Working Paper on Intervention Against Child Abuse and Neglect in Portugal[1,2]

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Part 1: The Intervention Sequence and the Response to Core Questions

This article results from the analysis of focus group research in the Project CEINAV - Cultural Encounters in Intervention Against Violence[3], specifically of the Portuguese data about child physical abuse and neglect. The Portuguese Child and Youth Protection system is based on a philosophy of community intervention with several agencies at play, with the principle of "minimum intervention" but with zealous professional "watching".

The history of the Portuguese childcare system may shed light on the connection between various areas of intervention and the professionals' perspectives and practices. Until the mid 1970's, family members, mostly women, provided childcare[4]. After the democratic revolution in 1974, there was a demand for childcare facilities, given that the working conditions of women did not allow them to have time to care for their children. Hence, the childcare system was established to "substitute" the care of the working mothers from low-income families, who needed to work outside the family home (see Tomás & Fonseca 2004). Consequently, the Portuguese childcare system has traditionally been linked with underprivileged families. This is still evident in the way most professionals link child physical abuse and neglect with low-income working classes. The Child and Youth Protection

[3] Information about CEINAV can be found in: http://heranet.info/ceinav/index or http://ceinav-jrp.blogspot.pt/ or http://www.fpce.up.pt/love_fear_power/ceinav/ceinav_eng.html

[4] This has been noticed not only about childcare but also for other dimensions that were later covered by State Welfare (Santos 1995; Portugal 2004). These authors have called it "Social Welfare", in opposition to "State Welfare" to highlight how communities — mainly women in the families — organized themselves to have coverage care in case of work accidents, illness, unemployment, aging, as well as the care for young children.

Commissions (CPCJ) were established in 2001[5], throughout the country. Around the same time (Law n.º 7/2000, 27th May) the Maltreatment Crime became a "public crime"[6]. The state intervention is divided in Criminal Intervention for public crimes and Child Protection Intervention. The latter is mainly done through community and Child Protection Commissions. There was a "social turn" in the child and youth protection system in Portugal (Torres 2008). From an intervention centred in judicial system ("Family and Minor" Courts) it became a community intervention relying on the involvement of many social actors.

The Portuguese culture is strongly grounded in family and traditional values. As a Southern European country, it was an agricultural country until the 1980's with late industrialization. Because of Catholic traditions and the importance of the family, the country is sometimes viewed as "*Familialist*" to qualify the kind of social policies and gender divisions at play. Hence, the preservation of the 'family unit', that is, the heterosexual (and patriarchal) family, is one of the strongest values in Portugal's professional culture.

1 Empirical Data and case story

The methodological design consisted of focus group discussions in three multiprofessional workshops[7]. The diverse practitioners with subject matter knowledge and experience debated core issues and dilemmas. Each workshop comprised two half-day sessions using a focus group methodology where the intervention to a specific form of violence was explored (see background paper). Participants were given a case story in three phases to discuss and six "core questions" were introduced during the discussions. The stories were agreed across the four countries, but adapted to fit the national context.

In the three Portuguese workshops, 26 professionals from diverse professional areas and from 9[8] cities in the North, Centre and South of the country participated: 3 family court judges; 1 prosecutor; 7 police officers; 3 presidents of Child and Youth Protection Commissions; 3 school teachers; 1 paediatrician; 5 representative of specialized NGO and IPSS[9]; 2 representatives of forensic medicine; and 1 representative of Social Security.

1st **PHASE OF THE STORY**

Paulo was born on January 3th, 2007, and lives with his family. He is the oldest of three children. He has a younger sister (3 years old) and a brother (15 months, born on Sept. 2012). Paulo is a very active child who is longing for the attention of his parents. Both parents find this wearying at times. His attempts to be noticed sometimes lead to a heavy atmosphere. Quite often, the father rebukes him harshly. The mother says that sometimes the only way to stop Paulo is to slap him.

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[5] The Protection Commissions were first created in 1991 (DL 189/91, 17th May), but with the Child Protection that came into force in January 2001 they were expended. They received new functions (promotion of the child and youth rights) and new members, like institutions of social solidarity. In addition, they dissociated from the courts (the prosecutor is no more a member of the commissions).

[6] Marital violence before 2007 was seen as «Maltreatment». Only after 2007 the criminal code used the expression «Domestic Violence». Child maltreatment, marital maltreatment and other kind of violent behavior against the elderly or handicapped persons are regulated together in the same article of the criminal code – the 152nd.

[7] The data from a pilot workshop are included, as the framework for the workshops was not changed after the pilot.

[8] Lisboa, Porto, Coimbra, Santarém, Barreiro, Barcelos, Gaia, Matosinhos, Setúbal, Vila Franca de Xira.

[9] As it is explained in DV working paper, "IPSS means "Private Institutions for Social Solidarity", and they represent what sometimes is called "the third sector". They have mixed status — between private and public —, that is, they have a statutory obligation to fulfil the social policies determined by the State in exchange of certain amount of money for that purpose and some 'privileges'. In these privileges it is included the exemption of paying some taxes or paying reduced ones, Social Security taxes and VAT."

2ⁿᵈ PHASE OF THE STORY

In school, Paulo's teacher is concerned with him being clingy and fearful of adults' reactions to him when he asks for things or needs attention. She is also concerned about the black and gritty pictures Paulo paints. She recognizes that Paulo's mother quite often brings him to school late and that Paulo is dressed in the same clothes for two or three weeks in a row. He often seems hungry and asks other children if they can share their snacks with him. Paulo's teacher noticed bruises on his arm and asked him about them. He explained that he was playing roughly with his younger sister and brother, but the teacher is not convinced by this story.

