A Father’s Right to his Child

In relation to the mother’s right to the child in custody feuds

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The aim of this study is to look deeper into the subject of father’s rights to his child in relation to the rights of the mother in custody feuds. The hypothesis was that fathers were being discriminated in relation to mothers when it came to child-custody. This research has been done as a literature study with content analysis. The study has used theoretical concepts to guide the focus in the analysis. The theoretical concepts are: the concept of Rights and the Gender Role Concept. The main results of the study showed that men were not being discriminated in legal context. However, a secondary result was that men could be considered to be discriminated from a gender role perspective. Gender role constructions and inequality was found to have effect on the outcome in custody feuds.

Keywords: fathers’ rights, legal egalitarianism, gender egalitarianism, custody feuds, gender role constructions.
PREAMBLE

Now when we have finally reached the final form of our research we feel content. This research process has felt long, sometimes exhausting. Though in the end, we feel it has been worth all the time and effort we have put in it.

We would like to thank our supervisor for the time he put in helping us, especially for his fast responds and availability. Also we would like to thank the persons who helped us finding a better way of structuring as well as helping us clearing our thoughts into written words. Your advice have been priceless.

“In the past, the dad was not allowed to give birth. They thought that is was unmusically. But today it is common that both the mother and father give birth to their child together.”

Kathrine, 6 years.¹

¹ A quote from Levengood and Lindell’s book [Old ladies don’t lay eggs] in “Custody Battles” by Rejmer.
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1. THE FIRST CHAPTER

1.1 INTRODUCTION
The constructions of gender roles in society are constantly changing. Women are taking more important roles in the labor market and men are taking a more responsible role in the household. The stereotyped role of men and women are being fought against, to diminish gender inequality and many other discriminating aspects that might come along with it. Though, are the stereotyped gender roles really changing?

Men across the world are experiencing inequality in the situation of custody feuds, where they perceive the mothers’ rights as being in advantage. (See for example www.pappaombudsmannen.se or Flood, 2007)

We thought the subject of fathers’ rights to their child in relation to the mothers’ rights and conflicts that might emerge in different situations as important, since this is a matter that social workers encounter frequently in Sweden. If an agreement of joint custody cannot be settled between the parents, sole custody is often given to the mother. We consider that this subject could be considered as a social problem since it has a broad impact on several actors, the father, mother and the child in different areas; emotionally, psychologically, socially, economically, among others.

Our subject interested us because of many aspects and questions. Were fathers actually being discriminated? And if so, on what terms?

We found this subject not only interesting, but also of relevance to international social work; since Sweden often is perceived as a model country in the subject of promoting gender egalitarianism. Thus it felt pertinent to explore the situation concerning this subject in Sweden and to get more knowledge on how it looks like.

We intend to explore the issue of fathers’ rights to their child and how it is handled in custody feuds. This study will retrieve its empirical data from a literature review. Thus, our empirical data consists of articles, books and reports focusing on the aforementioned. Possible keywords that we will use as guidance for the analytical part throughout the research are; ‘equal rights’ and ‘gender egalitarianism’.

1.1.1 Aim, Research questions and Hypothesis of the study
The aim for this study is to look deeper into the subject of father’s rights to his child in
relation to the rights of the mother in custody feuds, and what the literature says about this matter.

Our research questions are developed to help us answer the aim of our study. The research main question is the following:

- Do, according to the literature consulted in this study, parental rights differ in the way they are understood and applied between the mother and the father concerning custody of a child, in the situation of divorce or separation?

Sub questions are:

- Why is it considered important for the wellbeing of the child, to maintain a functioning father-child relationship?

- How might gender role constructions affect the father role?

The initial hypothesis for this research is that if a father is perceived to be less a suitable caretaker for the child compared to the mother then, fathers are being discriminated in relation to mothers when it comes to child-custody.

By exploring how this possible discrimination is reported in the reviewed literature and how it is supposed to generate other social problems, this research could contribute with more awareness to hopefully create opportunities for further development for the providing of social and legal support for men in these situations.

1.2 ESSAY DISPOSITION

In the first chapter of our research you can find the headlines: Introduction, aim and possible hypotheses, Essay Disposition and Explanation of Concepts. After that we will present Previous Research, which we have divided into three different themes; Legal Egalitarianism and Discrimination, the Father Role and the Father-Child Relationship. The next section presented is Coupling to theory; where we explain important concepts used as a tool for the analysis. Next comes the Methodology chapter with the sub-headings of: Preliminary understanding, Research design, Mode of procedure, Tools of analysis, Essay credibility and Ethical standpoints. After this we will present our results in the form of an Analysis. The last chapter consists of our Discussion and Concluding remarks.
1.3 EXPLANATION OF CONCEPTS AND TERMS

Child – Our chosen definition of the ‘child’ is the one stated by the UNCRC\(^2\) – “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

The ‘daddy-month’ - Was introduced in the Swedish legislation in 1995. This daddy month was reserved for the father only, one month of the total parental leave (per child). It was introduced to increase the father involvement in the first year of the child’s life, but also to contribute to improvements in gender equality and for a more gender equal labor market (Ekberg et. al. 2005, p.4).

Fathers’ rights - In Sweden there is no concept of parental rights. The legislation is designed in the way where the child’s best interest is in focus. According to Swedish legislation (Children and Parents code)\(^3\) the only rights carrier is the child. Thus, the term we have chosen to use in this study “the fathers’ right to his child”, is in itself a non-existing term, though we have used it and meant to refer to his right to his child in relation to the mothers right to the child in custody feuds.

We encourage the reader to keep in mind that the rights of the fathers’ are in relation to the rights of the mothers’.

The concept of Father Involvement – The definition of the concept of father involvement is based on the basic needs of a child given by Barnens Rätt i Samhället (BRIS) [the child’s right in society]. These conditions are, among many, the entitlement of a child to be provided with love, care, stimuli and support. These conditions\(^4\) given by BRIS concern both parents, though to keep relevance in the using of this concept in our study we have referred to it as ‘father involvement’.

We encourage the reader to keep this in mind that the conditions given by BRIS concerns both parents.

A Functioning Father-Child Relationship - The definition of the term of a functioning father-

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\(^2\) UNCRC’s definition of a child: [http://www2.ohchr.org/english/law/crc.htm](http://www2.ohchr.org/english/law/crc.htm)

\(^3\) Children and Parents Code: [http://www.notisum.se/Rnp/sls/lag/19490381.htm](http://www.notisum.se/Rnp/sls/lag/19490381.htm)

\(^4\) BRIS- Basic needs of a child [http://www.barnperspektivet.se/barnets-rattigheter/barns-grundlaggande-behov](http://www.barnperspektivet.se/barnets-rattigheter/barns-grundlaggande-behov)
child relationship is based on the presumptions stated by BRIS; “/…/ it is normally considered to be of benefit to the child to have contact with and spend time with both parents /…/”. This to confirm the common knowledge that it is important for a child to have a relationship with both parents, in the context of this research’s case, the father.

Legal egalitarianism – This term is defined through the European Convention on Human Rights (ECHR), where Article 14 - Prohibition of discrimination expresses;

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

This definition allows us to apply it to the term of ‘legal egalitarianism’, since according to this convention, no individual should be discriminated or deprived of rights due to factors such as sex and race, thus legal egalitarianism should be protected always for all individuals.

Gender egalitarianism – This term is defined with the definition stated by policy-making bodies during the 1960’s in Sweden. During this time the debate of gender egalitarianism exploded and in Sweden men were key actors in the advocacy and development of gender egalitarian approaches;

“Beginning in the late 1960’s, a new discourse emerged on gender equality. The argument made in the major social policy investigation of sex roles, /…/ was that gender inequality was attributed to both women’s lack of participation in paid work and men’s lack of participation in carework” (Hobson, 2002, p.104).

The definition is expressed in the context of gender egalitarian parental policies; “Equality meant equality between the sexes, emancipation meant emancipation of women and men” (Hobson, p.105).

2. PREVIOUS RESEARCH

In this section we will present some of the research that has been conducted in the field concerning our study of a fathers’ right to his child. Previous research written in this subject is presented from several different perspectives and mainly does not contribute with a common view on the matter. It varies depending on the perspective it has been written from, whether it

5 http://www.barnperspektivet.se/barnets-rattigheter/vardnad
is from a feminist perspective or a legal perspective and so on. But one thing we have found in common in these previous researches is the fact that they are often written from a "western" point of view. The literature written in this subject that we have found is predominantly from western countries, such as, the United States, Great Britain, Canada and Sweden. We have chosen to divide the presentation of previous research into three themes (these themes have been carefully selected and are motivated in the Methodology chapter under the heading of Research Design); 1. the connection between Legal Egalitarianism and Discrimination, 2. the Father-Child Relationship 3. the Role of the Father. In this way it will be easier to understand what data we have used in certain context, these three categories will later on be used as themes of analysis.

