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Managing complex child law – social workers' decision making under Danish legal regulation

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1 Introduction

In recent years there has been an increased focus in Denmark as well as internationally on the public obligations to monitor the living conditions of children, young persons[1] and families. This public interest addresses municipal practitioners and takes the form of legal regulation[2], stipulating obligations of the municipal authorities to register and process mandatory reports from professionals and private persons, to offer counselling services, to support cross-sectorial co-operation and to exchange personal information regarding families and children between professionals and sectors. The public obligations do not stem from national and public law alone – they are also found in a vast body of national and international legal regulation within different legal doctrinal fields, including family, health and penal law. As such, the public obligations touch upon – and influence - the autonomy and responsibilities of parent*s* as well as of children and young persons. The public obligations are often of a procedural nature, regulating the forms under which different types of information can and should be collected and recorded, when and how to pass on information, and to whom. A pivotal theme is the question of when the exchange and registration of personal information is preconditioned by explicit consent from parents, children or young persons and/or others.

The design of these legal obligations has consequences; for the families, children and young people involved, for the social workers who administer the law, and for society. This paper takes a closer look at the consequences for the social workers' decision-making, asking such questions as: How – and how clearly - are different values and norms expressed in the law, and how are they handled practically? Although the perspective is Danish, many of the legal characteristics express more broad tendencies and similarities between countries. As such, the analysis and discussions raised are of a more general nature.

First, a short overview and analysis of the relevant legal design is offered. Next, the findings of a study of the potential implications of this design are reported (Svendsen, 2014). The study, which was carried out between 2011 and 2014 at Roskilde University, Denmark, consisted of individual, qualitative vignette interviews with seven municipal mid-level managers and professional consultants in five Danish municipalities. Methodologically and analytically, the collection and processing of the qualitative interview data were informed by theory on decision-making. After reporting the decision-making patterns found in the study,

[1] The term, "children and young persons", covers children and youth up to the age of 18, cf. The UN Convention on the Rights of the Child (CRC). This is due to the regulation in general not being based on distinctions between children and youth

[2] The term "regulation" covers legal and other instruments directed primarily at decision-makers affecting also the addressees of decisions

implications of the findings are discussed. Thus the paper offers a new approach to understanding the legal component of social work practitioners' decision-making.

2 The legal regulation – an overview

The obligations of public authorities to monitor – and in some cases to intervene in – the lives of children, young persons and families are defined by provisions in the Social Services Act[3], supplemented by administrative law, guidelines, precedents etc. The current provisions stem from changes and reforms carried out during the last century, seeing an increase in intensity particularly from 2001.[4] In the beginning of the 20th century, the legislation was functionally delimited, aiming at societal control with particular groups of children, young persons and parents, i.e. in particular poor families, criminal children and single mothers (Bryderup, 2005; Ebsen, 2012). Over the years, this functional targeting was played down in reforms focusing on a more general and non-stigmatizing approach, voluntariness and cooperation with parents (see for instance Kildedal in: Kildedal, Laursen, & Michelsen, 2013), Additionally, children and young persons were increasingly perceived as no longer fully dependent on either the parents or the public authorities, but as gradually obtaining a more or less independent status (see for instance Mattsson, 2008; Van Bueren, 1995; Warming, 2011). Other sectors - such as school and health - were also made more responsible for the well-being of children. These developments mirrored new conceptions of what is regarded as private affairs and what is seen as public interests in relation to children. New paradigms of knowledge, family patterns, moral norms, demographic changes, new technologies and political developments have further influenced societal expectations in this field (Gyldenløve Jeppesen de Boer, Kronborg, & Svendsen, 2013; Kronborg, 2007), supported by a number of shocking cases of abuse and maltreatment, and new international regulation.[5]