The teacher has slowly won Paulo's trust and one day he confided in her that a bruise was a 'punishment'. When she asked for further questions he became upset and pleaded with the teacher not to tell anyone because he is afraid that his mother will be very angry with him and his father will punish him.

Around the same time the sister told her nursery worker that Paulo is naughty at home and that the parents have to show him how to behave. The mother regularly takes the children to the pediatrician. In one visit, when the pediatrician asked the mother about the child's bruises she confessed that sometimes she cannot control herself. She asked the pediatrician for strict confidentiality.

3ʳᵈ PHASE OF THE STORY

The teacher informed the CPCJ. CPCJ asked the parents to come to their office and to bring Paulo with them the next day and technician sees Paulo has bruises in the face and on his bottom. The CPCJ send the case to the Institute of Forensic Medicine and the diagnoses were haematoma caused by adult hands and being struck with objects like a belt or something similar.

When confronted with the findings both mother and father deny that they have hit Paulo with a belt or anything like a belt. However, the mother admits that her hand slipped once or twice but explained that Paulo is such a difficult child. All attempts of the CPCJ to find out who used the belt to punish Paulo failed.

The family accepted support services of the CPCJ. They cooperate and in May 2014 the CPCJ reports that the development of the three children made significant progress, and so did the parenting skills. The mother controlled her temper better and the father disciplines the children in a more adequate way. The relationship between Paulo and his parents is characterized by increasing trust. Some concerns remain: the family struggles for money, parents frequently cancel or reschedule the appointments and the apartment is not as tidy or clean as it could be.

After a sports lesson the teacher, again, noticed bruises on Paulo's back when he is changing clothes. She immediately informed the CPCJ. Confronted with the information the mother admits that her husband sometimes hits Paulo with a belt. The father also acknowledged this information.

Temporary placement in foster care and initiating criminal prosecution are under discussion. The CPCJ caseworker wants to call a case conference and to collect information from all the professionals who are involved in the family. Both parents said they do not want their personal information to be shared.

In the following sections, the paper will present the debates around the core questions.

2 Intervention pathways from the perspective of professionals

There were six core questions debated in the workshops, covering issues of intervention sequence, action of the diverse professionals, as well as issues or dilemmas that are relevant for the participants. The debate was organized around pairs of questions.

(1) As a professional what might lead you to try and discover whether this might be a child physical abuse and neglect situation? Or, on the other hand, what would keep you from getting involved?

(2) How might it come about that your institution or profession is the place to which Paulo turns to? Or how else might it happen that someone in your position would be involved?

In the workshops, the majority of the professionals was very cautious about assuming that there is violence in the first part of the scenario. They agreed that there was a need for more information. Some 'indicators' of this vignette raised some concern among the professionals: the ambiguity surrounding the statement 'the father rebukes him harshly' and the mother's acknowledgement to have slapped Paulo. Many agreed that there is a suspicion of violence/abuse but it should be the school and/or the health care providers to gather more information about what is happening in this family. Nevertheless, the CPCJ should be informed and help articulate the assessments made at school and/or the health care centre about this situation.

The professionals agreed that the vignette did not contain information that would warrant the need for "criminal procedures". Nevertheless they agreed that there was enough information for a "social intervention" (see 3.2, frame 1). This separation between formal (judicial) and informal (or 'social') intervention was also linked with the distinction between notions of "risk" and "danger" (see 3.2, frame 2).

Some professionals assumed that Paulo came from an underprivileged, low income class (see 3.2, frame 5), referring to families receiving the "RSI – Minimum Social Income" or children attending "TEIP" schools (schools in poor areas with social intervention measures).

One participant mentioned that the reasons for Paulo being so active, with "so much energy", should lead professionals of the "institutions of origin, those who are in the basis"[10] — the school and the health system — to get more information. This information would help identify whether the child's 'activity' has its origin in family dynamics or in some intrinsic problem. One of the professionals also suggested that pedagogical or medical interventions should be put in place to help Paulo calm down and lower the tension in the family. It was also defended that this "informal intervention" should be done without "registering", "without written elements" (see 3.2, frame 1).

The difference between what constitutes family discipline *versus* violence was raised several times. The participants mentioned the parents' intentions with the gesture of 'slapping' and its distinction with "spanking/slapping the bottom" (see dilemma 5.1.1.).

Although the professionals stated that there was only a slight suspicion of violence, most of them (excluding the teachers) agreed that the right course of action was "to report". However, to report has different meanings in the three phases of the scenario. In the first step, it means to contact the CPCJ in order to assess the situation and to decide if it is necessary to maintain the file opened or to close it (see 3.1, frame 3). Sometimes, this argument about the need to always report[11] was harshly made, saying that if someone, for instance a teacher or a doctor, does not report, the social services will, additionally mentioning that there has previously been complicity and neglect of the situation. It was also added, that it is a public crime, it has to be reported and the CPCJ are the agencies "that have the responsibility to decide what to do".

Professionals also mentioned the lack of social responses for children in cases of maltreatment. In their point of view, Residential Institutional Care facilities are "factories of psychopathologies" and "most of the time storage (warehouse) of children".

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[10] He is referring to the institutions in the "basis of the pyramid" — ECCMYJ — defined by the Law.

[11] Perhaps this emphasis on always reporting can help to understand the gap between the data in the National Report of CPCJ: in 2012, the Child and Youth Protection Commissions reported a total of 69007 file cases from which 33379 (nearly the half) have been closed (see also CEINAV socio-cultural country context paper 2014).

(3) Would you consider asking the mother, father and/or Paulo directly about the suspected abuse, or what reasons might there be not to do so? How important do you think this is?

