercive control, including through repeated litigation, strategic custody /contact claims, and other forms of legal or administrative abuse (e.g. McCormack, 2025; Miller & Smolter, 2011).

empirical evidence and theoretical perspectives to research on family law including conflict resolution in civil law issues related to custody, residence, visitations and maintenance; public law regarding the guaranteed support scheme; and child participation and the consideration of the child's best interests. Although the empirical foundation of this thesis is drawn from a Swedish context, its implications extend beyond a national context in struggling with issues known from societies around the world.

## Parenting practices in policy, law, and everyday life

As childhood family constellations and circumstances—and consequently children's contemporary and future living conditions—have become more diverse policies relevant to post-separation family life has become increasingly important. These policies further engage with intertwined areas of law; custody, residence, visitation and child maintenance.<sup>3</sup> These are covered by the general principles of the UNCRC and include the principle of the best interests of the child (Article 3) and the child's right to be heard (Article 12) as well as Article 2 on equal treatment and Article 6 on the right to life and support (Hanson & Lundy, 2017). The intertwined legal areas thus fall within the three “P” at the heart of the UNCRC: children's rights to protection, provision and participation (Hammarberg, 1990; Kjørholt, 2002; Hanson & Lundy, 2017).

Law on custody, residence, and visitation is primarily used as means to regulate protection, and participation, as well as overall issues regarding child's best interests—that is, dimensions or aspects of parenting that sociology typically conceptualizes as caregiving. Laws on child maintenance are primarily used to regulate provision, or what sociology commonly refer to as breadwinning. However, questions concerning residence and visitation and questions about child maintenance are interconnected. Payment obligations depart from residence arrangements: the minority care- time parent pays the resident parent, and payment obligations generally do not apply if the child lives equally with both parents.<sup>4</sup>

This thesis examines parents who bring their post-separation conflicts over children to court. To interpret such disputes, however, it is necessary to situate them within the broader social and legal context in which contemporary parenting ideals, norms and practices are produced. The objective of this section is to provide this contextual foundation. It does so by linking three analytical levels: family policy and law, everyday parenting practices, and the stratified living conditions of parents and children. Together, these perspectives illuminate the normative assumptions embedded in family law as well as the social inequalities that shape parents' capacities to live up to them. Accordingly, the section is divided into three parts. The first part traces the

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<sup>3</sup> The following Swedish legal acts are relevant to the thesis: the Parents Code (Sw. föräldrabalk 1949:381), Social Insurance Act (Sw. socialförsäkringsbalk 2010:110), the Procedural Code (Sw. rättegångsbalk 1942:740), the United Nations Convention on the Rights of the child (See Sw. Lag (2018:1197) om Förenta nationernas konvention om barnets rättigheter). The legal acts are available on [www.riksdagen.se](http://www.riksdagen.se). Note: The legal frameworks described in the individual studies refer to the laws applicable at the time the cases were finalized. The legislation governing child custody, residence, and visitation has since been reformed; see, for example, Bill 2024/25:10.

<sup>4</sup> Maintenance allowance obligations still persist if there are large income differentials between parents.

development of ideological framings of ‘appropriate parenting practices’ in Swedish family policy and law which has moved from a focus on establishing paternity and fathers financial obligations to contemporary legal and policy frameworks that emphasise parental collaboration and dual earning and caring. Part two turns to parenting practices in everyday life, and demonstrates that contemporary patterns of parenting are shaped by class and gender. The third part builds on the second one by discussing how these classed and gendered parenting practices relate to the heterogeneous living conditions of parents and children.

## Parenting practices and gender equality in policy and law

Sweden is commonly characterised as a social-democratic welfare state (Esping-Andersen, 1990). Swedish family policy and law are, to a very large extent, universal, and provides comparatively generous and comprehensive benefits for all children including publicly funded or heavily subsidized education, free access to healthcare, and child allowances to all Swedish residents with children (e.g., Duvander & Ferrarini, 2013). Apart from this, parents are expected to assume joint responsibility for their children’s financial and social welfare, and there is no social policy framework specifically targeted at supporting single parent families (e.g., Duvander & Schiratzki, 2024). This, however, has not always been the case. This section traces the development of post-separation family policy and law, in which maternal responsibility has always been presumed, while the role of fathers has evolved over time (Bergman & Hobson, 2002; Winkler, 2002).

In the early decades of the twentieth century, Sweden began formalizing the rights of children born out of wedlock and the legal obligations of fathers towards them, thereby ‘making paternity compulsory’ (Bergman & Hobson, 2002, p. 93). In 1917, a law was enacted that formalized the paternity establishment for children born out of wedlock. All Swedish children were entitled to two parents in the formal sense, meaning that both the mother and the father were recorded in the official registers, and both bore economic responsibility for the child. The law was motivated by concern for the well-being of unmarried mothers and their children, given the high child poverty rates at the time. Thus, it was implemented with the aim of forcing men into fulfilling their paternal (provisioning) obligations (Bergman & Hobson, 2002). While the law had little effect in reducing child poverty overall, having a known biological father became a central tenet in Swedish family law and continues to be salient in the context of family policy and law today (Hobson et al., 2023; Schiratzki, 2017).

In the following years, several reforms were implemented that aimed to secure children’s rights to their biological fathers, as well as to ensure that these fathers contributed in the provisioning of the child, regardless of whether they lived with them or not (Bergman & Hobson, 2002). One such reform was the 1938 Income Maintenance Law for children of divorced or never-married mothers, under which the state guaranteed child maintenance payments to the mother, and subsequently sought reimbursement from the father. However, despite numerous efforts to strengthen fathers financial obligations towards their out of wedlock children, paternal compliance remained limited and collection rates were persistently low (Bergman & Hobson, 2002; Persson, 2002). Importantly, this did not weaken the primacy of biological fatherhood in Swedish family policy and law. On the contrary, this position became even stronger over time,

and during the 1960s reform period, the policy discourse on fathering responsibilities shifted from being focused around questions of paying for the child to questions of caring for the child.

The 1960s and 1970s were marked by significant changes in family formation patterns and family dynamics, as well as in societal ideologies and legal and policy discourses concerning the family, gender equality, and the respective roles of mothers and fathers (Bergman & Hobson, 2002; Duvander & Ferrarini, 2013; Lundqvist, 2011). During this period, the Swedish welfare state implemented several major reforms aimed at encouraging and supporting both parents' employment and the sharing of unpaid care work, thereby promoting gender equality. In this context, gender equality is generally understood as women and men taking equal shares in both labour market and unpaid work (Lundqvist, 2011). This dual earner-carer orientation of policy was gradually strengthened from the beginning of the 1970s through a series of major family policy reforms. Initially, the primary aim was to enable women's labour force participation, but over time the emphasis was widened to encourage men to assume equal responsibility for childcare. These reforms included individual taxation of spouses, various measures facilitating mothers' employment, the expansion of publicly funded high-quality childcare, and the introduction of a gender-neutral parental leave scheme in which both mothers and fathers could use leave (Lundqvist, 2011; Duvander & Ferrarini, 2013). In addition, the Swedish state initiated a number of campaigns aimed at achieving and constructing this new type of parenthood in general, and involved fatherhood in particular (Bergman & Hobson, 2002; Klinth, 2008; Johansson & Andersson, 2017).

In parallel, family formation patterns also changed. Sweden, together with the other Nordic countries led the so-called Second Demographic Transition of family dynamics in the 1960s and 1970s, marked by declining levels of marriage and fertility and rising levels of divorce (Lesthaeghe, 2010). Divorce trends increased quite markedly between 1960s-1990s, with a peak in 1974. The peak was as a response to the liberalisation of divorce legislation in 1973. The law made divorce available on an individual basis (i.e., the couple did not have to be in agreement) without requiring a reason for the dissolution of marriage. During the 1960s-1990s, marriage rates declined, while an increasing number of couples formed cohabiting unions, including couples with children (see e.g., Ohlsson-Wijk et al., 2020).

In response to broader societal shifts in ideologies and practices, such as changing patterns of marriage and cohabitation and the rise in female labour force participation, a government Commission on Family and Marriage (Swedish Government Official Report, 1972:41 *Familj och äktenskap* 1) altered the discursive and legal landscape of family policy. The Commission's work was based on two premises (i) the policy should be neutral in relation to family forms, and (ii) that how parents organized their relationships should not affect their right and duties to their children. This resulted in legal changes where distinctions between children born within and outside of marriage disappeared, and differences between married and unmarried parents were gradually withered away in law as well as in practice. Consequently, there is a large tolerance for diverse family forms (Hobson et al., 2023). However, the legal and policy emphasis on children's rights and parental responsibilities contributed to further institutionalizing the role of the father. In this context, maintaining contact with the father became incorporated in the ideological construction of the best interests of the child in cases of divorce and non-marital parenthood (Schiratzki, 1999; Bergman & Hobson, 2002).

Over time, the Swedish family model changed, from one that encourages fathers to support mothers in the caring for children, to one that stresses the importance of shared responsibility (Johansson & Andreasson, 2017). Family policies and law have become increasingly gender neutral and more explicit in emphasizing the individual rights and responsibilities of both parents. One such example is the implementation and subsequent expansion of reserved months in the parental leave scheme, that is, legally gender-neutral time dedicated to each parent that cannot be used by the other parent (popularly known as the “daddy months”) (Duvander & Johansson, 2012). Another example is the individualization of the child allowance. From 1948 until 2014, this benefit was paid to the mother, based on the argument that this was the best way to ensure that the allowance would benefit the children. However, since 2014, half of the allowance has been paid to each parent in cases of joint legal custody, regardless of the child’s residence (Swedish Government Official Report, 2011:51; Duvander & Schiratzki, 2024).

### Law and policy on cross-household parenting – cooperation instead of individualization

The development of laws regulating child custody, residence, visitation, and child maintenance, has not aligned with broader trends toward increased individualization. Consistent with the general trajectory of family policy, contemporary reforms have increasingly emphasized the importance of shared parenting. Yet, in stark contrast to family and social policy more broadly, these reforms have not strengthened parents’ individual rights—that is, rights that make parents independent of one another—but have instead contributed to rendering parents’ lives, economic situations, and decision-making more interdependent.

#### *Child custody, residence and visitation*

Children need care, protection and a good upbringing (SFS: 1949:381). Laws on child custody, residence, and visitation foreground issues concerning the allocation of parental caregiving responsibilities and the safeguarding of the child’s best interests, including the child’s rights to both parents, to protection, and to participation. This field thus constitutes a foundational, yet complex, area regulating three interrelated relationships: between children and parents, between parents, and between families and the state (Schiratzki, 2025).

A central premise in Swedish law is that children generally benefit from having two parents who share responsibility for them, regardless of whether the parents live together (Schiratzki, 2025). Swedish legislation on parental custody, residence, and visitation has been amended several times with the aim of promoting and supporting joint legal custody for parents who no longer live together, as well as ensuring that children maintain close relationships with both parents, even when the parents are in conflict or involved in a custody dispute (Singer, 2008a; Schiratzki, 2023).

In 1998, joint legal custody became the default, as the courts were given the possibility to decide on joint custody against the explicit requests of one parents, given joint custody was considered to be in the best interests of the child. When joint legal custody has been granted, the court can also decide on joint physical custody against the wishes of one parent (Singer, 2008a). As of 2021 joint legal custody can be ordered against the wishes of both parents, as long as each parent, by him- or herself is considered to be able to take decisions in the best interests of the child. A court

decision on residence can only be granted to parents who are legal custodians; visitation, on the other hand, can be determined regardless of the custodial status of the parents involved. That is, relatively extensive visitation arrangements can be decided both when both parents have custody and when one of them has sole custody (Schiratzki, 2025; Singer, 2008b).

In addition, the Swedish welfare state has gradually withdrawn its support to ‘high-conflict families’ and placed the responsibility for resolving questions concerning child custody, residence and visitation, onto parents themselves (Schiratzki, 2025; Singer, 2023). While the family law system acknowledges that family conflicts are harmful to children, it rests on a strong belief that resolving post-separation child disputes in court risks escalating or prolonging conflicts, thereby increasing the risk of child harm (e.g., Kaldal et al., 2023). Extensive alternative dispute resolutions mechanisms have been implemented to encourage parents to reach workable post-separation arrangements through private contracts and to keep disagreeing parents out of court (Schiratzki, 2023; Singer, 2023). The initiation of cooperation talks with social services was introduced in the early 1970s, and efforts to help parents find private solutions regarding custody, residence, and visitation through such talks have gradually been strengthened. Since 1991, courts can instruct social services to arrange a cooperation talk, and since March 2022, a parent seeking a court judgment on custody must participate in a mandatory information meeting with social services before the case can be admitted to court (Singer, 2008a; Schiratzki, 2025).

Even in instances where disputes are brought before the court, the court is required to encourage the parents to reach an agreement (Singer, 2008a; Schiratzki, 2025). It has been estimated that 60% of the custody court cases that end up in court are decided according to ‘parental agreements,’ that is, an amicable settlement that the court ratifies, and as many as 40% are reoccurring cases (Swedish Government Official Report, 2017:16; Schiratzki, 2025). The share of settlements is even higher among parents in court disputes on child maintenance, 83%.

Generally, children’s participation in custody proceedings is strongly encouraged and regarded important (e.g., Kaldal, 2023). The child’s right to participate, that is, to have their voice heard, in custody, residence, and visitation proceedings has received sustained legislative attention since the late 1970s. Since 1998, Chapter 6 of the Swedish Parents Code has explicitly stipulated that courts shall take the child’s will into account, taking into consideration the child’s age and maturity (Schiratzki, 2013). Since then, policy developments have increasingly aimed to strengthen the child’s right to participation, for instance by making it possible for the social services to hear the child without the consent of the parents (custodians) (Bill 2020/21:150).

To conclude, a chain of changes to family law has aimed to encourage parental cooperation and to promote, shared legal responsibility, and shared caregiving practices post-separation.

### *Child maintenance*

Provisioning is also important for children. Separation often imposes financial strains, particularly on resident parent households. In this regard, child maintenance is crucial, as it is designed to ensure that the parent living apart from the child continues to share in the child’s financial support.

Sweden has a hybrid scheme, which means that child maintenance payments can either be handled as guaranteed support (Social Insurance Act) or as maintenance allowance (Parents Code). The Swedish Social Insurance Agency (hereafter SSIA) administers the guaranteed support and pays out child maintenance at a minimum flat rate, and reclaims the money from the liable parent. Maintenance allowance builds on private arrangements and transactions directly between the parents, with court-established contracts as a last resort. It is not restricted by a flat rate but is calculated based on both parents' incomes as well as the needs of the child. In short, guaranteed support is a child maintenance arrangement mediated by the state, and maintenance allowance builds on private arrangements and transfers directly between the parents.