2.1 Legal Egalitarianism and Discrimination:

Something that is often discussed in the context of Legal Egalitarianism is the matter of discrimination. It is often the Fathers’ Rights Movements who bring forth the theme of discrimination of the fathers’ rights in relation to the mothers’. In some cases that opinion turns over to direct attack towards women and their rights. One example you can find in The Case for Father Custody (1999) by Amneus (Fathers’ Rights Movement theoretician):

“Today, after a third of a century of family breakdown, illegitimacy, delinquency, educational failure, drug addiction—of women pretending to be soldiers, firemen and policemen and demanding Affirmative Action benefits to prove that they are really competent to perform in such occupations, it is time to end the feminist charade and get back to the family.” (p.359).

This quote from Amneus can be considered as quite radical and is a good example of the change in focus, where fighting for legal egalitarianism instead becomes an ‘attack’ towards women. Amneus explains the hypothesis, that nowadays women are of the opinion that they do not need men to raise children and thus men have become ‘role less’. He claims that this is the result of the fact that women nowadays can independently provide for themselves and their children.

To follow up on Amneus reasoning concerning legal inequality between men and women, it is mentioned in Masculinity, Law and the Family (Collier, 1995) the legal distinction between men and women. The perception of inequality (see explanations of concepts and terms) before the law between men and women we have found to be a recurring matter when going through data that have a supportive stance for the Fathers’ Rights Movement or data that has legal
egalitarianism as focus.

In the context of promoting legal egalitarianism, Sweden is considered to be a pioneer country. Many reasons for this are because of the development of ‘father-friendly’ policies, this is discussed and thoroughly presented in Hobson (2002). The authors in Hobson put focus on highlighting that policies for father involvement should be with the focus on the caring responsibility and not only on economical obligations, this to maintain equality in the legal aspect. According to this following quotation by Hobson; “Since mothers tend to be favored in cases where joint custody is contested, this turn in the law towards compulsory fatherhood has strengthened men’s position in divorces.” (p.123), legal egalitarianism for fathers’ is strengthened through the development of certain laws. It is important to highlight this, since in Swedish context legal egalitarianism is presented as something that is strived for though still can be strengthened further. Whereas in the international context that is presented by Amneus and Collier egalitarianism between mothers and fathers might be less developed and might have a bigger gap there, than what it has in Swedish context.

2.2 The Role of the Father

The data we have collected has lead us to mainly focus on the development of the father role in history and how the role of the father has been and is perceived today. Collier presents the role of the father from different perspectives of the law, the role of the man in society as well as the role of the man within the family. The father role is discussed throughout the time span of a century (circa), how it radically has gone from the father being the one holding the “ownership” of the children (pp.185-187) in a marriage to the situation of today where “/…/ it has been perceived as a diminution of men’s legal rights in relation to women/…/”(p.177). The definitions and historical background contributed by Collier were of great importance to this research facilitating the exploration of the design of legislation of today as well as to explore of how, why and if the role of the father affects the development of legislation. The concept ‘the role of the father’ is also discussed in Sandqvist’s Fathers and Real Men (1993) and gives a thorough analysis on the historical background of the man’s role as a father which was useful in the exploring of the father’s role before and now.

In Making Men into Fathers (Hobson, 2002) the many angles of the weak bonds between men and fatherhood are discussed and how fatherhood is a subject often discussed in the political agenda of many countries. In the chapter Compulsory Fatherhood: the Coding of Fatherhood in the Swedish Policy, the focus is mainly on Sweden and Bergman (in Hobson) and Hobson
come to a conclusion that for divorced or never married fathers Sweden might be the most men-friendly society (pp.122-123). A reason for this is for instance the special ‘daddy-month’ (see Explanation of Concepts and Terms).

2.3 The Father-Child Relationship

Something that often is discussed is how father involvement will affect the child, Hawkins et al. (2007) bring out results that children that live apart from their father will face a number of economical and social disadvantages, but if a non resident father is actively involved in the child’s life, those disadvantages may not be so severe (pp.990-992). The similar kind of result also O’Neill (2002) presents, in Experiments in Living: the Fatherless Family, were she states that children that grow up in one parent households (usually with the mother as the primary caretaker) will be exposed to several kinds of social problems, such as teen pregnancy, unemployment, drug and alcohol abuse and financial and emotional problems, among others.

A usual perception is that mothers are more involved than fathers in the child’s life. In a study by Mikelson (2008) about father involvement you could see as one result that the resident parent, typically mothers, repeatedly underreported the involvement of the non-resident parent, typically fathers. Mikelson also highlights the lack of research made from the fathers’ point of views, were most studies that can be found are based on answers by mothers and/or children on the subject of fathers’ involvement. So when conducting research about fathers’ absence, researchers many times do not even include fathers themselves to make a study about their absence (pp.619-615).

To sum up what previous research that we have analyzed mainly has in common, is the perception that usually mothers are more involved in the lives of the children and that fathers are perceived to be discriminated in custody feuds. This in its turn leads to the also recurring theme in the different sources of literature, about how the father involvement affects the father-child relationship, whether it is in a good or a bad way.

3. COUPLING TO THEORY

3.1 THE CONCEPT OF RIGHTS

When Bobbio (1990) writes about Social Rights he states that: “Duty is the correlation of the right. Just as there is no father without a child and, reverse, it does not exist a right without a duty and vice versa” (p.80) [Own translation of quotation]. When you are part of a society there are certain rights as well as obligations, which are created to help and support every
individual who is being part of it. There is a difference between Human Rights and Social Rights, where in Human Rights it is stated that one individual cannot have more rights or freedom than another individual (see Legal egalitarianism in Explanation of Concepts and Terms).

To create social rights, for the individuals, that function in practice, it takes high influence of government power (ibid, p.73). These practically functioning rights are constructed mostly through laws and policies at a national or/and international level. To construct these social rights, what is taken into consideration are the different contexts of the individuals. This individual consideration is based on the distinctions of certain individual’s abilities to fulfil obligations, as expressed in Bobbio (p.73); “/…/ as some personal or social conditions are important for these rights to be granted.” An example that is presented to explain this is the difference between an adult and a child. Where the difference becomes evident, in form of what actually can be demanded in social context, where what you can demand of an adult is not the same as what you can demand of a child. As an example, you cannot demand that a child should conduct paid labour and pay income taxes to the state for it.

When using the concept of Rights, we will refer to the social rights of the individual that are constructed by national law and policies, in the Swedish context. With this concept of rights we will analyse what conditions the law provides with and whether men and women are given equal starting points in their rights, concerning custody of their child.

3.2 ROLE THEORY AND THE GENDER ROLE CONCEPT

3.2.1 The definition of a ‘role’

“Role theory helps explain people’s behavior by addressing how the social environment influences behavior by creating various roles to be fulfilled” (Parrish, 2010, p. 123). According to Parrish a role with its expectations and positions can be defined by the interaction between the relationships and dynamics, such as the interaction between a doctor and its patient and a mother and a child (ibid, p.123). Also mentioned by Parrish (ibid) is that “roles may be ascribed according to innate circumstances (such as being female, or British, or having a disability)”. From this quotation one can say that a role is how other people perceive us but also how we perceive ourselves. Some roles are attained, as expressed by Parrish (ibid), since these roles are defined by something that a person has done, such as being a parent or a graduate. People usually inherit several roles at the same time, this is called role sets. Role sets are roles that are inter-related, an example is being a mother at the same time as being a
daughter, a sister etc (ibid). This is a common feature, since a person will attain several roles at the same time with time, while starting off as a son for example, though with the years the son will also become a spouse, father or/and uncle.

Britannica encyclopedia defines roles as following:

“/…/ the behaviour expected of an individual who occupies a given social position or status. A role is a comprehensive pattern of behaviour that is socially recognized, providing a means of identifying and placing an individual in a society. It also serves as a strategy for coping with recurrent situations and dealing with the roles of others (e.g., parent–child roles).”

3.2.2 The Gender Role concept

Two concepts that are often confounded with one another are; sex and gender. Sex concerns the biological and physical form one is given at birth, having either a woman’s genitals or a man’s while gender is defined as “the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women” (World Health Organization [WHO]). Following the definition given by the WHO, one can make conclusions, that since it is “socially constructed” and societies around the world differ, one can assume that the gender roles will differ with society as well. Bussey and Bandura (1999) explain is explained as follows; “The gender role approach explains how roles are developed from being biologically determined to socially constructed”. Thus following these two definitions, in simpler words gender roles are roles defined by society, where certain behaviour and expectations are given to the individual depending on the sex, meaning that depending on the sex the individual is born with, s/he is given a certain gender role to “live up to”. These expectations are based on the way that certain society’s values concerning; prestige, norms and conceptions, among others.