(4) When might you pass on information to relevant authorities or institutions without the consent of the victim? Or, on the other hand, what might keep you from doing it?

The professionals considered that the teacher or a paediatrician should always be the first ones to talk with the child and gather more information about the situation. This was considered important in phase 1 and essential in phase 2 of the vignette. The professionals agreed that, given this new information, the responsibility to ask the child about the abuse was in the hands of the teacher and the paediatrician.

Often times, professionals used the word "evaluation/assessment", as did this social worker, President of a CPCJ:

> **CPCJ representative**: *If it was the school reporting, it would depend on the kind of school: if we are talking about a TEIP, with specialized teams, we would expect that colleagues would do an evaluation and only afterwards they would signal to the Commission [CPCJ]. Often times, they connect with us to understand and to receive guidelines about what is necessary to evaluate. If it was not a TEIP, which don't have those teams, sometimes they have only one psychologist for the entire Group of Schools[12], we [CPCJ] will directly do the assessment: we would speak with the Teacher responsible for the class [diretor/a de turma], sometimes with the Principal of the school, also to understand if it was the first time that a situation like this came to [this] school. If it was a colleague of the RSI [Minimum Social Income], specially the colleagues of the protocols [of RSI], s/he would know that family in a very deep way and would know and tell us if this is a common situation; and the first thing to do is to check if that child already has a file with us — Commission [CPCJ].*

The consent of the parents is required for the implementation of a plan to assure the child's safety and a good family environment. The parents are not asked to give permission to share information among agencies — Child and Youth Protection Commissions are entities that group representatives from diverse agencies. In the workshops, sharing data among agencies is a decision of the Child and Youth Protection Commission (CPCJ). The families' consent for the Child and Youth Protection Commission (CPCJ) to intervene assumes that data will be shared among the agencies (or with whom it may be necessary to articulate with). Families can withdraw their consent. However, if they do this, the case is sent to court.

(5) When could it be right/appropriate to initiate measures of protection from further violence, even against Paulo's wishes? What concerns might prevent you from doing this or cause you to hesitate?

As was reviewed above, the case is sent to the Court when the CPCJ's intervention plan has failed and /or the parents have not complied with it. The withdrawal of the consent by the parents would also trigger the opening of a judicial proceeding. The case would be sent to the prosecutor who could propose to the Judge the removal of the child to an institutional care facility or other appropriate measure.

Obtaining the parents' consent is therefore the first step of the CPCJ intervention. Soon after the case is reported to the CPCJ, the parents are called to meet with the technician responsible for the case. In this meeting, the parents will be asked to read and sign a consent form. Professionals of CPCJ told the group that their experience is that "they [parents] usually give [signed] consent".

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12 Here, this professional was mentioning the Group of Schools "*Agrupamento Escolar*", which is an administrative measure of concentrating the management of schools, i.e., a group of schools that are under the same board — in big cities this group of schools can include many schools and more than 4000 children and adolescents.

(6) Would your strategies of intervention with minorities differ in any way from what you have described in the first part?

The minorities mentioned were Chinese, Roma, Romanians, São Tomé (African country), Russian, and highly educated Caucasian. In particular, participants raised the issue of how minority families discipline their children (see section 4, frame 2).

In the workshops, some professionals referred the "Gypsy Women's Association of Seixal" (AMUCIP) as cultural mediators. In regards to Roma people, it was also mentioned that in adoption cases, many couples explicitly say that they do not want "Gypsy" children.

In the next section, the analysis of the workshops will be presented in Part 2: "Framing of the Problem and the Intervention".

Part 2: Framing of the Problem and the Intervention

3 Framing Child Abuse and Neglect and intervention

This part of the paper will present the analysis of the workshops on the problematic of child physical abuse and neglect. In the first place, it will be highlighted the intervention as it is framed in law and legal documents, with emphasis on the "communitarian" philosophy of child protection in Portugal, with the complementary principles of subsidiarity and minimal intervention. Following this framing, the divide between social and judicial intervention and the underlying notions of "family" intersect the subsequent modes of understanding the course of action in this kind of violence. In the third section of this part, some of the threads of how "culture" is woven, i.e., perceived and communicated among professionals appeared in the incompleteness of the written word.

3.1 Key frames in legal and institutional documents

(1) Communitarian framework for intervention

The Portuguese child protection law is applied in the community through the intervention of the «Child and Youth Protection Commissions» (CPCJ).

The Law of Protection of Children and Young People in Danger appeals to the participation of the community, considering that the prevention of violence and the protection of children is not an exclusive task of the State, as it must engage several local social actors, involving not only local government, but also NGOs and other stakeholders. They must develop their work taking into account the modern conception of social networks; they must be present in every municipal council; they have preventive and protective goals and are required to promote the rights of children in their respective communities in a holistic developmental vision (see also Sottomayor 2014).

The law specifies the principles of intervention: the best interests of children; confidentiality; early intervention; minimal [least invasive] intervention; parental responsibility; proportionality and timeliness; the primacy of the family; information rights of parents and children; the right of children and parents to be heard; and subsidiarity.

(2) Subsidiarity principle

The main routes of intervention are described by law under the principle of *subsidiarity*, i.e., in first place the situation should be solved by the closest institutions, which appears to be a matter of contention when comes to intervention (see dilemma 5.1.1.). The prevention of violence and children's protection is first attributed to public and private institutions that hold competence in matters relating to childhood and youth, namely schools, hospitals, and private institutions of social solidarity (IPSS). If these institutions are unable to solve the problem, then the Child and Youth Protection Commissions (CPCJ) are called to intervene. The intervention at these two levels must be

authorized by parents. If this intervention, named "administrative", fails, then a judiciary intervention is put in place by the Family Court. This procedure is referred to as the "pyramid of intervention".

