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The Social Service and Family Court system in The Kingdom of Denmark: Domestic violence towards mothers and abuse of children.

By the non-profit organisation,
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CHAPTER 1

Preamble

Since 2007 Denmark has had a Parental Responsibility Act which since 2011 has been heavily criticised by national as well as international authorities.

On April 2019 Denmark revised its Parental Responsibility Act to prioritise the child's best interest. Nevertheless, it appears as if domestic violence and abuse of children is ignored to an even higher degree than before April 2019 in custody, residence and visitation cases.

In September 2020, the Supreme Court decided to strip a mother of her parental rights due to "visitation harassment"¹. The Supreme Court did not assess the prolonged domestic abuse and the father's drug abuse, which previously had resulted in supervised visitation. With this decision, the Supreme Court signalled that the child's best interest must continue to be the child's right to its parents even if one parent is violent and a drug user.

In February 2020, Physicians for Human Rights (PHR) published the report *"You Will Never See Your Child Again, The Persistent Psychological effects of Family Separation"* [1] You Will Never See Your Child Again, The Persistent Psychological effects of Family Separation which accentuates how children and protective parents display a variety of grave symptoms pertaining to Post Traumatic Stress Syndrome due to severe traumatising during and after forced separation. The report identifies this pattern as torture. Danish children and mothers develop critical symptoms of Post-Traumatic Stress Syndrome, depression and anxiety due to direct threats of separation from their children unless they cooperate with their abuser. Mothers of foreign nationality who have been subjected to domestic violence and as a direct outcome hereof lose part of the custody also lose their residence permit and are thus forced to reside outside Denmark. These mothers and children are separated indefinitely.

The structural victim blaming, disbelief and humiliation of mothers and children surviving domestic violence and abuse resulting in direct threats of separation and actual separation of mother and children combined with the grave symptoms of PTSD, anxiety and depression suggest similarities to the conclusions in the report from PHR. Although the conduct may be caused by a general lack of knowledge about the cause and effect of domestic violence Denmark has since 2011 been advised by national and international authorities to educate staff, hereunder judges and psychologists in domestic violence and abuse of children. Denmark has categorically neglected to observe its obligation to comply with these expert advices.

The Agency of Family Law currently utilise 12 months (sometimes longer) to process an application for visitation, residency or custody, which can lead to prolonged separation between children and mothers who have lost custody privileges.

¹We refer to case 2 in appendix 1



CHAPTER 1. PREAMBLE

Mothers who lose custody privileges are customarily the residence parent and therefore there are no assigned visitation rights between the mother and child when the child is relocated. Since April 2019 we have received a high number of cases from mothers who are domestic violence survivors and consequently lose part of the custody.

As of yet studies on the extent of trauma in children separated from their protective parents has not been conducted in Denmark. However, we have noticed an increase in forced placement into foster care of the children where an abusive and violent father has attained full custody. Further we have noticed that social services frequently get involved to support the child after the child has been separated from its mother suggesting that it is not in the child's best interest to be removed and lose contact to its mother.

CHAPTER 2

Parental Responsibility Act

The Parental Responsibility Act was implemented in 2007 and based on the child's equal right to both biological parents. The Parental Responsibility Act has been subject to international criticism, as the child's right to both parents has been prioritised over to the child's right to safety and a life without violence.

This chapter begins with an explanation of the background of the Parental Responsibility Act in section 2.1. In section 2.2, an explanation of the points in the parental responsibility act, which has raised international criticism will be given. Finally, issues concerning the revised parental responsibility act from 2019 will be discussed in section 2.3.

2.1 Background

'Equal right to both biological parents' became the principal focus in the Parental Responsibility Act of 2007 as it was considered to be in the foremost best interest of the child. Protection, safety, and attachment was downgraded as secondary factors when evaluating the child's best interest.

To mainstream this practice psychologists and caseworkers developed a method and practice validating the child's right to both parents as being in its best interest. The practice involves the consensus that the worst a child can experience is to be put in a 'loyalty conflict' between its biological parents. Consequently, the definition of good parenting became skills of collaboration and not skills of caring and protecting. Domestic violence survivors and mothers of abused children are to a very high degree accused of alienating fathers despite solid documentation of violence and/or abuse. Allegations of postpartum depression and mental illness are habitually utilised to discredit mothers although these allegations are not substantiated in medical records.

We refer to the Ministry of Social Affairs' legislative guide to the Parental Responsibility Act no. 9279 of 20/3 2019 where it is stated: "If the other parent is the best suited to accommodate the collaboration regarding the child and ensure contact to the other parent it must be included as a strong element for transferring custody to the other parent".

