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# HISTORICAL JUSTICE THROUGH REDRESS SCHEMES? THE PRACTICE OF INTERPRETING THE LAW AND PHYSICAL CHILD ABUSE IN SWEDEN

*The Swedish redress scheme intended for victims of historical child abuse in out-of-home care compensated only 46% of claimants who sought economic compensation for past harms. This article explores the reasons behind this comparatively low validation rate by investigating a) how the eligibility criteria of the Redress Act were evaluated by the Redress Board; and b) the justifications and underlying values used when applications were rejected with reference to the fact that reported abuse was not deemed to be sufficiently severe according to past standards. Victim capital, which determines how vulnerable or credible a victim is perceived to be by others, as well as competence and narration, are essential aspects for this type of legal proceeding. The article demonstrates that the claimants had to traverse a complicated web of criteria to be awarded compensation. The outcomes for claimants were affected by how the past was conceptualized in this legal setting, what competences the victims themselves possessed, what competence and resources the administrative system offered, and the extent to which the decision-making process fragmented victims' narratives.*

**Keywords** redress, child abuse, victim capital, fragmentation

## Introduction

Historical institutional child abuse has received political attention in many Western countries since the 1990s. Several nations and other responsible bodies have initiated

inquiries and have issued official apologies and financial compensation in an attempt to offer victims redress.[1] Any political attempt to redress the past is confronted with the question of what responsibility a present government or organization has for the past actions of institutions and governments. When redress is manifested through financial compensation, victims' narratives of abuse become subject to a determination according to certain legally specified criteria, which creates tensions between the attempt to recognise victims' sufferings and the implementation of an administrative legal system.[2] As a consequence, financial compensation becomes a matter of who is included and who is excluded from redress. In our research, we have traced how processes of the exclusion and inclusion of claimants entitled to financial redress have been constructed, discussed, and redefined in the politics of the Swedish redress process – from the establishment of a government inquiry in 2006 to the official apology in 2011 – and subsequently the passing of the Redress Act (RA) in 2012,[3] entitling each successful claimant to SEK250,000 (approx. EUR27,000) for abuse that occurred in out-of-home municipal care between 1920 and 1980.[4] An extraordinary feature of the Swedish financial compensation scheme is that it was limited to only two possible outcomes: either the claimant received SEK250,000 or no money at all. Another extraordinary feature is that it came to compensate only 46% of its claimants. The present article focusses on the logic of exclusion and inclusion as demonstrated by the RA and the practical implementation of this administrative legal system.

## Money logics, victim capital, competence and fragmentation

When historical injustices are addressed using financial compensation, experiences of the past are translated into money logics. The money logic within a financial redress scheme, according to Kathleen Daly, has two dimensions: '*how* to decide and *how much* to pay'.[5] On this basis, Stephen Winter concludes that a money logic 'determines who gets what'. He identifies two kinds of money logics in previous Irish redress schemes: an individual model, in which individual experiences of injury are subjected to assessment, which determines how much money the claimant will receive; and a common-experience model, in which claimants are treated equally based on their shared experience of an injury. According to Winter, the common-experience model awards eligible claimants a flat payment which is the same for all or a payment based on the number of years in residential care, rather than on individual experiences of abuse.[6] The Swedish model, in contrast, combines the individual experience model with a flat payment. This article will examine the features of this money logic.

The establishment of redress schemes and the outcome for claimants can also be determined by the extent to which a victim's suffering is recognized by the public, politicians, and the appointed experts on redress boards who administer the implementation of redress schemes. This corresponds to what Kjersti Ericsson has described as victim capital. Victim capital is defined in the eye of the beholder; it reflects how underprivileged, vulnerable, or credible the victim is perceived to be by others. Victim capital can be applied at both the individual and collective levels. A wronged group with high victim capital can collectively press for redress, but when redress schemes are established, individual claimants must demonstrate their victim

capital as well. Ericsson suggests that, among care leavers, ideal victims 'have to be weak, but not too weak to state their claims. They have to insist on being wronged, but they should not appear immoderate and demanding'.[7]

An additional aspect, vital to the problems discussed in this article, demonstrates that the victim capital for claimants who seek financial redress for historical institutional child abuse is also related to present-day assumptions about the reality of past childhoods. For example, it is a common understanding that corporal punishment and child labour characterized past Western childhoods to a greater extent than today. Such assumptions are negotiated within the political process of setting up a scheme, as well as by the redress board that evaluates individual claims. The victim capital of care leavers can be determined by what kind of past child abuse is recognized as wrongful today *and/or* what kind of past child abuse is assumed to have been recognized as wrongful in the past. Therefore, this article suggests that assumptions about history held by non-victims shape the capital that is available to victims.

Aside from victim capital, specific competencies are needed to make successful claims. Making claims that meet all the criteria in a complicated money logic design is a tricky business, and there is the risk that victims and the administrative system will fail to mobilize the competencies and resources that are required.

Moreover, when a victim's narrative of suffering and abuse is assessed in a legal process, only the parts of the narrative that correspond to legal criteria are recognized. Victims don't, however, narrate their memories of trauma in that way. Rather, they account for life stories, in which parts cannot be separated from the whole context without fragmenting that narrative.[8] In this article, we address what consequences such fragmentation have for the outcome for applicants seeking monetary redress.

While previous research has focused on the design of redress schemes and, to some extent, on their aggregated outcomes,[9] this article focuses on the interaction between the money-logic design of the Swedish redress scheme and the legal evaluation practices of the Swedish redress board (RB) by examining individual cases. The aim is to explore the Swedish scheme's low validation rate by investigating: a) how the eligibility criteria of the RA were administered by the RB; and b) the justifications and underlying values used when applications were rejected on the grounds that the reported abuse was not deemed wrongful or sufficiently severe. We begin by describing the Swedish redress scheme and the RB and relating the Swedish scheme to other schemes that have been established internationally, then we account for the characteristics of the Swedish scheme. The second section of the article addresses the eligibility criteria and how they were administrated by the RB. Finally, the third section discusses how physical abuse, in particular, was evaluated in the Swedish RB's practice, as corporal punishment is commonly understood as a 'normal' element of past childhoods.

## The Swedish redress scheme and the RB

The Swedish redress scheme, addressing the abuse of children in care between 1920 and 1980, was open for applications from 1 January 2013 to 31 December 2014. 5,285 applications were submitted during that time.[10] The scheme was funded by the

Swedish government, which budgeted SEK1,278,200,000 for compensation to be paid by the RB from 2013 to 2015.[11] When the RB closed in 2016, however, less than half of the amount had been paid (SEK551,000,000). The government had calculated that 5,000 applicants would be awarded the SEK250,000 compensation, but the RB awarded compensation to only 2,211 applicants.[12] The RB clearly deviated from the anticipated outcome when it implemented the redress scheme. This factor calls for further examination of the RB and its practice in assessing applicants' cases.