Child and Youth Protection Commissions (CPCJ): The local CPCJ identify every child or youngster in danger; analyse the concrete cases and decide the appropriate measures. One example of measures includes supporting parents, other relatives, foster families or foster homes. The CPCJs are not judiciary institutions, but they work in direct cooperation with the Prosecutor in the Family Court.

These commissions are divided in two types: the larger commission and the restricted commission. The former has professionals of healthcare, education, social work, law enforcement and legal fields. It focuses on working in primary prevention and in the referral of children in danger situations to the restricted commissions. The restricted commissions decide the protection plan for children with the consent of the families. The professionals of the restricted commission are nominated by the enlarged commission and form the technical team in charge of the removal of children if necessary.

(3) "Minimal [least invasive] intervention" principle

The intervention for child protection must be minimal, proportional and subsidiary. It means that the intervention is restricted to the necessary, essential and adequate measures to remove the child from the danger situation and to protect his/her physical and psychological wellbeing (Borges, 2007: p. 50). The decisions taken should be the less restrictive ones in order to not traumatize or intrude into the child's life and routines, and to keep her/him in her/his natural environment. Interventions that are not necessary to the danger removal should be excluded. Most of the measures include support of parents and providing educational plans for parents. Only after all these efforts are exhausted can courts remove the child from the family home. In addition, it is common in Portugal to remove a child from the family home to institutional care if there is child neglect due to the lack of economic resources of families. It is common for children to move back and forth between family homes and institutions. Only in exceptional cases (abandonment; severe danger for children and the break of affective ties with parents) do the children go for adoption; this process usually occurs over the course of a few years.

The minimal intervention principle is related to the subsidiarity of the intervention which means that the court can only intervene after the social services fail or if parents do not consent to the intervention.

(4) Public crime and the obligation to report

Since 2000, child maltreatment is a "public" crime, meaning that all professionals have the duty to report, even if there is only a suspicion that a child or a youngster is *in danger*. After receiving the report, the Prosecutor at the criminal court must proceed with a criminal investigation and accusation without a complaint of the parents or the legal representative of the child.

Physical violence and corporal punishment are included as behaviour punished by the maltreatment crime. However professionals may see these as simple offenses to physical integrity in which case they constitute a crime but not a public one (see dilemma 5.1.1.).

3.2 Key frames from the perspective of intervention professionals

(1) The contrast between social intervention and criminal intervention

In the opinion of some professionals, the concept of violence from a 'social intervention' point of view *cannot* coincide with the definition of violence in criminal law. Sometimes, there is 'enough reasoning' for "social intervention" or "informal intervention" but not enough justification to file a case in the penal criminal court. The professionals from the "social work" area talked about "social

intervention" and professionals of judicial system used the term "informal intervention", referring to the Art. 7th, in the Law 147/99, September 1st.[13]

> **CPCJ representative**: *We have to see all this with the referral agency[14] [entidade sinalizadora]. We have to see where this child lives, because the basic assumption of the intervention is the location, because CPCJ's are present in every town [freguesia]. Probably, [the case] would come by through the police, and will contain more details; or it could come through the school. There is an increasing number of situations coming from the schools. We encourage the referral source who contacts us to do a diagnostic evaluation, although a very quick one. This situation would raise some concerns. We would contact/visit the entities who know this child, find out from the Social Security if s/he is followed by the RSI and if s/he is followed by social work services. We would also find out if there are any Court processes — sometimes there is a parallel tracking [acompanhamento]. But it would be a situation that would raise our attention to be evaluated, because we are talking about 3 children very close in age [...].*

The distinction between "social" and "criminal" intervention was emphasized and the need to avoid "excessive" interventions – that do not fulfil the principle of "minimum intervention" and constitute an illegitimate interference in private sphere – was highlighted.

(2) The distinction and continuity between "risk" and "in danger"

The concept of *risk* has been used, either in literature or in law, in reference to children about to commit actions that are qualified as crime or infraction by law. The former law about the "Minor's" Protection Commission emphasized the distinction between children *at risk,* meaning children in the imminence of becoming juvenile offenders, and children *in danger*, i.e., whose safety is in peril.

However, in professionals' discourses, often *risk and danger situations* appeared to be two points in a continuum where being at risk represents a lower level of possible harm than being in danger. The following excerpt of the first workshop illustrates this notion:

> **Prosecutor**: *In the structure of children's rights, in the protection system: first, here we have a physical abuse; there is a risk situation, not yet a danger situation. Child risk. Here, the risk could be fought, obviously, by the report of the situation; it has to be discovered by the school or by the healthcare system. (…) Healthcare providers should report this situation as a boy at risk [...] For Paulo, there is a level of risk; so the situation can be reported. With the school, the same thing. These two groups, either the school or the health, if they can interact before [emphasis] the fact, before physical aggression, we would have the system working — protection system — in this level.*

This distinction is related with frame (1); risk will ensue an "informal" intervention whereas danger requires a "formal" intervention. In the former, the child will not "enter the system", because there is no written registration/report and a file/case is not opened.

(3) The insistence on the return to the "natural" (biological) family versus the right of the child to be adopted

Some professionals expressed their concern about the child protection system's excessive protection of the biological family, stating that "children are institutionalized for years" or "children are left hanging in child institutional care facilities, waiting to be adopted". They said that some courts give too many opportunities to the biological parents and the child stays an excessive amount of time in institutional care. The law does not define a deadline for the family to recover their child.