These developments have been incrementally integrated into different parts of the legislation, and therefore have led to complexity in the legal design as such. Thus the content and limits of parental authority, children's rights and public obligations are not marked by bright legal lines but takes on a rather fuzzy character. Common custody rights and the rights of parents without custody are unclear despite extensive guidelines[6]. As to the autonomy rights of the child and young person, the Danish legal regulation leans on different forms of demands for hearing, inclusion and independent rights of children and young persons. These rights are varying and not precise in their content and consequences. On the one hand, some provisions on the rights of the child or young person restrain parental decision-making authority[7]. Other provisions[8], on the other, do not. According to some parts of the legislation, the child or young person is independently entitled to assistance from a lay person other than the parents, who can participate in meetings etc., however not being a legal representative in the strict

[3] The Danish Social Services Act (Consolidated Act, no. 1053, 8/9 2015)

[4] Notably the Reform on Out of Home Placement (2004/2006), the Reform of the Child (2010), the Reform against Abuse (2012) and the Reform on Early Intervention (2014)

[5] The UN Convention on the Rights of the Child (CRC) contains general articles on the protection and inclusion of children and young persons, whereas more tangible demands on the Member States to ensure children rights are primarily to be found in the General Comments and Observations of the UN Committee on CRC. Likewise, demands of this nature emasculates from the case law of the European Court of Human Rights. In the understanding of the Court, the Member States are positively and actively obliged to protect and include children and young persons in decision-making. A similar approach has been taken by the EU, among other ways by incorporating certain CRC principles into the EU Charter on Fundamental Freedoms.

[6] The Parental Responsibility Act and Administrative Guidelines on Parental Responsibilitiy

[7] The Social Services Act, Sections 11 and 48

[8] The Social Services Act, Section 52

sense of the word[9]. According to other parts of the legislation, the child or young person does not have this right[10].

Municipal attention to a child can be activated by the exchange of personal information between sectors and professions; however, criteria for exchange of information without consent are unclear (Svendsen & Hartoft, 2013). Often the regulation is claimed to stipulate common and uniform standards, but generally the content varies between provisions and doctrinal fields, and older provisions and principles are upheld at the same time as new regulation is adopted[11]. The legal obligation to report (mandatory, professional reporting)[12] has been extended over the years, which has been underlined in public information campaigns with the message "Report when in doubt". However, these changes have not been accompanied by uniform reporting forms. The induction of specific criteria - abuse, violence, absence from school - into the provisions have not led to changes in the general broad, need-based criteria for mandatory reporting, and the right to open, anonymous counseling has not been changed in order to make it fit the new mandatory reporting standard[13]. According to a recent reform[14], all reports must be registered in a central database as reports containing personal data, independent of consent. However, the demarcation between reports from professionals about children in need of support and parents' and children's applications for support (the latter being voluntary and not encompassed by the regulation on registration) is fuzzy, and the same is the case with the regulation on when to register information exchanged between sectors, and when and how to inform registered persons about the registration. As to the demands for the municipalities to *assess* incoming information[15], the legal obligations are not very precise on how and when to do this. This is also the case in relation to the more *general demands on municipalities* to refer questions to other authorities, to obtain further information and to offer guidance to involved persons.

Therefore, many of these provisions seem easy to understand and precise on the surface, while in real life they require adaptation to the specifics of the situation, to other parts of the regulation, to different doctrinal fields, regulatory levels and to potential ex post evaluation and review. As such, the regulation is interdependent and adaptive, i.e. complex. This has to do with the partial and incremental form of legal changes and reforms. Legal complexity in this field thus emerges through the multiple levels of legal texts and authorities, various doctrinal fields and sub-fields, open-ended provisions and interdependency between provisions, levels and addressees installing exceptions from main norms in the legal framework and at the same time upholding these norms. These features reflect - and to a certain extent – adapt to the complexity of the problems that the regulation is aimed at, such as uncertain prognoses, changing priorities and ambitious political goals, discourses and demography. The law is not only a tool for the social practitioners who are to use it – it is also a political tool for those who make it. As Engel notes:

> "The law is one path of communication between the citizen and the state. Occasionally, the legal system is cast under the spell of self-interest of those administering it. And

[9] The Social Services Act, Section 48a
[10] The Social Services Act, Sections 41, 42
[11] The Social Services Act, Section 49a
[12] The Social Services Act, Section 153
[13] The Social Services Act, Sections 153 and 11
[14] The Reform against Abuse (2013)
[15] The Social Services Act, Section 155a