In the case of the man, there is among others, the role of the man, the father, the professional and the care giver. With this concept we will discuss why and what reasons could be, that lay behind why a certain individual’s ‘gender’ wins in a conflict.
4. METHODOLOGY

4.1 PRELIMINARY UNDERSTANDING
Before proceeding to explore the subject of the fathers’ rights to his child, we thought that in the Swedish context of custody feuds, the mother usually got the custody of the children. Our assumptions were based on our own preunderstanding as formed through mass media reports and from personal experience, where we have “seen” that children of divorced parents usually live with their mothers. This though says nothing about eventual measures taken before the placement of the child. Our general understanding of this subject was that the law might be favoring the mother, and this in its turn was discriminating the father. Though, this presumption came from a base without any particular recognition of the legislation. What we did know for certain was the fact that Swedish legislation concerning children is designed in the way where the child’s best interest comes first.

When starting with this study, our knowledge about the matter of the fathers’ rights turned out to be scarce. We went into the study with the belief that it was a relatively unexplored field, where there would not be such a vast range of literature to retrieve our data from. Though we discovered that it is a field that has been very much explored. We realized that this could be of our advantage as well as disadvantage, since a fairly explored field could facilitate the data collection though there is a risk that we have little new knowledge to add, but an unexplored field would complicate the data collection and exploration of previous research.

4.2 RESEARCH DESIGN
To be able to carry out this literature study we will conduct it with the method of content analysis. Content analysis is a method used to find out and see the patterns and relationships between words that are being used when studying different material and texts. According to Weber (1990) and Krippendorff (1980) in GAO’s (U. S. General Accounting Office)\(^6\) (1996) “Content Analysis: A methodology for structuring and analyzing written material”, the definition of content analysis is following, “/…/ a systematic research method for analyzing textual information in a standardized way that allows evaluators to make inferences about that information.” This method can be a trustworthy tool when using a large amount of data and provide a good empirical base since it will allow us to see patterns by selecting certain keywords when going through our data. To be able to conduct the method of content analysis, we have used certain keywords. These keywords; gender, gender egalitarianism, fathers’

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rights, legal egalitarianism and custody (among others), helped us to keep the focus on the recurring themes in the texts (Stemler, 2011). The themes that we deducted will be used in the analysis section; the connection between Legal Egalitarianism and Discrimination, the Father-Child Relationship and the Role of the Father.

The advantage with this method is that it will allow us to get a larger amount of information in a shorter time period. Considering the amount of information that is available concerning the research subject, the chosen method will hopefully facilitate the collection of information to explore the aspects of the fathers’ rights to his child in custody feuds. Disadvantages of this method could be that the research will be strictly based on previous research, our findings and conclusions. The results of this will be based on our analytical abilities, which can be considered as faulty by some, due to factors such as relevance, depth, understanding and so on. As stated by D’Cruz & Jones (2004, p.25) “Having accessed material, we become involved in a critical analysis of it. This entails being able to summarize accurately, but reviewing implies much more.” A literature review demands that the questions are asked to the literature instead of the interviewee, questions we thus think are relevant to keep in mind and ask the literature are; What do the majority of the studies conclude? What are the gaps in our knowledge about the problem? And what additional research needs have been identified? (questions based on D’Cruz & Jones, pp.25-26). Other possible difficulties with this method could be that it is time consuming and that it can be difficult to know which texts to chose.

**4.3 MODE OF PROCEDURE**

Firstly, we chose to use the online search engine Google Scholar\(^7\) to find some of our data, since it provided us with a great access to information, where we easily could read abstracts, or notes on the articles found, to be able to handpick relevant data. We considered it a good option for a good systematic search to collect sufficient and relevant data. With this method we got a better overview of our subject and what had been already written and to found material useful to our research. We found for example articles and websites, that took up the theme of ‘fathers rights’ of their child in custody feuds, and published researches as well as important information about laws and up to date statistics. With this search engine we could easily find international data as well as Swedish.

When using the search engine Google Scholar we used search words such as; *Children and Parents Code* [Föräldrabalken], parental rights, fathers’ rights, Fathers’ Rights Movement,  
\(^7\) [http://scholar.google.se/](http://scholar.google.se/)
custody law, gender in parenting, United Nations Convention on the Rights of the Child, among many (see table 1 below). We got many hits, though some were more relevant than others, but still to point out is that there is a lot of information out there on our particular subject.

The table shows some examples from some keywords used when searching in Google Scholar and how many hits we got. We have used several different combinations of our keywords (mentioned in Research design).

**TABLE 1, SEARCH ENGINE Google Scholar**

<table>
<thead>
<tr>
<th>KEYWORD</th>
<th>HITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children and Parents Code</td>
<td>1 490 000</td>
</tr>
<tr>
<td>Parental Rights</td>
<td>1 310 000</td>
</tr>
<tr>
<td>Fathers’ Rights</td>
<td>592 000</td>
</tr>
<tr>
<td>Fathers’ Rights Movement</td>
<td>322 000</td>
</tr>
<tr>
<td>Custody law</td>
<td>286 000</td>
</tr>
<tr>
<td>Gender in Parenting</td>
<td>241 000</td>
</tr>
<tr>
<td>United Nations Conventions on the Rights of the Child</td>
<td>228 000</td>
</tr>
</tbody>
</table>

We have also used the search engines Discovery and Social Services Abstract, that are available through the University of Gävle. When we searched with Discovery (see Table 2) we used search words both in Swedish and in English to widen our search hits such as; Fathers*, divorce, children of divorced parents, fathers’ legal status law, parental access, pappa och barn [father and child], among others.

When we used the search engine Discovery we chose to search peer reviewed literature to get a more scientific base of results. We also chose to search data between the years of 1950 to 2012, to narrow the search down. The information retrieved in this search was especially good for information we needed concerning Sweden.
### TABLE 2 SEARCH ENGINE Discovery

<table>
<thead>
<tr>
<th>KEYWORDS</th>
<th>HITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fathers*</td>
<td>45 794</td>
</tr>
<tr>
<td>Divorce</td>
<td>25 421</td>
</tr>
<tr>
<td>Children of divorced parents</td>
<td>2 979</td>
</tr>
<tr>
<td>Fathers’ legal status law</td>
<td>397</td>
</tr>
<tr>
<td>Parental Access</td>
<td>76</td>
</tr>
<tr>
<td>Pappa och barn [father and child]</td>
<td>1</td>
</tr>
</tbody>
</table>

As you can see in Table 2 you will not get the same amount of hits in the search engine Discovery when using similar keywords. This is mainly because it is a smaller search engine as well as that the results from the search are controlled and restricted to certain publishing years and they are also peer reviewed.

#### 4.3.1 Sources of error

When selecting our data we have encountered several articles with biased tendencies. To avoid jeopardizing the validity of our study (see section Essay credibility) and the ethical considerations (see under Ethical Standpoints), we have chosen to use these sources in this study. We have been aware of their tendencies, whether they are religious, traditional, feminist or other approaches (this is discussed in the Discussion chapter). Presenting the different standpoints of the writers will give the reader a fuller understanding of the variety of opinions concerning the subject of fathers’ rights to their child.

We could have conducted this research by having interviews with people who we would have thought appropriate (as an example, fathers who have gone through a divorce or social workers that handle these matters), but then we would get answers based on their personal opinions and thus not get a broad general opinion on the matter, which our intentions are with this study. Thus our aim and research questions are developed within the framework of a literature study, where the questions asked are asked to the literature instead of an interviewee.

#### 4.4 TOOLS OF ANALYSIS

After developing the aim and research questions for our research we started with the process of searching for material. We started to read more in-depth into our subject to see what was
already written about this matter to have a stronger ground to stand on, but also to see what all these texts had in common where we tried to find some patterns that we could later on use. We chose to use different sorts of data to widen our selection, such as books, articles, journals, statistics, WebPages but also existing laws and policies regarding our subject.

To narrow, we chose to follow the set of keywords mentioned in the section of ‘Research Design’, where with the help of these keywords we were enabled to quickly look up relevant chapters for our study from certain books or journals, to avoid putting unnecessary time on irrelevant sections.

During the process of reading and compiling our data we developed different themes based on the keywords we used when collecting data. Simultaneously we started to work on the method parts of the research. Our choosing of theory was developed quite “late” into the study, since we thought that the appropriate theory must be chosen in consultation with the empirical findings. We decided to base the analysis on two concepts. We chose to divide the analysis into three different themes, each theme later given one or two of the two chosen theoretical concepts to analyse it through.