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[13] With the changes in Law 31/2003, August 22; See also Decree-law 11/2008, January 17, and Decree-Law 12/2008, January 17.

[14] "*Entidade*" can be individual or collective, i.e., a person, an institution, an organization, a partnership. The adjective "*sinalizadora*" means entities entitled to signal, to flag a situation to the Child and Youth Protection Commission - CPCJ.

(4) "Emergency removal of the child" – Art. 91st

The Art. 91st, i.e., the possibility of emergency removal of the child from home, was a topic of the debates in both WS and pilot. Professionals dwelled on the interpretations of this article, discussing who can apply this article and who cannot. There was no consensus among professionals. One of the police officers in the pilot group mentioned an extreme situation when she had to use the "emergency removal" of the child:

> **Police**: *I began to play with him and I verified that he had marks on his wrists. [I asked:] «What happened to you, here?» «It was my mother who tied me [...] in the pantry. He went to the hospital. When I arrived to the hospital, [...] the boy had a bruise from the middle of the back to the arm, he had been beaten with a stick [...] he had the legs all black [...]. Then I went to the Forensic Medicine with him and it was an immediate emergency removal. Of the four children, the lady only hit the oldest. She said she couldn't have anything at home, nor even cheese, that he ate everything, that she could not have anything in the fridge.*

In these discussions, some professionals shared stories about how they have struggled to get the effective action from police, in situations of great danger.

(5) Social Class

The child protection system in Portugal emerged in the historical context of the struggles for a Welfare State, in the 1970's, connected with the workers movements for welfare for employees and the unemployed, retirement, and childcare facilities for working mothers. Hence, lower income people were the ones demanding provision of childcare outside the home because both parents had to work to make a living. Protection against maltreatment and abuse was framed in this socio-historical context and targeted the low income families that needed childcare.

The issue of class emerged soon in CAN focus groups. First, the professionals tended to assume Paulo came from a poor family who receiving minimum social income — RSI — and lived in an unprivileged area with a TEIP[15]:

> **Lawyer**: *Dr. XX of the CPCJ gave an important clue: usually these households benefit from the minimum social income [RSI], therefore, they have a protocol, a contract with Social Security, and with the institutions who are monitoring/tracking the RSI, and perhaps this is the best skilled technician, because of the proximity [emphasis] with the family, and because the economic issue gives another capacity [power] to the technician, because if the payment depends on the fulfilment of some obligations, people usually comply. Therefore, here, the intervention for me would be, if I received a notification, to contact the technician of the RSI, if there was the case. If not, it would be a different intervention to evaluate this family…*

Also, some of the professionals commented that the fact that the family sees a 'paediatrician' does not match the story because it gives the idea that Paulo belongs to a middle class family. Professionals said that most of the families affected by violence could not afford to go to the paediatrician. They would usually go to a "healthcare centre", and would be seen by a "family doctor" (National Health Service). The physician asked:

> **Physician**: *If it is a child that often seems hungry, and is dressed the same for weeks, how come [the parents have] money to go to the paediatrician?*

The third issue was the economic situation as a cause for the tension in Paulo's family: many families are overwhelmed [*desgastadas*] with economic problems and are not able to deal with the daily problems of the children. One of the teachers asked:

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15 TEIP means Educational Territory for Priority Intervention.

> **Teacher**: *How can these parents [from CAN narrative], with three children, in those ages, arrive at home, crushed and tired, and how could they have patience and time to care for their children in a proper way? This is my big question. Then, the consequence is, effectively, possibly [emphasis] violence. (…) This economic and financial situation, with enormous difficulties... all this brings great tension to the families.*

This framework of seeing violence through the lenses of the social conditions of families was also raised in connection with the actual lack of 'money' and human resources in the institutions (hospitals, schools, …). Professionals shared their feelings of the difficulties to fulfil their mission.

(6) "Cross generational transmission of child maltreatment"

The cross-generational transmission of child maltreatment was mentioned by some professionals and generally accepted by the group. It was mentioned that some of the cases "followed" by CPCJ's are young families of mothers and fathers that have already been in the Child Protection System when they were young.

> **CPCJ representative**: *This father and this mother, if they are young, they could have passed through the system of protection. This has already happened and very frequently. (…) We already have the reproduction of the cycle, we have the children of the boys and girls who have been ours, of our system of promotion and protection, and from the Social Security, even much more.*

This testimony was shared in the various workshops, by representatives of CPCJs of different areas of the country. A deep feeling of immutability seems to underlie professionals´ experiences and expectations.

(7) "To care for the children and to look at the families"

Caring for children was also connected with the need to "look at the families" or to find appropriate measures to support families to overcome their problems. The teacher, in the pilot, noticed the actual difficulties of families:

> **Teacher**: *I think that if we really want to help children, we have to look at the parents and families. What is happening in Portugal, now, is this: people do not have time for family, anymore. In fact, today, it is rather difficult for a father or a mother to have time for work, for family and for leisure. All of this is very important in our lives.*

A police officer, in another workshop, also raised a similar issue, and asked:

> **Police**: *Here, several agents intervene, there is an evolution of the situation, but then we get to a point in which there is a setback [retrocesso]. And the question is: what supports have been offered to this family? And what kind of supports? What effects did they produce? Because we get the impression that some support has been given, but we don't understand if this support is economic, social or other, and then the apparent setback of the behaviour of the father. What happened here? Do they still have economic problems? Do they continue having a marital problem? Because there's something here that is also interesting, mentioned here, which is: the story only talks about Paulo; what about the other two children?*

Participants also debated what could lead the father to have a setback in his behavioural improvement. Assuming Paulo is from a poor social background, the intervention needs to address the economic problems of the family. If the strategies designed to help the family are not effective, the system would need to adjust and find new supportive measures.