The notion that cooperation is the foremost important skill as a parent and the persistent dismissal of including evidence of domestic violence and abuse of children into the evaluation of custody and visitation cases has resulted in a significant increase in mothers who lose custody of their children.

During the past six years, single fathers in Denmark with sole custody has increased by 9 % nationally and in the municipality of Copenhagen by 16.1 %. In one municipality, the increase



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is as much as 46 %. When adding fathers who are in relationships and married who has been granted residence status and full custody the increase is much higher.

Despite hospital reports, statements from protective facilities and specialized psychologists or psychiatrists confirming domestic violence and/or child abuse the main reason for granting a father full custody is that he will be the best parent to ensure that the child has equal rights to both parents. As of yet no studies have been conducted to confirm that this perception is valid. We have to the contrary observed that the father does not ensure contact between the child and the mother after he gets full custody.

Most psychologists employed by the family court system wrongly attribute a child's statements of abuse to the mother who is then accused of trying to affect the child in an attempt to alienate the father.

In 2011, Socialstyrelsen¹ published a four-year study on 'Children and women in families with violence'. The study demonstrated that the Agency of Family Law (previously Statsforvaltningen) disregarded evidence of violence and sexual abuse of children and mothers subsequently forced children to live with violent and abusive parents. Moreover, the study found that many parents did not inform the authorities about their concerns of sexual abuse because those concerns would not be believed and perhaps result in loss of custody.

In 2013, an empiric study by the department of trauma psychology at the University of Southern Denmark confirmed that mothers who are victims of stalking from the father of their child develop Post-Traumatic Stress Syndrome due to the degrading case handling by Danish authorities. The study revealed that mothers and their children are disbelieved and humiliated with little or no support to cease the stalking. 13,3% of the mothers reported that they withheld information about stalking to the Agency of Family Law as they feared to appear crazy to those evaluating custody and visitation or because they are too afraid of their stalker [2].

Despite children's firm protest and detailed descriptions of violence and abuse psychologists, custody evaluators and social workers routinely attribute the child's opposition to a violent father as being caused by the mother. The absence of knowledge of domestic violence and child abuse contribute to this bias [3], however gender equality politics also appear to contribute considerably to this practice.

2.2 International criticism of the Parental Responsibility Act of 2007

In 2016, the Committee on the Elimination of Discrimination against Women (CEDAW) in case communication no. 46/2012 of March 14, 2016, para 5.5 [4]. found that the Parental Responsibility Act was violating international law. CEDAW decided, by an overwhelming majority, to demand that Denmark change its family law within six months. The Committee's decision was made by 18 votes in favour and one against. The demand from the UN in 2016 should have initiated that Danish authorities reopened and re-evaluated approximately 100,000

¹Socialstyrelsen is part of the Ministry of Social and Domestic Affairs and act as a counselling body on social matters concerning children, disabilities and vulnerable groups.



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custody and visitation cases in order to make decisions comply with the UN recommendations and international law.

The parliament disregarded the report from CEDAW and the mother in the case has not seen her son since he was abducted by the father in the street in Austria. The practice towards mothers remain the same today indicating a gender biased viewpoint resulting in fathers abducting children who legally reside abroad without consequences. Contrarily we have observed an increasingly and worrisome intimidation of mothers who withhold their children from an abusive father after The Agency of Family Law grants the father temporary full custody. Mothers are being arrested and charged for child abduction² if they refuse to comply with the temporary decision for as little as 4 days. In February two mothers got a restraining order against their child because they visited their estranged child in school. The restraining orders are of a duration from 3- 5 years thus barring the mothers from applying for visitation. In both cases the mother was previously denied a restraining order against the father although it was documented that he was violent. Although the Family Court subsequently declares the temporary decision made by The Agency for Family Law unlawful the child will not be returned to its mother because the mother is now charged with a criminal offence.

In May 2019, a Danish father violently abducted his 2-year-old son in a playground in Ukraine [5]. Hereafter the Danish Embassy in Kiev hid him and the child for more than a week notwithstanding that the child legally resided with his mother in Ukraine. The child was only recovered and handed back to his mother because the Ukrainian foreign minister adamantly demanded that the Danish state returned the child. As part of the agreement to have the child returned to his mother the Danish minister of foreign affairs Anders Samuelsen insisted that the grandmother refrained from filing charges towards the father who had violently punched her in the face when he abducted the child.