4.5 ESSAY CREDIBILITY

4.5.1 Validity

Validity within a qualitative study refers to whether the study has achieved what was intended to be studied, if one can prove this, one can state that the study is accurate concerning validity (Kvale & Brinkmann, 2009, p.246).

In our research we consider that we have studied what we intended to study. We have explored the issue of fathers’ rights to their child and how it is handled in custody feuds. As well as fulfilled our aim; to look deeper into the subject of fathers’ right to their child in relation to the mothers’ rights, when it comes to custody feuds, and what the literature says about the matter. Kvale and Brinkmann state (2007, p.247) that an investigation should be followed up closely along the way; “/.../quality control throughout the stages of knowledge production”. We believe that throughout our study, we have fulfilled this by constantly going back to our aim and research questions and “checking up” to ensure that we do not lose the focus or stray to afar. At times it was needed to be reminded by our supervisor to keep our focus to our subject, and thus we were able to keep in track or go back to our original intention. We have managed to do this continuous checking, through the help of the keywords
we deducted from the data. With these keywords we have ensured that we have kept our minds and processing of data to the themes we wanted to concentrate on. According to Kvale and Brinkmann; “Validation rests on the quality of the researcher’s craftsmanship throughout an investigation, on continually checking, questioning, and theoretically interpreting the findings” (p.249). We believe that this is the type of procedural process we have maintained during our research, thus we consider our research as valid.

4.5.2 Reliability

We believe that we as researchers have maintained consistency and stability throughout the study and as mentioned in Patton (2002, p.14), “/.../in qualitative research, “the researcher is the instrument”.

To achieve reliability in a qualitative research it is mentioned by Healy and Perry (2000, in Golafshani 2003, p.601) that it is important to evaluate the research in its own terms, among others; credibility and neutrality. We have put a lot of effort and emphasis on these two words throughout our study in the collecting, processing and presentation of data. To avoid colouring our data with our personal values and opinions we have been very careful in not excluding certain data on the terms that it is not of our opinion. We have handled the data in its original form and presented it as intended by the author. By re-reading and analysing our own texts we have made sure to keep an unbiased approach. By taking these measures, we believe that we have achieved reliability.

4.5.3 Generalizability

Considering the type of study we are conducting we consider our research as automatically a generalizing study. Since this study is based on such a wide and general group concerning ‘fathers’ in the context of custody feuds, it is already a very much generalizing study including all “types” of fathers. According to Golafshani (2003, p.603), reliability and validity in a qualitative study generates generalizability, since we consider that we have achieved both validity and reliability, according to Golafshani we have achieved generalizability as well. Concerning the replicability of the study, we believe that the study could be conducted using the same method, though what has to be kept in mind is that our point of view is from a western perspective, mainly Swedish. Thus we have not taken into consideration eventualities that might differ from country to country, culture and other factors concerning the rights of the fathers’ in custody feuds.
4.6 ETHICAL STANDPOINTS
Since we are conducting a literature study, our ethical considerations must lie on the data we collect. We must be careful of where we retrieve our data as well as be aware of by whom it is written. For our review to be as genuine and objective as possible, we must be aware of sources that might have biased inclinations and/or subjective presentations of opinions. Also, the quality of the sources must be high – in the way of finding “qualified sources” where the writer’s knowledge becomes vital (Taylor & Procter). Another thing we must take into consideration is the critical analysis we will develop, where our own opinions and interpretations must not take part in the informative part of the study, but only in the discussion.

When taking into consideration any possible biased opinions into our presented data, we must be sure to clarify that the biased opinion will be presented as what it is originally intended to mean by the author.

Something to clarify is that with this study our intentions are not to promote the situation we had a century ago, were the man usually, automatically got full custody of the child after a divorce. Our intention is not to promote the removal of any rights of the women and we do not believe that a father is more important in the life of a child or vice versa. Our opinion is that both are important, though we want to explore the rights of the father and legal and gender egalitarianism within custody feuds.

5. PRESENTATION OF RESULTS AND EMPIRICISM

5.1 BACKGROUND
In order to explore society’s understanding of the changing roles of men and fathers in particular, this chapter will present information concerning the UNCRC, historical background and the Fathers’ Rights Movement. With an understanding of the history of the role of the man and the father, it might be easier to understand the conflicts that might arise when fathers’ roles are questioned in custody feuds.

5.1.1 Fathers’ rights in relation to the UN Convention on the Rights of the Child
Due to legislation that puts the child in focus the fathers’ or mothers’ roles are not the prime relevance, thus the parent’s rights are not the first aspects to be taken into consideration. The UN Convention on the Rights of the Child (UNCRC) is a convention that has been signed by
140 countries out of 193⁸. This does not imply that the legislation among these 140 countries is designed in the same way, but it can give a general view of the awareness of the child in focus. The UNCRC gives clear guidelines to the countries of how the child’s best interest should come first, no matter what, in all situations.

Sweden has not adopted the UNCRC as national law but chosen to embrace a transformation method, as stated by the Swedish UNCRC Project “Make the Convention of the Child Law”[own translation] (Gör Barnkonventionen till lag);

“The Convention on the Rights of the Child is not applied as Swedish law today. This means that the Convention does not have the same status as other Swedish laws, but can be dismissed by many authorities and politicians. Instead of an incorporation of the Convention, Sweden has chosen a transformation method that means that our laws are changed and adapted to its conditions”. [Own translation of quotation]

Even though Sweden has not taken on the UNCRC as Swedish law it has been influenced by it. According to Swedish law a child is under the responsibility of a custodian, which according to Swedish Family and Inheritance Law (Bogdan, ch.9, sec.17, 2.1) “/…/ has to ensure the fulfillment of the child’s need of care, security and a good upbringing”. In the situation of custody feuds, “The child’s best interests must be critical to any decision on custody, residence and association.” (Children and Parents Code, ch.6, sec.2). This is important to have in mind to get a wider grasp of how Swedish national law is designed, concerning the rights of the child. It is important to make clear that the fathers’ individual rights as a parent are not present in Swedish national law, both parents have equal rights and obligations which go under the Children and Parents Code.

5.1.2 Historical Background

The father from the ancient civilizations to the 18th century used to be seen as the primary parent, the mother only filling the role of a supplement next to the father to aid him in parenting when needed. The role of the woman was to give the man children, when done, her role and task was perceived as fulfilled. The father was the most important parent for the children since he was the head of the family also having the legal custody (ownership) of the child. The father held the power, power that later would be inherited down to his offspring in the form of social rank, status, land and property (among other things); “The children inherited his position in society/…/” as stated by Sandqvist (1993, p.21). This made it more

⁸ United Nations Treaty Collection
important for him to be the one to mold the heirs in values and attitudes. (Whole paragraph primarily based on Sandqvist, pp.20-32).

It has to be mentioned, that even if the father was seen as the primary parent, he did not fulfill the usual “women tasks”, such as actually providing care to the children, as for bathing, preparing meals and so on. This task, depending on the social status of the family was of the mother herself and older siblings or handed down to the servants (Ibid, p.27).

During the industrial revolution in the world, the man had to leave the home to provide for his family. Thus the role changed from being the head of the house in everyday life to the wage earner. It is noted by the author that “/…/ the mother as the primary parent is easily understood as an adaptation to the new realities”, where the mother “officially” became “the most important parent” during this period – even though she had always inherited the caretaker role.

The change in the role of the father is discussed to have depended on the construction of society, on how society has affected gender roles throughout time and still does. A society run by men and built for men had a “simpler” role designed for women. Society was a patriarchy, the laws and norms were adapted to men’s conditions, thus the power spiraled down to different generations of men, as stated by Sandqvist (p.33) “/…/ the patriarchal system, at least in the form in which male dominance is part of a social system which is also based on agriculture, private property and class differences, seems to be a very stable system that characterized the great civilizations /…/”. This one can say was a major influence in society’s construct of gender roles.

5.1.3 The Fathers’ Rights Movement

When going into the subject of fathers’ rights to their children one is certain to come across the subject of the Fathers’ Rights Movement. It is only during the past decades that the father has been highlighted to be a prime role in the lives of children; “over the past decades, the father’s role are again being stressed, but now in the context of an equal relationship between the parents” (Sandqvist, p.20). In relation to this, movements such as the Fathers’ Rights Movement have arisen, a movement that is praised by some, while by others it is frowned upon. The Fathers’ Rights Movement is mostly composed by “/…/ white, middle-class, conservative men” according to Ogle (2009, p.31), which might imply that the population of this movement is quite specific and narrow. This limited composition of the
population of the movement might cause an untruthful perspective upon the cases and situations of custody feuds.