Prior to 2016 parents living apart could choose whether to organise child maintenance privately, or to use the SSIA as an intermediary, and the latter was the most popular and commonly used alternative. However, in 2016, the possibility of organising payments via the SSIA was curtailed by a policy reform (Bill 2014/15:145). The reform stipulates that if the liable parent has paid the SSIA for six consecutive months, the SSIA will automatically cease to intervene, and the parents must organise the payments privately, unless resident parents have special reasons, such as previous occurrences of intimate partner violence.<sup>5</sup> The explicit aim of the reform was to promote parental collaboration and reduce the number of child maintenance cases handled by the SSIA (Bill 2014/15:145; SSII, 2019). It was also argued that it is in the child's best interests that parents collaborate with each other, partly because private law maintenance allowance is not restricted by a flat rate, thus, could result in larger payments to children (SSII, 2019).

Leaving the responsibility for child maintenance largely to separated parents themselves reflects broader policy assumptions about parents as equal and cooperative negotiating parties after separation (cf. Nylund, 2023). The reform also represents a withdrawal of the welfare state from protecting the 'weaker negotiator', the resident parent, who was previously guaranteed a minimum payment when the minority care-time parent did not comply (Nylund, 2018; 2023; Duvander & Schiratzki, 2024). By positioning both parents as equally responsible for child maintenance payments, the reform aligns with wider policy trends that emphasise that parents should share responsibility for the child. In contrast to most other aspects of Sweden's family and social policy, however, the reform does not strengthen or individualize both parents' rights and responsibilities, but rather makes the parents' economies more interdependent by treating the separated couple as a single functional unit (Duvander & Schiratzki, 2024).

In sum, as part of a broader ambition to promote gender equality and dual-earner carer family practices, current law on child custody, residence and visitation and child maintenance is entirely gender neutral and include strong incentives for shared parenting. Underlying these policy designs are assumptions of amicable divorce and of parents as equal actors with a shared understanding of what custody and maintenance arrangements best serve the interests of the child (Kaldal et al., 2023). As the following section will show, however, these policy ambitions and assumptions have sometimes gone further than parents' actual practices.

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<sup>5</sup> The period of 6 months was prolonged to 12 months in 2022 because of the created problems with failed payments to children and reoccurring conflicts between parents (Bill, 2020/21: 203).

## Parenting practices and gender equality in everyday parental life

The strive for gender equality, that is, men and women taking equal shares in both labour market participation and childcare responsibilities, can in many ways be seen as successful: women's labour force participation is almost equal to that of men, and women outperform men in higher educational attainment (SCB, 2024). Men, in turn, have become increasingly involved in childcare, not least as indicated by their, by international standards, comparatively high uptake of parental leave (e.g., Ma et al., 2019; Duvander & Ruspini 2021).<sup>6</sup>

Nonetheless, gendered patterns where men hold stronger positions in the labour market, and women maintain the primary responsibility over children persist. Even with greater educational investments, women continue to fall behind men on most indicators of labour market success; they lag behind men in terms of income and wages, are underrepresented in top positions, and are more likely to work in the public sector, which generally pays less than the male-dominated private sector (SCB, 2024; IFAU, 2025). Research further shows that these gender disparities can largely be traced to parenthood. Before the birth of their first child, women and men earn similar incomes and hold leadership positions to a similar extent. However, upon transitioning to parenthood, new mothers adjust their employment to childcare to a much greater extent than new fathers do (IFAU, 2025; Grunow & Evertsson, 2016; Angelov et al., 2016; Nylin et al., 2021). Mothers still take up the majority of parental leave, are more likely to stay home when the child is sick, and have long spells of part time work when the child is small. Concurrently they experience a drop in income and wages, are less likely to become managers, and take sick leave from work more often than men do (e.g., IFAU, 2025). These negative career consequences, along with women's relative earnings disadvantage, persists long after the child is born (Angelov et al., 2016; Nylin et al., 2021). On separation, the costs of the division of labour during the partnership, places especially women in economically precarious circumstances.

While recent research suggest trends of increasing family stability in Sweden with rising marriage rates, and a levelling off in separation trends, separation remains common (for overview see e.g., Ohlsson-Wikj et al., 2020). Every fourth child (age 0-17) has parents living apart (SCB, 2025a), and every fifth child experience parental separation during their preschool years (Duvander & Korsell, 2020).

The overwhelming majority of children have both of their original parents as custodians. Among all children aged 0–17, only 6.6 percent have a parent with sole legal custody (SCB, 2025b). Joint physical custody, where children spend about equal time in both parents' homes after parental separation,<sup>7</sup> has been increasing quite dramatically in Sweden over the last decades. The proportion of children below the age of 18 with separated parents who have joint physical custody has increased from merely 1 percent in the mid-1980s to about 18 percent in 2000, 30 percent in 2010, and 46 percent in 2022 (Palmtag, 2024; SCB, 2023b). International comparisons show that Sweden has the highest prevalence of joint physical custody in Europe, although the

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<sup>6</sup> However while fathers' uptake is high from an international comparative perspective, women take around 70 percent and men around 30 percent of parental allowance days on average (SCB, 2024).

<sup>7</sup> Also referred to as shared physical custody, shared residence, and alternating residence.

prevalence of joint physical custody is on the rise across much of Europe (Salin et al., 2024; Hakovirta et al., 2023).

At the same time, single-parent households remain common. Connected to women's stronger caregiver role in the family, many children tend to live in a single mother household. Recent statistics show that 43% of children with parents living apart live only or primarily with their mothers, while only 8% reside mainly with their fathers (SCB, 2023b). However, it is common for children to have regular contact with both parents, regardless of residence arrangement (SCB, 2011).

The socioeconomic selection into divorce and separation has changed over time. In the late 1800s and early 1900s, parental separation was more common among individuals from higher-class backgrounds, whereas today it is more common among parents from the working class (e.g., Gähler & Palmtag, 2015).<sup>8</sup> Thus, children in separated families are increasingly economically disadvantaged today, and separation is a factor that increases the risk of poverty (e.g., Bernardi et al., 2017). Since the end of the 1980s, the poverty rates of single adults and single parents has increased dramatically, as have the income differences between single households and “dual-adult” households (Alm et al., 2020). It has been estimated that the poverty rates of single mothers increased from around 8% in 1990–1994 to 24% in the period 2005–2009 (Zagel et al., 2022).

With regard to child maintenance arrangements, the number of parents enrolled in the state administrated guaranteed support system has decreased over time, particularly so since 2017 (SSII, 2019), and it is currently estimated that the majority of parents living apart arrange child maintenance outside of the agency based system (SSII, 2019; SCB, 2023b). Relatively little is known about how parents arrange child maintenance in Sweden, and existing findings are inconsistent. A report by Statistics Sweden found that it appears to work well in the majority of cases; most parents participating in the survey reported that they have some type of child maintenance arrangement in place, either privately or through the Swedish Social Insurance Agency (SCB, 2023b). In a survey conducted a few years earlier by the Swedish Social Insurance Agency, however, almost 30% of parents reported a lack of a functioning child maintenance agreement, with cooperation difficulties and conflict cited as the main reasons why no functional arrangement has been established (SSII, 2019). Hence, even though it seems to work well for many, it does not work for all (SSII, 2019; SCB, 2023b).

Moreover, patterns of child maintenance arrangements differ according to parents' socio-demographic characteristics and the ways in which child residence is organised. Joint physical custody (alternating residence) is more common among parents with higher socio-economic backgrounds, and in such arrangements most parents seem to divide child-related costs relatively evenly, for example by sharing all major expenses, or by covering the child's costs during their

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<sup>8</sup> This shift in the socioeconomic gradient of separation/divorce has also been documented in other national contexts (e.g., Härkönen & Dronkers 2006).

respective periods of residence (SCB, 2023b).<sup>9</sup> Among parents with lower socio-economic backgrounds, it is more common for the child to live exclusively or primarily with one parent, most often the mother. In these cases, private maintenance allowance agreements are less frequent, and around half of these families regulate child maintenance through the SSIA as guaranteed support (SCB, 2023b).

Last, even though Sweden is often considered as one of the most gender egalitarian countries in the world (e.g., European Institute for Gender Equality, 2026), men's violence against women is of great individual and societal concern. The prevalence of men's violence against women in intimate partner relations is difficult to measure; nonetheless, research and official reports indicate that it is far from a marginal problem (e.g., Swedish Gender Equality Agency, 2021). It has been estimated that approximately 10% of all children in Sweden have experienced violence between their parents while growing up (Jernbro et al., 2023). Research further indicates that children from lower economic backgrounds, as well as children living in single-parent households are particularly vulnerable to being exposed to inter-parental violence and abuse (e.g., Kvist et al., 2020; Jernbro & Jansson, 2017).

## Parenting practices and the heterogeneous living conditions of children

It is well documented that parental separation correlates with a range of material, social and health risks for both parents and children. Research across countries consistently shows that children and parents in post separation families fare less well than children in two-parent households, both in the short and long run and on a range of outcomes (e.g., Amato, 2000; Härkönen et al., 2017; Nieuwenhuis & Maldonado, 2018). In recent years, however, research has highlighted heterogeneity in the effects of family dynamics, suggesting that the consequences of parental separation are not the same for all children (e.g., Härkönen et al., 2017). A growing literature documents strong, descriptive heterogeneities in children's life conditions across living arrangements. Children who live in joint physical custody arrangements, tend to have better living conditions, including greater economic resources and better socioemotional and psychological well-being and better parent-child relations, compared with their peers in single-parent households (Bergström et al., 2013, 2018; Turunen, 2017; Fransson et al., 2018; Nielsen, 2018; Steinbach, 2019; Palmtag, 2024).

In addition, joint physical custody arrangements have also been associated with certain benefits for parents, including higher life satisfaction, and less time pressure (e.g., Bergström et al., 2014; Van der Heijden et al., 2016). Nonetheless, the positive association is challenged in the literature (see e.g., Fritzell et al., 2020 for Sweden).

The socio-demographic profile of parents practicing joint physical custody differs from that of families where children live mostly or only with one parent. Specifically, parents practicing joint physical custody are more likely to be highly educated, have a high socio-economic status, and report better co-parenting relationships and lower levels of interparental conflict (e.g., Garriga et al., 2021; Steinbach, 2019; Salin et al., 2024). This suggests that selection into choice of post-

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<sup>9</sup> Since the child resides (more or less) equally with both parents, these families are generally not governed by child maintenance regulations in a legal sense.

separation living arrangements plays an important role in shaping the observed differences between children living in joint vs. sole physical custody arrangements (see e.g. Steinbach, 2019). Others, however, suggest that children in joint physical custody do better than those in sole physical custody arrangements do, and are at par with children in coupled-parent households, even when controlling for family income and parental conflict (Nielsen, 2018). Thus, whether the positive outcomes associated with joint physical custody are due to causal effects of family structures, or whether they reflect pre-existing advantages among families sorting into joint physical custody is a subject of ongoing debate.

All the same, two consistent findings in the literature are that (i) children who rely on only one parent, socially and financially, tend to experience poorer outcomes than children with two involved parents, and (ii) economic hardship and interparental conflict are particularly harmful to the well-being and life chances of both parents and children in post-separation families. (e.g., Härkönen et al., 2017; Gähler & Garriga, 2013; Gähler & Palmtag, 2015; Augustijn, 2021; Steinbach, 2019).

### Economic hardship

Single-parent households are more likely than coupled-parent households to experience financial hardships, in Sweden as elsewhere, and extensive research show that single parenthood is associated with poverty (e.g., Maldonado & Nieuwenhuis, 2015; Nieuwenhuis & Maldonado, 2018; Bernardi et al., 2017; Alm et al., 2020). This has been attributed to single parents being disproportionately caught in the interplay between inadequacies in resources, employment, and policies (Nieuwenhuis & Maldonado, 2018). In Sweden, single mothers are among the most economically disadvantaged household groups (SSIA, 2024). Approximately one fifth of single parents report experiencing severe difficulties in making ends meet, compared with 6.7% of the general population. Moreover, nearly half (46.8%) of single-parent households report lacking a financial buffer, (Sw. *kontantmargin*) defined as the ability to cover an unexpected expense of 13,000 SEK, compared with 20% in the general population (SCB, 2023c).

Research further shows that financial hardship is associated with a range of negative outcomes for children, both in the short and long run. For instance, poor economic conditions during childhood has been associated with lower educational attainment (Gähler & Palmtag, 2015), as well as low psychological well-being, and psychological problems that persists into adulthood (Gähler & Garriga, 2013; Gähler & Palmtag, 2015).

Qualitative research drawing on interviews with low-income families demonstrate that economic hardship is not only a practical concern but also has profound social, emotional, and psychological dimensions (e.g., Daly et al., 2023; Odenbring, 2019; Fernqvist, 2012). Many parents describe that the gap between societal norms of 'optimal childrearing' or 'good parenting' (such as paid work, time with children, and providing resources for activities) and their own constrained circumstances generates feelings of exclusion, stigma, guilt, and concern for their children's welfare and well-being (e.g., Daly et al., 2023). Studies focusing on children's perspectives further show that children are often more concerned with what poverty does to their lives than with what they lack materially (Fernqvist, 2012). Children living in economic hardship are highly aware of their family's situation and the associated stigma, shame, and strain, and

develop coping strategies such as helping financially at home, refraining from asking for money, or engaging in self-exclusion (for example, avoiding inviting friends home) to hide signs of material deprivation (Fernqvist, 2012; Odenbring, 2019). Together, these studies illustrate that economic hardship in Swedish families shapes not only material opportunities but also social relations and overall well-being.

## Interparental Conflict

In addition to financial hardship, there is a general consensus that interparental conflict is one of the most crucial factors in children's problems in post-separation families (e.g., Spruijt & Duindam 2009; Steinbach, 2019; Augustijn, 2021; Gähler & Palmtag, 2015). Already in the 1990s, Amato (1993) pointed out that ongoing conflict between separated parents (e.g., over child custody, parent-child contact, or child maintenance) is a chronic stressor that can have negative long-term effects on children's mental health. Children may also feel responsible or guilty for conflicts between their parents, particularly when the conflicts concern child-related matters (Amato, 1993).

Research from a range of countries show that children who experience high levels of interparental conflict suffer from significantly higher levels of mental health problems, including conduct problems, hyperactivity, and emotional symptoms (Augustijn, 2021[Germany]), depressive symptoms, (Kalmijn, 2016 [Netherlands]), psychological ill-health/problems (Gähler & Palmtag, 2015; Gähler & Garriga, 2013 [Sweden]), compared to children from low-conflict families, regardless of the child's living arrangement. In addition, high levels of interparental conflict have also been found to have a negative impact on children's social wellbeing, including decreased prosocial behaviour, poorer social skills, increased aggressive behaviour, impaired self-control, and loneliness (Holmes et al., 2015; Hosokawa & Katsura, 2017; Kocak et al., 2017; Hess, 2022).

In some cases there is also a link between high levels of conflict and violence, both intimate partner violence and child abuse. A study from Allmänna barnhuset (Jernbro & Jansson, 2017) found that 11% of all children reported that their parents had disagreed/been in conflict about where the child should live or how much contact the child should have with the other parent.<sup>10</sup> These children were particularly vulnerable to child abuse. Among children who reported that their parents frequently disagreed about residence or contact, 84% had been exposed to child abuse, either through direct victimisation or exposure to violence between their parents.