In 2013, a delegation from the European Parliament submitted a critical report concerning the Danish child and custody abuse. An investigative delegation travelled to Denmark with the purpose of evaluating the practice in custody cases based on initial reports suggesting that children and protective parents were being maltreated by the Danish authorities [6]. Based on interviews with protective parents and evaluation of custody cases the delegation found that Denmark failed to protect children from violent and abusive parents. Some of the mothers who told the delegation about the situation in Denmark was hereafter charged and found guilty of defamation by Danish courts although their statements to the delegation was supported by substantial evidenced.

The report of the Office of the United Nations High Commissioner for Human Rights from May 2021 suggests that several treaty bodies share our concern regarding the lack of protection of women and children from domestic violence [7].

²§ 215 in the criminal law



2.3 Revised Parental Responsibility Act, April 2019

In April 2019 a revised Parental Responsibility Act was introduced and the right of the child to be protected from violence and abuse was prioritised. However, the previous practice continues resulting in victims of domestic violence, mainly mothers, voicing concern about violence and sexual abuse of their children lose custody and residence status of their children. Collaboration skills are still valued as the foremost important parental skill although VIVE (The Danish Center for Social Science Research) in a study from 2017 concluded that collaboration between parents where domestic violence is an issue is unrealistic and unhealthy [8]. Thus the practice continues contrary to empiric evidence.

Although the revised Parental Responsibility Act from 2019 states that the safety of the child must be a priority evidence of domestic violence and abuse of children is still dismissed by the Agency of Family Law and the Family courts and consistently referred to as a conflict. Instead, unsubstantiated allegations of postpartum depression and mental illness of the mothers contribute to decisions in the Agency of Family Law and the Family courts.

The revised Parental Responsibility Act consistently defines domestic violence as violence between the parents although in the majority of cases domestic violence is violence from one parent towards the other parent with the majority of victims being the mother. The taboo of gender biased violence cause distress and leads to traumatising case processing repeatedly resulting in separation between mother and children.

Feedback from mothers and lawyers suggest that the practice of ignoring evidence of domestic violence and abuse of children is worsening. Many mothers also report that the Family Courts and the High Courts pressure them to disclose their protected address to the perpetrator increasing the risk of children witnessing their mother being attacked.

A widespread bias against women among psychologists performing child evaluations appears persistently to be the foundation for decisions in custody cases.

The director of Dansk Psykolog Forenings Selskab for Børnesagkyndige, an association of psychologists performing child evaluations in custody cases, officially announced back in 2016 that his mission as well as the association's was to create equality among mothers and fathers in custody cases [9].

Psychologists and child evaluators are not bound by specific methods and the randomness within this field based on the psychologist's personal bias can cause severe harm to the child.

On September 8, 2020, the Supreme Court decided that the practice could continue undisturbed by awarding a father full custody of a 3-year-old child although there was a long history of domestic violence, stalking and drug abuse [10]. The domestic violence was never assessed and the mother's reactions to the abuse was contributed to her personality and not evaluated as a consequence of the many years of violence and stalking she had experienced. The child was taken away from his mother and was not allowed to see her for 5 months despite the father was given full custody because he was believed to be the best suited parent to guarantee the child equal rights to his parents.

When abusive fathers get full custody they often disallow the child to see its mother and



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although rarely the child will be placed in foster care by the father. This suggest that getting full custody is part of a control and power scheme and not because the father has any interest in the child. In these cases, we observe a pattern where the father has not had any interest in the child, or even rejected his paternity until the mother leaves him.

There are numerous examples of protective mothers who lose contact to their children as the authorities in order to bond the child to the father decide that the child must be protected against the mother's "negative view" of the father suggesting a structural pattern of victim blaming within the custody and visitation system. There is a deep-rooted cultural belief within the authorities that the father has to be convicted for violence by a court before the violence can be considered in custody, residence and visitation cases. Mothers are required to be submissive, cooperating and respectful and DARVO methods are utilised by fathers as well as the system alike to obtain this resulting in women developing a large number of diseases such as heart problems, breast cancer, hormonal disturbances and PTSD.

Though the politicians in 2018 admitted that the Parental Responsibility Act from 2007 and its consequential practice was not in the best interests of the child the parliament has not ordered a re-evaluation of the cases based on previous principles which was not in the best interest of the child.

Nor has the parliament proposed legislation on compulsory training in understanding abuse and domestic violence for those persons making decisions in custody cases including psychologists and judges.