The Fathers’ Rights Movement is often perceived as a movement with extreme values and statements. Here, the father is presented as the most suitable parent who should have sole custody in divorces, rather than promoting its original aim where there should be equality for both parents in custody feuds. The following quotation is by Warren Farrell, North American author on themes concerning psychology, social and political aspects in relation to child custody and gender, he is also a Fathers’ Rights Movement activist –

“/…/ he adds that if shared parenting cannot be agreed upon, children on average are better off psychologically, socially, academically, and physically, have higher levels of empathy and assertiveness, and lower levels of ADHD, if their father is their primary custodial parent rather than their mother.” (2011, chap.1-2)

This quotation expresses undesired outcomes of children growing up in one-parent households where the lone parent is the mother. The Fathers’ Rights Movement has been criticized from different perspectives, and one can say that this type of quotation is a radical opinion. It might be perceived to be ignoring the child’s best interest and can be interpreted as if only wanting to “win” over the mother. This approach, where the father is assumed to be the parent to be more suitable for sole custody, is debated in many countries in the western world that are economically and culturally comparable with Sweden. Fathers’ Rights Movement’s aim “is defined by the claim that fathers are deprived of their ‘rights’ and subjected to systematic discrimination as fathers, in a system biased towards women /…/”(Flood, 2007, p.1). Though the type of quotation stated by Farrell is what has given the Fathers’ Rights Movement a bad reputation. In many cases it is considered that the Fathers’ Rights Movement is only making it harder for fathers rather than helping them since the Father’s Rights Movement is considered to “focus on formal rights, equality, or status rather than the actual shared care of children” (Flood, p.6).

Mentioned in Ogle (p.33) is that in situations where there have been incidents of violent acts by the father after the end of the relationship or marriage, the Fathers’ Rights Movement has been criticized for trivializing the incidents and justifying the fathers’ actions by claiming the cases as “instances of men driven to violence over the stress of the legal battle, lashing out in anger at spouses who have unfairly denied their access to their children”.

Even though the acting of radical members of the Fathers’ Rights Movement has been criticized, the Fathers’ Rights Movement still could be considered as the result of a mainstream opinion among divorced men. The event that fathers in several countries started a movement to fight for the same rights for their children indicates that this is perceived as a general injustice for men. This in its turn is relevant to highlight for the study since it is here where the issue of fathers’ rights to their child starts – where many men across the world have perceived this as a problem.

5.1.4 The Fathers’ Rights Movement in Sweden

In Sweden there are several father groups. These groups can all be considered to be fighting for the same cause and to have gone through similar problems as the Fathers’ Rights Movements, as an example, in the United States or Canada. However one difference one can say is that in Sweden, hostility towards mothers is not as openly present. In pappaombudsmannen\(^9\), a website which is for the fathers’ rights, it is stated that “It is not about taking the child from the mother, but just about being able to be as much a parent as she is”. However, when looking into another unofficial website, though North American, the Fathers’ Right Movement is clearly portrayed in a different manner. Daniel Amneus referred to on the website as being “/…/ the leading theoretician and articulator of the Fathers’ Rights movement” \(^10\), has published several books on the matter. His introductory phrase in “The Case for Father Custody” being: “the system of female-headed “families” which has created ghettos and barrios by encouraging women to marry the state and breed fatherless children who are eight times more likely to become delinquent”(Amneus, 1999, p.iii.)

The relevance of the world wide Fathers’ Rights Movement to Swedish Fathers’ Rights Movements could be in the way as a reminder, that it is easy to get off topic and forget ones aim in the eagerness of “wanting” something. The negative opinion of Fathers’ Rights Movement cannot exclusively take form in the countries mentioned, but this negative opinion of course, could influence Swedish Fathers’ Rights Movement in Sweden too.

5.2 GENDER IN PARENTING

With this chapter, the intention is to briefly explain the development of the gender role of the father. To see how it has changed with time and what the role looks like today in general but also specifically in Swedish context. Some points take up few of the eventual causes of this

\(^9\) [http://www.pappaombudsmannen.se/](http://www.pappaombudsmannen.se/)
\(^10\) [http://www.mensdefense.org/Amneus.htm](http://www.mensdefense.org/Amneus.htm)
change in the role, also what is discussed are the eventual advantages and disadvantages of neutrality towards gender in legal context. The discussion of gender in parenting is important to bring forth and give an explanation to in this study to get a picture of how fathers and mothers are treated concerning custody of a child in the situation of divorce or separation in relation to their gender.

5.2.1 Gender roles: Inequality and Egalitarianism

Even though the change of whom to put the main focus on has shifted from the parents rights to the rights of the child there is still a distinction between the focus on the rights of the mother and the rights of the father (Collier, 1995, p.177).

The issue of how the gender role of men has changed is discussed by Collier (p.177), in the context of how the role of the man has changed throughout time and thus changed the role of the father:

“/…/ this ‘crisis’ has been identified as having a specifically legal dimension in that it is a perceived breakdown of traditional masculine authority in relation to the family,/…/, which has become both the cause and the symptom for such a crisis”.

This “breakdown” explains how the role of the man has affected the role of the father and how this in its turn has affected the development of contemporary legislation concerning the rights of parents. Which through some “/…/ it has been perceived as a diminution of men’s legal rights in relation to women /…/”(Ibid, p.177). In court parents are audited as the role they appear as in front of their child, meaning the roles as the ‘father’ and ‘mother’. Thus as stated by Collier (p.191) “Parents do not come before the law as ungendered bearers of abstracted legal rights, they are beings subjectively committed to identities /…/”, from this one might say that the court considers the case and the outcome depending on what role the parent is fulfilling in terms of gender. Also mentioned in Collier (p.190) is the importance of “/…/ taking mothers and fathers as degendered persons or simply ‘parents’ and then bringing them under the jurisdiction of human rights /…/” (Sevenhuijsen, 1992:80). This degendered approach would lead to that the judging would depend on what they both are – parents - and how they are as parents as well as how they live up to legal demands for the child’s best interest. This can be contrasted though by the term of ‘substantive equality’ mentioned by Ogle (2009, p.31), where she mentions that in court degendered treating of cases could have a negative effect in the way where the circumstances and context of the conditions of the
parents will be disregarded; “/…/ this ‘gender neutral’ approach obscures the substantially different ways the men and women experience separation, divorce and the justice system”.

According to Ogle, previous history of both sides should be taken into consideration and substantive equality is more appropriate since it “/…/ accounts for these patterns of discrimination and oppression in an effort to guarantee equality not just of opportunity but of outcomes”. This could be considered as more equal, since it takes into account the inequity that might have been present during the marriage, therefore also after the marriage. Ogle claims that when Fathers’ Rights Movements speak of equality they often rely on ‘formal equality’, which “/…/ demands that everyone is treated exactly the same regardless of /…/ circumstances.” Equal parenting is by the Canadian Equal Parenting Council defined as to “/…/ share responsibilities and time on the basis of equal rights /…/” (Ibid, p.32). This is a simple way of explaining equality of how it should be, though in real life this is not always how equality is applied and balanced.

Gender inequalities and relationships are tackled differently from country to country and some countries have developed that part of their social politics more than others. In this area Sweden has become a model country concerning the development of social support for egalitarian gender relationships (Hobson, 2002, p.35).

Mentioned in Hobson (2002, p. 55); “/…/ suggest that there is a link between egalitarian gender roles and instability in relationships in these countries, which is reflected in the high rates of re-partnering and increased complexity in the family lives of men”, where the presence of a “less stereotyped” gender role has made an impact on the constitution of the partner relationship. Though this connection is deterred by the fact that Sweden has much less marital dissolutions compared to, for example, United States (12 out of 1000 married women in Sweden are divorce compared to 20 out of 1000 women in the US). In countries like Sweden, where state support promotes parental leave it is discussed whether this might have a negative impact on the development of egalitarian gender roles. This might affect women’s career development and encourage the man in his role as the provider of the family. Though the process of women’s development in their careers might be slowed down, it still can be considered that the state support is not completely bad. State support still could promote gender egalitarianism by encouraging men to take on their father roles thus leading to men having more involvement in family life (Ibid, p.57). Involvement in the family does not only concern taking care of the children, but also household work. According to a ‘Time use
Survey’ done by SCB (2010), women spend in average approximately 25 minutes per day specifically in caring for own children while men on an average per day spend approximately 15 minutes per day. These minutes are specifically on ‘care of own children’ without taking into consideration other household chores which women put more time on than men as well. Out off 11 categories of household chores, women had higher minute time on seven of them, while on two of the categories the amount of minutes put on the chore was equal for both men and women. Meaning that men only put more minutes on two of the 11 household chores listed.

5.3 THE RIGHTS OF A FATHER

In this chapter we will explore the rights of a father for his child. This ‘father rights’ will be in relation to the mothers rights. Here we will briefly look on some laws that exist for the fathers. The issue of discrimination will also be brought up in this section since it is hard to not come across when talking about rights.