The RB is characterized as a court-like administrative body, in line with the Swedish tradition of the government assigning court-like boards (Sw. *domstolsliknande nämnder*) to handle certain types of disputes and liability issues.[13] Sweden has a civil law system, and parliamentary acts serve as the primary source of law. A court-like administrative body, such as the RB, must interpret the parliamentary act (the RA) and the intentions behind the act. To do so, Swedish courts, as well as court-like boards, turn primarily to the Governmental Legislative Proposal (Sw. *proposition*), which is a text the government prepares as the basis for passing an act in parliament. Reports from government inquiries published in the Government Report Series (Sw. *Statens offentliga utredningar*, abbr. SOU) are also often referred to.[14]

The RB consisted of 16 commissioners, all appointed by the government. They were active or retired judges, and experts in psychiatry, psychology, paediatrics, and social work. Each case was handled by three or four commissioners, including the chairing judge.[15] Apart from the commissioners, the RB employed a secretariat of 30 administrative staff with expertise in law, archives, and administration.[16]

Before an application reached the board of commissioners, the applicant had to submit a form provided by the RB with detailed information about, for example, names and residence of biological parents at the time of custody, when and where the applicant was in custody, when and where abuse took place, as well as a written description of the abuse along with any archival records to which s/he had access. The staff at the RB were, according to the instruction, obliged to assist the applicant with archival searches if necessary. The applicant could be called to a formal oral hearing to tell his/her story to the commissioners who were to decide the case. If the written documents were considered sufficiently complete to base a decision on, the applicant was denied a hearing.[17]

Contrary to Swedish legal tradition, applicants had no right to public legal assistance. A support person could accompany the applicant to the oral hearing, and the applicant could seek legal advice or have legal representation in the process, but they had to pay for that themselves. Consequently, a great majority of the applicants appeared before the RB alone or only accompanied by a layperson.[18]

When the commissioners had decided on a case, a decision letter (hereinafter decision) was sent to the applicant. A decision was formalized and included certain headings, such as background, petition (stating the grounds on which the applicant claimed redress), the applicant's story (as interpreted and mediated by the RB), and the RB's assessment (justifying the decision).

The decision was final and the applicant had no right to appeal to an external court or to an internal review. Some applicants, however, whose cases were resolved before the closing date for applications (31 December 2014), submitted renewed

applications with information that they felt had not been considered in the first trial. The final report from the RB states that 300 renewed applications had been reviewed. Only 6% of them were approved.[19]

The decisions are regarded as public documents under Swedish law and are accessible to anyone, but all personal information in the accessible decisions are redacted. We collected every fourth decision,[20] 1,225 in total, and processed them in an Excel database coding scheme.[21] We methodologically combined a quantitative and qualitative content analysis to examine subtle patterns of inclusion and exclusion that are not immediately distinguishable in the material but appear through the quantification of the aggregated content of the decisions.[22] This method enabled us to compare the writings of the RA and the Government Legislative Proposal with the outcome of the decisions. The coding scheme addressed the categories of abuse (differentiating between physical abuse, sexual abuse, work exploitation, detention, discrimination, violation, and neglect), the number and character of placements and which perpetrators that were registered in the applicant's story, and by which arguments the RB motivated its decision. It is important to stress that a decision does not reference the applicant's narrative as such but is simply a brief summary of what the RB considered to be the essence of what was reported in the applicant's written and, when applicable, oral submissions. Furthermore, the coding scheme addressed whether the applicant was awarded compensation or rejected, the applicant's gender, and other background information that was not concealed.[23] In our sample, 704 were rejected and 521 were awarded compensation. Of the applicants, 607 were female and 616 male; gender is not specified in two cases.

## The characteristics of the Swedish redress scheme

The Swedish redress scheme does not fit the money logics identified in previous research; it demonstrates that other types of money logics are possible. One characteristic that distinguishes the Swedish scheme from several international counterparts is the mix of a highly individual assessment model with flat payment, which typically characterizes the common experience model, according to Winter.[24] The Irish and Norwegian systems, reflected in Table 1, represent individual assessment models, and these models were consulted for the setup of the Swedish scheme.[25] The Irish and Norwegian schemes implemented graded systems, ranging between EUR50,000 and 300,000 by the Irish Residential Institutions Redress Board, and between NOK100,000 and 750,000 by the various Norwegian municipal redress

**TABLE 1** Redress schemes for historical child abuse in residential settings [30]

| Country | Number of applications/cases resolved | Proportion of rejection/dismissals (%) |
|---|---|---|
| Ireland (RIRB) | 16,648 | 6.6 |
| Australia (Redress WA) | 5,768 | 9.7 |
| Norway | 3,375 | 22 |
| Canada (IAP) | 23,661 | 23 |
| Sweden (RB) | 5,285 | 58 |

schemes.[26] These systems consider and evaluate several factors to establish the amount of compensation for each individual. In the Irish case, the individual applications were weighted by a points matrix, addressing the severity of abuse and the severity of injury resulting from abuse related to 'medically verified physical/psychiatric illness', 'psychosocial sequence', and 'loss of opportunity'.[27] In the Swedish scheme, the severity of long-term injury was dismissed as a basis for compensation due to the difficulty of assessing the effects of abuse that occurred long ago. It was also argued that such a focus would deviate from previous Swedish redress schemes (for victims of forced sterilization and victims of thalidomide-induced injuries), and that assessments of injury would complicate and delay the work of the RB.[28] The Swedish scheme is unique among schemes to date, in that it applies an individualized assessment of abuse, but once a particular threshold of severity of abuse and other criteria has been established, applicants receive the same amount of money. It is an individualized scheme that does not differentiate between degrees of serious injury.[29]

Another characteristic that distinguishes the Swedish model from some international counterparts is that applicants had no right to public legal assistance and no right to appeal the decision made by the RB or to call for an internal review. The RB was obliged to have the expertise in assisting applicants tracking down archival child welfare records, which are important in assessing applicants' cases; this was an expertise that public or private legal representatives were not expected to have. The tasks of the staff at the RB were to assist the applicant in filling out the form, track down child welfare records, prepare the applicant for a possible oral hearing, as well as to write up a presentation memorandum (Sw. *föredragningspromemoria*), in which the applicant's case was presented to the board of commissioners.[31] No victim support service external and independent to the RB were offered for preparing an application. Any professional competence an applicant would need for making a complete application, and for the RB to make a sufficiently thorough investigation, was claimed to be supplied by the RB. Therefore, the Swedish government argued that the RB met the requirements for the right to a fair trial under the European Convention on Human Rights, indicating that no right to appeal was needed.[32]

The most striking feature, however, is Sweden's low proportion of validated claims. In total, 58% of the 5,285 applications had been rejected or dismissed when the RB finalized its work in June 2016.[33] The rejection/dismissal rate increased during the time the RB was in operation.[34] This high proportion stands out in an international comparison, which has motivated us to analyse more closely the processes underlying applicant evaluations.