> sometimes only systemic reasons can be offered for the state of the law […] " (Engel, 2008b:286)

Such tendencies are not only found in a Danish context (see for example Braye & Preston-Shoot, 2006; Preston-Shoot, 2014; Spratt, Devaney, & Hayes, 2015). In a practical municipal context, the regulation raises questions of how to understand the different provisions. Such questions are for instance: When are which parents and children encompassed by which provisions? To what extend does the regulation demand for inclusion of the child in the legal process or even entail autonomy rights? Does age matter - and how? To what extent do others than custodial parents and children - such as step-parents or parents without custody – hold rights? Which rights? In which ways do which municipal obligations become activated, and which procedural steps are the municipalities obliged to take vis-à-vis other sectors and authorities at play? When and how should personal information be registered, collected and assessed? When and how should consent be obtained, and when and how should information be offered to which persons on their rights and duties? These are the kind of questions that therefore made up the background of the vignette study.

3 Managing the regulation. A qualitative vignette study

> "It is assumed that the causal links are complex so that as a directive from central Government is transmitted, it interacts, often in surprising ways, with local factors so that the end result may be far from what was intended" (Munro, 2011:24).

The vignette study methodologically took a qualitative, socio-legal approach. It consisted in seven interviews, based on the use of a *vignette* (See for example Alexander & Becker, 1978; Jenkins, Bloor, Fischer, Berney, & Neale, 2010; Taylor, 2005). A vignette makes the respondent information comparable and analyzable by aligning the context; thus cutting across different background variables and minimizing hindsight bias of enquirer as well as respondent (Ejrnæs & Monrad, 2012). The vignette was designed with this purpose, integrating an element of openness in the study, by relating context and questions of the vignette to realistic situations. Using a vignette in this way facilitates an openness to understanding decision-makers' perception of different aspects of the regulation and their specific strategies to manage complex regulation. The primary benefit of this approach is that it makes it possible to show the interplay between legal regulation and decision-making and recognizes the influence of the social context (Shah & Corley, 2006). A more traditional qualitative case approach, for instance analyzing documents such as decisions, plans or journals, was not chosen because it would offer information on reasoning and arguments but would not illuminate practical decision-making or plausible correlations between regulation and the perceptions of decision-makers (Dalberg-Larsen, 2005; Podgórecki, 1974).

Thus, evaluation of compliance and knowledge has not been the aim of the study, partly because it is not particularly interesting when the intention is to study why-and-how-questions relating to the regulation, rather than compliance questions; that is when the intention is to understand rather than to judge and evaluate.

The vignette was a short case, describing a specific situation of a young boy, living with his mother and her partner, whom a neighbor suspects of violent behavior towards the boy and possibly towards the sister who mainly lives with her father but who stays with the mother for weekends. The vignette was designed to raise the above-mentioned questions regarding the regulation. The design of the vignette was based on observations in two municipal sections

for family support and child protection in the winter 2012, and on secondary empirical data (precedents, published cases, statistics, research findings etc.).

Thus, the vignette and the interview questions reflected concrete problems, related to the relevant regulation. That is the sort of problems that the decision-maker would be likely to solve as a part of day-to-day work, such as what kind of information about children and families should be collected, when and from who, whether a certain piece of information should be registered, whether such registration entails a demand for notification of registered persons, when should information be collected from or reported to other authorities and sectors such as the school, health, family law department and police etc. Consequently, the qualitative interviews employed in the study had a very structured form. The questions did not vary according to the different respondents but focused in a more uniform way on the respondents' perception of the regulation relating to the specific situation of the vignette.

Seven individual interviews with municipal decision-makers (mid-level managers and social consultants) were carried out during summer 2013. The respondents were found through their in-service participation in a master course on social work and children and families at risk at Aalborg University, purposefully chosen because they had all participated in the same course on the legal regulation and had all passed the examination. Thus, they all had at least a basic level of knowledge of the regulation. The bearing on decision-making of different backgrounds and positions of decision-makers, such as age, gender, profession, size and character of municipality, was not the focus in this study; although such variables are important for understanding actual decisions, the legal demands are the same. In this study the focus was on finding common patterns of managing the legal demands rather than on relating different patterns to different background factors (which is also relevant but not the topic of this study). All participants were explicitly asked for their permission to use their answers in the analysis in an anonymous form and individual answers are not recognizable in the text (Creswell, 2009; Kvale & Brinkmann, 2009).