CHAPTER 3

The family law system

3.1 The Agency of family law

On April 2019, The National State Administration responsible for temporary decisions on custody and residency and deciding on visitation was renamed The Agency of Family Law. The authorisation to make legal binding decisions on visitation was removed and the Agency is only permitted to make temporary decisions on visitation. The aim was that The Agency of Law should dedicate additional resources to mediation, investigations and involvement of the children before the cases are sent to the family court for final decision. The political intention with the revision of the Parental Responsibility Act was that children should be protected from domestic violence and abuse. Although the guidelines of the newly established Agency of Family Law state that children should be protected from violence and abuse and that temporary full custody should be given to the protective parent it is not applied in the case procedures. The staff in The Agency of Family Law are not provided any training in domestic violence, child abuse, coercive control or stalking and the in-house psychologists as well as external psychologists are not required to have any knowledge on the subject. The revised Parental Responsibility Act does not contain any legislation pertaining to requirements of the training of the staff on the dynamics of violence against children and domestic violence. On 13th of July 2021 we wrote to The Agency of Family Law asking which definitions of violence against children are utilised when assessing the best interests of the child¹. We referred to The National Board of Health and Welfare's (Socialstyrelsen) definitions [11] which are: 1. Physical violence, 2. Coercive control (Psychological violence) and 3. Witnessing violence. We asked if The Agency of Family Law have any specific requirements to the training and/or education of their employees in regards to the definitions of violence against children. Furthermore, we asked how the employees including the psychologist differentiate between a child in a "loyalty conflict" and a child who are subjected to violence. As of yet The Agency of Family Law has not responded.

A satisfaction survey conducted in 2020 by The Danish Center for Social Science Research (VIVE) showed a rise in parents' dissatisfaction with The Agency of Family Law. The survey showed that parents in so-called high conflict cases including cases of domestic violence (so-called §7 cases) were less satisfied than other parents. 51% of the parents strongly disagreed that The Agency of Family Law had helped them to cooperate against "only" 41% in 2019 [12]. There is a 7% rise from 2019 to 2020 in parents who strongly disagree that The Agency of Family Law has helped their children to have a better day-to-day life with a total of 36% of the parents stating this. The Agency of Family Law spend more than one year processing a case with up to 6 months waiting time before an initial meeting is arranged. This means that

¹See appendix 2. Untranslated document.



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many parents are not allowed contact with their children. Therefore, there is a rise of 7% in parents not seeing their children from 2019 to 2020 from 18% to 25%. We are worried that this number is significantly higher today as waiting times has increased since the survey.

The lack of transparency in The Agency of Family Law is alarming and parents cannot get in contact with case workers. Many mothers experience frustration and are scared for their own safety as well as their children's due to extremely poorly conducted evaluations of the child's best interest. Over and over the authorities in The Agency of Family Law attributes children's testimonies of abuse and domestic violence as something the mother has instructed them to say hence the mother is blamed for exposing the child to a "loyalty conflict".

Even if a child repeatedly and detailed describes episodes of domestic violence and abuse the case workers and psychologists will contribute the child's explicit statements as being because "the child is in a loyalty conflict due to the high conflict between the parents". A case review in 2021 revealed that each time The Agency of Family Law interviewed a 7-year-old child about visitation with a violent father, the case worker a so-called child expert (børnesagkyndig) would alarm the social services stating that the child is manipulated by the mother. A representative from Stop Violence against Children accompanied the child to an interview earlier this year. The representative found the child credible describing the violence in age appropriate details. Nonetheless the case worker yet again wrote to the social service stating that the mother manipulated the child. This despite social service only 2 months prior had conducted an investigation of the matter concluding that the child was not manipulated by the mother. The investigation report was available to the child expert at the time.

Although there since 2011 has been national and international criticism of The Agency of Family Law and its lack of protecting children and mothers from violence and abuse it has not lead to any penalties, sanctions or other consequences for the establishment and its staff. The lack of consequences and a state mandated request that the staff receive education in domestic violence and abuse of children has resulted in a mischievous behaviour where the staff are directly abusive towards parents and children. Eye-rolling, humiliating dismissal of concerns such as laughing out loud, loud sighing and statements such as "you are a bad parent" and "we don't believe you" are common feedback from mothers who has participated in meetings in The Agency of Family Law.

As several of our members accompany children to meetings in The Agency of Family Law we can testify that the aforementioned behaviour also affects children speaking up about abuse and domestic violence. The lack of respect for children's autonomy and right to position themselves is concerning and several members have reported observing staff in The Agency of Family Law talking degrading about the child's mother indicating to the child that the mother suffers from mental illness. Further the majority of the summaries from interviews with children written by staff in The Agency of Family Law are misleading as the child's account of domestic violence is either omitted or incorrect. If the abuse and violence is included in the summary the staff member will habitually interpret the child's account as if the child is in a loyalty conflict and manipulated by the mother and raise concern that the child's development will be flawed if it is not protected against the loyalty conflict. In this way focus is taken away from the abuse and violence.