## Administration of money logic

To be awarded financial redress, claimants' applications had to meet four specific criteria, according to the RA and the Governmental Legislative Proposal, both of which instructed the RB.

1. The applicant must prove that s/he was taken into custody and placed in municipal out-of-home care during the period 1920–1980 under any of the following laws: the Act on Juvenile Delinquency and Neglect (1902); the Poor Relief Act (1918); the Child Welfare Act (1924); the Child Welfare Act (1960).

2. The applicant must give credible evidence.
3. The abuse must have happened in conjunction with care.
4. The abuse must have been severe.[35]

Interpretative concepts such as 'credible evidence', what is to be considered abuse 'in conjunction with care', and 'severe abuse' are difficult to assess when the events took place a long time ago. Due to the possibility of distorted and poorly kept archives and documents that require a great deal of expertise to track down, it was also difficult to assess the custodial status of the applicant. Consequently, the interpretation of the past was in the hands of the staff and commissioners appointed to the RB. Applicants were dependent on the staff's expertise in history and archival searches.

The criteria that were not met in the rejected applications in our sample are presented in Table 2. In some cases, several criteria were listed in the RB assessment, which means that the total number of criteria exceeded the number of cases. It is notable that the severe abuse criterion was addressed in 66% of the rejections.

Comments: 35 of the 704 rejected applications were renewed applications that had been rejected once before, and some of these were re-rejected, as the RB concluded that no new information had been provided. One application concerned a deceased person.

### *The custody criterion*

The requirement that the child must have been taken into custody under one or more of the specified Child Welfare Acts deliberately excludes several groups of victims who spent their childhood in out-of-home care: the Finnish 'war children' who were evacuated to Sweden and raised in Swedish foster homes and institutions during WWII; children privately placed in out-of-home care by their parents; children in municipal out-of-home care after 1980; children placed in care by health authorities (e.g. during a parent's illness) or in hospitals; and adopted children.

In our sample of rejections related to the custody criterion (187), 18 had not been placed at all, 29 applicants reported abuse after 1980, 46 had been the subjects of care or placement under acts other than those listed in the RA, and 17 had been privately placed. 88 applicants had also been rejected on the grounds that their custodial status could not be proven. Evidence to support their custodial status was not found, despite the fact that the RB staff claimed to have conducted investigations and searched the archives.[36] It is likely that many of these people had been privately placed as well, as huge numbers of foster children were in private care during the

**TABLE 2** Criteria for rejecting applications to the RB

| | (n = 704) | Per cent |
|---|---|---|
| The custody criterion | 187 | 26.5 |
| The credibility criterion | 73 | 10 |
| The conjunction with care criterion | 161 | 23 |
| The severe abuse criterion | 464 | 66 |

20th century in Sweden.[37] Privately placed applicants cannot be expected to know the nature of their legal custodial status, and may, therefore, be overrepresented in cases in which custodial status was not confirmed. The other formally excluded groups can be expected to have known that they were not eligible for compensation and, consequently, did not apply. For example, only four former Finnish war children were present in our sample, which might reflect an awareness of the limits of the scheme within this group, as their client organization actively struggled to change it.[38]

### *The credibility criterion*

The RA and the governmental legislative proposal maintained that the burden of proof was lower than in general court cases. The applicant had to present evidence sufficient for the Board *to presume* that s/he had been exposed to severe abuse. The applicant had to engage in supporting his/her testimony and cooperate with the RB in their search for relevant archival documentation. The application was to be rejected if relevant evidence was not obtained or if the Board had reason to doubt the applicant's credibility.[39]

The RB rarely maintained explicit that the applicant's story was not credible. Most of the rejections made with reference to the credibility criterion concern the applicant's vague or fragmented memories, which means that the applicant must have the capacity to provide details of traumatic experiences. For instance, the material includes examples of the RB hesitating about memories evoked during therapy,[40] probably because the idea that repressed memories can be recalled during therapy is currently questioned by experts in psychology.[41]

### *The conjunction with care criterion*

According to the Act, the abuse must have occurred in conjunction with care. What is considered *not* to be abuse in conjunction with care is specified in the governmental legislative proposal as the following.

- Flaws in the Child Welfare Board's investigation preceding compulsory care or a custodial placement. A placement as such does not constitute grounds for compensation.
- If the abuse occurred outside the institution or foster home.
- If the abuse occurred within the institution or foster home, but without the caregivers' knowledge.

The last item means that, if the caregivers met responsibility requirements 'that could be normally expected', but the children were nevertheless, allegedly without the caregivers' knowledge, abused by a 'relative or hired craftsman' within the home, the abuse would not be regarded as having occurred in conjunction with care.[42] Consequently, if the caregivers were not themselves the perpetrators but were considered to have been aware of the abuse, they would have had to deliberately

refrain from taking preventive action for the abuse to be considered as having occurred in conjunction with care.

In 76 of the 161 applications rejected on the grounds of the conjunction with care criterion, the applicant objected that s/he had been taken into custody at all, which was a claim for compensation the RB rejected. Some of these applications also detailed information about abuse that the RB did not consider to have taken place in conjunction with care. One reason for this was that the abuse had occurred outside the institution or foster home, as reported in 73 of the 161 applications. Some applicants, however, reported abuse both outside and within the home, and 133 of 161 applications reported abuse within the home. Nevertheless, the abuse within the home was rejected with reference to other criteria, such as the abuse was not considered sufficiently severe, or that it took place during a placement that did not fit the custodial criterion. 53 of 133 applications in which the abuse occurred within the home were rejected on the grounds that the caregivers did not know of the abuse that was prevalent in the home.

One such case concerned an applicant who told the RB that she, from five years of age, had been sexually abused by her foster mother's father. When she was housed alone in a cottage on her foster parents' farm, the perpetrator took advantage of the possibility to rape her several times. According to her statement, as referenced in the decision, she never verbally disclosed to her foster parents what was going on, but she did tell her biological parents and eventually asked to be moved to the home of her foster mother's sister, which she subsequently was. The RB rejected her application, claiming '[i]t has not been made evident that the foster parents knew of the abuse or that they had any reason to suspect what was going on'.[43]

It seems difficult for an applicant to prove that his/her caregivers knew about the abuse. As Kjersti Ericsson has underlined, abused children that are not listened to when they reach out for help often conclude that only silence can safeguard them from being exposed to additional harm.[44] Moreover, applicants who were heard by the commissioners were not offered legal assistance or external victim support services for preparing the application. When faced with the question of whether they had told anyone about the abuse, they likely responded without knowing that their answer to this question would affect the commissioners' decision. The case above indicates this.