4 Framing culture and difference

The participants emphasized greatly the cultural differences between the minority cultures and their own. Whereas the participants' cultures were seen as heterogeneous, with contradictions, dualisms and ambivalence, the minorities' cultures were seen as extremely homogeneous and devoid of any nuances.

Death, pain, cleanliness and emotions are situated in opposite poles of "our Mediterranean and Catholic" culture.

(1) "Culture as a [different] way of living"

Participants articulated "other" cultures as a "completely different universe", emphasizing the "diversity" in the way of living. The participants mentioned the Chinese culture to exemplify the ways other cultures deal with death. African immigrants were mentioned to illustrate differences in the way cultures deal with pain. Finally, the participants talked about how Bangladesh immigrants deal with emotions.

Moreover, in the diversity of ways of living, nomadism seemed to be an important feature to differentiate some minorities:

> **Lawyer**: *We have situations of Romanian and Brazilian children […] but more Ukrainian and Romanian. We are not talking about maltreatment, but neglect situations, severe neglect, and our intervention is exactly [emphasis] the same. It is 'rigorously' the same, because the child is not guilty, regardless of nationality, crime is crime. Provided that they are residing in national territory, they have to be subjected to Portuguese Law and, therefore, the intervention is rigorously the same. It is clear that we have more difficulty to intervene, as Dr. XX CPCJ stated, because these households change residence frequently. (…) With Romanian and Ukrainian children, it happens a lot: parents are in one place, after a few days, the camping is no longer there, because they live a bit like "Gypsy".*

One of the ways the participants mentioned how minorities were seen as "different" in the "ways of living", was criminal behaviour; for instance, Roma communities with drug trafficking, Chinese with illegal gambling and Romanian with begging.

(2) Cultural tolerance for maltreatment in families from minority cultures

Concerning minorities, tensions among professionals were apparent: some viewed corporal [bodily] punishment in the context of cultural family education, and others acknowledged cultural differences to choose the best way to intervene.

The need to be more tolerant with traditional physical punishment of children, because of cultural family education was mentioned by some professionals. For instance, the representative of IPSS – Institutional Child Care facility mentioned a situation with an African family with a child who was punished with a whip. The child was removed and sent to an institution. The professional went on vacation to that African country and met the grandfather of the child who talked to him about his rearing practices. The professional soon understood why the father punished the boy so harshly. Afterwards, he met with the father to explain why he could not discipline his children the way his father disciplined him:

> **IPSS representative**: *Culturally, using the whip did not have a negative connotation [in that African country][16]. That is, the father did that because of cultural tradition, what is clearly*

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16 [Culturalmente, usar o chicote não tinha uma carga negativa.]

shocking for us, but he hadn't, let us say, the emotional disaffection in the relationship with his son. On the contrary, he liked his son very much, but he used this device [expediente]. […] He [the father] said things like that: «If he [the son] doesn't fear me, he will not respect me.» And I told him: «Do you think your son respects you?» «I think so.» (…) It is a wrong model of beliefs.

(3) "They are in Portuguese territory, they [children] are ours"

In Portuguese law, victims of child abuse are all entitled to the same rights of Portuguese children, regardless of their immigration status. These benefits are very limited for citizens and even more so for immigrants.

> **CPCJ representative**: *(…) the law is for everybody […] [1:43:26] we work with children in national territory, they are ours.*

In the same direction, other professionals talked about how mothers and fathers have to "assume" Portuguese law, in respect to children's rights, apart their cultural way of understanding upbringing of children.

(4) Roma culture(s)

According to Alexandra Castro (2006) and Torres et al. (2012), there are 33.940 Roma in Portugal, although European Commission Report on Portugal estimates between 50.000 and 60.000 Roma people (ECRI 2002, p. 21).

Even though the general public has a very negative and prejudiced way to view these communities, the participants did not endorse these beliefs in the workshops. On the contrary, despite some exoticization, the participants seemed to know closely and personally a few Roma communities. They also expressed concerns about their rights. Roma people are usually called "Gypsy" — "Cigano", similar to the Spanish "Gitano", and this is explained, in some literature, in relation with the idea hat they came from Egypt.

The police officers stated that Roma communities are not the same and they have had many changes. They mentioned the Roma Women's Association of Seixal (AMUCIP) and referred their role as "mediators".

The president of one of the CPCJs participants informed the group about a training course for practitioners, organized by a NGO, where the trainer was a "Gypsy" woman, sharing with the participants how this experience enabled her to be more aware of the heterogeneity in Roma communities.

> *- Roma culture associated with traditional gender roles: women with domestic duties, men with public life*

Sometimes, Roma cultures were associated with the great pride women derive from their domestic duties, as a **President of a CPCJ** said: "About the ["Gypsy"] mother, people say: «even the pots are shining, well washed [areadas[17]]!»

Also, the general idea about Roma women is that they are "extremely submissive" and oppressed by the man in the community.

> *- caring for children*

In Portugal, Roma people have a highly gregarious way of life in which children are raised in the larger community[18].

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[17] Roma communities who live in nomadism, the women usually wash the dishes in the rivers, with sand, as it was the traditional rural way, some decades ago.

[18] As well as to the animals, mainly dogs and horses.

>   **President of CPCJ**: *(…) We have some issues with Gypsy ethnicity [Roma] [sotto voce]: children dropping out of school and the Gypsy marriage. And, yes, child physical abuse. In situations when the mother is in prison, usually, the child is integrated in the larger family, right? (…) The patriarch or the matriarch or someone of the larger family assumes the care of those children. (…)*

The affection of Roma mothers for children, and not only to *their* biological children, is iconic of these communities.