5.3.1 Paternal leave and father involvement

Even though Sweden has come a long way in promoting father involvement we still do not have the same father involvement compared to mother involvement. “/…/ fathers only use 22% of all paternal leave days. Studies have pointed out that fathers may not use paternal leave because of corporate, maternal and financial attitudes.” (Wells & Sarkadi, 2011 p.25).

A father group\(^{11}\) was created, by the Swedish Government through the Social Department. One of their assignments was to find out reasons to why fathers were not using all of their parental leave days. In this report there were suggestions on how to improve the father involvement to make it easier for a father to take time off to be with his child. These suggestions were to improve the design and the development of social policies and laws and to be more functioning and beneficial, especially for fathers. The report was published in 1995. The two main reasons to why a father might not use all of his paternal leave days were; 1. because of the attitudes that still exist in the working life and 2. because of the gender roles that currently exist in our society.

5.3.2 Signs of discrimination towards fathers

According to the Children and Parents code [Föräldrabalken], under ch.2, sec.6 that “Children are in the care of both parents or one of them /…/” if nothing else is decided. Though this is

\(^{11}\) In Appendix 3 in [http://www.regeringen.se/content/1/c4/11/82/3f2de597.pdf](http://www.regeringen.se/content/1/c4/11/82/3f2de597.pdf)
not always the case, and when so this is perceived as discrimination according to the father-group. This is shown when only the mother is given sole custody of the child as a direct action by birth, with the exception if they are married, then they are given joint custody. This is what Celander-Görgensen (2003, pp. 36-37) said about this father group report:

“One states that there is a conscious discrimination towards the man as a parent. The discrimination where the reason for not giving the parents automatic joint custody seems to be based on the experience that fathers in some cases are bad fathers. The statutory regulation is thus based on the exceptional cases. The report means that the legislation is in direct opposition to the striving that is in society that men should have increased responsibility. Discrimination that very well could be perceived as a signal that society basically looks upon the mother as the most important and most significant parent.”[Own translation of quotation]

In the Children and Parents Code, ch. 2a, sec.6 you can read the following:

“The child's best interests must be critical to any decision on custody, residence and contact. In determining what is best for the child must be attached to particular at-risk of the child or another family member suffer abuse or the child wrongfully removed or retained or otherwise ill-treated, and - The child's need for a close and good contact with both parents.”

In practice you still see that the mother has the lead in the involvement in the child’s life. If this is because we need improvement of equality in our legislation, policies or gender roles can be discussed, and is being discussed by many. We will also discuss this matter further in the Analysis chapter of this study.

5.4 WHY A FATHER IS IMPORTANT FOR A CHILD

In this chapter we have gathered the information from our data regarding fathers. In the situation of a custody battle between the parents, we must not forget the child and therefore we have explored why a father is important for his child and for the child’s wellbeing. We will also present some consequences that might follow when a child grows up without an important father figure, which will not only affect the father and the child but also society in the long run. We will therefore see what actions society is taking to promote father involvement.

5.4.1 The importance of both parents

“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.
Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.” (UNCRC, paragraph 18, section 1)

In the quote above the recommendation is formulated in ‘common knowledge’ where it is seemed to be of vital importance to have a good parent-child relationship with both parents. It is also stated that parents have a common responsibility for the upbringing and the development of their child, thus it is of importance for the child to have both parents available.

The father has previously been seen as the ‘bread-provider’ and there has been focus on the fathers’ economical responsibility towards his child rather than the caring responsibility (Arvidsson, 2003, p.16.). Some tend to believe that the perception of fatherhood is a construction, which depended on social structures. One of these people is Arvidsson who has states that; “The construction of fatherhood is connected with the changes in a society. Both ideologies, science and politics that relate to paternity rests on social grounds.” (ibid) [Own translation of quotation].

In the past centuries in society it was the woman who usually was the one who had the main responsibility of the children’s upbringing. First because men cannot biologically give birth and second it was also a necessity for the woman to feed her newborn baby. Therefore the mother has been seen as a central character in the earliest stage of her baby’s life (Schaffer, 1990, pp.94-103). You might say that the mother is one step ahead of the father, when it comes to the attachment to their child because of the biological reasons, but the father can still create an important attachment early to his child through shared experiences, interactions, daily activities and through playing (Socialstyrelsen, 2001, p.13).

5.4.2 Who gets the custody?

In contrast to what the subject of this study says, of inequality between fathers and mothers in custody feuds, Sweden is according to statistics from 1992 a country with a high level of joint custody, where 82 percent of divorced parents kept joint custody compared with 16 percent in the United States (Hobson p.55). Current Swedish statistics show that this percentage has increased, from 82 percent in 1992 to 97 percent in 2011 (SCB, 2011). However, you can still see differences;

"Although fathers today are taking a greater part in the children's care, there are still deep-rooted beliefs about the mother is always the most 'natural' parent and that therefore she
should be given priority in the custody of the children after a divorce.” (Schaffer, 1990, p.95) [Own translation of quotation]

This quotation clearly states that the mother should be given primary custody, and is also confirmed by Rejmer (2003, p.123), that it might be assumed that mothers are a more suitable parent during the child’s early years. At the same time the court should presume that fathers would be a more suitable primary caretaker when it comes to older boys (ibid). However, when looking at a survey presented by the National board of Health and Welfare from 2002, out of 505 custody feud cases, only 10 percent of the fathers were given sole custody, compared to the mothers where 44 percent were given sole custody. If we look at Swedish statistics from 2008 (SCB) you can see that after a separation 4,8 percent of the mothers got sole custody of the child while fathers got the sole custody in 0,3 percent of the cases. Though the most common outcome was shared custody (95 percent). In the cases of mothers co-habiting with new partners (meaning a step-parent for the child), 32 percent of the mothers got primary custody, while in the cases of fathers co-habiting with a new partner only 18 percent got the primary custody (SCB, 2008. pp.36-37).

When it comes to the child’s living situation according to Swedish statistic of the year 2001 you could see that 94 percent of all mothers lived together with their child (either together with the father of the child, single or with a new partner) while among fathers only 74 percent of all fathers lived together with their child (SCB, 2002, p.24).

Something to highlight is that not that many custody disagreements go to trial. For example in Canada there are only five percent of separation and divorce cases that will go to trial due to complications where the parents cannot come to mutual agreement concerning custody of their children. Only these five percent are then regarded as high conflict cases, and many times these high conflict cases are families where violence has been a current matter within the family during the ongoing time of the relationship or marriage (Ogle, 2004. p.33).

5.4.3 The father Involvement: Laws and Policies promoting it

In an American study, analyzed by Mikelson (2008), both the mother and father were asked about the father involvement, were usually the mother was the primary caretaker whom the child primary lived with and the dad was a non-resident father. The result was that the mother

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13 Statistiska centralbyrån, SCB. [http://www.scb.se/statistik/_publikationer/LE0102_2007I08_BR_A40BR0902.pdf]
repeatedly underreported the involvement of the father in the child’s life (2008, pp. 613-614).

“The less a child meet the nonresidential parent, the worse emotional relationship with parents, and the worse emotional parental relationship, the worse adaptation - internal, external, and in terms of performance in school. The results provide a reference that children need to see their non-resident parent often to maintain a good emotional relationship, and that close contact with the parent who lives elsewhere can have a positive impact on children's adjustment.” (Österberg, 2004, p.27). [Own translation of quotation].

When a mother is not of a supportive kind to facilitate the relationship between father and child the whole foundation gets more complex and makes it more difficult to establish a relationship between the father and child (Allen & Daly, 2002, pp.6-7). No matter how the circumstances are the co-parenting will affect the child as well (ibid, p.7). For a non resident father it is of importance to engage in authoritative parenting were he can give advice, support and at the same time praise the child’s accomplishments but also contribute with discipline. By doing so the adolescent will less likely experience externalizing problems, such as depression (ibid, p.9).

“It is mentioned that the biological father is of tremendous importance for a child’s identity and without an established contact can leave the child feeling half or inferior /…/” (Öberg & Öberg, 2004, p.150) [Own translation of quotation]. It is not even questionable that it is creating sorrow and a feeling of longing when a child loses contact with a person that has been close and has been a central person for the child since birth, these persons being most likely the mother and the father (Öberg & Öberg, 1999, p.104). The same thing happens in divorces or any kind of event when a central person in a child’s life becomes a distant figure.