### *The severe abuse criterion*

The most common reason for rejection was that the abuse the applicant accounted for was not considered sufficiently severe. In the governmental legislative proposal, severe abuse was divided into four different types:

1. frequent 'serious violations and repeated abuse or neglect meant to seriously harm the child's self-esteem';
2. occasional 'very serious physical abuse';
3. occasional 'sadistic or torture-like conditions'; and
4. gross sexual abuse.[45]

The 521 applications awarded compensation in our sample included what the RB judged as evidence of these types of serious abuse.[46] However, 464 of the rejected applications (n = 704) contained elements that did not meet this criterion, according to the RB's assessments.

The governmental legislative proposal stressed that the 'assessment should be based on [...] the values of society in general and how children were treated at that time'.[47] In relation to physical abuse, this meant that the RB had to identify 'physical abuse that exceeded what was considered *normal* [our emphasis] corporal punishment' at the time. Consequently, the RB was obliged to historicize what was normal discipline at different times in history and use that as a yardstick when assessing accounts of abuse that took place between 1920 and 1980. The legislative proposal enlisted additional notions of what severe abuse is not: occasional/non-frequent abuse; abuse or an abusive placement that lasted a shorter period; abuse not directly aimed at the child him/herself, for example witnessing domestic violence or violence against relatives.[48]

To distinguish between frequent/non-frequent, normal and abnormal 'serious violations and repeated abuse or neglect meant to seriously harm the child's self-esteem', the governmental legislative proposal stressed that the RB was to make an overall assessment of the abusive acts and circumstances the applicant had invoked. Emphasis was on cases in which the perpetrator was a caregiver, and the child's age was also a matter for the overall assessment. But the existence of permanent injuries was not a prerequisite for the RB to approve an application.[49] In conclusion, we can see how the design of the redress scheme gave way to an intricate administration of the money logic, which in turn required specific competencies. The applicants were required to be able to present recollections of traumatic events in a straightforward manner, to have had the capacity as children to inform their caregivers about ongoing abuse, and, with the assistance of the RB staff, to present evidence about their custodial status or any information that could facilitate searches in the archives. The RB and its staff were also expected to have the competence to track down child welfare records from every municipality in Sweden, interpret their content, as well as to be able to define severe abuse in relation to what could be considered 'normal' childrearing in the past. Consequently, enough resources for making a successful claim could only be mobilized through the combination of the applicant's and RB's competencies in presenting well-documented, detailed, and credible cases of severe abuse.

## Defining severe abuse in the RB's practice

The instruction given in the governmental legislative proposal that narratives of abuse should be evaluated in relation to which childrearing practices were considered normal at the time gives rise to certain questions: What kinds of abusive practices, at which point in time, were considered 'normal' by the RB? What historical knowledge underpins the definition of 'normality' that guided the RB's decisions? In this third section, we will make a close reading of the argumentation of the RB's decisions in order to reveal the underlying values and justifications used to define severe abuse in the RB's practice. We will focus on physical abuse, which is relevant to 205 of the rejected applications in our sample.[50]

By comparing decisions that awarded compensation and decisions that entailed rejection and analysing the semantic meaning-shaping details within them, we aim to explore the logic underlying the RB's decisions and extract explanations as to why the Swedish redress scheme resulted in a high proportion of rejected applications. However, our analysis has repeatedly run into contradictory results and paradoxes. This reflects the fact that evaluating individuals' historical experiences in a court-like board is not a straightforward matter.

### *The historicizing of 'normal' childrearing practices and corporal punishment*

An examination of how the RB assessed the conditions that were accepted or normal between 1920 and 1980 reveals at least two plausible justification mechanisms.

The first mechanism involves defining normality as what was legally sanctioned. The corporal punishment ban was introduced in Sweden in 1979, but this does not mean that, prior to the ban, it was acceptable to use corporal punishment on any child to any degree. The ban was foregrounded by a century-long debate that gradually introduced regulations on corporal punishment. Legal prohibitions of corporal punishment were first introduced at grammar schools for students over 12 years of age and later at residential institutions and elementary schools, and finally for young children residing with parents. In 1948, the National Board of Health and Welfare prohibited corporal punishment (e.g. boxing ears), forced showering, force-feeding, isolation, and meal denial in its leaflet distributed to every children's home and every municipal Child Welfare Board in Sweden. It strongly advised against verbal abuse of the child and the use of collective punishment. By 1960, the prohibition of corporal punishment at child welfare institutions was inscribed into law.[51]

In a previous article, we showed that the governmental legislative proposal suggested the RB to overlook these early regulations limiting the use of corporal punishment at residential institutions.[52] Instead, a second justification mechanism seems to have been prioritized; namely, to define normality as a common practice at a certain time in history. This definition raises another problem: How do we know what was common practice in raising children? Only scant research has addressed the history of experiences of corporal punishment in Sweden. Such a justification stands in stark contrast to previous attempts to compensate historical injuries. In the Swedish redress scheme for victims of forced sterilization, the government during the scheme clearly took a stand against historically accepted practices of social medicine and issued financial compensation to those who had experienced injuries from this 'common practice'.[53] Finally, even if the historical context has been addressed in instructions to redress schemes abroad,[54] to our knowledge, no other scheme exists in which the redress board has been instructed to base its assessments on 'the values of society in general and how children were treated at that time'.[55] Therefore, the 'normality' of past childhoods would depend on the commissioners' ideas of what past childhoods usually entailed, as would the 'abnormal' cases as well.

Only 15 decisions in our sample of 704 rejected applications explicitly historicized the events and dismissed the application on such grounds. 11 of the rejections were related to testimonies about child labour, which reflects the notion that past childhoods entailed work; sometimes heavy labour. Testimonies about abuse, however, were also rejected with reference to the historical context. For example, an applicant taken into custody sometime

between 1924 and 1960 reported that, while residing at a children's home, she was beaten with whips so regularly that she had constant scars on her back. She was force-fed (sometimes with her own vomit), locked up, punished by being denied food, denied having friends outside the institution, had a cherished gift stolen, and was never informed that her siblings resided in the same institution. The RB concluded that she had been exposed to 'severe hardships', but the application was nevertheless dismissed based on the claim that the RB took 'into account the conditions prevailing at that time'.[56] The reported abuse matches many of the actions that were prohibited at children's homes in 1948 by the National Board of Health and Welfare. As information about the years of placement are concealed in the decisions to safeguard anonymity, we cannot know whether this reflects notions about the conditions prevailing before or after 1948. We do know, however, that the RB only occasionally rejected applications with explicit reference to their historical context. Nevertheless, it is possible that commissioners' notions of a 'normal' childhood in the past influenced what the RB considered to be severe abuse, without that being explicitly stated in the decisions.