### *Violence and abuse*

When referring to 'interparental conflicts,' it is important to recognise that such conflicts often occur between parties with unequal strength, resources, and positions. This is particularly the case when there is a history of violence or intimate partner abuse. Research across countries shows that intimate partner violence follows gendered patterns, with the majority of cases involving men's violence against women (see e.g., Eriksson, 2016; WHO, 2013; Jernbro et al., 2023). Such

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<sup>10</sup> The study is based on a nationally representative student survey conducted among 9th-grade students in compulsory school and second-year students in upper secondary school.

violence, in turn, significantly increases women's vulnerability to a range of short- and long-term health problems. In 2013, the World Health Organization (WHO) highlighted that violence against women—which in the vast majority of cases occur in intimate partner relations—is one of the most severe and urgent threats to women's health globally and therefore called for major scaling up of efforts to prevent all forms of violence against women (WHO, 2013).

As noted in the previous section of this chapter, men's violence against women in intimate partner relationships remains a problem in Sweden (Swedish Gender Equality Agency, 2021). While violence may constitute a reason for ending a relationship, studies show that intimate partner violence can intensify and take various forms after separation, including threats, harassment, stalking, as well as financial, administrative and legal abuse (e.g., Spearman et al., 2023).

Single mothers who experience violence are often required to manage not only their own victimisation and safety, but also that of their children. When the perpetrator is the child's biological father, this vulnerability risks being further intensified due to the extensive legal rights attached to parenthood. It has been highlighted that family law policies and related practices that emphasise shared parenting and parental cooperation risk leading to victimised mothers being required to maintain ongoing relationships with their abusers, at least for as long as the children remain minors (Swedish Government Official Report, 2015:55). At the same time, related family law professionals (social services, courts etc.) operate within a legal and organizational framework that emphasises gender neutrality, shared parenting, and cooperative post-separation relations. Within this framework, men's violence and women's and children's need for safety and protection risks becoming invisible, which can leave both mothers and children vulnerable to ongoing and recurrent violence (Eriksson, 2023; Swedish Government Official Report, 2015:55; Mattsson, 2013; Swedish Gender Equality Agency, 2022).

Over the years, there has been growing awareness of the existence of domestic violence in court disputes on child custody contact and visitation. On assignment from the government, the Swedish Gender Equality Agency carried out an investigation regarding the prevalence of violence or other abuse in court cases on custody, residence and visitation. The agency found that information indicating violence or other forms of abuse by one parent against the other parent, a partner, or a child occurred in at least 64% of cases. In 65% of the cases in which violence was reported, the child's views were not taken into account at all in the final decision. The report also revealed a lack of systematic risk assessment when there were indications that a parent had been violent. The report further revealed that information on violence or other abuse was often reformulated as conflict or cooperation difficulties in ways that made the violence invisible. Thus, overall it was concluded that cooperation difficulties and the principle of a child's need for contact with both parents seemed to have a greater impact than a child's right to be protected from violence or other abuse by a parent (Swedish Gender Equality Agency, 2022). These findings resonates with prior research in Sweden which have long highlighted that violence and abuse are common in custody, residence and visitation disputes (e.g., Eriksson, 2011; Bruno, 2015; Bergman & Rejmer, 2017; Rejmer, 2003).

Qualitative research focusing on children's own views and preferences in the context of decision-making concerning custody and visitation shows that most children want to be heard and consulted in the decision-making process, but not necessarily have a say in the final decision (see e.g., Birnbaum & Saini, 2012, for a systematic qualitative literature synthesis). The right to participation, i.e. to be consulted and informed, also appears particularly important for children with experiences of violence in the home, and some studies suggest that children are more likely to express that their perspectives should be given appropriate weight in the outcome in these situations (Birnbaum & Saini, 2012; see also Holt, 2020; Eriksson & Näsman, 2008). Children's rights to express their views have been increasingly emphasized and strengthened in legal frameworks governing custody disputes in Sweden (Kaldal, 2023; Schiratzki, 2025). As a consequence, more children affected by custody disputes are being heard; however, child participation remains conditional and is still not fully realized in practice (for an overview, see e.g., Kaldal, 2023).

Intimate partner violence post separation may also take the form of financial abuse in which perpetrators use the control of financial resources and income as ways to maintain power and control over their former partners (e.g., Natalier, 2018; Douglas & Nagesh, 2021; Patrick et al., 2007; 2008). Formal child maintenance schemes play an important role in that regard since they are designed to facilitate monetary transfers between separated parents and reduce the risk of financial hardship in resident parent households, yet can have the opposite effect and, instead, increase the risk of financial insecurity and abuse (e.g., Fehlberg et al., 2010; Natalier, 2018).

State policies emphasising parental cooperation and privately negotiated child maintenance arrangements might create difficulties for resident parents and enhance the risk of economic abuse also when other forms of violence have ended. In the Swedish context, research shows that the 2016 reform (which emphasised privately negotiated payments over agency-based arrangements) risked hampering resident mothers' access to payments and exposing them to a renewed risk of intimate partner violence, as they were encouraged to engage with their former partners (SSII, 2019; Tegler et al., 2023; Fernqvist & Sépulchre, 2022). The SSIA, however, has taken measures to better support resident parents at risk of intimate partner violence and ensure they receive guaranteed support payments. At the same time, the state has not submitted any proposals that explicitly address economic abuse in the maintenance allowance scheme (Swedish National Audit Office, 2025), and post-separation financial abuse remains poorly recognized in legal domains beyond the area of child maintenance (Swedish National Audit Office, 2025; Bruno, 2018; Näsman & Fernqvist, 2015). For example, Bruno (2018) shows that financial abuse is largely ignored in welfare benefits procedures, and in contested child contact cases it is often viewed as a conflict between parents with equal strength (Bruno, 2018). In addition, research suggest that resident mothers sometimes avoid pursuing a formal child maintenance order, if they fear that this could trigger the other parents violence behaviours, or negatively affect the father child-relationship (e.g., Bell et al., 2006; Patrick et al., 2007; Bruno, 2018). Thus, mothers with experiences of intimate partner violence may face a dilemma between securing children's rights to provision and safeguarding their right to protection (Bruno, 2018). Taken together, this suggests that the Swedish state has not fully recognized the problems associated with economic abuse after parental separation, nor taken sufficient measures to ensure resident parents' financial support and safety (cf. Swedish National Audit Office, 2025).

Post-separation economic abuse directly affects children who live with the parents involved. Nonetheless, research focusing on the implications of economic abuse for children, as well as on children's own first-hand experiences of living with a parent exposed to financial abuse, remains scarce (Bruno, 2022; Näsman & Fernqvist, 2015). Näsman and Fernqvist (2015), however, suggest that possible implications may include psychological harm linked to the mother's suffering, as well as material deprivation, both in absolute and relative terms.

In sum, with increasing or persistently high levels of separation and divorce, post-separation policy and law have become increasingly important, not least given the disadvantages facing children and parents in separated households. By examining both custody, residence and visitation disputes (as an expression of parental conflict) and child maintenance (as a mechanism shaping economic hardships), this thesis address questions and concerns that are fundamental for assessing the ability of society, law, and parents to act in the best interest of the child (cf. Schiratzki, 2005).

## Post separation family law: Situating Sweden internationally

In Sweden, three distinctive features have been central in shaping laws, discourses, and policy practices related to parental conflicts over children: (i) the dual-earner, dual-carer family model and gender equality, (ii) the UNCRC and the best interests principle, and (iii) the emphasis on out-of-court resolutions for family disputes (cf. Kaldal et al., 2023). This section will briefly reiterate these features in order to connect the Swedish approach to a broader international context.

### The dual earner-carer family model and gender equality

Sweden is characterized by strong norms of gender equality, generally understood as both women and men taking equal shares in both labour market- and unpaid work, in legislation, policy and in society as a whole. Family policy and law premised on the assumption that responsibility for children rests with two parents, and these parents are cooperative and share responsibilities according to the dual earner-carer model (Duvander & Schiratzki, 2024; Eriksson, 2010). Sweden, together with the other Nordic countries, has in many aspects been a forerunner in promoting shared parental responsibility. This is reflected both in the early adoption of proactive policies designed to encourage paternal involvement i.e. the world's first gender neutral parental leave scheme (Duvander & Ferrarini, 2013), and in the establishment of joint custody as the default or preferred post-separation arrangement, grounded on the principle that children will benefit from having a personal relationship and direct contact with both parents (Bergman & Hobson, 2002; Schiratzki, 1999).

Recent decades have witnessed substantial changes in parenting practices, and gender ideologies/family model ideals, across much of the Western world (Salin, 2024; Edlund & Öun, 2023). An important driver to this development has been the increased entrance and establishment of women in the labour force, which has contributed to the rise of dual-earner households, and men's growing involvement in the family (Hook, 2006; Goldin, 2006; Oláh & Neyer, 2022). In most western countries, there is now a certain cultural consensus that joint custody is the best alternative for children when their parents separate (e.g., Kurki-Suonio, 2020).

Many western jurisdictions have further implemented—or considered using—legislation to promote joint legal custody, and in some cases shared physical custody, with Sweden cited as a leading example (e.g., Fehlberg et al., 2011; Harris-Short, 2011; Salin et al., 2024). Yet, there remains substantial variation in custody legislation across countries (see, e.g., Salin et al., 2024).

## The UNCRC and the best interests principle

In addition to having a strong commitment to gender equality, Sweden, along with the other Nordic countries, has a strong commitment to the rights of the child. This principle has long been important, but its significance was intensified in recent years through the ratification of the United Nations Convention on the Rights of the Child (UNCRC), which was incorporated into Swedish national legislation in January 2020 (Kaldal et al., 2023).

The UNCRC has strongly influenced law on child custody, residence and visitation in Sweden. The principle of the best interests of the child (Article 3) is the standard according to which custody disputes must be decided. The principle includes several aspects; the child's right to both parents (Article 9), right to protection (Article 19) and the right to participation (Article 12).

By positioning the child's best interests as the governing principle in (legally binding) decisions concerning child custody residence and visitation, the legislator has thereby departed from broader policy objectives of shared parenting and gender equality. Legislative material explicitly state that no other interests—such as fairness between parents or a parent's need for contact with the child—should take precedence over the child's best interests (Bill 2005/06:99 p. 85; Bill 2020/21:150 p.41).

The UNCRC and the best interests principle has profoundly influenced legal processes on child custody across jurisdictions, and is widely considered as a milestone in the pursuit of greater respect for children's rights (e.g., Melton, 2005; Garayová, 2024). Since its adoption in 1989, all member states except the United States have signed and ratified the convention, making it the most widely ratified human rights treaty. Even though these proceedings take different forms in different countries, the UNCRC has promoted a 'global convergence', particularly in terms of making the best interests of the child the fundamental standard that should permeate legal decision-making concerning children (see, e.g., Kaldal et al., 2023). However, its interpretation and application varies across legal cultures, institutional settings, and socio-political contexts (e.g., Lundberg et al., 2026). International research indicate 'universal' dilemmas in the implementation of this principle in practice, not least in terms of balancing the child's right to both parents, their right to protection and the right to participation (e.g. McDonald, 2016; Holt, 2016; 2020).

The legal duty to provide for children is also articulated in the UNCRC. Within the UNCRC, child maintenance is ultimately privatized and framed as a parental responsibility. Article 27(2) states that "The parent(s) (...) have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development." However, Article 27 contains not only a legal expectation for parents but also for the nation-states to ensure that children receive payments from their separated parents (Art. 27.4).

All high-income countries have child maintenance policies; however, these take different forms. While many countries align with the UNCRC's view that the goal of child maintenance is to

ensure the parents' responsibility [over the child's financial wellbeing], some countries (e.g. Sweden and Finland) put larger emphasis on this responsibility being shared, whilst other (e.g. Canada, Colombia, Malaysia, Nigeria, the UK & the US) emphasise increased responsibility of minority care-time fathers (Adelakun et al., 2024). In addition, countries also have other objectives, such as poverty reduction or recovering public expenditures from other social programs. Countries further differ in terms of overall social policy structure, level of economic development and gender role norms. All of these factors impact policy approaches, and lead to different child maintenance schemes (Hakovirta et al., 2021; Hakovirta et al., 2022; Adelakun et al., 2024). Overall, however, three typologies of child maintenance schemes can be discerned internationally: 'agency-based', 'court-based' and 'hybrid' (Skinner et al., 2007; Hakovirta et al., 2022; Hakovirta & Mesiäislehto, 2022; Adelakun et al., 2024).

Agency-based schemes generally take greater overall responsibility for child maintenance, e.g. by collecting and distributing support, monitoring whether payments are made, and taking enforcement action if the liable parent does not pay. Typically they operate with formula, which allows amounts to be determined relatively quickly, nonetheless are also more rigid and allow little room for discretion to individual circumstances. Court based schemes are typically more individualized, however, the discretion can also mean that similar cases are treated differently by different courts. Courts often do not collect and distribute payments, instead the resident parent has the responsibility for monitoring payments and bringing non-payment to the attention of the authorities. Hybrid systems: combine elements of both agency-based and court-based systems.

Importantly, most countries regard child maintenance as an optional process that parents can either agree on privately, or which resident parents can choose to pursue. No country mandates that child maintenance is sought for all children of separated parents (Skinner et al., 2007; Adelakun et al., 2024). Rather, private agreements are the default, and parents are expected to negotiate and manage child maintenance privately. Sweden has a hybrid child maintenance scheme, however, in line with international trends parents are increasingly encouraged to arrange child maintenance in private (Bill 2014/15:145).

## Out of court resolutions as means of resolving post-separation parental disputes

The Swedish family law systems rest of the belief that that court disputes are detrimental for the well-being of children, and that bringing family disputes before the court risks intensifying a parental conflict. These beliefs, along with the strong emphasis on shared parenting, has led to a large investments in the implementation of out-of-court resolution models to handle and prevent parental conflicts, with the explicit aim of keeping parents out of court (Singer, 2023). To that end, the Swedish approach is well in line with international trends. There are countries in which parents are obliged to make legally binding contracts on child custody and child maintenance as a part of the divorce process. Overall, however, there is an international trend away from litigation and adjudication as ways of resolving divorce disputes, in favour of 'private orderings of divorce' (Mnookin, 1984), including alternative forms of dispute resolution methods such as mediation and 'contractualisation' under which family law is seen more as a matter of contract between parties than as an imposed regime (Maclean et al., 2015).

## Theoretical framework

This thesis draws on sociological theories and questions to study legal phenomena. As such, the thesis is positioned within the subfield of sociology called sociology of law (Deflem, 2008; Maclean, 2020).