CHAPTER 3. THE FAMILY LAW SYSTEM

July 2018, we contacted The State Administration, now The Agency for Family Law, with concern about the raising number of children who was abruptly separated from their mother and left with only a few hours supervised visitation rights. For most of the decisions we viewed the argument of the minimal visitation rights was based on the concept that in order for the child to bond with the father it should be left to do this undisturbed. The State Administration answered that they seldom make decisions to separate children from their primary caregiver². This answer is incorrect. In 2018 The State Administration was mandated the right to decide on visitation, and we can testify that the procedure of granting the mother a minimum of visitation was normal hence violating several treaties. In the same letter, we also asked how The State Administration implemented the Istanbul Convention in their procedures and considerations on the child's best interest when deciding on visitation and custody in cases where stalking, domestic violence, physical violence and coercive control was an issue. The State Administration answered that they facilitated separate meetings for the parents. The answer implies that The State Administration was oblivious of the regulations in the Istanbul Convention, why we advise that The Agency of Family Law receive dedicated training in the regulations and content of the Istanbul Convention.

3.2 The Association of Danish Courts

The Association of Danish Courts wrote to us in September 2019³ answering our questions about educations of judges and court mandated psychologists in domestic violence. The Association of Danish Courts emphasised in their answer that court mandated psychologists normally have a specialist education. The Association of Danish Courts did not answer our question about the requirement of psychologists to have knowledge about domestic violence. As to our question of whether judges with the new Parental Responsibility Act should receive training in domestic violence the Association of Danish Courts lists a number of courses available to judges, however none of the courses concerns domestic violence, victim focused communication etc.

3.3 The Danish Supervisory Board of Psychological Practice

On 7th August 2021, we write to The Danish Supervisory Board of Psychological Practice asking questions pertaining to the requirements of knowledge and education in domestic violence, stalking, coercive control, physical violence, economical violence, social control and structural violence in the authorisation process of psychologists⁴. As of yet The Danish Supervisory Board of Psychological Practice has not responded to our questions but has informed us that the questions will be answered by the juridical team.

²See appendix 3. Untranslated document.

³Appendix 5

⁴See appendix 4. Untranslated document.



3.4 Other

On 16th March 2021, the parliament decided that all digital post regarding a child must be sent to both parents if there is shared custody [13]. It has been a political equality debate for many years where among others the Institute for Human Rights have participated latest by a hearing response in January 2020 [14]. As such we support that mothers and fathers equally receive information and notices about their children, however, we are concerned that the bill does not specify how children and mothers subjected to domestic violence and stalking can be protected. The law will guarantee both parents the right to receive information about for example the child's dentist and doctor appointments. Potentially it can lead to harmful and dangerous situations if the abusive parent knows where the child accompanied with its mother is and shows up and attack the mother and/or the child.

Further we are concerned that the Institute for Human Rights does not raise any awareness of such potential dangerous situations in their hearing response. We have observed a persistent tendency where even large and established organisation shy away from talking about domestic violence and stalking as a potential danger for children and mothers in connection with issues relating to father's rights.

CHAPTER 4

The Children

As of yet studies on the extent of trauma in children separated from their protective parents has not been conducted in Denmark. However, we have noticed an increase in forced placement into foster care, massive support from social services throughout the country and misthriving of the children where an abusive and violent father has attained full custody.

Further serious failure to thrive and diagnosis of mental and physical disorders are common among children who are forced to live with a father who has committed domestic violence or abused the child. Although, the child's wellbeing was optimal in the care of the mother Danish authorities equally blame the mother for the child's lack to thrive in the father's custody or even fully contribute the child's state to the mother's efforts of protecting the child. The latter accusation frequently results in full discontinuation of contact between the mother and child. Since 2016 experts has identified an escalation of children and young people who fail to thrive. There has during the past eleven years been a 90 % increase in children and young people in psychiatric treatment. There is a 200 % increase in children and young people with anxiety and depression in the same period. According to the national Agency of Health 19 % of all young people struggle with mental health issues[15].

The increase in the failure to thrive among Danish children has progressed correspondingly to the harmful practice of the Parental Responsibility Act from 2007 as well as the increasing support from politicians to the views of rather aggressive father's rights organizations.