### *Identifying severe physical abuse*

By analysing cases in which accounts of physical abuse were the sole basis for awarded compensation, we found indications of how the RB identified physical abuse as sufficiently severe to be entitled to compensation. Physical abuse was most often reported in combination with other categories of abuse. However, 12 applications reported physical abuse alone and three of them were awarded compensation. Clearly, accounts of physical abuse alone were not seen as sufficiently strong reasons for compensation in most cases. Table 3 summarizes the narratives of abuse articulated in the three decision texts that awarded compensation.

### *Duration of placement and frequency of abuse*

The governmental legislative proposal stated that the abuse must have been frequent and ongoing in order to be compensated, unless it was sadistic or 'very serious'. The proposal also stressed the difficulty of determining how long 'a long time' was; instead, it was argued that 'this must be determined case by case'.[57] In the above cases, the abuse continued between 10 and 20 months. In the 10-month case, the most serious reported abuse occurred 'only' a few times, but it is possible that the RB considered the events to be torture-like or at least very severe. In another case, the abuse occurred around 1979, when the ban on corporal punishment was in force. In this case, the RB explicitly justified its decision to award compensation because it had taken 'into account that events occurred as late as XXX…'.[58]

Rejected applicants had generally been placed in care longer than a year. Of the 205 applications rejected on the grounds that the physical abuse they had experienced was not sufficiently severe, only 35 had been placed for a period shorter than one year. 49 were placed in care for one to five years, and 89 had been in care for five years or more.[59] The duration of placement must, however, be related to what abuse the applicants reported and how often it occurred. We searched the decisions (as the texts were reproduced in our database) for terms such as 'frequently', 'often', 'daily', as well as 'times a week', 'times a month', and 'times

**TABLE 3** Applications awarded compensation reported physical abuse alone (no sexual abuse, work exploitation, detention, discrimination, violation, or neglect reported)

| Summary of abuse | Length of placement and abuse | Age at which abuse began | Other notes |
|---|---|---|---|
| Foster home 1: Often given a hard beating for any minor offense. Punished with fist, ears boxed, hair pulled, arms twisted, thrown down stairs, and throttled. The child told the welfare board, but nothing happened.<br>Foster home 2: Beating with open hand, pulled hair often when the applicant grew older. | Foster home 1 (most serious allegations of abuse): 16 months.<br>Foster home 2: 20 months.<br>Placement continued after 31 December 1980. | 12 years old | Awarded compensation is explicitly related to the fact that the abuse occurred 'late in time'. Child welfare records document that the child reported having been physically abused in foster home 2. |
| Children's home: force-feeding, forced to eat vomit, beaten every morning for wetting the bed. Was put on a table and beaten with birch whips or carpet beater on his/her naked body. Hair was pulled often. | Length of placement not known, but decision is based on 10 months documented in child welfare records. | Not | indicated |
| Children's home: Force-feeding with coarse tube down the throat three times by three personnel; this was extremely painful. Applicant believes he was close to dying, woke up, and had vomited. Once punished by being forced to put hand in a mouse trap that slammed shut. Hard beating a couple of times: beaten with whips or sticks over 'bare' body, ears boxed. | 12 months. | 9 years old | |

a year'. It was more common for these terms to be found in cases awarded compensation, but physical abuse was reported to have occurred often/daily/frequently or multiple times in 36 rejected applications as well. The frequent abuse in the rejection cases consisted mainly of the applicant having their ears boxed, being slapped in the face, spanked or beaten on the bottom, and having their hair pulled.

One example concerns an applicant who had been placed for seven years and reported that he had been beaten almost daily during the first three years in the form of boxed ears, slapped face, and pulled hair. In addition to the physical abuse, this applicant stated that he had been forced to eat his vomit, was subjected to offensive treatment, labour exploitation, had his belongings confiscated, and was treated worse than other members of the family.[60] Having been exposed daily or often to these kinds of abuses, even though the placement lasted for several years, was not regarded as 'abuse beyond normal corporal punishment' by the RB.

As the following case indicates, however, we cannot straightforwardly conclude that it was 'only' daily ear boxing, face slapping, hair pulling, or spanking that the RB considered to be 'normal' discipline. Reports about repeated physical abuse that left visible marks on the body (bruisings) and bizarre childrearing practices could also be denied compensation with reference to the abuse not being of a serious nature.

One applicant (at 10 years of age) reported that her drug-abusing, unpredictable, and violent foster parent regularly accused her of theft and beat her daily to force her to submit. The foster parent slapped the applicant with his/her hands and scratched her skin, sometimes leaving 'bruises on her arms'. In addition, the foster parent, during periods, forced the applicant to stay awake at night by demanding that she stand next to the bed or mend clothes in the middle of the night, as well as demanding that she run home from school at lunch breaks to serve the foster parent tea. The application contains additional examples of accusations and corporal punishment the applicant claimed to have endured during her one-year stay in the home that the child welfare records confirmed was 'not satisfactory'. On one occasion, the foster parent pinched the applicant's fingers in a door; on another occasion, the foster parent accused her of having sexual intercourse with an old man. The applicant was punished by being scrubbed with a scrub brush. This application was rejected on the grounds that the reported abuse was not severe.[61]

### *Aggravating aspects of abuse*

In the applications awarded compensation in Table 3, phenomena such as abuse on bare skin and force-feeding – sometimes with vomit – are mentioned. To evaluate the importance of such aspects of abuse, we looked for semantic patterns in a number of decisions. Certain aspects of the abuse were more aggravating than others. For example, if the abuse was reported to have caused bloodletting, it seems the RB was more likely to regard the abuse as severe. We identified 29 cases in which blood was mentioned in connection with the description of the physical abuse. 23 of these applications were awarded compensation.[62] Another aspect of compensated cases is physical abuse on bare skin, as one of the examples in Table 3 indicates. We searched for words and associated concepts that could designate physical abuse (excluding sexual abuse) on bare skin: 'naked', 'nude', 'bare skin/bare body', 'undressed', 'pulled down clothing'. These

concepts were mentioned in 22 compensated applications, but in only two rejections, indicating that the RB considered physical abuse on bare skin to be a serious matter. Physical abuse with tools was more common in the compensated cases, but rejected applications also reported such abuse.