The validity of the study was ensured by rigorous planning, completion and documentation of the process and expert and peer supervision in all phases of the data collection (Creswell, 2009; Kvale & Brinkmann, 2009). Observations were registered in a detailed diary, and interviews were thoroughly documented and transcribed. The chosen method does not enable conclusions on causal links between regulation and decision-making, since other pieces of regulation could have been chosen, the vignette and the respondents could have been different, etc. But the method makes it possible to reflect on and be aware of plausible connections and correlations between regulation and behavior, including potentially counterproductive tendencies in this relation.

The analytic strategy employed in relation to the empirical material draws on recent knowledge and concepts from heuristic decision theory, such as system 1-thinking which is quick, intuitive thinking as opposed to system 2-thinking which is slow and deliberate (Kahneman, 2011), patterns of preference of availability and hindsight thinking (Jolls, Sunstein, & Thaler, 1998; Thaler & Sunstein, 2008) and frugal tree-and take-the best thinking (Gigerenzer & Engel, 2006; Gigerenzer, 2007, 2008). This line of analysis has also inspired research in social work (Helm, 2011; Munro, 2008; O'sullivan, 2011; Spratt et al., 2015; Taylor, 2010). Legal regulation and analysis normally express aims to exterminate unconscious, quick, associative an emotional decisions, that is, to reduce system 1-thinking

(for instance, see Henrichsen 2001:554) [16]. If there is any reason to believe that quick, heuristic system 1-thinking is active, the aim of legal regulation is often to add a more controlled, rational, conscious system 2-framework to the situation - or at least to limit the unwanted system 1-influence on the situation (Engel, 2008:413). Recent decision theory, however, challenges the perception of linear causality underlying this approach by pointing at the importance of context. Legal designs aimed at exterminating quick, automatic decisions by inducing substantial or procedural regulation into the legislation do not necessarily lead to what we think they will lead to. It depends on the context, and therefore, such designs might even lead to the opposite effects, due to availability preference, over-optimism, hindsight bias, confirmation bias or defensive thinking (Engel, 2008:413).

These categories inspired the process of coding the interview data, but the process additionally had an inductive element in that the data also inspired the coding process. First, statements were categorized from whether the informants expressed *doubt, differences or similarities* in their approach to a certain question. Then, the coded statements were analysed in order to identify *common decision patterns* as those described above relating to the relevant legal regulation. Thus, an important risk of this strategy is confirmation bias. This risk was dealt with by thoroughly analysing the statements of doubts and differences – not only the similarities in statements. It was also dealt with by being aware of the fact that the found similarities can be seen from other perspectives than those defined by the patterns of decision theory. And finally it was dealt with by including this caveat in the conclusion since it is an important limitation to the study.

This choice of strategy – instead of the traditional legal doctrinal assessment of decision-making, focused at compliance - is inspired by discussions on the legal system/profession's somewhat enclosed nature (Banakar, 2003; Cotterrell, 2006; Dalberg-Larsen, 2005) leading to a limited helpfulness in understanding phenomena such as regulatory complexity and implications hereof. To examine such phenomena, other perspectives are useful (Watts, 2011: 36).

4 Results

The informants' perceptions of the regulation were - as expected - in some respects similar, whereas they differed in other respects. Hence, information on the children and their parents were categorized differently by the informants and the delimitation between the obligations of the social services department on the one hand and of other systems such as the school on the other were not understood in the same way. Some parts of the regulation gave rise to doubt; this was the case for example of the question of when and how to hear the child or young person, how to understand the legal concepts of violence and abuse, and when to obtain a written consent. Some for instance found that children should be heard if they were over the age of 12, some referred to the age of 15 as the relevant limit. Some found that the child should always be invited to the meeting in the municipality - others found that the child should be invited in a separate context.