(5) "Gypsy children: are they protected by a different law?"

The poor attendance in school was mentioned in the workshops, as one of the dimensions where "Gypsy" children are not protected. Portuguese educational authorities seem comfortable with the fact that many adolescent, especially young girls, drop out of school. One of the teachers expressed this concern:

>   **Teacher**: *We are not in a school with many students from the Gypsy ethnicity [etnia cigana]. We have three [3] students. But what happens and we know about this, the majority of the girls drop out of school, they do not attend school. Here, the issue is: what has the school to do to bring these students to the school? Sometimes, I have the feeling that they are protected by a different law. [smiles by participants] Here, I ask you the question: (…) are they protected by a different law?*

The following section will present the ways in which participants shared their own values, dilemmas, contradictions, and the sometimes-divergent understandings of dealing with them.

Part 3: Ethical Issues and Dilemmas from the perspective of practitioners

Although engagement of the professionals was at different levels, the workshops were a significant moment for collective critical dialogues, sometimes an opportunity to express different personal beliefs, creative ways of intervening, contrasting perspectives of understanding our mission in the goal of ending children's suffering.

In this part, doubts, divergences, and cognitive conflicts are intertwined with dilemmas, the difficult decisions about the course of action between what is believed, what is prescribed and the lively people they encounter in their day to day practices.

5 Ethical issues in the workshops

5.1 Practical and professional dilemmas

5.1.1 How to agree on a common definition of violence? How to agree on distinctions?

The professionals have divergent ideas about where to draw the line of violence. Someone talked about "drawing a line on the sand" to mean the difficulty of distinguish between family "education [punishment]" and violence. This metaphor shows the feeling of professionals about the unclearness of the definition, how nebulous it has become along recent years, in spite of what have been written in the law.

Concerning physical violence and corporal punishment, as stated above, they are included as behaviours punished by the maltreatment crime. However this collides with cultural notions about parents' right to "discipline" children and adolescents. Therefore, professionals may see some acts as "more or less" acceptable, for instance, the more severe as offenses to physical integrity. So, in reality, many cases of physical violence are not reported to criminal courts. Even criminal courts excuse the maltreatment behaviour of parents qualifying it as a crime of offense to physical integrity,

which is not a public crime. This has happened in the Porto Court of Appeal that released the parents of an eleven year-old boy even though they beat him with a belt. The boy had severe wounds in his body and was hospitalized in order to recover from the physical damages. The godmother of the boy reported the case to the criminal court. The prosecutor accused the parents of a maltreatment crime against the child. And the low court condemned the parents. However, the Court of Appeal qualified the parents' behaviour as a crime against the physical integrity of the child, which was not severe enough to be qualified as a maltreatment crime. In consequence, the judges released the parents because the physical integrity offense is not a public crime and so the accusation of the prosecutor without complaint of the legal representative of the child (the very parents who had beaten the child!) was not legal (Porto Courts of Appeal, 2nd April 2014).

This issue of the "parents' correction" was also raised by some participants who alerted that the excessive emphasis on some kinds of "family discipline practices" over others can lead to the trivialization of the concept of violence, which does not help to protect children:

> **Teacher**: *(…) I think we have to be very careful when we talk about violence, because the term became generalized and now it is applied in such a trivial [trivial] way, and trivializing this is extremely dangerous.*

In this sense, "trivialization" means a blurring of the distinction between violence and family discipline practices, interfering negatively with the parents' ability to effectively discipline their children. Professionals alerted, for example, to the possibility that a spank in the bottom could be viewed as violence (related with the storyline). In all focus groups, professionals distinguished a spank in the bottom [palmada] from a slap in the face [bofetada], arguing that the latter is much more offensive than the former.

> *- The need to make "distinction between [the behaviour of] maltreatment and [the person of the] perpetrator"*

Professionals also stressed the need to make distinctions between the behaviour of maltreatment and the person of the perpetrator — meaning that the word "perpetrator" is too strong to refer to a parent who unintentionally harms his/her child, and "only" wants to "correct" child's behaviour.

5.1.2 Fear and insecurity of the professionals

One of the Presidents of CPCJ shared with the group that some weeks ago, she was threatened by the father of a family she is dealing with, and that in front of her office, several families were outside, waiting for the outcome of the confrontation.

Insecurity was also mentioned because of the rotation of the staff of the CPCJ. Professionals are appointed by the "larger Commission", and this means that they may change every year.

Moreover, many members of the staff are increasingly diminishing their participation. Although it was noticed the relevance of rotation and of the community agencies to assign the better skilled person, in recent years many professionals have only a "few hours" to work in the CPCJ, which means they are overloaded with work.

5.1.3 The right of the child "to live without violence" versus "giving excessive power to the police"

The possibility of a police direct intervention without a previous court decision is a dilemma crossing diverse forms of violence[19]. In Portugal this type of intervention is commonly connected with the excessive power of the police during the Portuguese dictatorship (1926-1974).

On the one hand, representatives of CPCJ in the group mentioned situations in which they had to plead with police officers to get their help to remove a child in imminent danger. Police officers were

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[19] This has been recently discussed in Parliament, linked with Istanbul Convention.

reluctant to go to the families without a court mandate, although in the opinion of the CPCJ representatives, they are entitled to enter and take the child if danger is imminent.

On the other hand, representatives of law enforcement talked about cases of children, mainly boys, severely hurt, and the slowness of prosecution to give them the mandate for the removal of the child.