In contrast, being forced to eat vomit did not seem to have been perceived as equally serious. Of the 54 applications mentioning this practice, 19 were rejected, and 12 of these 19 had been forced to eat their own vomit regularly as a disciplinary action around meals.

### *Very serious physical abuse or torture-like conditions*

Another approach to investigate how the RB evaluated serious abuse is to study how the RB defined what the governmental legislative proposal labelled as singular occurrences of 'very serious physical abuse' and 'torture-like conditions' that 'naturally' should be awarded financial redress. We chose to compare one compensated and one rejected decision in which the reports of abuse, to our understanding, seem to contain information about serious physical abuse.

In one of the compensated applications in Table 3, the applicant stated that he had been force-fed with a tube on three occasions in a way that the applicant experienced as very painful and life threatening. In addition, he had once been punished by being forced to put his hand in a mouse trap and was subjected to hard beating a couple of times. In the decision, the RB wrote that the applicant 'has been force-fed in a brutal and dangerous manner. He has also been beaten up. In an overall assessment the Board find that it can be assumed that the applicant has been subjected to severe abuse'.[63] The applicant had been taken into custody when he was nine years old under the Child Welfare Act of 1960, and he was in care for one year. The abuse did not occur only on a single occasion, but the decision text did not contain information about systematic, repeated force-feeding for a long period of time. This indicates that the RB assessed the abuse as singular events of very serious physical abuse, which, according to the governmental legislative proposal, would 'naturally' lead to a decision to award compensation.

The definition of 'very serious physical abuse' becomes somewhat muddled if we study rejected applications. One rejected applicant was 14 years old when he was taken into custody under the Child Welfare Act of 1960. He was placed in a foster home, in which he stayed for at least six months. The applicant described everyday life in the home as one of violence as well as exploitation in the form of hard, heavy agricultural labour, which included work after school, during weekends, and summer holidays. He was also treated worse than other members of the household and had to sleep alone in the basement. On one occasion, the foster father punished him severely for running away. The foster father abused the applicant's legs by forcing the boy to lie on the floor and then throwing himself, knees first, down onto the boy's thighs. This abuse was repeated for 30 minutes, after which the applicant had to lie naked on a table, on which he was beaten with a cane, a stick, and belts. The applicant feared for his life during the abuse and could not walk normally for several weeks. Subsequently, he told a social worker about what had happened, but this person laughed at him and said that a good beating was just what he needed. In the decision, the RB writes:

> According to the Board's assessment, the single abusive event the applicant has told of cannot be considered sufficiently severe to entitle compensation in accordance with the meaning of the Redress Act. [...] The work tasks performed by the applicant have not been of such character or extent that the exploitation can be considered severe abuse according to the Redress Act.[64]

In the compensated application, the applicant had been subjected to force-feeding on three occasions; in the rejected application, the applicant had been severely beaten once, but not sufficiently serious for the Board to grant compensation. In comparison with the compensated application, however, the story in the rejected one also concerned systematic exploitation of the applicant's labour and an everyday existence marked by threats. This did not persuade the RB to make an overall assessment, as instructed in the governmental proposal, that benefited the applicant's case. Instead, the RB seems to have chosen to treat every single act of abuse in the applicant's story as an isolated event, each of which must meet the requirements of being very serious abuse or 'abnormally heavy, dangerous, or stressful work', as stated in the governmental legislative proposal.[65]

This fragmentation of the applicants' narratives can be observed in other rejected applications. This applies to many of the applications rejected with reference to multiple criteria stipulated by the RA. In total, 464 applications in our sample were rejected on the grounds that the reported abuse was not considered sufficiently severe. Of these, 259 were rejected with reference to further criteria as well, such as that they had not been taken into custody according to the laws stipulated in the RA, that the abuse had not occurred in conjunction with care, or that the applicant's story was not sufficiently credible.

One such case concerns an applicant taken into custody in the late 1970s, first placed in a foster home for six months, then in a children's home for an additional few months, and, finally, sent to a second foster home for two years; a placement that lasted into the 1980s. The applicant described the foster father in the first foster home as a sadist. Several times he threw her up into the air and let her fall to the ground. He also used to hit her fingers with a piece of wood containing nails. In addition, the foster parents scared the applicant and other foster children at night by knocking on their windows and screaming. The foster parents told the children that 'the devil' had visited them. They were not allowed to speak unless they raised their hands, and when the foster parents ran errands, the applicant was locked in her room. At the next placement – the children's home – the applicant was forced to bathe in ice-cold water and was scrubbed with a root brush, and she had to endure verbal abuse. In the second foster home, the applicant reported that she was exploited as a labourer, verbally abused, and that the foster mother spoke in degrading terms about the applicant's biological parents. She suffered from neglect as her room had broken windows, was without heating, and had dirty linen that caused scabies; she could only wash and manage her personal hygiene when in school. The foster parent did not speak to her more than necessary, and, on Christmas Eve and similar holidays, she and another foster child were forced to sit in the hallway. In addition, on one occasion, the foster father ran over her leg with his tractor when she fell off the trailer. The applicant claimed that the foster father had seen her but that he

continued driving anyway; this had caused injury to her knee and hip. It is not evident from the decision text whether the foster parents refrained from contacting a doctor; the text merely states that the applicant went to see the school nurse.[66]

This case illustrates how the RB in its assessment fragmented the applicant's narrative. It shows that the story about each placement an applicant reported had to meet the four criteria (the custody criterion, the conjunction with care criterion, the credibility criterion, and the severe abuse criterion) to be considered for compensation. The story about the first foster home did not meet the severe abuse criterion according to the RB, while other criteria were met. The applicant's story must have been evaluated in relation to whether it could be considered 'physical abuse beyond what was considered normal corporal punishment', which would justify compensation, but only if it had been 'repeated and lasted for a long time'. The RB concluded that half a year was 'relatively short', however, and therefore the abuse in the first foster home was not considered serious. As for the report about the second foster home, the credibility and custody criteria were challenged. We understand the RB's conclusion that it did not find 'enough support to presume that the incident [with the trailer] was anything but an accident' as indicating that the RB questioned the credibility of the applicant's narrative. Finally, it was suggested in the decision that events and circumstances after 1980 could not be considered when deciding the case. The remaining abuse and neglect were not considered to be sufficiently serious. The analysis demonstrates how the RB in its assessment fragmented the applicant's narrative and treated each event as a separate entity. The RB refrained from the instruction in the governmental legislative proposal to make an overall assessment of all abusive acts and circumstances the applicant reported.