The studying of law has a long history in sociological research and played a significant role in the work of classical sociologists such as Marx, Durkheim and Weber. Only Weber and Durkheim used the term, “Sociology of Law”, to describe their writings on law because sociology did not exist as a field during Marx’s lifetime. Nonetheless, all three classics shared the broad intellectual agenda of defining law as a social institution, and sought to develop macro theories about the relationship between law and society, informed by systematic empirical inquiry (Morrill & Edelman, 2021). While the development of modern sociology of law cannot be understood simply as following an intellectual line from the classical sociologists, modern sociology of law still builds on the premise that law is part of society; it is a social institution and a social practice (e.g., Deflem, 2008). From this perspective, legal ideas and concepts, (such as rights, responsibilities, welfare, and family), do not arise in isolation, but are shaped by the historical, cultural, social, and political contexts in which they are formed, used and given significance (Cotterrell, 1995; Maclean, 2020). In addition, law is conceptualised as encompassing not only legal rules but also the social practices associated therewith. In this sense, law operates within social relations and institutions and can be understood both as a mechanism of social integration and as a means of social regulation and control (e.g., Deflem, 2008; Sutton, 2001; Cotterrell, 1995).

In the context of post-separation family life, the rules and regulations of family policy and family law formalize individuals’ rights and obligations toward each other, as well as the relative responsibilities of parents, children, and the welfare state (Evertsson et al., 2020; Maclean, 2020). By defining rights, obligations, and procedural rules, legal frameworks determine whose interests are prioritized and whose claims are recognized more generally. They also shape parents’ choices, opportunities, and constraints in influencing both private decisions and court processes in structured and stratified ways (Cotterrell, 1995; Sutton, 2001). In this way, law can be understood as an institutionalized form of state power that regulates social relations and distributes advantages and disadvantages through government action (Cotterrell, 1995).

This thesis examines parents who bring post-separation disputes to court. In order to understand how the law distributes advantages and disadvantages—who benefits and who loses from government action—complementary theoretical perspectives are needed to analyse the mechanisms and processes through which these distributions occur within particular areas of law in Sweden today. These include theories that explain who benefits and who loses from the design of policy and law, as well as theories that examine who benefits and who loses as parental rights and responsibilities are contested and determined in court.

## Deservingness and social constructions of target populations

To understand who benefits and who loses from the design and implementation of policy and law, theories of social construction of target populations (Schneider & Ingram, 1993) and deservingness (e.g., van Oorschot, 2000) are useful.

According to the theory of social constructions of target populations (Schneider & Ingram, 1993), public policy is purposeful and seeks to achieve goals by shaping and regulating people's behaviour. Behavioural change is sought by enabling or constraining people to act in ways they would not have done in the absence of the policy intervention (cf. Ingram & Schneider, 1991). In this sense, policy defines both the social problems to be solved, or goals to be achieved, as well as the target groups whose behaviour is considered central to achieving desired outcomes. The design and legitimacy of different policy programmes, in turn, depend on how these target groups are socially constructed. According to the theory, social constructions of target populations are normative or evaluative characterizations or stereotypes that portray groups in either positive or negative terms, as deserving or undeserving, and they interact with the political power of the group (in terms of votes, economic resources, and capacities to mobilize for action). Groups that are both powerful and constructed as deserving are more likely to receive supportive or beneficial policies, as such policies are perceived as legitimate not only by the target group itself but also by the wider public. Schneider & Ingram (1993) further suggest that even when policy makers are aiming to pursue widely held public interest goals they are commonly able to provide benefits to the powerful, positively constructed groups and burdens to less powerful, negatively constructed ones.

Schneider & Ingram's (1993) perspective aligns with a broader deservingness literature, which show that moral deservingness evaluations play a central role in shaping public and policy perceptions on who should receive support from the welfare state and who should not (van Oorschot, 2000). Deservingness perceptions thus structure boundaries of solidarity by distinguishing between groups perceived as worthy of social support and protection, and those who shall be disciplined and/or subject to rejection.

Building on the work of early scholars (Cook, 1979; De Swaan, 1988; Will, 1993), van Oorschot (2000) published his influential article developing a framework to predict the perceived deservingness of different claimant groups. The framework predicts that individuals are seen as more deserving the more they: (i) experience hardship due to factors outside of their control, (ii) show a grateful and docile attitude, (iii) have contributed to others in the past or currently (reciprocity), (iv) are proximate to the majority society in terms of their social identity, and (v) are in great need of help. Together, these five criteria— control, attitude, reciprocity, identity, and need—form the CARIN criteria for perceived deservingness. A growing number of studies has drawn on the CARIN-framework to explore public perceptions of welfare provision legitimacy across different target groups (e.g. Aarøe & Petersen, 2014; van Oorschot, 2000; 2006; Laenen & Roosma, 2022). In the case of single mothers, international studies have identified the need criterion as the most influential, particularly when linked to the child (e.g., Roosma & Jeene, 2017, Herke & Janky, 2023). Deservingness theory has further been used to study the link between public attitudes and social policy in democratic welfare states. This research suggest that deservingness valuations affect welfare policy design and implementation through mechanisms of

policy responsiveness, but welfare policies also influence public notions of deservingness via processes of policy feedback (Larsen, 2008; Laenen & Larsen, 2018; Kreitzer et al., 2022).

In this way, theories of social construction of target populations and deservingness help to shed light on the fact all welfare-state programs, including family policy and law, embed moral conceptions of who is entitled to rights, support, and assistance and who is not but instead held responsible for their own circumstances. This perspective aligns with long-standing insights in sociology of law, emphasising that laws regulating family matters in any jurisdiction generally reflect the values of the dominant elements in that society, whether defined by wealth, gender ideology, or religion (cf. MacLean, 2020).

As previously described, contemporary Swedish family policy and law has been implemented with the aim of encouraging and supporting a dual earner-carer model of family life, in which parents are expected to share breadwinning and caregiving responsibilities in an equal and collaborative way. Embedded in this policy orientation are moral evaluations of what constitutes a family, what is considered best for families and for children, and assumptions of appropriate parental behaviour (cf. MacLean, 2020). Even though the image of the marriage-based nuclear family has become substantially less rigid and explicitly normative over time, the two-parent (heterosexual) family continues to function as a salient standard for family life, and a reference point for socio-political orientations in social and family policy (cf. Zagel, 2023). Consequently, families who deviate from this norm often struggle to realise their rights to family, and accessing forms of support that would enable them to integrate on equal terms with other two-parent family- and living arrangement (e.g., Evertsson et al., 2020; Zagel, 2023).

Importantly, however, this does not necessarily imply that families who deviate from norms of 'shared parenting and amicable separation' are socially constructed as undeserving. There is considerable tolerance for diverse family forms in Sweden (Hobson et al., 2023). On the one hand, it has been argued that there is no stigma associated with separation and divorce in Sweden (e.g. Hobson et al., 2023); on the other hand, it has also been suggested that separation is culturally undesirable (e.g. Lundberg et al., 2026). Therefore, the argument made is not primarily one of moral exclusion or rejection, but rather one of institutional misalignment. As shared parenting has become increasingly normative and common—both among parents living together and parents living apart—families that deviate from this ideal have become legally and politically invisible (cf. Duvander & Schiratzki, 2024). Because their lived experiences do not correspond to the dominant narrative embedded in family policy and law, they do not match the stereotypical target group for which these frameworks are designed. As a result, existing frameworks are less able to support them or to integrate them on equal terms. As suggested by Schneider & Ingram (1993) these patterns further interact with power and class, as shared parenting and shared physical custody is more prevalent among parents from higher socio-economic backgrounds.

In sum, theories on the social construction of target population and the power distributions that lie behind these constructions as well as deservingness help to explain why some groups are more advantaged than others, and how policy designs reinforce or alter such advantages. Study III expands on the deservingness perspective developed by van Oorschot (2000) by using it as an analytical framework to analyse how parents involved in child-custody court disputes frame and

justify their claims, and to identify which combinations of arguments are more or less likely to lead to sole legal custody.

## Court disputes on child maintenance: the influence of power

When parents bring their post-separation disputes to court questions of “who benefits and who loses” may be explicitly examined through sociological and socio-legal theories of power. While several definitions of power exist, this thesis aligns with a Weberian conceptualization of power as the probability of one actor within a social relationship to carry out his own will despite resistance (Weber, 1978). From this perspective, power is relational and tied to the different roles individuals occupy in social relationships. As parents engage with the legal system, power becomes institutionally structured through both the design of the law, and the procedural roles that parents occupy when they turn to court (cf. Sutton, 2001; Cotterrell, 1995). In other words, laws assign parents formal positions or roles, and these roles, in turn, come with distinct opportunities (or restrictions) to influence the court process, and its outcome. This perspective aligns with scholarship on social construction of target populations (Schneider & Ingram, 1993) and deservingness (e.g. van Oorschot, 2000), which show that policy and law tend to confer greater benefits and leverage to some groups over others.

Study I of this thesis examines minority care-time parents (primarily fathers) who dispute their child maintenance obligations under the state administrated guaranteed support scheme, while Study II focuses on resident parents (primarily mothers) and children who assert their right to child maintenance under the private law maintenance allowance scheme. There are important institutional and procedural differences between legal disputes over guaranteed support and those over maintenance allowance. Therefore, different theories of power are needed to analyse each type of procedure.

Court disputes on guaranteed support are filed and resolved within the administrative courts, which means that the two parties are the appellant parent and the SSIA. Parents are generally not represented by legal professionals; instead, the court has an extended responsibility to ensure that all relevant information is added to the case. These court cases are *indispositiva*, which means that the outcome is always adjudicated by a judge i.e. the parent and the SSIA cannot reach an agreement/settlement. The primary task of the court is to assess whether the SSIA’s decision on maintenance had been made in accordance with the applicable legal framework (Social Insurance Act, Chap. 17-19). Thus, in these cases power theories that address the asymmetrical power relationship between an individual and a state agency are appropriate.

Legal disputes concerning maintenance allowance, on the other hand, are family law disputes, which means that the parents are the parties: one parent (the applicant) files a claim for maintenance allowance against the other parent (the respondent). These disputes are brought before the district courts and are resolved according to rules of civil procedure. These court cases are *dispositiva*, which means that the court cannot ask for additional information or evidence apart from the one invoked by the parties, neither can it grant a party more than what was requested. Parents may use legal representation; however access to legal aid is limited. Parental agreements are strongly encouraged, and that majority of cases are resolved through a court-ratified

settlement. This makes theories of family power, such as relative resource theory, useful (e.g., Blood & Wolfe, 1960).

### Guaranteed support: the individual vs the state

Extensive research shows that government agencies—such as the SSIA—often enjoy systematic advantages in court litigation over individual citizens with limited legal experience. In this regard, Galanter’s (1974) article *Why the “Haves” Come Out Ahead* is seminal, with substantial subsequent research supporting his general claim that “repeat players”, i.e. actors such as government agencies and large organizations that engage in litigation frequently, benefit from structural and strategic advantages in court processes. These include access to legal expertise, organizational capacity, accumulated institutional knowledge, and the ability to pursue long-term strategies which place them in more favourable positions than individual citizens and other “one-shotters” (e.g., Kritzer et al., 2003).

In Study I, however, the aim is not primarily to explore whether or not the administrative courts rule in favour of the liable parent, or not. Indeed, consistent with the ‘repeat-player vs one-shooter’ argument, the vast majority (93%) of parents disputing liability have their cases rejected. Rather, the study depart from the fact that non-compliance rates are generally high in the guaranteed support system, and therefore seeks to explain why liable parents’ understandings are at odds with those of the authorities. To that end, the study builds on a core tenet of the sociology of law: the insight that ordinary citizens and legal professionals may have different understandings and experiences of the law, and that what individuals perceive as legally relevant is not necessarily viewed as such from the perspective of legal professionals and vice versa (e.g., Cotterrell, 1995; Ewick & Selby, 1998; Sutton, 2001; Baier et al., 2019; Sarat, 2017).

From the perspective of SSIA professionals, questions of liability are primarily framed in technical terms: the central issue is whether a parent is legally obligated to pay guaranteed support under the existing regulatory framework, and the role of the court is to assess whether the agency has made a decision in accordance with these standards. These formal assessments, however, do not always correspond with parent’s interpretations or understandings of what it means to be responsible for paying child maintenance, nor with their actual financial capacity to comply. Thus, when parents turn to the courts to contest SSIA decisions, they stand ‘against the law’, resisting its influence in organizing and regulating their lives (Ewick & Silbey, 1998; Sarat, 2017). However, because parents tend to base their arguments in everyday experiences of parenting, financial strain, and perceived injustices rather than formal legal criteria these arguments carry little legal weight. Although not an explicit theory of power, the approach highlights how mismatches between legal professionals and parents’ understandings of liability, knowledge of legally intelligible arguments, patterns of communication, and assessments of economic versus lived ability to pay produce experiences of subordination, powerlessness and hardships.

It further shows that liable parents within the SSIA system, particularly the ones who struggle to comply, have limited control or decision-making authority over their child maintenance responsibilities. If the formal law (SSIA) stipulates that the parent is obligated to pay, a support

order will be executed regardless of the parents' willingness or potentially limited capacity to comply.

## Maintenance allowance: parental conflict and mediation

Within the realm of family law, conflicts can be resolved either through court adjudication or through alternative dispute resolution mechanisms—such as in-court mediation—where parents are encouraged to reach an amicable settlement. The latter is strongly promoted in Sweden, and the vast majority of court cases concerning maintenance allowance are resolved through court-ratified settlements (Schiratzki, 2025).

The “pros and cons” of mediation have been extensively debated among family law scholars (e.g., Bryan, 1992; Folberg & Taylor, 1984; Haynes, 1982; Fineman, 2010; Nylund, 2023; Singer, 2023; Schiratzki, 2023). Proponents of mediation argue that it empowers couples to self-determine their post-separation lives, reduces conflict, and facilitates the realization of the best interests of the child (e.g., Folberg & Taylor, 1984; Haynes, 1982). However, others caution against mediation, particularly in high-conflict cases, arguing that there is a risk that gendered power imbalances between parents may shape seemingly amicable settlements (Bryan, 1992; Fineman, 2010).

Child maintenance is often considered an inherently gendered phenomenon, reflecting the traditional positions of female caretakers and male breadwinners (e.g., Cook et al., 2024). This makes theories that focus on resources, and the gendered allocation of resources, particularly relevant for analysing how power influences mediated outcomes.

The relative resource perspective (Blood & Wolfe, 1960), also referred to as the resource theory of family power, conceptualizes power as differential access to resources, with the balance of power favouring the partner who has the greatest resources at their disposal. Study II draws on the relative resource theory (Blood & Wolfe, 1960) to explore whether material power imbalances—operationalized as parents' relative incomes—affect the monetary outcomes of child support [maintenance allowance] court processes in Sweden, comparing cases resolved through in-court mediation with those resolved through court adjudication.<sup>11</sup>

The findings suggest that high-income liable parents secure comparatively more favourable outcomes than both resident parents and lower-income liable parents. This indicates that absolute financial resources drive bargaining power in court disputes, highlighting the relevance of including a power-perspective to the studying of post-separation court disputes.

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<sup>11</sup> As noted by Bollen et al., (2013), however, power resources in a mediation setting can include both material and immaterial dimensions. While men generally have greater access to material resources (e.g., income and housing), women tend to have greater access to immaterial resources (e.g., relationships with children).