Even though the informants were generally conscious about individual rights and general legal principles, they were not particularly concerned by the specific demarcations and correlations of different provisions such as the relation between parental custody and the rights of the child or young person, the legal relation between parents with common custody,

[16] "[…] intuition is often the worst educator when it comes to extensive complex, social systems like the public administration " (Henrichsen 2001:553) [author's translation]

between sectors, or between public and private law. Instead, they seemed to see the regulation as expressions of general values and principles and adjusted their perception of the regulation to the concrete situation, as in this explanation of how information is given to parents:

> "Here it is the standard that you talk with the parents beforehand; what is the meeting about, you know" [Informant 5: in response to a question on how the parents are given information on their rights]

Earlier perceptions of mandatory reporting obligations as reactive as opposed to the current, more proactive character of the regulation seemed to be unlearned by the informants, probably as a consequence of campaigns accompanying legal reforms under headlines such as "Report if you are in doubt". Young age, first hand sources of information and recent problems were prioritized in decision-making on whether to take procedural steps, even though these are not strict legal criteria. Other prioritized criteria were abuse and violence, but these were perceived differently among the informants. There was a clear preference for cooperation with the parents, general age limits (15+ and 12+), professional and practical approaches and oral communication. Procedural steps without the consent of the parents, the child or the young person were generally rejected, even though such steps are to a certain extent mandated by law. Voluntary counseling was prioritized, but the informants did not generally distinguish between different legal forms of counseling, such as anonymous, open counseling as opposed to referred services and internal vs. external services. Questions relating to the complex regulation on the handling of personal data were avoided, such as demands for explicit consent and obligations to inform registered persons on their rights. The same was the case in relation to legal concepts constituting what is a *case* or a *decision*, and who are *parties* in this respect, or when a decision takes on a *binding* character. As such, legal criteria and forms were generally not prioritized. These patterns can be seen as simplifying decision-making patterns supplementing the regulation. They are not absolute and can be understood as the results of different personal or professional perceptions of the participating social workers or they can be a consequence of the way the vignette was constructed. As such the study does not offer a definitive or full understanding of decision-making in relation to this field. However, it offers a basis for systematic professional reflections on plausible correlations between the legal design and decision making in social work, including potentially counterproductive tendencies in the regulation as discussed in the following section.

5 Discussion

Thus, the study found that some aspects of the relevant regulation were particularly feasible for the informants, whereas others were not. There was, on the one hand, a clear preference for cooperation with the parents, general age limits, professional and practical approaches, oral communication, and for weighing first-hand information, smaller children and more recent problems the most as well as for pointing at the responsibilities of other sectors. On the other hand, there was not a sharp focus on nuances of legal principles, concepts and provisions, different legal rationales, delimitations and hierarchies. The least available provisions - such as provisions in the data legislation obligating the authorities to offer specific legal information to the children and families and to ensure explicit consent - seemed to be downplayed by the decision-makers.

These patterns can be seen as heuristic strategies to reduce legal complexity. That is, they can be seen as intuitive, associative rules-of-thumb, cutting through the regulation by making decision-making fast and effective. The somehow simplified perception of parental custody

regulation, autonomy rights of the child, mandatory reporting obligations and the obligations to register and assess information can be seen as *defaults* - not necessarily set by the regulation, but created in the individual perception of it.

The complexity of multiple legal acts, provisions, precedents and principles can be said to be founded in a preference for active choice that seems to be related to a tendency to choose the most available or visible solution and to keep a focus on the present situation. The strength of a specific provision is thus not dependent solely on how it is expressed in the law, and how it interplays with other provisions, but, in addition, it depends on how it is being communicated and made visible and available in the practical context.

This can seem wrong, illegal or irrational when reviewed legally or otherwise. Thus, legal regulation can be dealt with theoretically and in legal-administrative and implementation-oriented reviews by ex-post operationalization of multiple criteria from a theoretically principled perspective (see for instance Bønsing, Munch-Hansen, & Schultz, 2012; Hielmcrone & Schultz, 2010). That is, by defining after the fact – in hindsight - according to a chosen general theoretical perspective or principle what was the right thing to do and what was wrong.