It is discussed in Öberg & Öberg that among young people, many of the ones committing crimes seem to be lacking of a father figure (ibid, p.106). Among teenagers you see that when they have a father who is present it seems to work in a protective way, where children are less likely to be involved in criminal activity (Sarkadi et.al, 2004, p.21). You can see signs on children who have fathers that are more dedicated, tend to have more social skills and are better in solving problems than children without the same dedication of their fathers. This is also for children in their early years of life, between birth and three years of age, and does not only concern older children (Sarkadi et.al, p.11). Presented by O’Neill (2002) is that children who grow up without a father might face several social problems, such as being more likely to have emotional and psychological problems, higher risk of having health problems, have more difficulty in school and tend to have more trouble getting along with others.
Both law and social policies are formed to promote the fathers’ presence in his child’s life and to support absent fathers to take responsibility for their child. This is because it is not only important for the immediate persons involved to support a healthy father-child relationship, it is also of vital importance for the state and the society. This can be shown in how Swedish society has created family friendly policies particularly concerning parental leave. Creating these policies has helped to increase the father involvement in their children’s life (Wells & Sarkadi, 2011).

Something to highlight is that it is obviously not always the best interest of the child to have a close relationship with the father if the child is taking harm from it. In those exceptions it could have reverse effect and might not be beneficial for the child to decide for joint custody or sole custody for the father. And in these types of exceptional cases, there are of course legitimate reasons to why some fathers should and do not get the custody of their child.

5.5 CONCLUDING REMARKS ON ALL CHAPTERS
What we can see in history is that the role of the father has changed due to gender role constructions and occurrences in the history of the world, such as the industrial revolution. The construction of roles and also the Father rights Movement’s can be considered as to contribute to how laws and policies, concerning fathers’ rights are constructed today. One can see that Sweden is a country that strives for legal egalitarianism, were the preference of whom should be the prime parent in a custody feud is not determined by gender. The courts in Sweden look on the involvement of the parent in the child’s life. Though one can also see that today, mothers have the lead in getting the prime custody, but not on the criteria that she would be of more importance to the child’s wellbeing.

6. ANALYSIS

We have chosen to select different themes from the data we have collected that we will now analyse. We believe that these themes are of relevance to analyse since they bring forth a deeper understanding. This to facilitate the answering of our research questions and fulfilling our aim, which is to look deeper into the subject of father’s rights to his child in relation to the rights of the mother in custody feuds, and what the literature says about this matter.

During the process of the research; when collecting data and analysing the content of it, certain themes have been more prevalent and recurred in different sources of data, hence we have found them important to highlight and to make them the central themes of our research.
Our themes chosen were therefore developed with the criteria to 1. Help us answer our research questions and fulfil our aim, 2. Allow us to get a holistic approach to our research and 3. Enable us to get a deeper understanding of our research subject.

The themes we have selected to focus on in our have emerged after a review of our material with our three points of criteria in mind. The themes chosen are: 1. The Connection between Legal Egalitarianism and Discrimination, 2. The Father-Child relationship and 3. The Role of the Father.

The empirical basis that we have explored to develop our themes in our analysis is the same empirical ground that we have used previously in this study. When developing our themes we chose to concentrate on the data we had that specifically touched on subjects concerning; how gender roles affects the role of the father, the connection between the law and eventual discrimination as well as the bonding between a father and his child. We have used the keywords mentioned in the Methodology chapter to guide us to come to these themes. Important to make clear is that we have not used any other data to our analysis that is not already presented in the chapters of our study.

6.1 THE CONNECTION BETWEEN LEGAL EGA LITARIANISM AND DISCRIMINATION
In this section of the analysis we have analysed through the Gender Role concept (explained in Explanation of concepts and terms), with the following research question in mind:

- Do, according to the literature consulted in this study, parental rights differ between the mother and the father concerning custody of a child, in the situation of divorce or separation?

To start with we would like to make clear on what criteria this differentiation will be handled by us. Our intention is to present differences in the rights of the mother and the father concerning custody of a child, in the situation of divorce or separation, where we will analyze 1. How the law directly or indirectly promotes legal egalitarianism (explained in Explanation of concepts and Terms) or might cause the opposite and 2. How the law affects the practical outcome, and where it might be perceived as a ‘differentiation’.

According to Swedish national law, men and women do not differ in rights concerning custody of their children (children they have conceived together). Swedish law does not advantage a certain gender before the other. Even though this is the case with the law, many
men experience certain treatment as discrimination. An example could be the fact that when partners in a cohabiting relationship have children, the woman is automatically given sole custody of the child from birth. One can say that the situation of discrimination is between married and un-married couples. A suggestion to avoid discrimination could be that also married couples should have to apply for joint custody. The mother of the child would not be questioned whether she is the parent of the newborn child leading to that the man is the only one that actually can be questioned concerning fatherhood. This questioning of the fatherhood can be a perception of indirect discrimination towards un-married men.

A thought we have arrived to when reading Sandqvist (1993) is that in Sweden one still can see indications that not much has changed concerning custody feuds during approximately the last 20 years. Even though Sweden is considered to be well developed in the area of gender egalitarianism, one cannot but agree with a statement made by Sandqvist (p.35), 19 years ago;

“Now in the start of the 1990’s the ideology of ‘the father and mother equally important’ has prevailed in Sweden in a theoretical level, but in practice we are not completely convinced and live according to the old patterns /…/. So in many ways we still live by the ideology ‘the mother the most important parent’ /…/.” [Own translation of quotation]

The quotation refers to Sweden, concerning which parent is the most important, could still be applied in the situation of today, where practice does not meet up with the ideology behind it. One can say that mothers still are seen as the primary parent and that society contributes with the encouraging of it, as mentioned in Celander-Jörgensen (2003, p.36):

“One states that there is a conscious discrimination towards the man as a parent. The discrimination where the reason for not giving the parents automatic joint custody seems to be based on the experience that fathers in some cases are bad fathers. The statutory regulation is thus based on the exceptional cases. /…/. Discrimination that very well could be perceived as a signal that society basically looks upon the mother as the most important and most significant parent.”[Own translation of quotation]

This quotation explains the general acceptance in society, where men are seen as less suitable thus this is why they are not given equal responsibilities or custody. Basically one can say that the legislation strives for legal egalitarianism, though legal egalitarianism is over shadowed by the perception of discrimination towards fathers in practice, whereas in practice mothers still in most cases are given sole custody of the children. Also in this situation, legal
egalitarianism is completely forgotten due the constructions of gender roles which do not permit the father to be seen as a good father.

In Collier (2001), it is stated that custody should be equal between men and women. Instead of holding men accountable of their involvement in the upbringing of the child after the divorce, this should be done before the divorce. This sounds like a reasonably sound opinion, though it is hard to imagine how this accountability should be monitored during the marriage. Who would regulate this? According to SCB (2010) men in Sweden are not equally involved in the work of raising children. The question then becomes, whether gender egalitarianism would be achieved by promoting an equal treatment agreement for men and women in the situation of custody feuds, when this is not the case in the household? This could be questioned whether it is gender egalitarian, when obviously the shared responsibility during a marriage or relationship of the household is not equal. If the father would take bigger responsibility in the child’s life, he would be advantaged and vice versa.

Of course, this argument presented is not to diminish the importance of gender egalitarianism, nevertheless it is of importance to present both sides of the case, where it is claimed for egalitarianism, though in this example by Collier one can say that it is only in the advantage of a certain side.

In concluding words, one can state that the parental rights do not differ between the mother and the father in legal context. As mentioned, the law will take into consideration the involvement the parent has had in the life of the child during the marriage or relationship. Important to emphasize though for the analytical perspective is that one could say that the rights do differ. This is in relation to the conditions that are given to the individuals by society through the construction of gender roles, this is discussed further in the analytical part ‘the Role of the Father’. The outcome in a custody feud of the rights of the mother and father might have differed if the norms and gender roles would have been different in society. And of course, it is not the case that the mother always is the most involved parent in a child’s life. By analyzing our data it appears to be more common, leading to the fact that sole custody parents usually are of the feminine sex – fulfilling the gender constructed role for her and given to her by society.

6.2 FATHER-CHILD RELATIONSHIP
In this section of the analysis we have analysed through the concept of Rights and the Gender Role concept, with the following research question in mind:
- Why is it considered important for the wellbeing of the child, to maintain a functioning father-child relationship?

When looking back on the history of the father’s role in the family, around the time of the 18th century the father’s legal entitlement over his children was an obvious right (mentioned in the History chapter). This legal entitlement though did not imply that the father automatically had the care taker responsibility of the child. One can say that it is completely different in the situation of today in Swedish context.

The father now does not have automatic legal right of his child. Now it is perceived as that the father wants to have equal right over his child. The father has an important role in the well-being of the child’s life, providing care to the child is seen as equally fundamental for a child’s welfare as economical support. Therefore the laws of today have different focus than what they had before.