In custody and visitation cases gender equality and generating statistical values showing that fathers equally attain full custody of children seems to be the underlying cause of the degrading and inhumane treatment domestic violence survivors and abused children meet in the family court system.

The rising number of admissions of mothers and children into protective facilities and shelters are not reflected in custody and visitation cases. Many mothers are intimidated by court mandated psychologists to cease talking about domestic violence. The Agency of Family Law has not discontinued its practice of disbelieving mothers who voice concern for her own as well as her child's safety and health due to violence and abuse.

A report from UNICEF Study of Danish schoolchildren's knowledge of human rights and the Convention of the Rights of the Child published in September 2019, show that children and young people in Denmark accept violence, surveillance and torture. The report further reveals that almost twice as many young people between the age of 15 -25 years of age have used drugs within the past month compared to a similar study in 2014. The result shows that 24.600 young people are using drugs.



CHAPTER 4. THE CHILDREN

The survey is based on responses from over a thousand Danish pupils in 6th - 10th grade and shows:

- Every fifth (20%) **thinks it is OK for the police to use torture in special cases**. In addition, 30%, which is neither for nor against.
- More children and adolescents than before think it is okay for parents to physically punish their children. It now applies to 8% (in addition, 7 % who neither agree nor disagree) while in 2014, only 3 % felt that parents should use physical punishment.
- The proportion of children and young people who think it is okay for the state to monitor citizens has increased from 4 % in 2017 to 11 % in 2019.

The study shows that it is only in the 9th grade that the children gain a greater knowledge of their rights. It is problematic that children only attain knowledge of their rights when they are out of primary school[16]. Although we due to lack of empiric data are unable to prove a direct link between the lack of thriving and increase in children accepting violence from their parents to the practice within the family court system the study nonetheless suggests that children increasingly grow up in a society where violence is normalised.

A survey from 2009[17] showed that 19% of children between the age of 11 -16 in Copenhagen has suffered physical violence. 17% has seen a family member suffer physical violence . As of yet the municipality has not developed any strategies to combat the high number of physical violence in the municipality. This was confirmed by the mayor of social affairs in Copenhagen in 2020 in a letter to Stop Violence against Children. Instead social service in Copenhagen continue to victim blame and label domestic violence a conflict between the parents. Although none of the 98 municipalities in Denmark has developed any specific strategies to combat domestic violence Copenhagen is the only municipality who has conducted an independent survey and thereafter ignored it. We have reviewed a high number of cases from the social service in Copenhagen and found that social workers to a very high degree ignore children, mothers, shelters and police accounts of violence. Social service in Copenhagen insist that domestic violence is a conflict and several mothers report that social workers discredit statements from crisis centres stating that they are too pro-mum. Further social workers consistently disregard experts in domestic violence and coercive control. Victim blaming and threats of placing the children in foster care is common practice in Copenhagen which is particular worrisome as the survey already in 2009 pointed out that 17% of the children has witnessed violence and 19% experienced physical violence.

In 2016 VIVE conducted a survey revealing that every 6th child in Denmark experience physical violence, every 12th child experience coercive control and that 33.000 children grow up in homes where there is domestic violence[18]. The numbers were unchanged according to a similar survey conducted by VIVE in 2011.

Between 2016 to 2018 twenty-two (22) children were killed by their parents of which the majority were killed by a vindictive father [19]. Although the number of children killed by their father is nearly equivalent to the number of women killed by their partner each year the issue is barely mentioned by the press or the politicians.

CHAPTER 5

Comments to the Danish Governments report

Comments to section 1.1

Although coercive control was criminalised in April 2019 under section 243 a recent data comparison found that only 2% of the 616 reported incidents of coercive control led to a conviction [20]. In June 2021, The Ministry of Justice found that 6,8% of the population (16-74 years of age) has experienced coercive control and estimated that approximately 108.000 persons above the age of 16 experience coercive control each year [21]. Those numbers are not reflected in the social service and family court systems who continue to practice the dogma of “conflict” instead of coercive control. The lack of a national action plan and legislation considering education and best practice in cases of coercive control within the authorities has caused an unchanged practice within the social service and family court system thus creating an illusion that coercive control is not acceptable. The illusion initially encouraged mothers to talk about the coercive control they experienced in the relationship with the father of their children to case workers in The Agency of Family Law and social service leading to an increased pressure on mothers and reporting of a significant rise in threats and intimidation of mothers from the authorities.