In this study the patterns are understood as probable and somehow sensible strategies in the municipal context, when viewed in relation to the legally complex design. They are, however, not always desirable. In this sense, the study raises politico-legal questions regarding the legal design, i.e. questions of the practical implications of complex design and whether the regulation could be designed in a more suitable or intelligent manner by incorporating cognitive knowledge and context specific knowledge into the legal design. Such an approach would build on insights in human behavior, including the fact that processing of information does not always take place as a rational and systematic action. Legal regulation is aimed at people; citizens and welfare professionals of many kinds, not necessarily bestowed with a degree in law or with an easy access to qualified legal counsel. As Gigerenzer et al. state in a paper on financial regulation:

> "Rules that attempt to achieve ever greater precision can become increasingly imprecise; rules that attempt to weight optimally all the relevant information can sometimes generate poorer results than those based on simple averages or those that deliberately disregard information. Taking uncertainty seriously forces us to recognise that, in some circumstances, there are potential benefits to more simplicity over greater complexity." (Gigerenzer et al., 2014:4)

This approach to regulation demands for discussions not only of values when new regulation is made, but also of how defaults are constructed in legislation, precedents and guides. To this end we need more knowledge and transparency in relation to the different arguments and reasoning that can be put forward in support of different solutions on a regulatory specter from "command-and-control-regulation", incentive-based solutions, normative values, regulation based on deliberation and collaboration and recognition of professional knowledge. When is which type of regulation relevant and appropriate? Does active choice regulation always make decisions better? As Sunstein puts it - ironically - in a discussion of active-choice-designed legislation:

> "In the traditional view, more choices are always better than fewer. If you now have five options, you would probably like to have ten, and if you have ten options, you'd probably like to have twenty, and if you have twenty, you would probably be better off

> with fifty. On this view, having more choices helps and never harms people." (Sunstein, 2013:124).

Awareness on different kinds of regulation can be said to be a more "smart" or intelligent approach to regulation than the current incremental, complex design made up of different values, compromises and rationalities. This approach makes it necessary to think systematically about the coherence of the legal complex by examining questions such as:

Should certain concepts be redefined and simplified in order to better support decision-making? An example is the concept of mandatory reporting and the obligations to register such reports. These obligations are today seen as very important, but the regulation is characterized by active choice as to what is seen as a report, what to register and when to act. A clarification of the content of this obligation might lead to more unified, transparent and reasonable quick decision-making

Should certain provisions, chapters or acts be harmonized in order to create common norms? An example is the child's right to legal representation, which varies between different parts of the legislation – harmonization might lead to more uniform, transparent and reasonable quick decision-making

Which consequences and strategies do different regulatory forms entail in real life, as opposed perhaps to a more ideal understanding of regulatory forms as expressions of values? An example is the ideals expressed in the regulation of the handling of personal data — is there a risk that it leads to quick decisions, based on defensive strategies rather than to a reasonable practice? Would a more practical and realistic regulation lead to better decision-making?

Which defaults are embedded in different parts of the regulation? Do they fit together as a coherent norm or do they contradict each other? An example is the presumption of parental cooperation between custody holders as in the best interests of the child in family law as opposed to the holistic perspective of social child protection and family service law. Would either a more coherent regulation or a more specific stipulation of the different legal interests in a better way support uniform, transparent and reasonable quick decision-making?

To this end, first the complex character of the current regulation must be recognized and problematized by politicians, interest groups, researchers, practitioners etc. This is not as easy as it sounds – as stated above the regulation seems clear and expresses good intentions on the surface; a closer look is needed to see the complexities. Secondly, an awareness of the practical goals of legislation is needed, i.e. an awareness that legislation does not only serve political-strategic interests in expressing general values on the one hand and rational information and judicial review on the other. It also serves as an important part of practitioners' decision-making environment.