Reported abuse that occurred at the beginning of the 1980s was a disadvantage for the applicant in this case; it simply did not count. In other cases, however, such as in the compensated application in Table 3 in which the child continued to be in custody after 1980, an argument in favour of the applicant's claim was that the abuse had happened late in time, which increased the applicant's victim capital. Such argumentation is not expressed in the rejected case, although it could be discussed whether in the late 1970s and early 1980s it was considered 'normal or at least acceptable' for children to sleep in rooms without heating, on bed sheets so filthy as to cause scabies, without access to a shower, and exposed to violations, unfair treatment, and work exploitation. It should be noted that the amendment of the Parental Code of 1979, resulting in the ban on corporal punishment, not only prohibited corporal punishment but also other kinds of offences: 'Children are to be treated with respect for their persona and individuality and must not be exposed to corporal punishment or other offensive treatment'.[67]

## Concluding discussion

An analysis of the legislative elements comprising the Redress Act and the implementation of this act by the RB shows how the money logic given in the law played out in practice. The present article demonstrates that a concept such as victim capital can be understood not only as how vulnerable or credible a victim is perceived to be by others, but also how the past is conceptualized in the decision-making process.

Evaluating individual experiences of historical abuse in court-like board situations, such as the RB, is something other than addressing past wrongdoings in an inquiry. The legislation defining the tasks of a redress board must translate the overall understanding of past wrongdoings – as defined by inquiries and political agents – into grounds for compensation for specific individuals. Redress boards employ an understanding of the past to evaluate the legitimacy of compensation claims. The kind of victim capital that is valid, consequently, depends on the design of the scheme and how the RB makes assessments. Moreover, this article indicates that applicants both needed certain competencies themselves and that they were dependent on the competencies of others, such as the staff at the RB. The comparison between the eligibility criteria of the RA and how they were administered by the RB in practice indicates that it must have been difficult for an applicant to foresee what the outcome of his/her application would be.

The aggregated outcomes for claimants in the Swedish system were marked by a high proportion of rejections compared to other redress schemes around the world. Our analysis points to four conclusions concerning this exceptional feature.

First, the restrictions in the RA formally exclude many groups of victims from redress. These groups include the Finnish 'war children'; privately placed children; children in municipal out-of-home care after 1980; adopted children; and children at hospitals, or in the custody of the health authorities. However, it was found that only a minor proportion of rejected applications in our sample represented these groups, and, for this reason, this feature cannot explain the high rate of rejection.

A second explanation concerns the high requirements set for defining the criterion for severe abuse. We can initially conclude that the three types of physical abuse identified in the governmental legislative proposition cannot easily be distinguished. The decisions rarely mention what the RB considered normal in terms of 'normal corporal punishment'. Clearly, the RB's interpretation was that childrearing, for the better part of the period studied, included actions that today would be considered sadistic or abusive. Closer scrutiny of the semantic patterns in the decision texts indicates that the RB considered abusive behaviour directed at a naked body or resulting in bloodletting to be serious abuse, along with abuse with tools. However, our analysis constantly ran into examples of contradictory and inconsistent decisions. We identified cases with similar presentations of abuse that led to different conclusions by the RB. Such differences are not in accordance with the principles of equity in legal proceedings.

A third factor concerns the unequal power relations built into the process. For instance, the applicant was not offered public legal assistance but was allowed to bring a support person to the formal hearing. Most often the applicant met with the board of commissioners without legal assistance. Another example is that applicants probably responded to the question of whether they had told anyone about the abuse (the conjunction with care criterion) without knowing that a negative answer could reduce their chances for redress. Furthermore, the applicant had no right to appeal the decision of the RB, and therefore the applicant had no formal opportunity to oppose or amend the RB's summary of his/her story and add details that might affect the outcome of the decision. The applicants were dependent on the competence of the RB's staff, both in finding evidence (child welfare records) to support their case, as well as in making accurate summaries of their narratives.

A fourth factor that contributed to the high proportion of rejections is the intricate design of the redress scheme which, when operationalized by the RB, fragmented the applicants' narratives. Our study of decisions made by the RB demonstrates that the Swedish Financial Redress Scheme resulted in a complex web of criteria with underlying terms and conditions that needed to be met by any successful claimant. The four criteria and their underlying terms function as mechanisms of exclusion. This means that the cases of the most severe abuse were not awarded redress, as stressed in the RA and the governmental legislative proposal. Instead, the practice indicates that only the most well-documented, detailed, and credible cases of severe abuse were compensated. In other words, the praxis deviated from the intention of the RA, which was that greater emphasis was to be placed on the narratives told by the applicants than on formal documentation. Our findings show that the story about each placement or event an applicant reported had to meet each of the four criteria, which in turn fragmented the applicants' narratives and precluded an 'overall assessment of the abuse and neglect that have occurred in order to determine whether the events, as taken together, can be perceived as serious abuse'.[68] Such an overall assessment seems to have been difficult given the administrative practice of evaluating each aspect in isolation. The money logic operating in practice became far more restrictive than the designers of the redress scheme, i.e. the Swedish parliament, may have foreseen.

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## Notes

1. Sköld and Swain, *Apologies and the Legacy of Abuse*.
2. Sköld and Sandin, 'Att delta eller stå bredvid', 383–411.
3. SFS 2012:663.
4. This article is a publication from the ongoing research project Limits of State Responsibility: Redress to Victims of Historical Child Abuse in Out-of-home Care. We are grateful to the anonymous reviewers of this article for all comments and suggestions. Forthcoming articles will address the legal context of the Swedish redress process, the evaluation of memories of childhood traumas and archival documentation in this legal process, and the character of the decisions that awarded compensation, with specific reference to how child sexual abuse and child labour exploitation were defined in relation to the state's responsibility for children's wellbeing in the past.
5. Daly, *Redressing Institutional Abuse*, 126.
6. Winter, 'Two Models of Monetary Redress', 393–4.
7. Ericsson, 'Victim Capital', 126.