Comments to Section 1.1.3

Until there is an explicit national action plan and educational strategy for handling cases of domestic violence within the authorities we do not agree that gender neutral language is an advantage for children and mothers reporting domestic violence, rape and abuse. Due to the gender-neutral language most mothers report that they are intimidated by police officers when they try to report non-fatal strangulation, rape, domestic violence and coercive control. One mother explains (anonymised as B10 in the organisation’s database):

“My son’s father tried to strangle me and hit our son. I was in the ER twice but the police refused to listen to my statements. They said it was due to the parental conflict that he tried to kill me. The police officer further asked me if I was really so vindictive that I wanted to ruin my husband’s career by reporting the violence? I decided not to file a report as it was clearly that the police considered me to be “just a vindictive mother”. I developed PTSD due to the violence and the way the authorities treated me and my son”.



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

Another mother explains (anonymised as B2 in the organisations database):

“The father of my child raped me, cut me with scissors in my face and systematically broke my things. I had to stay in a crisis center for a year. The police officers told me that if I behaved nicer he would probably stop being violent. I have been diagnosed with PTSD”.

We hold that gender-neutral language undermines women’s and children’s right to live safe lives as gender-neutral language uphold a culture where violence is labelled “conflict”. We refer to The Parental Responsibility Act where domestic violence is referred to as “violence between the parents”.

We recommend that this sentence in The Parental Responsibility Act gets altered and comprehensive guidelines on domestic violence are added to The Parental Responsibility Act.

Comments to Section 1.1.4

The agreement (Flerårsaftalen) referred to does not contain specific outcomes related to education of prosecutors and police officers. The syllabus is unclear and does not contain specific procedures when the victim shares a child with the perpetrator. Primo 2021 the organisation Stop Violence against Children exchanged written communication with the State Prosecutor of Copenhagen. The prosecutor’s office referred to domestic violence as “a conflict”, utilised victim blaming language and proposed the victim accepted to be exposed to criminal behaviour because she shared children with the perpetrator.

Comments to section Section 1.1.6

There have been several improvements in the health care system for women and children subjected to domestic violence and rape. However, the experts in these units are frequently overruled by social workers in the social service units in the municipalities. The national action plan for 2019-2022 lack strategies for the social service in the municipalities.

One mother explains (anonymised as B7 in the organisation’s database):

“After the second strangulation attempt I leave the father to my children. He was convicted in the court and had to pay me compensation. Because I had been subjected to violence the social services thought I failed as a role model for my children and therefore place my children in foster care. Hereafter the father gets full custody of all the children. I was shortly hereafter diagnosed with PTSD”.

Another mother explains (anonymised as C1 in the organisation’s database):

“Me and my children lived with a violent man for many years. The social service ignored all concerns from health care experts and professionals. All my children got traumatised and I developed a chronic heart condition. This could have been avoided if social services had helped us”.



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

We suggest mandatory education on domestic violence and coercive control for social workers and case workers. The education should be of no less than 30 ETCS points. Further we recommend that the inter-ministerial working group on combatting domestic violence actively involves social service across the country to facilitate change in how social workers perceive domestic violence and the complications for children (we further refer to our comments in section 9.1.).

Comments to Section 5.1

The national action plan for 2014-2014 referred to did not contain any focus points relating to the social service and family court system [22]. The new action plan for 2019—2022 [23] similarly does not contain any educational strategies for the social service and family court system in relation to abuse of children and domestic violence when there are shared children. Nor on page 21 entitled The permanent effort to combatting violence in close relationships is education of staff members in court, The agency of family law and social service units mentioned as part of combatting domestic violence. This is surprising as especially The Agency of Family Law – previously The State Administration – has been heavily criticised for a more than a decade by national and international authorities for not protecting children and parents from domestic abuse and sexual abuse.

We suggest legislation aimed at education for psychologists and staff members in The Agency of Family Law and social service units across the country.

Comments to Section 9.1

In 2013 Rambøll evaluated the national action plan on combatting domestic violence here under also the inter-ministerial working group [24] and found that lack of central governing and lack of mandate within the inter-ministerial group to govern was negatively affecting the efficiency of the group. The evaluation revealed difficulties with meeting deadlines and that the working group lacked an overall strategy for combatting domestic violence.

Rambøll recommends involving social service units in the municipalities in the strategies to combat domestic violence. Further Rambøll recommends that the inter-ministerial working group acknowledge that social service plays a major part in creating change for victims of domestic violence and therefore, the inter-ministerial group should explore the social service units need for knowledge about domestic violence.