This is not a dream of quick fixes to substitute vocational training, professional norms, information dissemination, management initiatives, collaboration, participation and judicial review, but an alternative way to support robust decision-making by acknowledging the fact that we are all human and as such prone to perceive facts and rules differently, depending on the concrete context.

In complex day-to-day social work, active choice is not always the best condition for good decision-making. To move in another direction, it is crucial when enacting new national as

well as international legislation, guidelines and precedents that are relevant in social work practice that it be considered more systematically how different provisions, fields and levels can fit together and as such support concrete decision-making, based on common norms. This calls for an increased attention to regulation and human behavior within the field of law – as within the field of social work.

References

Alexander, C. S., & Becker, H. J. (1978). The Use of Vignettes in Survey Research. *Public Opinion Quarterly*, *42*(1), 93–104.

Banakar, R. (2003). *Merging Law and Sociology: Beyond the Dichotomies in Socio-Legal Research* (Vol. 47). Berlin/Wisconsin: Galda/Wilch Verlag.

Braye, S., & Preston-Shoot, M. (2006). The role of law in welfare reform: Critical perspectives on the relationship between law and social work practice. *International Journal of Social Welfare*, *15*(1), 19–26.

Bryderup, I. (2005). *Børnelove og socialpædagogik gennem hundrede år*. Århus: Klim.

Bønsing, S., Munch-Hansen, C., & Schultz, T. (2012). *Retssikkerhed i konkurrence med andre hensyn.* København: Jurist- og Økonomforbundets Forlag.

Cotterrell, R. (2006). *Law, Culture and Society: Legal Ideas in the Perspective of Social Theory*. Aldershot, UK: Ashgate Publishing, Ltd.

Creswell, J. (2009). *Research design: Qualitative, quantitative and mixed methods approaches* (3rd ed.). Los Angeles: Sage.

Dalberg-Larsen, J. (2005). *Lovene og livet. En retssociologisk grundbog*. København: Jurist- og Økonomforbundets Forlag.

Ebsen, F. (2012). *Udsat til børneforsorg: Om etablering af familiepleje, børneanstalter og indsats i hjemmet for udsatte børn i Danmark*. Lund: Socialhögskolan Lunds universitet; Mediatryck.

Ejrnæs, M., & Monrad, M. (2012). *Vignetmetoden - sociologisk metode og redskab til faglig udvikling*. København: Akademisk Forlag.

Engel, C. (2008a). *Better than conscious? Decision making, the human mind and implications for institutions*. Cambridge, Mass.: MIT Press.

Engel, C. (2008b). Learning the law. *Journal of Institutional Economics*, *4*(03), 275.

Gigerenzer, G. (2007). *Gut Feelings - short cuts to better decisions making*. Penguin, London.

Gigerenzer, G. (2008). *Rationality for Mortals: How People Cope with Uncertainty*. Cary, NC, USA: Oxford University Press, USA.

Gigerenzer, G., Aikman, D., Galesic, M., Kapadia, S., Katsikopoulos, K., Kothiyal, A., Neumann, T. (2014). *Taking Uncertainty Seriously: Simplicity versus Complexity in Financial Regulation* (No. 28). London. Retrieved from http://mpra.ub.uni-uenchen.de/59908/

Gigerenzer, G., & Engel, C. (2006). *Heuristics and the law*. Cambridge MA: MIT Press in cooperation with Dahlem University Press.

Gyldenløve Jeppesen de Boer, C., Kronborg, A., & Svendsen, I. L. (2013). The private – public law divide - does this legal design create an abyss to children's welfare? *Nordisk Socialrättslig Tidskrift*, (7-8), 133–159.

Helm, D. (2011). Judgements or assumptions? The Role of Analysis in Assessing Children and Young People's Needs. *British Journal of Social Work*, *41*, 894–911.

Henrichsen, C. (2001). *Retssikkerhed og moderne forvaltning - en retspolitisk studie i samspillet mellem stat, forvaltning og borger*. København: Akademisk Forlag.

Hielmcrone, N. Von, & Schultz, T. (2010). Retssikkerhed i dansk socialret. *Retfærd*, *3*(130), 3–24.