## Legal decision making and discretion

Lastly, questions of “who benefits and who loses” — or, more specifically who will have their legal rights recognized and who will not— cannot fully be understood through theories of power alone. Sometimes complementary theoretical explanations, such as those emphasising the influence of context, are needed, particularly in areas of law where rules involve a large degree of discretion. This is the case in the context child custody residence and visitation disputes, where principles such as ‘the child’s best interests’ provide legal decision makers—from social service professionals to judges—considerable discretion in how to interpret and apply this principle in practice (cf. Sonander & Lundberg, 2026).

One task of sociologist of law is to analyse how legal decision makers use discretion. If legal rules alone cannot predict behaviours or legal outcomes, what can? Study IV addresses this question by drawing on Manning and Hawkins’ (1990) frame-analytical perspective on legal decision-making to explore whether children’s rights to participation is influenced by the context—or framing—of the inter-parental conflict underlying the custody dispute.

## Methodology

The data used in this thesis consist of court decisions issued by lower-level courts (courts of first instance). These are court decisions on guaranteed support issued by the administrative courts (Sw. förvaltningsrätt) and court decisions on maintenance allowance as well as child custody, residence and visitation, issued by the district courts (Sw. tingsrätt). The collection, preparation and coding of these court decisions constitute the cornerstone of the thesis’s empirical approach and primarily quantitative design, and are essential for evaluating and interpreting the robustness of the findings. Nonetheless, ensuring that the data were robust was time-consuming. Therefore, this chapter begins with an overview of the data collected, followed by a discussion of the challenges associated with collecting, organizing, and using large volumes of court decisions for the purpose of conducting quantitative analysis. This part also includes a description of what type of information that can typically be derived from court decisions, and how this information has been epistemologically and conceptually understood and interpreted.

The second part of this section outlines the specific subsets of the overall collection of court decisions that were used in each of the individual studies comprising this thesis as well as descriptions of how these decisions were coded and analysed. This part will be rather detailed given that the empirical approach of thesis is relatively novel. While there are previous research examining post-separation legal issues through analyses of first instance court decisions these have often either focused on relatively small subsets of court decisions, and applied qualitative or descriptive quantitative designs (e.g., Schiratzki, 2005; 2008; Bruno, 2015; 2018; Bergman & Rejmer, 2017; Rejmer, 2003; Näsman & Fernqvist, 2015), or employed advanced quantitative methods to very large samples in which the court decisions has not been as detailed read and coded (e.g. Hasselqvist, 2025). The empirical approach of this thesis is positioned somewhere between these two strands of research. It combines a ‘larger set’ of court decisions and a more explanatory methodological design with a closer, more detailed coding. Consequently, the approach contributes with an innovative perspective on the studying on post-separation court

disputes, while also building on earlier work. This approach, if carefully executed, holds the potential to combine the benefits of qualitative and quantitative methods by integrating in-depth qualitative insights with the generalizability offered by quantitative analysis. It can also be useful for cross-validating findings from smaller studies and serve as a preparatory step for future research employing automated coding techniques on larger samples.

## Court decisions as data

Within the framework of the thesis, the following court decisions were collected:

- (i) Court decisions concerning guaranteed support resolved within all of Sweden's twelve administrative courts from 2014 to 2019 (n=2,977).
- (ii) Court decisions concerning child maintenance resolved within all of Sweden's 48 district courts from 2014 to 2020 (n=622).
- (iii) Court decisions concerning child custody and contact resolved within all of Sweden's 48 district courts from 2014 to 2021 (n=45,273).

As shown, the end period for the collected court decisions varies across the different types of disputes. The reason to this is that the work extended over several years, thus, more court decisions were ordered and collected throughout the project to ensure an inclusion of the most up-to-date data.

While court decisions constitute an interesting and useful data source for social scientists, the organization and managing of large sets of court decisions have both administrative and methodological challenges. Two of the major challenges were i) discrepancy between the request and delivery of court cases, ii) heterogeneity in the profile and outline of court decisions.

### Discrepancy between the request and the delivery of court cases

Each of Sweden's 48 district courts and 12 administrative courts were contacted with written requests for 'all court decisions' concerning a specific legal dispute for a specific time period. As the court cases came in, the number of court cases received was systematically compared with the number of court cases that—according to official statistics—had been resolved within the respective courts for each year. The total number of court cases received did not correspond to the number expected according to official statistics, and there was a large variation between courts. Moreover, documents that were not part of the request were also sometimes received, such as file appendices, decisions on legal aid, as well as related but not relevant court decisions, such as court decisions on divorce that did not contain any claims for child maintenance or custody.

The discrepancy between the requested and delivered court decisions primarily pertained to court decisions on child custody, residence, and visitation. The administrative courts generally delivered all requested court decisions on guaranteed support finalized during the period, with the matching rate ranging between 87–100%. Similarly, the district courts delivered between 87–99%

of all court cases on maintenance allowance finalized between 2016 and 2020. In terms of court decisions on child custody, residence, and visitation, however, there was considerably more variation. For 2016, less than 40% of all court decisions were received. This figure improved over time, and for the years 2019–2021 about 85% of all court decisions were delivered. Yet, there was still large variation between courts. For instance, with regard to 2021, the matching rate ranged between 21–100%.

After contact with administrative personnel at several district courts, it became clear that the discrepancy between the request and delivery of court decisions was largely due to the absence of clear and cohesive administrative guidelines for how court decisions should be filed and registered. This has resulted in significant variation in administrative practices between different courts, among staff within the same courts, and over time. In other words, there were multiple potential files in which a court decision on, for example, child custody, residence, and visitation could have been saved. Therefore, it was not immediately clear to the administrative staff receiving the requests how to locate “all” court cases on child custody, residence, and visitation. After the same request (e.g., all court decisions on child custody, contact, and visitation according to the Parents Code Chap. 6 issued in 2021) had been sent to the same court multiple times, it further became clear that different administrative staff within the same court were able to locate different numbers of decisions. Importantly, however, these differing filing and registration procedures were merely the result of differing administrative practices; that is, they were unrelated to the substance, nature, or severity of the court cases as such.

In quantitative social science research, full samples are often preferred in order to ensure that missing data do not bias the findings. Therefore, much time and effort was devoted to collecting all court decisions. However, as the discrepancy between the request and delivery of court cases was not systematically related to the nature or content of the court case, there is no reason to believe that the court cases we received differ systematically—substance-wise—from those that were not received. Therefore, the inability to obtain ‘full samples’ should not have caused any significant or systematic biases of the findings.

The court decisions on child custody, were further related with another ‘data-processing’ issue. There are two types of child custody cases that are handled by Swedish district courts (i) between parents and (ii) petitions by the social services on the transfer of custody from the (biological) parent(s) to a legally appointed custodian (Sw: *särskilt tillförordnad vårdadsbavare*). While the thesis only analyses the former, the district courts file system makes no distinctions between these two categories of custody disputes. Consequently, both categories were included, and the parental disputes were identified within overall material (for a full description see Schiratzki & Finnström, 2023).

In conclusion, courts file and archive court decisions according to logics and purposes other than those of research. Therefore, for researchers interested in employing court decisions as data, it is relevant to know that it can be difficult to obtain full samples and time-consuming to identify the court decisions that are relevant for the purposes of a specific research project within a collected ‘court-decision database’.

## Heterogeneity in outline

The court decision is written by the presiding judge following the conclusion of the main hearing.<sup>12</sup> The court decision tends to take a standardized form, that is certain structural premises are set, nonetheless there was great heterogeneity between—as well as within—courts in terms of length, writing style, and outline.

### *Administrative courts*

Administrative court proceedings typically do not include oral hearings. Instead, all communication takes place in writing, and the court evaluates the claims of the appellant (the parent) and the respondent (the SSIA) based on the submitted written materials and the SSIA's decision under appeal. The administrative court generally consists of one professional judge and three lay judges; however, many cases are decided by the professional judge alone (Swedish Courts, 2021)

A typical court case from the administrative courts follows the following logic: (i) the name, social security number and address of the parent filing the appeal, date and dnr of the appealed SSIA-decisions, the court's decision [rejection/approval]. (ii) A summary of the appellant parent's claim. (iii) The court's reasoning behind the judgment. This part generally includes a short note on the parent's claim in relation to the SSIA's decision as well as a description on why (or why not) the court consider that the SSIA's decision has been made in accordance with the applicable legal framework. (iv) The SSIA decision (if enclosed).

### *District courts*

District court processes typically starts with the judge convening the parents for a preliminary hearing, aimed at making parents reach an agreement. If no agreement is reached, the district court conducts a main hearing, during which parents—often represented by legal professionals/lawyers— present their claims and counterclaims. Sometimes additional witnesses are called. The district court generally consists of one professional judge and two lay judges.

A typical court case from the district court follows the following logic: (i) the names, social security numbers and addresses of the parties and their children, information on legal representation and legal aid, and the outcome of the case. (ii) The initial claims of both parents and a short background on the parents' positions, often based on submissions from legal counsels (this tend to be rather short, formal and standardized). (iii) Summary of each parents' arguments as presented during the oral hearing. This part can also include arguments and evidence that was submitted via written communication, and taken up during the hearing. These parts can be quite extensive, although substantial variation exist. (iv) The judgement (Sw. *domskäl*), which describes how the judge has assessed and weight the parents' arguments in relation to applicable law, in other words the basis for the outcome. If the court incorporates investigations from the social services, this is also generally presented here. Selected parts of the

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<sup>12</sup> In practice, however, a draft is often written by a court clerk and then revised and approved by the judge.

investigation are then used to assess the credibility of the parents' claims and as a complementary source, for instance by considering any information about the child's views.

While many court decisions followed the outline described above, this was far from always the case. There was great heterogeneity between—as well as within—courts in terms of templates used, the writing style, outline and length of the court decision. Some court decisions were very long, and detailed (up to approximately 50 pages), while others were short and only contained an absolute minimum of information regarding parents and the dispute (approximately 5-6 pages). The heterogeneity can to some extent be traced to different administrative routines between courts, and within courts, e.g. over the years. Some courts consistently provided more detailed court decisions, while others were more concise. The heterogeneity can also be attributed to the usage of different types of templates, as well as different ways of archiving. Sometimes the pdf-files we received included attachments such as party agreements and statements from authorities, and these attachments contained additional relevant information which was otherwise left out or substantially shortened.<sup>13</sup> Nonetheless, some overall patterns are recognisable:

- i) Most court cases contained the social security numbers of both the parents and children involved in the dispute. Consequently, it was almost always possible to extract information on (i) the age and (ii) gender of both parents, (iii) the number of children involved in the dispute, and (iv) the ages of these children as well as address. Moreover, consistent information was provided on (v) what the case concerned, (vi) which parent filed the petition, and (vii) the initial claims of the respective parties, which—in turn—revealed (viii) which parent (i.e., the mother or the father) was the majority or minority caregiver. In addition, there was consistent information on whether the parents had (ix) legal representation and (x) were granted legal aid. As a result, the vast majority of court cases that has been read, coded, and analysed in this thesis contain this information.
- ii) Besides the general information described above, additional information on the background characteristics of parents (e.g. employment situation, income, and new family formations), as well as more detailed information on the background histories to the dispute and parents arguments and could be extracted. Nevertheless, the availability of this extant information tended to be conditioned:
  - a. Among judgments under the Social Insurance Act regarding guaranteed support, the court case only contained information that was directly relevant to the case. For example, information about finances and employment only emerged if the parent appealed on economic grounds, while information of the exact amount of time each parent spent with the child only emerged if the dispute concerned the limits of joint residence arrangements.
  - b. Among judgments under the Parents Code (i.e. maintenance allowance, and child custody, residence and contact), court decisions where the court adjudicated after a main hearing the outcome of the case contained more detailed information—

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<sup>13</sup> The vast majority of documents we received regarding child custody contact and visitation did not include attachments.

concerning both parents, children and the dispute— compared to cases resolved through a court-ratified settlement.

The heterogeneity in outline, profile, and information across court cases caused three main methodological and/or empirical implications. (i) Studies I and II have a large amount of missing data on several variables in the dataset. Consequently, in Study I, statistical comparisons of population groups across reasons for non-payment were limited, and in Study II, the regression analyses were computed from a subset of the full sample. (ii) Studies III and IV focus exclusively on court-adjudicated cases and not on amicable settlements. (iii) The heterogeneity in the outline and profile of court decisions, combined with substantial variation in terminology, as well as the research questions requiring a detailed and “interpretative” coding of variables (not merely extracting specific words), made it complicated and difficult to automatize the coding. This led to a change of strategy: while automatizing the coding was initially considered in order to make use of a substantially larger sample of child custody court cases, this approach was ultimately not pursued (see *‘Data management and analytical strategies in the individual studies’* for a lengthier description of the coding process and the pros and cons associated therewith).

### Court decisions, filtered accounts of reality

The court decisions represent a filtered version of the parental conflict. That is, they do not necessarily reflect the parents’ actual behaviour or provide a complete or ‘objective’ picture of the situation. For instance, it is likely that the parents’ statements and arguments are shaped by social desirability bias, as they may wish to present themselves in a favourable light before the court. In addition, when parents use legal representation, their claims and arguments are also filtered through these professionals (Lundberg et al., 2026). This has been acknowledged and accounted for in the thesis, particularly so in Study III. Moreover, the thesis makes no claims on revealing truths concerning these parents’ everyday practices or conflicts. Rather, it aims to examine how parents argue before the courts (Studies I and III), and how the court, in turn, makes decisions based on these accounts (Studies III and IV).

The court decisions are not only filtered or constructed accounts of “reality” in terms of what the parents disclose, but also filtered and condensed summaries of the legal proceedings as a whole. The analyses in this thesis build almost exclusively on the written court decisions themselves and not on related, additional materials such as social services investigations or other case documentation. Nonetheless, the court decision is generally assumed to reflect the information and evidence considered most relevant to the case and the court’s assessment leading up to the final outcome. Still, it is possible that information that could have influenced the court process as a whole has been omitted.

### Data management and analytical strategies in the individual studies

The individual studies in this thesis build on different analytical strategies. Yet, the data of which these analyses are based on were generated according to the same procedure. That is, all studies are based on datasets that were created through a systematic process of i) identifying all the court decisions of interest and ii) extracting the variables of interest. This process was entirely manual,

and no automated tools such as text-search programs or AI were used. Instead, all court decisions were read in full, often several times, and the variables of interest were extracted using the case classification function in the program Nvivo.

To assure the validity and reliability of the coding and the resulting dataset, various stages of the coding process was done collaboratively with Ann-Zofie Duvander and Johanna Schiratzki. Specifically, all three were involved at the start-up stage of each coding scheme to ensure that the operationalization of variables was relevant and accurately captured what they were intended to measure. A subset of each set of court decisions was also coded collaboratively, either in parallel or jointly, to ensure consistent interpretation and coding between ‘several people.’ The vast majority of court decisions, however, was coded by the author alone, thus the coding could potentially be considered somewhat subjective. While having multiple people generate the complete coding schemes could have further strengthened inter-coder reliability, the meticulous collaborative development and review ensured that the coding schemes and related datasets are robust.