8. Kennedy, 'Australian Trials of Trauma', 340–5.
9. Winter, 'Two Models of Monetary Redress'; Daly, *Redressing Institutional Abuse*; Studsrød, 'Ulike modeller for gjenopprettende ordninger'; Pettersen, *Kommunale oppreisningsordninger*.
10. Applicants whose cases were resolved before the closing date for applications (31 December 2014) could submit a renewed application. For this reason, the number of applications is higher than the number of individual applicants. Ewerlöf, *Ersättningsnämndens slutrapport*, 9–10.
11. Prop. 2012/13:160, 268.
12. Prop. 2012/13:160, 268; Ewerlöf, *Ersättningsnämndens slutrapport*, 3, 13.
13. Prop. 2011/12:160, 34.
14. Schiratzki, Sköld, and Sandin, 'Redress in Context'.
15. SFS 2012:663, §6.
16. Ewerlöf, *Ersättningsnämndens slutrapport*, 7.
17. Ewerlöf, *Ersättningsnämndens slutrapport*, 15–18.
18. Only 49 of the 1,225 applications in our sample noted that a representative or support person was present during the formal hearing. Based on the information in the decision, it is not evident whether some of these were solicitors. What the representative or support person actually contributed during the proceedings is not evident in the decision.
19. Ewerlöf, *Ersättningsnämndens slutrapport*, 9–10.
20. As our data was generated before the RB closed, our sample does not include the latest decisions, completed in spring 2016, which mainly addressed renewed applications.
21. To guarantee the applicants' privacy in accordance with the ethical review act that guides any research involving living persons in Sweden, applications' reference numbers were redacted. We have provided each case in our sample with a new reference number, which doesn't correspond to the original reference number.
22. Boréus and Bergström, 'Content Analysis', 23–52.
23. For example, birth dates are deleted, which means that we cannot identify exactly when in time the abuse occurred. The only time guide we have is information concerning the legal act under which the child was taken into custody.
24. Winter, 'Two Models of Monetary Redress'.
25. SOU 2001:9, 120–31.
26. RIRB, *A Guide to the Redress Scheme*; Pettersen, *Kommunale oppreisningsordninger*, 40. In Norway, a national ex gratia scheme and municipal redress schemes for compensating and recognizing historical child abuse in residential settings have been established. By 2009, redress schemes had been established in 124 of 428 municipalities. See Ericsson, 'Victim Capital', 130.
27. Winter, 'Two Models of Monetary Redress', 5.
28. Prop. 2011/12:160, 26.
29. We are grateful to one of the anonymous reviewers for this wording.
30. Ewerlöf, *Ersättningsnämndens slutrapport*, 16.
31. Prop. 2011/12:160, 50.
32. The final report from RB does not state the total number of individual applicants. The 58% rejection rate includes the outcome for dismissed and renewed applications from individuals that had previously been rejected. Ewerlöf, *Ersättningsnämndens slutrapport*, 10.

33. The RB explained the increasing rejection rate as a result of starting with easy cases, but also stated that, as time passed, a higher proportion became rejected with reference to the custody criterion and the conjunction with care criterion. Ewerlöf, *Ersättningsnämndens slutrapport*, 11. The reasons behind this development still need to be investigated.
34. For figures on Ireland: RIRB, *Annual Report*, 12. Figures on Norway: Pettersen, *Kommunale oppreisningsordninger*, 46. Figures on Australia and Canada: Daly, *Redressing Institutional Abuse*, Appendix 3B. Figures on Sweden: Ewerlöf, *Ersättningsnämndens slutrapport*, 9–10. Ireland and Sweden represent singular national schemes, while the figures for Norway are calculated from Pettersen's compilation of 20 municipal schemes. The figures for Australia concern the Western Australia redress scheme (Redress WA) and the figures from Canada concern the Independent Assessment Process for Indian Residential School Abuse Claims (IAP).
35. The RB website informed about the scheme's guidelines, but the criteria's detailed meanings and consequences were not elaborated there. Detailed information was given in the government legislative proposal, also published online, but that text is not an easy piece of reading.
36. In addition, two applicants had been in custody during parts of their time in care but not when the actual abuse occurred. For multiple reasons related to the custody criterion, the total number of reasons for rejection on the grounds of the custody criterion exceeds N = 187.
37. Sköld and Söderlind, *Fosterbarn i tid och rum*, 83.
38. Riksförbundet Finska krigsbarn, *Det gäller också finska barn!*.
39. Prop. 2011/12:160, 17–18.
40. Case 2013:61, 2014:356, 2015:177. See also Persson et al., 'Tillämpningen av ersättningslagen', 17.
41. McNally, *Remembering Trauma*, 169. In Sweden, memories evoked during therapy have been questioned, in particular, after the disclosure of the Quick scandal, 2008–2014; see Josefsson and Paterson, *The Strange Case of Thomas Quick*. Thomas Quick/Sture Bergwall was convicted for aggravated robbery in 1991 and sentenced to a forensic psychiatric hospital. During therapy sessions in hospital, he confessed to murdering and was, subsequently, convicted for eight murders and became a well-known serial killer. However, two journalists' investigations into how the therapy was conducted revealed that the repressed memories the professional and legal expertise put forward as evidence for Quick/Bergwall's guilt were nothing but fantasies. In 2014, Bergwall was released and his care order was withdrawn the year after. A forthcoming article will discuss how the debate around memories evoked in therapy might have affected the RB's assessment.
42. Prop. 2011/12:160, 19–20.
43. Case 2015:137.
44. Ericsson, 'Children's Agency', 51.
45. Prop. 2011/12:160, 23.
46. Of the 521 applications awarded compensation, 336 had shown evidence of sexual abuse and 450 of physical abuse. 17 of the 521 applications awarded compensation received the compensation for sexual abuse only.
47. Prop. 2011/12:160, 9–20.
48. Prop. 2011/12:160, 24–7.

49. Prop. 2011/12:160, 25–6. The governmental legislative proposal does not identify age as a factor for the overall assessment of abuse and the child's situation; however, this is outlined in an article written by four commissioners after the RB was closed. See Persson et al., 'Tillämpningen av ersättningslagen', 18.
50. How the RB discriminated between gross sexual abuse and other kinds of sexual abuse of children is a complex topic that will be dealt with in a separate article.
51. Sandin, 'Barnuppfostran, föräldraskap och barns rättigheter'.
52. Sköld & Sandin, 'Att delta eller stå bredvid', 404–405.
53. Arvidsson, *Att ersätta det oersättliga*, 130.
54. Ireland: The Compensation Advisory Committee, *Towards Redress and Recovery*, 27–8; Norway: Innst.S. nr. 217 - 2004 – 2005, *Innstilling frå familie-, kultur- og administrasjonskomiteen*, 8.
55. Prop. 2011/12:160, 19–20.
56. Case 2013:92.
57. Prop. 2011/12:160, 25.
58. Case 2014:79.
59. The length of placement was unknown in 32 cases.
60. Case 2013:139.
61. Case 2014:169.
62. Three of six rejected applications in which bloodletting was mentioned described physical abuse that resulted in a nose bleed, which may have been perceived as a mild form of bloodshed.
63. Case 2013:288.
64. Case 2013:173.
65. Prop. 2011/12:160, 23.
66. Case 2013:93.
67. SFS 1949: 381. §1, Chap. 6, Parental Code (1949:381), amended through Act (1983:47).
68. Prop. 2011/12:160, 25.

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