In Sweden one could say that there is general consensus on the importance of encouraging the father-child relationship, this could be shown through the development of laws and policies. The “Daddy month” could be used as an example that promotes the early involvement of a father in the life of his child. We can also look at the law that prohibits that a workplace denies a man paternity leave; “Sweden was the first country in the world to create an egalitarian parental leave policy which allowed both parents the flexibility to take time off work to care for their children” (Wells & Sarkadi, 2011, p.30). This quotation evidently puts Sweden in focus as a model country being one of the world’s leading countries in promoting gender egalitarian policies and thus directly supporting father involvement.

Sweden could influence other countries concerning gender egalitarianism in their policy development regarding the importance of the involvement of both parents. The development of ‘father-friendly’ policies encourages the development of “fathers’ rights”, which is as earlier explained, a non existing term. It could be considered as necessary since mothers in the case of often being advantaged in custody feuds, might already have unofficial “mothers’ rights”.

6.3 THE ROLE OF THE FATHER

In this section of the analysis we have analysed through the Gender Role concept, with the following research question in mind:

- How might gender role constructions affect the father role?
The Fathers’ Rights Movement have been criticized and perceived as something negative by many, though by some it still represents something positive. When looking into different sources of data, we have encountered different points of views and opinions on the Fathers’ Rights Movement. Some of these movements can differ even though they supposedly are fighting for the same causes – which are getting equal rights for the fathers as the mothers in custody feuds. One conclusion is that these Fathers’ Rights Movements differ greatly from country to country. Some Fathers’ Rights Movements have more radical standpoints where they do not want gender egalitarianism but are more concentrated on being prioritized because of their gender, meaning that they consider the father as a more suitable primary parent for the child;

“…he adds that if shared parenting cannot be agreed upon, children on average are better off psychologically, socially, academically, and physically, have higher levels of empathy and assertiveness, and lower levels of ADHD, if their father is their primary custodial parent rather than their mother.” (Farrell, 2011, chap.1-2)

This type of quotation is not unusual to encounter when exploring the field of Fathers’ Rights Movement. One could say that there is some understanding of this “radical” quotation, since many men in these movements perceive and feel that they are being deprived of their parental rights. Thus it could be that they go to the extreme, where they want to be the only advantaged rights carrier, excluding now the mother from the picture.

This perception of deprivation of rights one could say is the consequence of the way society has molded the two different roles of the father and the mother (see chapter ‘Gender in parenting). Though, in Swedish context one can defend this perception of inequality by presenting the fact that the mother has been given custody since she had bigger involvement in the child’s life. As discussed in an article on Schiratzki, where she states that custody feuds do not depend on the actual gender of the parents, but what is taken into consideration is the division of responsibilities in the household before the divorce or separation. “The courts judge on the basis of what you have done, not who you are, and that is the way it is supposed to be” [own translation of quotation] (Schiratzki, 2009).14

Gender role inequality is portrayed in many ways in society, the inequality in the division of household responsibilities between men and women (SCB, 2010) could be an example of it. One can be as bold as to express it in the way that society’s construction of gender roles that

14 http://www.aftonbladet.se/nyheter/article11655033.ab
later affects the inequalities within the household (division of responsibilities) as well as in the professional lives (where the woman usually is the one to take out most parental leave). This in its turn affects the outcome in custody feuds.

The outcome of the custody feud inevitably then affects the rights of the father. All in all one can see a connection between the construction of gender roles and the expectations that comes along with it, and as stated by Sandqvist “/…/ we at least in the Nordic countries find that the vast majority want equality in the family, but that domestic work is still uneven” (p.127). One can consider that the final outcome of this will be and is, that men perceive their right, concerning the custody of their children, being disregarded.

The discussion on gender roles is big, and intertwines with all analytical themes of our research. It is important to bring forth to make awareness of how things are connected to one another. The knowledge of how the construction of gender roles might affect the outcome in a custody feud is not a thought even considered by most people, enhancing even more the issue of the ‘natural’ perception and acceptance of mothers being the absolute primary care taker for a child.

7. DISCUSSION

The hypothesis of this study was that fathers were discriminated in relation to mothers, in custody feuds. Our main conclusion is not in accordance with the hypothesis of our study, our conclusion – as the literature review confirms - is that fathers are not discriminated in custody feuds. Their rights are not being overridden in relation to the mothers’ rights to the child. The fathers’ rights are being equally respected as the mothers. Why there is a common perception of fathers being discriminated in custody feuds, we would say could be because of the statistical figures on the outcome of custody feuds, where usually the mother has been claimed as the custodian. This result depends on, as mentioned, other reasons not on a specific law that emphasizes the mother as the primary care taker.

7.1 THE DIFFERENT APPROACHES OF OUR STUDY

Our intention with the study was to get a holistic view of our subject by exploring different approaches of the same issue as those approaches could be explored through our literature review. We thought this was appropriate, since we did not want to have a specific perspective, but get the view from different angles. We chose this approach to keep the research unbiased and avoid subjectivity by choosing “a side” to present.
What we have come across is that the “results” of the different studies we have explored differ depending on what base the writer assumes, whether it is; traditional, religious, Fathers’ Rights Movements or feminist.

7.1.1 International approach

We have based the international touch of our subject on the fact that Sweden as a rule is considered a predecessor country in the area of gender egalitarianism. Sweden was early in introducing the ‘daddy-month’ in 1995 as well as other “father-friendly” policies. In Ekberg et. al. (2005) it is mentioned that Denmark, Italy and Norway in 2005, developed a “use it or lose it” option for fathers. This meant that they had to extend their paternity leave for at least one month or lose the month entirely. This “use it or lose it” option can also be seen in Austria and Iceland, though with other demands and lengths. These “new” parental leaves reforms that took form in the above mentioned European countries in 2005, had at the moment already been active in Sweden for ten years in the form of the ‘daddy-month’.

Our opinion is that Sweden has a general reputation of being very well developed in the social areas such as; welfare, education, healthcare etc., and because of this it is many times seen as a ‘role model’. Because of this reputation, Sweden could be considered a ‘role model’ for other countries who are in the process of developing their father policies right now. While Sweden had its breakthrough in this area (along with Norway), by reforming the maternity leave systems into parental leave systems, as early as in the 1970’s (Ekberg et.al.). We have chosen to interpret Sweden’s breakthrough as to have had an influential role in the development of this area of others countries.

What has to be taken into consideration in this discussion is the Swedish context. We believe that Sweden, in general, has a developed approach on gender egalitarianism and this is a constant subject of debate in Swedish politics. The gender perspective is heavily debated in the context of equality in education, labor opportunities (salaries, employment etc.) and many more areas. We would express it in the way that gender egalitarianism has been a current matter in Sweden for many years, and that it is continuous strive to always be improved. This awareness of gender inequality though is not a highlighted aspect to the same degree in all countries or societies. This can depend on several factors that are not just political, but depend on factors such as priorities, where other matters might be considered to be more necessary to prioritize, as an example, poverty or health care. Since Sweden is a modern society, with a strong economy and social development, gender egalitarianism can actually be a part of the
political agenda. Since we have given a general picture of custody feuds as well as specified the Swedish situation, we thought it important to highlight these differences in cultures.

Also worth mentioning is the role of the father, where in Sweden we have mentioned that fathers are promoted to take bigger part in the lives of their children. We have not explored specifically what the father roles look like in certain mentioned countries, thus we want to explain that it could be the case that the role of the father i.e. Denmark is the same as in Sweden, however we have chosen not to draw these types of parallels, to not lose our focus which lays on the Swedish context.

We believe that it is important that the child comes in first hand and that both parents are of big importance. Therefore we would like to see that the numbers in sole custody get more equal between mothers and fathers. To be able to see a difference in the outcome of custody feuds we believe there has to be some changes in the construction of roles of the man and the woman. This of course is not something that can be “fixed” over a night, this is a process that will/would take time. Though one has to start somewhere, and a good start could be by dividing responsibilities in the homes equally. Though to even achieve that, the construction of gender roles that society has put on men and women would have to change with it as well, by maybe improving and introducing more father-friendly policies.

To draw it all together we would like to mention that the policies and laws in Sweden who promote gender egalitarianism and bigger involvement of fathers in the early years of children’s lives are very good. We would say that they have contributed to and resulted in the fact that fathers are being more involved, which we can see through the statistics of joint custody as well as the movement of fathers wanting custody of their children since they want to be a part of their life. But of course, nothing is perfect, and improvement could always be done. The fact that mothers are more often than fathers given sole custody in custody feuds shows that there still is improvement needed in the development of policies which promotes gender egalitarianism.

Suggestions for further research based on our conclusions; are that it could be necessary to explore more in-depth the fields of the actual development of ‘father-friendly’ policies and/or gender egalitarian polices.
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