The close reading and coding of all court decisions that constitute the data for this thesis provided in-depth knowledge of how court processes work, how they are structured, what they consist of, and the considerable variation that exist between them. This process also enhanced the author’s understanding of the legal rules and regulations that govern child maintenance and child custody disputes, and how they operate and manifests in practice. Familiarity with both the data and the context; that is first hand, in-depth knowledge of how variables are generated, what they measure, and the context from which they are taken, further facilitated the analyses and the interpretations of the results.

Nonetheless, the approach was time-consuming and unsuitable for very large samples. For this reason, Studies III and IV are limited to 3,203 custody decisions, all of which were decided in 2021. Yet, the dataset is comprehensive and includes detailed coded variables capturing socio-demographic information about parents and children, as well as information on court cases, both parents’ claims and counterclaims, and judicial decisions. This provides an opportunity to examine novel research questions at the intersection of sociology and law in this thesis, and beyond. In addition, the samples used for the four studies in this thesis are still large, covers a longer time period, and includes a greater number of courts, ensuring geographical representativeness, compared with previous legal studies (e.g., Schiratzki, 2005, 2008;) and other interdisciplinary research on post-separation legal issues based on first-instance court decisions (e.g., Bergman & Rejmer, 2017; Bruno, 2015; 2018; Näsman & Fernkvist, 2015; Schiratzki et al., 2019).

### Legal disputes on guaranteed support

All court cases concerning guaranteed support resolved within all of Sweden’s 12 administrative courts from 2014 to 2019 were requested, resulting in 2,977 documents received.

All court decisions from the smaller courts, as well as one third of the court decisions from Stockholm, Göteborg, and Malmö (the main Swedish metropolitan areas) were read in full and coded into a quantitative data scheme ( $n = 1,841$ ). The selection of one-third of court decisions

from the metropolitan areas was made to reduce the sample to a manageable size. The selection was entirely random; therefore, there is no reason to believe that the included court decisions differ in any substantial or significant way from those that were not included.

Out of the 1,841 court decisions, 1,536 were useful for further analyses.<sup>14</sup> All 1,536 court decisions were read in full and coded into a quantitative dataset. The dataset includes information on the underlying problems motivating parents to appeal SSIA decisions in court, the socio-demographic characteristics of the parents (e.g., gender, age, income, number of children), as well as information about the court case, such as the outcome of the dispute (rejection or approval) and the main motivation behind the court’s decision.

As shown in Table 1, parents filed appeals against SSIA decisions for a variety of reasons: about half of the cases (51%) concerned liable parents who disputed their liability or requested a temporary suspension (respite) of payment obligations, one third (32%) were filed by resident parents contesting rejected applications for guaranteed support, and about 13% involved resident parents appealing repayment claims related to previously granted guaranteed support payments.

**Table 1: Types of Court disputes on Guaranteed Support 2014-2019**

Type of Dispute	Freq.	Percent
Dispute liability	624	40,63
Respite	154	10,03
Request for guaranteed support	494	32,16
Repayment obligation	192	12,5
Other	72	4,69
Total	1536	100

Study I is based on the subset of court cases where liable parents disputed their obligation to pay (i.e. either disputed liability overall or requested a respite) (n=778). As the focus is on why liable parents’ understandings are at odds with those of the authorities, only the rejected court cases were selected for analysis (n= 723).

**Legal disputes on maintenance allowance**

All court cases concerning maintenance allowance resolved by Sweden's 48 district courts from 2014 to 2020 were requested, resulting in 622 documents being received. However, very few decisions were obtained from 2014 and 2015. Consequently, only the decisions from 2016 to 2020 were read and coded (n=579). According to official statistics, the district courts finalized 655 maintenance allowance cases between 2016-2020, making the sample representative of 88% of the total cases finalized during these years.

Study II focuses on resident parents (or children) who filed an appeal for maintenance allowance against the liable parent, between 2016-2020. Accordingly, the coding was conducted with the aim of identifying i) all court cases concerning maintenance allowance that had been resolved either through a court judgment or through an amicable settlement, and ii) cases in which

<sup>14</sup> Reasons for exclusion: the appeal was rejected prior to a main trial, written off etc.

resident parents and their children sought child maintenance from liable parents. As shown in Table 2, there were 372 court decisions pertaining to these issues.

**Table 2: Type of court disputes on maintenance allowance 2016-2020**

Type of dispute	Freq.	Percent
Dispute resolved either by court or settlement	372	64.25
Dispute written off, rejected or left without approval	68	11.74
Dispute resolved by default judgment (Sw. <i>Tredskodom</i> )	34	5.87
Counterclaims and reoccurring parents	15	2.59
Partial judgements	52	8.98
Not maintenance allowance	35	6.05
Insufficient information	3	0.05
Total	579	100

The 372 court decisions were read in full and coded into a quantitative dataset that constitutes the basis for the analysis in Study II. The dataset includes information on the sociodemographic characteristics of parents and children, information on legal representatives and legal costs, the monetary claims of both applicants and respondents (both prospective maintenance payments and retroactive compensation), as well as the support orders contracted in court etc.

### Legal disputes on child custody, residence and visitation

All court cases concerning child custody, residence, and visitation resolved in Sweden’s 48 district courts between 2014 and 2021 were requested and collected; however, only cases resolved in 2021 were selected for coding and further analysis. The primary reason for this delimitation was that the coding process was initiated with the specific aim and research question of Study III in mind. Study III draws on van Oorschot’s (2000) deservingness framework to examine how parents justify child-custody claims in court and which argumentative patterns are most likely to result in a court order on sole legal custody. Because the identification and extraction of “deservingness” variables required detailed and extensive coding (in total, more than 80 variables were extracted), and because the coding was conducted manually, it was necessary to limit the sample to a manageable size.

The sample selection process was conducted in two steps. Step one served to select the courts of interest (the overall sample), while step two served to identify the subset of court decisions that would constitute the basis for the datasets used in Studies III and IV.

The identification of relevant courts was guided by three main criteria: (i) year, (ii) matching rates, and (iii) geographic spread.

**Year:** Court cases resolved in 2021 was chosen because they constitute the most recent set of decisions available in the dataset that had received ethical approval. In addition, the correspondence between requested and delivered cases was particularly high across a large number of courts for this year, making it possible to include a large number of courts in which all or nearly all decisions finalized in 2021 had been obtained. For the purposes of Studies III and

IV, and particularly Study IV, the year 2021 was also substantively relevant, as it represents the first full year after the UNCRC was incorporated into Swedish national law.<sup>15</sup>

**Matching rates:** Only courts that had delivered at least 80% of the cases that, according to official statistics, were resolved in that court in 2021 were included.

**Geographic spread:** To ensure geographic representativeness, courts from all major regions of Sweden were selected, including the three metropolitan areas as well as medium-sized and smaller cities across southern, central, and northern Sweden.

Based on these criteria, court cases resolved in 2021 in 35 of Sweden's 48 district courts were included in the final sample. Among these courts, 9 (26%) delivered all decisions, 11 (31%) delivered 90–99%, and 15 (43%) delivered 80–89% of all decisions resolved in that year, resulting in a total of 3,203 court decisions.

In step two, the 3,203 court decisions were screened to identify the subset that would form the basis for the datasets used in Studies III and IV: This screening process was informed by the following selection criteria: (i) the case was resolved by court adjudication, i.e., court-ratified settlements were excluded; (ii) the applicant had requested sole custody; and (iii) the court decision included at least some basic information on the parents' main arguments, making it possible to identify the presence or absence of deservingness criteria.

In total, 535 court decisions met the screening criteria. The main reason why the final subset is much smaller than the overall sample of 3,203 court decisions is that approximately two thirds (2,068) of all cases had been resolved through court-ratified settlements. The second most important reason was that the applicant had not filed a petition for sole custody, either because joint custody was requested or because the court case concerned only residence and/or visitation rights. A minor share was excluded on basis that that they did not contain sufficient information to allow meaningful coding of parental arguments, primarily because the respondent parent could not be identified, for example because they were abroad, could not be located, or were presumed deceased.

The 535 court decisions were read in full and coded into a quantitative dataset consisting of 83 variables. The variables cover sociodemographic information on parents and children, each

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<sup>15</sup> During 2021, it was the COVID-19 pandemic. There are no strong indications that the pandemic affected parents' incentives to initiate court proceedings; there is no notable deviation in the number of court cases compared to the periods before or after the pandemic. Nor should the pandemic have affected the conduct of trials as such. Court operations continued without interruption throughout the pandemic, and district courts held oral hearings to the same extent. Moreover, Studies Three and Four focus on custody claims. As demonstrated by previous research (e.g., Rejmer, 2003; Bergman & Rejmer, 2017) [and this thesis alike], the reasons parents seek sole custody are often rooted in serious and highly complex conflicts that tend to have evolved over a long period of time. All in all, there is no evidence suggesting that the year 2021 reflects a skewed or selected period of court cases.

parent's (applicant and the respondent) main legal claims, and the basis for those legal claims, that is, detailed coded information on the arguments each parent presented to the court to support their position. The dataset also includes information on whether the child's views were considered in the judgment and the outcome of the case.

## Ethical considerations

This thesis, including the four individual studies, is ethically vetted and approved by the Ethical Review Board, Stockholm (Dnr 2020-00450, Dnr 2022-00995-02), and has been conducted in accordance with current ethical rules.

Court decisions are public documents (Sw. *allmänna handlingar*) that can be requested by the general public, researchers, and other professionals; some are also available on court websites, and some are accessible through publicly available databases provided by commercial actors. However, court decisions concerning guaranteed support, maintenance allowance, and child custody, residence and visitation often contain sensitive personal information about the parents and children involved. Therefore, as with all research involving individual-level data, ensuring the confidentiality of these individuals is essential.

The court decisions were delivered via encrypted e-mail or on a USB- stick by post mail. The documents, along with related coding schemes and datasets, were securely stored in a folder provided by the Sociology Department IT unit, accessible only to the author and the two supervisors who are involved in the same research project.

In the individual studies, all results are presented at an aggregate level to ensure anonymity of individuals involved. Due to ethical considerations, no data is published online.

## Summary of studies

### Study I

#### **Individual realities and legal responsibilities: a study of non-resident parents who dispute child maintenance obligations in Swedish administrative courts, 2014–2019.**

Study I focuses on minority care-time parents (mainly fathers) who contest their child maintenance obligations under the guaranteed support scheme. The background to the study is that the guaranteed support scheme is disproportionately composed of low-income parents, and many liable parent struggle to comply; in 2020 collection rates were lower than 60%, and it is estimated that 30–35% of liable parents within the guaranteed support system have reoccurring, long-term debts (Swedish Government Official Report, 2021:101; Swedish National Audit Office, 2010). Non-compliance is problematic for several reasons. From the perspective of liable parents, failure to pay can have negative long- term consequences if they become subject to enforcement measures. From the perspective of children, non-compliance-- especially when it translates into long term debt-- risks hampering the child's overall financial situation. That is, even when the resident parent receives payments, the systems risks merely shuffling poverty between parental households. At the state level, non-compliance generates additional

administrative burdens, which are costly. The objective of the study is map out and describe the overall reasons why parents do not pay, as well as to explain why parents' perceptions of their maintenance obligations diverge from those of the SSIA officials. The study build on a unique body of material comprising 723 court decisions where liable parents dispute their liability—as decided by the SSIA—in all of Sweden's twelve administrative courts between 2014-2019. These court decisions are analysed by combining quantitative descriptive analysis and qualitative thematic text analysis. The results show that majority (57%) of parents disputing liability for financial reasons; they argued that they did not have the economic means to pay. The qualitative analysis suggest that this often stemmed from parents' having 'real incomes' that were substantially smaller than the incomes that the SSIA used to determine their liability. Consequently, parents received orders that were disproportionately large relative to their disposable income. The second most common argument was related to contact with children (24%); parents argued that they spent substantial time with their children, and had expenses related to such, why maintenance obligations ought not to prevail. The qualitative analysis suggests that many parent seemed to have overestimated their own care and economic contributions, whilst simultaneously downplaying those of resident parents (majority mothers). Last, the qualitative analysis suggest that many liable parents do not understand how liability is legally operationalized. This issue was reinforced by the complexity of child maintenance legislation and the technical and impersonal communication by the SSIA. The obscurity of rules added to their resistance toward payments, and created uncertainty and distrust in the state administrated system.

## Study II

### **Bargaining Against Poor Odds: A Power Resource Analysis on Legal Disputes for Child Support in Sweden**

Study II shifts the perspective to resident parents (primarily mothers) who seek to secure their right to child maintenance through the private law maintenance allowance scheme. The backdrop to the study is the increased emphasis on child maintenance being a private responsibility, with parents expected to negotiate payments themselves. While courts may constitute a last-resort setting if private negotiations and agreements fail, the expansion of alternative dispute resolution methods, such as in-court mediation, has implied that parents are expected to continue negotiating even after the conflict has reached the courts. Feminist legal scholars have long cautioned against mediation in post-divorce disputes, highlighting that gendered power imbalances between parents risk influencing seemingly amicable settlements in ways that disadvantage the weaker negotiator— often the resident mother (e.g., Bryan, 1992; Fineman, 2010). So far, however, empirical evidence on how the outcomes of court-mediated settlements compare with those of full trials remains scarce, especially regarding how asymmetries in bargaining power affect outcomes. The study adds to the debate by comparing the monetary outcomes of court cases resolved through in-court mediation with those adjudicated by a judge, focusing explicitly on whether power imbalances—measured as parents' relative incomes— influence court-mediated settlements in ways not observed in judge-adjudicated cases (Blood & Wolfe, 1960). The study builds on a unique dataset of all Swedish court decisions involving resident parents suing liable parents for child support between 2016 and 2020 (n = 327). The

court cases were analysed using bivariate statistical methods and ordinary least squares regressions. The results suggest that monetary outcomes differ quite substantially depending on whether the case was resolved through in-court mediation or adjudicated by a judge. In particular, court-adjudicated decisions tend to be more reflective of the law, while settlements involve significantly more ambiguity and discretion. The findings further suggest that high-income liable parents secure comparatively favourable outcomes relative to both resident parents and lower-income liable parents, indicating that absolute financial resources drive bargaining power in court disputes. The study concludes that pursuing child maintenance through a court procedure offers a poor deal for resident mothers overall. Many resident mothers appear to have filed petitions with the hope of being compensated for the substantial decline in living standards following separation. However, once the dispute was resolved, they were often confronted with relatively low awards and relatively high legal costs.