5.2 Ethical dilemmas

5.2.1 The right of the child to live with the biological family regardless of poverty

Harsh economic problems of the families were several times mentioned as an ethical dilemma, because professionals face the hesitation between favouring the parent-child attachment over the extremely poor life conditions.

> *- Poverty and neglect*

The right of the child to live with her/his biological family was debated in the context of families with very hard economic conditions. Here, the issue of "neglect" was subject to different interpretations. . Single parent families, the majority headed by women, were named as the most affected by poverty. The cycle of removal and return to the family, was also mentioned.

One participant mentioned that the family's ability to raise a child is equated with the economic capacity of the families.

> *- Referral or not to the court in case of poor housing conditions of Roma: The difficult balance between preserving the family's emotional attachment and intervening in extremely difficult economic conditions.*

Also, concerning Roma families — especially mothers —, professionals expressed concerns about the confusing boundaries between the [lack] of housing conditions and the concept of neglect. Professionals seemed to value the affective attachment over economic conditions, but with strong ambivalence and dilemmatic decisions:

> **CPCJ representative***: (…) The truth is that, we, between the need at least the social demand of respecting the culture and the need to intervene, this issue is not easy. This border [emphasis]: in society, many are Portuguese, for long many years… We have to respect them. On the other hand, there are situations like this one: we had two children living under the bridge. We had to remove those children from a Gypsy family! They were the mother/grandmother, the daughter [still a child] and the granddaughter.*

5.2.2 What to do when facing lack or inappropriateness of social responses?

Many professionals raised the question of the lack of social responses for children. They characterized Institutional Care facilities as "children warehouses", that is, not an adequate alternative for a child.

This issue seems place professionals in difficult situation to decide what to do, especially when parents do not comply with the plan to change their practices to care for their children.

5.3 Tensions and contradictions in the intervention system that can have ethical implications:

5.3.1 The right of the child "to be heard" or to have her/his will taken into consideration

Few professionals referred to the child's right to be heard after the age 12, as it is mandatory in the Portuguese law. Nobody mentioned the need, importance or desirability of hearing the child before the age of 12.

"To hear the child" seems to be understood in different ways. On the one hand, professionals referred to the procedure of "hearing" the child in the sense of gathering evidence, in order to find the truth.

Hearing the child to take his/her will into consideration was a matter of divergence. Some professionals explicitly said that in case of "extreme" violence, the child's will is irrelevant, because his/her protection has to be assured. Some professionals also spoke about the parental manipulation of children. Even children over 12 years old, professionals didn't agree on their capacity to decide what is better for them.

5.3.2 "Cultural rights" versus individual rights

There was a discussion of conflicts between rights – cultural rights and human rights as well as with the duty of following the law.

Sometimes, cultural rights emerged in the discussion by the expression of the professionals' awareness of societal demands to respect people's culture. A dissonance between personal values and what is perceived as socio-professional demands was present in some speeches.

6 Summary

The system of child protection and intervention is well established in Portugal, as stated above. The cases should always be reported to the CPCJ who have the responsibility to make a decision as well as a great deal of control about what happens to the families. The CPCJ intervention usually involves many people and many agencies for each situation. The professionals seemed to view data sharing as an integral part of their intervention. Consequently the confidentiality of the families is many times compromised, especially in small towns. Moreover, this type of community intervention also seems to lead to the micromanaging of the poor and the socially disadvantaged classes — who are already under close monitoring by state agencies.

Despite the well established protocol of how to access CPCJ and the role of this agency, the professionals talked about the unclear definition of what constitutes violence and which situations may be considered a suspicion and call for a CPCJ referral. For instance, participants expressed the difficulty between distinguishing an acceptable instance of physical punishment versus a violent act against a child. Furthermore, teachers and a few representatives expressed hesitation about reporting the situations to CPCJ arguing that there are no adequate social responses for children and intervening can do more harm than good.

In cases where the child was deemed to be in imminent danger, the participants had high expectations regarding the role of police officers. On the other hand, the law enforcement officers often mentioned encountering many restrictions in their action, even in cases of imminent danger.

In the focus groups two main frames were present in the debates: economic hardship and preservation of the biological family. Economic hardship was inherent in several arguments, descriptions, and dilemmas. A frequent dilemma was the need to remove children from extremely poor conditions and at the same time preserving the ties to the biological family. The preservation of the biological family was also implicit throughout the discussions, especially when removal of children and child adoption were mentioned.

Connected with the frame of economic hardship was also the concept of generational transmission of maltreatment. This idea seemed to be taken for granted by the professionals who expected to see succeeding generations of the same family needing the support of the CPCJ and being unable to break the cycle of violence.

The preconceived notion that the families affected by violence were also facing economic hardship was also very present in the groups. The quick assumption that Paulo belonged to a social disadvantaged family and the difficulty to discuss what the professionals' actions would be if Paulo

was from a middle class family indicate that child abuse and neglect of children of these social classes are invisible to the system.

In regards to culture, the participants expressed tolerance and acceptance towards minority groups. Many of the overtly pejorative beliefs about the minorities were not present in the groups. However, other cultures were seen as very different from the mainstream, very homogeneous, having a very particular way of living, often times connected with criminal activity. Nomadism was mentioned as an obstacle in tracking the families.

Finally, it is worth mentioning the participants' willingness to share their ideas, perspectives, divergences and dilemmas, where fear and insecurity as well as gendered issues were placed on the table. These are themes for further research and analysis.

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APPENDIX

Abbreviations

[nsp] – we couldn't understand

CPCJ – Child and Youth Protection Commission

RSI – Minimum Social Income

TEIP – Social Territory of Priority Intervention

WS1 and WS2 – workshop 1 and workshop 2.