Jenkins, N., Bloor, M., Fischer, J., Berney, L., & Neale, J. (2010). Putting it in context: The use of vignettes in qualitative interviewing. *Qualitative Research*, *10*(2), 175–198.

Jolls, C., Sunstein, C., & Thaler, R. (1998). A Behavioral Apporach to Law and Economics. *Stanford Law Review*, (50), 1471–1513.

Kahneman, D. (2011). *Thinking, fast and slow*. New York: Farrar Straus and Giroux.

Kildedal, K., Laursen, E., & Michelsen, R. R. (2013). *Socialfaglig ledelse : Børne- og ungeområdet.* Frederiksberg: Samfundslitteratur.

Kronborg, A. (2007). *Forældremyndighed og menneskelig integritet*. København: Jurist- og Økonomforbundets Forlag.

Kvale, S., & Brinkmann, S. (2009). *Interview : introduktion til et håndværk*. København: Hans Reitzel.

Mattsson, T. (2008). Rättighetssubjekt och omsorgsobjekt - hand i hand eller stick i stäv? *Retfærd*, (121.31), 58–80.

Munro, E. (2008). *Effective Child Protection* (2nd ed.). Sage Publication, London.

Munro, E. (2011). *The Munro Review of Child Protection: Final Report*. London. Retrieved from www.official-documents.gov.uk

O'sullivan, T. (2011). *Decision making in social work* (BASW pract.). Palgrave Macmillan, Houndmills.

Podgórecki, A. (1974). *Law and Society*. London, Boston: Routledge & K. Paul.

Preston-Shoot, M. (2014). *Making Good Decisions*. *Law for social work practice*. London: Palgrave.

Shah, S. K., & Corley, K. G. (2006). Building Better Theory by Bridging the Quantitative – Qualitative Divide. *Journal of Management Studies*, *43*(8), 1821–1835.

Spratt, T., Devaney, J., & Hayes, D. (2015). In and out of home care decisions: The influence of confirmation bias in developing decision supportive reasoning. *Child Abuse & Neglect*, *49*(11), 76–85.

Sunstein, C. (2013). *Simpler: The future of government*. New York: Simon & Shuster.

Svendsen, I. L. (2014). *Der er faresignaler her - om ret og heuristik i det almindelige kommunale tilsyn med børn og unge*. Metropol og Roskilde Universitet.

Svendsen, I. L., & Hartoft, H. (2013). Kommunernes almindelige tilsynsforpligtelse - de juridiske rammer. In K. Kildedal, E. Laursen, & R. R. Michelsen (Eds.), *Socialfaglig ledelse - Børne- og ungeområdet* (1st ed., pp. 47–65). København: Samfundslitteratur.

Taylor, B. J. (2005). Factorial Surveys: Using Vignettes to Study Professional Judgement. *British Journal of Social Work*, *36*(7), 1187–1207.

Taylor, B. J. (2010). *Professional Decision Making in Social Work*. Learning Matters Ltd.

Thaler, R., & Sunstein, C. (2008). *Improving decisions about health, wealth, and happiness*. New Haven: Yale University Press.

Van Bueren, G. (1995). The International Protection of Family Members' Rights as the 21st Century Approaches. *Human Rights Quarterly*, *17*(4), 732–765.

Warming, H. (2011). Children's participation and citizenship in a global age: Empowerment, tokenism or Discriminatory Disciplining. *Social Work & Society*, *9*(1).

Watts, D. (2011). *Everything is obvious - once you know the answer*. New York: Crown Business.

Legal sources:

The Danish Social Services Act. Consolidated Act, no. 1053, 8. September 2015

The Reform on Early Intervention and Prevention (2014). Act no. 576, 10. June 2014

The Reform against Abuse (2013) Act no. 496, 21. May 2013

The Reform of the Child (2010). Act no. 625, 11. June 2010

The Reform on Out of Home Placement (2006) Act. no. 1442, 22. December 2004

The Parental Responsibility Act. Consolidated Act no.1073, 20. November 2012

Administrative Guidelines on Parental Responsibility and Residence of the Child, no. 9654, 28. November (2013)

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