### Study 3

#### **The (Un)deserving Parent: Exploring Parental Argumentation and Sole-Custody Decisions in Swedish Courts**

Study III centres on inter-parental conflict and analyses the arguments parents use when disputing custody in court. Across Western countries, post-separation family life is increasingly characterized by joint legal (and physical) custody (Salin et al., 2024). Such arrangements are widely acknowledged as beneficial for both parents and children (e.g., Nielsen, 2018) and have been actively promoted through family policy and law (Duvander & Schiratzki, 2024). At the same time, joint custody may not be suitable in all situations. When parents bring custody issues to court, the court shall assess which custody arrangement is the best solution for the child in each individual case, balancing the benefits of maintaining close relationships with both parents against potential risks of harm. Yet, relatively little is known about how this balancing act is carried out. The aim of this study is to explore how parents involved in child custody disputes frame and justify their claims, as well as which argumentative patterns are most likely to result in a court order granting sole custody. To examine and structure parents' arguments, the study draws on deservingness theory (van Oorschot, 2000) as an analytical framework. The data are based on court decisions on child custody, residence, and visitation from 35 of Sweden's 48 district courts in 2021 (n = 535). Latent class analysis is used to identify distinct classes—referred to as 'dispute contexts'—based on patterns in parental argumentation. Five dispute contexts are identified: 'Victim–Offender', 'Mutual High–Conflict', 'Parenting Capacity Concerns', 'Lone Carer', and '(Re)–Litigating Non–Resident Parents'. Thereafter, logistic regression analysis is used to explore the association between these different dispute contexts and applicants' sole custody awards. The results suggest that applicants are most likely to be awarded sole custody in the 'Victim–Offender' and 'Lone Carer' contexts, and less likely in the 'Mutual High–Conflict' context.

## Study 4

### **No Access, No Say? A Frame Analytical Study on Differences in Child Participation in Custody Disputes in Sweden.**

Study IV addresses the perspective of children and their possibilities to have their participation rights realised in child custody disputes. According to Article 12 (UNCRC), children have the right to express their views in all matters affecting them, particularly in judicial and administrative proceedings. A growing literature highlights that allowing children a voice in post-separation decision-making can also benefit their wellbeing, inform decision-making, and, as such, promote children's overall welfare (e.g., Eriksson 2012; 2023). Studies further show that children themselves believe in their right to be heard and generally want to be included in the decision-making process, even if not all wish to have a decisive role in the outcome (e.g., Birnbaum & Saini, 2012). Yet, despite legal obligations and increasing awareness of the benefits of participation, a persistent gap remains between principle and practice, and research across countries consistently shows that children's views are often neither heard nor given due weight when custody, residence, and visitation are contested in the courts (e.g., Höjer & Röbbäck, 2009; Birnbaum & Saini, 2012). This study contributes a novel theoretical and empirical approach to understanding the barriers to the realisation of children's rights to participate in custody proceedings. Specifically, it draws on Manning and Hawkins's (1990) frame-analytical perspective on legal decision making to examine whether children's participation is influenced by the context, or framing, of the inter-parental conflict underlying the custody dispute. Study III employs the same dataset as Study III: court decisions on child custody, residence, and visitation from 35 of Sweden's 48 district courts in 2021 (n = 535). It further uses the 'dispute context' variable from Study III as the main independent variable in a logistic regression model to explore variation in child participation across dispute context. Results show that children's participation varies significantly across dispute contexts. Children's views are most likely to be reported in contexts characterised by high levels of inter-parental conflict and mutual accusations, and least likely to be included in contexts marked by an asymmetric ability-risk dynamic, in which the applicant parent is framed as the child's primary caregiver and the respondent parent as largely uninvolved in the child's life. Consistent with previous research, the results further suggest that age influences participation opportunities, with judges being more likely to consider the views of children aged twelve or older.

## Concluding discussion

By combining detailed reading and coding of a variety of court decisions with quantitative analyses, this thesis provides a multifaceted and generalizable overview of the struggles and challenges separated parents face when bringing post-separation issues to Swedish courts. The thesis identifies several overarching challenges, some of which confirm concerns raised in previous research and official reports, while others offer novel insights.

The objective of this final part of the introduction is to discuss the overall conclusions and consider policy implications and interventions. As the thesis is set in Sweden, the discussion is

directed toward concrete implications and policy measures applicable to the current Swedish system. At the same time, the findings highlight a set of critical issues in family policy and law more broadly, thus extending their relevance across different social and institutional contexts. The chapter concludes with limitations and suggestions for future research.

## Provision: child maintenance

### Article 27 UNCRC

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. (...)

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. (...)

Single-parent households are among the most economically vulnerable groups, in Sweden as elsewhere, and research shows that child maintenance can play an important role in keeping single-parent households out of poverty (Hakovirta, 2011; Hakovirta & Jokela, 2019). This is especially important nowadays, considering rising living costs associated with inflation and the declining role of social and family policy in reducing poverty among single-parent households overall (e.g., SSIA, 2024; Alm et al., 2020). The majority of resident parents are women, and women in Sweden still earn less than men on average. This can largely be attributed to parenthood, as women adjust their labour force participation to childcare to a greater extent than men do (Nylén et al., 2021). In this context, child maintenance is important because it seeks to assure that the parent who lives apart from the child continues to share in the child's financial upbringing.

The Swedish state, however, has withdrawn much of its support for ensuring that resident parents receive child maintenance. Access to the state-administered guaranteed support scheme is severely restricted through the 2016 reform; instead, parents are expected to negotiate child maintenance themselves as maintenance allowance. This may work well for many (SCB, 2023b), but it can create challenges when parents are unable to reach an agreement (SSII, 2019). In cases where the liable parent does not voluntarily pay, resident parents may either return to the SSIA with a new request for guaranteed support or file a petition for maintenance allowance in a district court.

For many parents the SSIA is more easily accessible than to negotiate or file for maintenance allowance, but the SSIA can only be used for twelve months and is limited to minimal-level payments. Parents who wish to secure higher orders or long-term payments must therefore resort to the district courts. Study II shows that there are fundamental challenges associated with establishing maintenance allowance payments through court. Very few parents resort to the courts in the first place, and among those who do, contracted payments only somewhat exceeded the guaranteed support flat rate, and this surplus must be balanced against the payments of legal

costs.<sup>16</sup> These findings suggest that a court process may not constitute a viable solution for ensuring that resident parents and children receive long-term payments in accordance with the rule of law unless the liable parent willingly complies.

In addition, the thesis has identified that the current system treats liable parents differently depending on their financial situation. Parents with lower levels of income are overrepresented in the state administered guaranteed-support system (Swedish Government Official Report, 2021:101; SCB, 2023b). Study I illustrates that low-income liable parents are subject to stricter enforcement mechanisms and often contribute a comparatively larger share of their income as child maintenance. The current rule of calculating economic ability based on retrospective tax decisions makes low-income parents with unstable employments, health problems, or other precarious labour market situations particularly vulnerable, as the income recorded in the tax decision may substantially exceed their current ability to pay. Parents may therefore be expected to pay “with an income they no longer receive” (Study I p. 13). Although temporary respite and payment plans are possible, there is also a risk that these generate debts to SSIA, which lead to long-term indebtedness. Thus, for separated families at the lower end of the economic spectrum, there is a risk that the guaranteed support scheme merely shuffle poverty between parental homes.

High-income liable parents, on the other hand, are granted greater financial autonomy and discretion. The flat-rate structure of the guaranteed support allows them to contribute less than would be proportionate to their financial capacity, and once they have repaid the correct amount to the SSIA for twelve consecutive months parents are removed from SSIA system to negotiate and transfer child maintenance payments privately. The main scheme for privately calculating maintenance allowances is based on assessments of the child’s basic financial needs, not on the incomes of the parents, and therefore the contribution of high-income liable parents may be proportionally small (Schiratzki, 2005; 2025). In addition, findings from Study II suggest there are no strong legal mechanisms to enforce high-income liable parents to contribute more than the guaranteed support flat rate, unless they willingly do so.

Together, this highlights three interrelated issues. First, court-based child maintenance schemes—similar to privately negotiated child maintenance arrangements—risk reinforcing the financial vulnerability of resident parents, as they are costly, time-consuming, and allow greater discretion for liable parents in deciding whether, how much, and under which circumstances payments will be made (for international comparison see e.g. Adalakun et al., 2024). Second, agency-based systems, while beneficial in securing payments to resident parents, may have long-term negative consequences for the liable parent’s financial situation—and, as such, the child’s financial situation overall—particularly when payment obligations are based on imprecise income assessments (for international comparison see e.g. Vogel, 2020). Third, the system applies unevenly across income groups, placing comparatively greater constraints on low-income liable parents while allowing high-income parents greater financial discretion (for international

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<sup>16</sup> In Sweden, home insurance sometimes covers legal costs; however, this coverage is typically conditional and does not fully cover all expenses.

comparison see e.g. Sorensen & Zibman, 2001). To address these issues in Sweden, the thesis proposes three main policy suggestions/implications.

### Increase accessibility to the state-administered system

One possible solution to reduce the obstacles for resident parents in securing regular and long-term payments in cases where parents do not reach workable child maintenance arrangements themselves could be to increase access to the state-administered system, thereby expanding the role of the SSIA in enforcing payments. This would constitute a partial restoration of the situation prior to the 2016 reform, when parents could choose between arranging child maintenance privately or through the SSIA. In practice, this could involve reconsidering the current twelve-month restriction; that is, the rule stipulating that parents can no longer arrange child maintenance through the SSIA once the liable parent has paid the correct amount to the agency for twelve consecutive months.

Given that private agreements appear to work well for many parents (SCB, 2023b), there are benefits with such arrangements remaining the norm. Therefore, parents could continue to be encouraged to arrange child maintenance privately, with existing measures promoting cooperation and privately arranged payments, such as information talks and other mediation services, online information materials, and tools aimed at helping parents calculate amounts, maintained and continuously upheld. At the same time, resident parents who prefer to manage child maintenance through the administrative system could have the option to do so without having to invoke “special reasons” and without temporal restrictions, as a way to ensure that resident parents receive stable and predictable payments over time.

### Review and reform the rules governing the SSIA’s assessments of liable parents’ ability to pay

One way to address the disadvantages faced by low-income liable parents within the guaranteed support scheme is to review and reform the rules governing how the SSIA assesses and calculates the liable parent’s ability to pay. One possible approach is to follow the recommendations from the Swedish Government Official Report (2021:101); that is, to assess and calculate economic ability based on the average income from a relatively short and recent reference period (Swedish Government Official Report, 2021:101). If the liable parent’s income is too low to cover the full amount, the SSIA covers the remaining amount through supplementary maintenance (Sw. *utfyllnadsbidrag*).

Calculating ability to pay on the basis of recent income data would likely provide a more accurate reflection of the liable parent’s actual financial capacity. This could, in turn, increase compliance with payment obligations, thereby increase collection rates and reduce the accumulation of debts that may arise when assessments are based on outdated income information. It could also improve the perceived fairness of maintenance determinations.

Using more current income data may further help to ensure that parents who have the financial capacity to pay child maintenance do so, regardless of previous economic circumstances (for

instance, if they were previously unable to contribute the full amount based on earlier tax decisions) (cf. Swedish Government Official Report, 2021:101)

### Address imbalances between high- and low-income liable parents

Finally, a possible solution to address the differential treatment of liable parents across different financial situations—and to ensure that all resident parents and children receive child maintenance payments that reflect the liable parent’s financial situation—could be to synchronize the rules governing guaranteed support and maintenance allowance. That is, to employ a unified framework that applies regardless of whether parents arrange child maintenance privately or use the SSIA as an intermediary. One such regulatory framework could be the base-and-bonus method proposed by Schiratzki (2005).

The base-and-bonus method proposes that child maintenance should be calculated according to principles similar to those used in the current guaranteed support system: as a percentage of the liable parent’s income. The base corresponds to the amount mandated by guaranteed support (i.e., the flat rate), which represents the minimum level of support that resident parents receive when the liable parent has a very low income. If the liable parent’s income is so low that they are unable to contribute the full baseline amount, the SSIA contributes the remaining amount—up to the baseline—as supplementary maintenance.

If the liable parent’s income is sufficiently high that their financial ability to pay child maintenance significantly exceed the baseline, they would be obligated to pay additional bonus support according to the same percentage. The SSIA would transfer this bonus amount to the resident parent and subsequently reclaim the money from the liable parent.

While this approach would not eliminate broader economic inequalities between separated families with children, it could serve an important normative function by reinforcing the principle that all parents are expected to contribute to the financial provision of their children according to their economic capacity, regardless of whether they live together or not. An expanded administrative mechanism for higher payments could also have a protective function for resident parents with histories of intimate partner violence. Resident parents with prior experiences of intimate partner violence are often reluctant to negotiate child maintenance payments directly with their former partners (Tegler et al., 2023; Fernqvist & S  pulchre, 2022). While these parents can be excepted from the “twelve months” rule under current guaranteed support scheme, they cannot receive larger payments than the minimum level flat rate. Enabling higher payments to be administered through the state agency could therefore help reduce long-term economic vulnerability among parents who have left violent relationships.

## Protection: child custody residence and visitation

### Article 3 UNCRC

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

### Article 18 UNCRC

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. (...).

### Article 19 UNCRC

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

The thesis aligns with previous research indicating that rates of reported intimate partner violence and child abuse are alarmingly high in child custody court disputes. However, the study also illustrates the multiple and complex ways these reports/accounts appear in court. The latent class analysis shows that reports of violence do not appear uniformly or with equal frequency across all dispute contexts. Some dispute contexts involve very low probabilities of reporting violence, while others primarily feature one parent reporting exposure to violence without corresponding accusations from the other parent. In yet other contexts, distinctions between victims and perpetrators are less clear, as accusations of violence are more likely to be bilateral and cluster alongside multiple claims and counterclaims. In addition, complementary analyses suggest that officially documented reports of violence are stronger predictors of sole custody awards than unsubstantiated claims.<sup>17</sup>

To articulate policy implications based on these findings is far from straightforward: partly because the findings operate at an aggregate level of analysis, which does not allow for interpretation of how courts rule in individual cases, and partly because there are rarely simple answers to complex problems. That said, it is of primary importance that children are protected against violence as well as other risks of harm associated with parental conflict, a concern that applies across custody disputes over time and across jurisdictions. Issues related to violence, conflict, and abuse are not confined to national contexts, and the question of how best to protect children in such cases therefore constitutes a universal challenge. In addition, although violence is a common reason for filing for sole custody in court, it is not the only reason in Sweden, and likely not in other countries either. Some parents may have more practical motivations, such as

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<sup>17</sup> Specifically, applicant reporting a publicly documented claim of child abuse is associated with a 35.4 percentage point increase in the probability of being awarded sole custody, and reporting documented claim of intimate partner violence is associated with a 13.1 percentage point increase. For undocumented claims, however, the association is substantially weaker (3.2 and 2.9 percentage points, respectively) and not statistically significant.

seeking the ability to fully exercise their role as the child's sole de facto caregiver. This suggests a need for flexible legislation that can accommodate different types of disputes. Based on the Swedish case, the thesis identifies three main areas for further consideration.

#### Ensure that custody arrangements support children in high-conflict cases

First, the 'Mutual High- Conflict' context is characterized by parents presenting multiple claims, both to present themselves in a favourable light and to portray the other parent critically. This context further involved relatively high probabilities of reporting violence, by both parents, although the probability of reporting publicly documented violence was relatively low. Court cases assigned to this class were disproportionately composed of parents practicing shared physical custody, as well as parents who had been previously involved in custody disputes, suggesting longstanding conflicts in which children are placed in the middle. Subsequent regression analysis indicates that the probability of being awarded sole custody was relatively low in this context compared to less mutually contentious contexts. Although the latent class analysis captures recurring argumentative patterns across cases rather than the exact circumstances of individual disputes, one possible interpretation is that courts may use joint custody as a compromise in highly contentious cases (for international comparisons see e.g. Fehlberg et al., 2009; Maccoby & Mnookin, 1992).

Previous research is inconsistent regarding the benefits and drawbacks of joint physical custody when interparental conflict levels are high, and this research has primarily focused on physical custody arrangements (Nielsen, 2018; Steinbach, 2019). Nonetheless, extensive research cautions that frequent post-separation contact with both parents may have negative consequences for children in such situations (e.g., Vanassche et al., 2013; Fehlberg, 2011; Augustijn, 2021; Steinbach, 2019). Even though the study focuses on legal custody arrangements, joint legal custody arrangement pave the way for more extensive residence and visitation rights, why these concerns should be taken seriously. The findings therefore highlight the need to carefully assess whether joint legal custody—an arrangement that according to the construing of joint legal custody under Swedish law requires ongoing parental cooperation in decision-making—remains compatible with the child's best interests in situations characterized by high and ongoing conflict between parents, and to ensure that such assessments are grounded in what constitutes the best available outcome for the child, rather than a compromise between the parents.

#### Improve risk assessment methods to identify and document violence

Second, although the formal burden of proof in custody cases is lower than in criminal proceedings, the finding that 'undocumented' violence reports had a negligible effect on the probability of being awarded sole custody suggest the existence of a *de facto* evidentiary threshold where public/official documentation of violence is needed in order for such claims to significantly affect custody decisions. On the one hand, this may be seen as reasonable, allowing unsubstantiated accusations of intimate partner violence or child abuse to substantially influence custody decisions could create incentives to make false allegations in order to increase the likelihood of obtaining sole custody, which would not serve the best interests of the child. On the other hand, it is well established that only a small proportion of incidents of violence in the home are reported to the police, and an even smaller proportion result in a conviction (i.e., violence

being formally confirmed by a court) (Hester & Westmarland, 2006). Although Study III includes documentation from the police as well as the social services, this nonetheless means that obtaining documentation requires extensive and frequent contact with public authorities including engaging in investigations and cooperation talks with the social services. These processes can be lengthy and burdensome for both parents and children, and research indicates that contact with the social services family-law unit,<sup>18</sup> may negatively affect children's health and wellbeing both during and after the process (Eriksson, 2023). One possible solution to address this problem could be to implement additional or alternative risk assessment instruments or methods that allow the social services to identify and document potential violence without requiring parents to first engage in cooperation talks or other extensive investigations. When risks of violence are identified, these risk assessment instruments and methods could also incorporate systematic procedures for including children's perspectives. Integrating children's views into risk assessments may help ensure that their experiences of fear, violence, and threat are more fully considered when determining what arrangements are in their best interests. Although specifying a particular instrument lies beyond the scope of this thesis, existing proposals and frameworks (e.g., Eriksson, 2023) may provide useful starting points for developing such approaches.

Importantly, during the writing of this thesis, in January 2025, the Parents Code governing children's custody, residence, and contact has been amended, with the aim of strengthening children's protection from violence and other violations. The risk that a child may be harmed is now given a particularly prominent role in assessing the child's best interests, with violence explicitly emphasized as a key risk factor. Continued research, such as that conducted in Study III, is therefore needed to examine and evaluate whether these changes have affected practice. Such research should preferably be complemented by legal studies capable of in-depth investigations into how the legislative amendment has influenced judicial interpretations and outcomes. To that end, Study III serve as a reference point for the situation before the 2025 amendment.

#### Facilitate decision-making for *de facto* sole caregiver parents

Last, not all court cases include reports of violence. In addition, a significant share is constituted by resident parents who wish to make decisions about the child without being hampered or restricted by a second legal guardian who is largely unfamiliar with, or uninvested in the child's life. This is likely an underestimation, since cases where the applicant filed petition for sole custody due to the respondent could not be located was excluded from the sample. These findings suggest the need to consider whether it may be useful to find other ways of facilitating parental decision-making in cases of joint legal custody if there is, in practice, only one parent who is actively involved in the child's life. As shared parenting arrangements increasingly emerge as the normative post-separation arrangement across Western contexts, policymakers considering joint custody legislation as a means of encouraging parental involvement should take into account that a significant share of separated households are still headed by women. The thesis thereby highlight the need for legislation that can accommodate both shared and asymmetrical caregiving

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<sup>18</sup> That is, the unit responsible for conducting child investigations and providing cooperation talks between parents involved in child custody disputes

arrangements, and that ensure decision-making structures remain aligned with the child's lived circumstances.

## Participation: fragmented child law

Last, Article 12 (UNCRC) explicitly states that children have the right to express their views in all matters affecting them, particularly in judicial and administrative proceedings. In its General comment No. 12, the Committee on the Rights of the Child further stresses that divorce and separation are among the key contexts in which the child must be heard and consulted.

The question concerning children's rights to participation is primarily addressed in Study IV. Before discussing the findings, and potential policy implications that can be derived from Study IV, however, it can be noted that the current Swedish legal system has a highly fragmented approach to the realization of children's rights to participation in post-separation court-proceedings in practice.

Children are markedly invisible in court proceedings concerning guaranteed support. The children are not parties to the case, and they have no procedural possibility to express their views, either directly or through a legal representative (Schiratzki, 2025). Nor are their views obtained through SSIA, social services, or other state authorities. Moreover, the courts rarely elaborate on the best interests of the child when reaching their decisions. In short, children's right to participate—that is, their right to express their views in decisions concerning guaranteed support—is practically non-existent.

Children are applicants in court proceedings over maintenance allowance, meaning that it is formally the child who files a petition against the liable parent. Court disputes concerning maintenance allowance constitute one of the few areas of law in which minor children (under 18 years of age) have legal standing as parties; however, children lack procedural capacity. Thus, the resident custodial parent acts as the child's representative and conducts the proceedings on the child's behalf (Schiratzki, 2025). Whether the child's status as a party in maintenance allowance disputes has any practical impact on their ability to express their views falls outside the scope of this thesis. Based on the detailed reading and coding of maintenance allowance court cases, however, it can be questioned that children's voices/views having any large (formal) impact on these processes. Still, it is notable—and exceptional in a Swedish setting—that the child is a party to the case.

Yet another approach to children's participation is found among the legal framework regulating court disputes on child custody, residence and visitation. Within this area of law, large emphasis has been placed by policymakers, researchers as well as the civil society on the importance of child participation. Unlike the maintenance allowance scheme however, children are not parties to the dispute, nor do they have their own legal representatives. Instead, the courts typically delegate the responsibility for hearing the child to the social services who are responsible for hearing the child, unless doing so is deemed inappropriate (Parents Code, Chap. 6 Sec. 19).

As shown in Study IV, however, this right is yet to be fully realized in practice. Children below twelve years of age are still substantially less likely to have their views considered as compared to

older children. Moreover, the results suggest that child participation varies significantly across dispute contexts. Children's views were most often reported in contexts characterized by high levels of inter-parental conflict and mutual accusations, and less often included in contexts characterized by a more 'asymmetric ability-risk dynamic.' Comparing these results to the findings in Study III, this means that children's views are least likely to be included in dispute contexts where applicants have the highest probabilities of being awarded sole custody, and most likely to be included in dispute contexts associated with the lowest probability of sole custody awards. One possible way of interpreting these results is that the legal system has a rather instrumental approach to hearing the child. That is, the child is more likely to be heard when their views and perspectives may add new information to the case, or when their views have the potential to influence the outcome, and less likely in situations where it is clearer that it is primarily one parent that can safeguard the best interests of the child. As argued in the concluding section of Study IV, however, the right to be heard does not necessarily imply a right to be consulted or to have one's views determine the outcome. Rather, it is a fundamental right of all children capable of forming views, ensuring that they are allowed to do so regardless of the influence those views may have on the final decision.

International research suggest that children's rights to participation in court disputes concerning child custody, residence and visitation remain limited, and conditional across countries (e.g., Birnbaum & Saini, 2012; Tisdall et al., 2021). One way to uphold children's right to participation as a fundamental right, in Sweden as elsewhere, could be to strive to ensure that children's views are systematically heard, duly considered, and formally recorded in all child custody court proceedings—while also respecting children who wish not to be involved. Given the sensitivity of the issues at stake and the potential implications for the child, the form and extent of this participation may be adapted to the nature of the case and the level of risk involved. For instance, cases involving allegations or suspicions of violence may require special consideration, while less complex cases may follow a more limited procedure.

Taken together, the thesis suggests that legal and administrative schemes might benefit from adaptation to better accommodate the diverse realities of post-separation parenting practices. While laws supporting gender equality and shared parenting practices are generally beneficial for parents and children, they also risk obscuring gendered power imbalances between parents and reproducing social and economic inequalities. To adequately support all families and to prevent social and economic disadvantage across separated households, legal and administrative framework must be adapted to current times and specific contexts. That said, post-separation family life is complex and includes diverse family arrangements and social conditions of parents and children that extend beyond the scope of this thesis. This leads me to the final section: limitations and suggestions for future research.

## Limitations and avenues for future research

First, when referring to 'parents' and post-separation family issues or conflicts, the thesis employs a relatively narrow definition of family that emphasizes two biological parents—a mother and a father—and their joint child or children. This focus does not fully reflect the diversity of family forms, such as same-sex couples, nor the increasing complexity of family formation, in which separated parents may re-partner, have new children, re-separate, and so forth. Nonetheless, since

only legal parents (and not stepparents) are entitled to pursue litigation concerning child custody and child maintenance in court, the examined court cases primarily concern biological parents, the vast majority of whom are different-sex parents, involved in conflicts over their joint children. However, the formation of new families impacts the social and financial situations of both the parent and the child as well as child maintenance obligations (Social Insurance Act; Parents Code). Therefore, future research is encouraged to explore the various ways in which these dynamics influence child provisioning and the conflicts that may arise after separation.

Second, the thesis considers the influence of gender and class, but does not account for the impact of ethnicity or migrant status on post-separation family law disputes and their outcomes. The main reason is that such information cannot be reliably derived from court decisions. While some court decisions may hint at immigrant background—for example, through surnames, family histories, or concerns that children might be taken to another country—coding these indicators would require extensive subjective interpretation. For instance, not all surnames unambiguously reflect Swedish versus foreign-born background, nor do they indicate whether parents or children were born in Sweden or not (first- versus second-generation). As a result, attempts to classify ethnicity or migrant status would likely lead to over- or underestimation and be prone to coder bias. For these reasons, the thesis does not differentiate between parents from different ethnic or migrant backgrounds. That said, previous research suggests that ethnic background influence court decisions in disputed contact cases. For instance Bruno (2015) found that court cases involving fathers from non-Nordic origins were perceived and treated differently compared with cases involving Nordic fathers. In addition, there are significant differences in the prevalence of economic hardship between single-parent households depending on whether parents are native- or foreign-born. Single parents with a foreign-born background experience considerably higher rates of economic hardship on average (SSIA, 2023). This indicates that ethnicity and migrant status shape both the financial conditions of parents and children, as well as family law disputes and their outcomes. When possible, future research should therefore aim to incorporate these factors to better understand how ethnic and migrant backgrounds intersect with post-separation family disputes and legal decision-making.

Third, while the thesis considers the influence of gendered power imbalances, specifically how material power imbalances affect maintenance allowance court processes and outcomes (Study II), the various ways in which gendered power relations shape court disputes have not been fully analysed and may, in some respects, appear somewhat downplayed. Gendered power cannot solely be understood in material terms but also encompasses immaterial resources, such as relationships with children (Bollen et al., 2013), and embodied practices, including coercion, threats, and violence (e.g., Anderson, 2010). The ways in which gendered distributions of immaterial resources influence court processes and outcomes are not examined in the thesis, thus, could be an interesting avenue for future research.

Likewise, the thesis does not address gendered power imbalances related to violence. This limitation is particularly notable given the substantial evidence showing that child custody court cases often involve severe incidents of violence, which—in the majority of cases—are perpetrated by men (fathers) against mothers and/or children (e.g., Swedish Gender Equality Agency, 2022; Bruno, 2015; Eriksson, 2016). Since problems associated with intimate partner

violence and child abuse is relatively well studied, however, this thesis aims to provide a complementary perspective. Specifically, Study III examines how both parents' (applicant and respondent) present and justify their child-custody claims in court and which argumentative patterns are most likely to result in a court order on sole legal custody, controlling for gender. In doing so, the study offers a multifaceted picture of the variety of conflicts parents bring to court, thereby complementing existing knowledge. This does not mean that violence is considered marginal or unimportant; on the contrary, consistent with earlier research, Study III identifies high report rates of both intimate partner violence and child abuse. By highlighting the distinct ways in which reports of violence appear across contexts, the study aims to encourage further research in both sociology and law, exploring how to better support parents and children involved in these various types of conflicts.

Fourth, post-separation conflicts are complex and multifaceted, and the majority are largely managed, and resolved outside the courtroom. Therefore, a complete analysis of the challenges that arise when separated families encounter legal events should ideally go beyond court litigation and encompass the justice system as a whole, including all its participants in action. For example, in 2024, 21,052 children aged 0–17 had parents participating in cooperation talks with social services, yet only 807 of these cases were initiated through the courts (Family Law and Parental Support Authority, 2024). Nevertheless, what happens during court adjudication can be considered normative and guiding for out-of-court dispute resolution, while also constituting the last resort for those who cannot agree (Mnookin & Kornhauser, 1979; Eekelaar, 2015). The approach conducted by this thesis can thus be considered a starting point for how sociological perspectives and analyses can advance our understanding of these issues.

Fifth, the thesis only concerns the content and outcomes (judicial decisions) of post-separation court disputes, thereby providing a cross-sectional view of custody proceedings. While this offers important insights into the variety of issues parents bring to court, as well as how they are handled and adjudicated, it also raises important questions about what happens after the court dispute has been finalized. Future research is therefore encouraged to examine the longer-term trajectories. In particular, it is important to investigate which families return to court, as well as how different types of decisions shape subsequent outcomes for both parents and children. Shifting the focus from the origins and resolutions of post-separation court disputes to their outcomes would provide a more complete understanding of the implications of family law decisions for the welfare and wellbeing of both parents and children.

Last, court disputes over child custody, residence, visitation, and child maintenance are of central importance to the children who are situated at the centre—or sometimes at the periphery—of these conflicts. The proceedings directly concern children and their rights to 'provision, protection, and participation', and their outcomes have a direct impact on their everyday lives. Despite this, children remain largely invisible in the empirical chapters/individual studies of this thesis. This invisibility can partly be attributed to the fact that children's voices and perspectives are rarely presented in court decisions concerning child maintenance. When they do appear, they tend to be articulated in standardized terms rather than as substantively meaningful accounts of children's own views or of what the child's best interests might entail in practice. This limitation is further reinforced by the methodological scope of the thesis, which relies exclusively on court

decisions and does not draw on interviews or other data sources that would allow children's perspectives to be included more directly. I therefore conclude this limitations section by calling for future research that focuses on children's own first-hand experiences. Such research is crucial for understanding whether court disputes concerning child maintenance and child custody are in fact resolved in ways that serve children's best interests or not.

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