The working group is not visible on any of the ministries websites and there is a lack of transparency making it difficult to identify the aim and objectives of the group.

The group was established in 2002 and according to the sparse information online about the inter-ministerial working group representatives from each ministry meet up every six months. It is the Ministry for Equality which hold the coordinating function but without mandate to govern the group. Although Rambøll in 2013 recommended that the group ceased to work in



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

decentralised manner it has not led to any change. The lack of governing may be the reason why such an essential recommendation as involvement of the social service in the process of changing circumstances for victims of domestic violence and child abuse has been ignored.

In 2019 Lev Uden Vold analysed the social service units approach to domestic violence and found that zero municipalities and social service units had strategies to support and help victims of domestic violence [25]. Had the inter-ministerial working group followed up on the recommendations from Rambøll in 2013 it is likely that the municipalities by now would have developed and implemented strategies.

We suggest that a domestic violence commissioner for the inter-ministerial working group is appointed and that the inter-ministerial working group also focus on the family court system, The Agency of Family Law and social service specifically in regards to specialised education of staff, hereunder also psychologists.

Comments to section Section 12.1.4

4th paragraph: Lev Uden vold (Live without Violence) correctly received 39,6 million Danish kroner until 2024. However, as part of the financial contract with the government Lev Uden Vold was required to terminate all therapy groups for women surviving domestic violence and instead focus on violence against men. We worry that the government with this decision actively contribute to an increasing gender splitting in Denmark. Focus and research on violence against men should be an including practice and not lead to neglect of women's needs.

We suggest that the government allocates sufficient funds to Lev Uden Vold to concurrently facilitate therapy for both men and women.

Comments to Section 21.1

We disagree and hold that the prevalence of domestic violence and misogyny resembles the results of the survey by the Agency for Fundamental Rights (2014).

We recommend that future surveys made by the Danish state contain a victim focused approach and also include questions relating to structural violence.

Comments to Section 21.2

VIVE and Lev Uden Vold has correctly collected valuable information and research on coercive control and published the information in pamphlets accessible for social workers and other professionals working with children hereunder also psychologists and case workers in The Agency of Family Law. This information does not seem to have been efficiently disseminated to the social service units and municipalities as we continue to observe an alarming absence of knowledge about coercive control against children and women among social workers in the social service.



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

We suggest that the inter-ministerial working group address the lack of distribution of this essential knowledge to the municipalities and The Agency of Family Law.

Although the social service in the municipalities are obliged to refer children to the Children's Houses on any suspicion of violence or sexual abuse social workers in the social service units frequently omit or even blankly refuse to do so. In most of the cases we review the social workers in the social service hold that domestic violence is a conflict between the parents and contribute the conflict to the mother's allegation of violence.

Comments to Section 22.1

We refer to our main report and the cases in appendix 1. We recommend that action should be taken immediately as the practice resembles torture.

Comments to Section 22.2

We have reviewed several cases where social workers from the social service has misled The Agency of Family Law leading to harmful decisions. When the social service units mistreat cases of domestic violence and abuse of children it leads to wrongful decisions. We therefore disagree that this procedure qualifies and strengthen the practice of The Agency of Family Law.

Comments to Section 23

We recommend mandatory training in communication with victims of domestic violence as well as children.

The Parental Responsibility Act and its legal guidelines do correctly hold that the child must be protected against violence. However, the malpractice previously described result in harmful decisions and in normalisation of violence among Danish children.

The consequences of this kind of malpractice is at present none which is why we recommend that knowledge and education about structural violence is included in the national action plan.

The practice is unchanged. Violence and coercive control is still referred to as a conflict between the parents and the protective parent is forced to hand over the child to visitation. The pressure consists of threatening her with removal of custody or placing her children in foster care. Children who have seen a parent subjected to violence by another parent and therefore express angst and unwillingness to be handed over for visitation are by psychologists and visitation evaluators considered to have been manipulated by the protective parent. With the Supreme Court decision from September 2020 (appendix 1, case 2), it has been increasingly difficult to protect children from visitation with abusive parents. According to our data the foremost common form of violence children witness is non-fatal strangulation and coercive control which rarely leads to conviction and therefore the children are not protected against visitation.



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

The government has been notified that the practice from 2007 continue despite the reviewed Parental Responsibility Act and we recommend that the government legislate further on the issues of this kind of malpractice.

Comments to Section 32.2

We find that it is not a violation of the Act on Gender Equality to promote a gender specific language within the social service and family court system. Promoting gender specific language ensures that motherhood is preserved. Today being pregnant, giving birth and breastfeeding does not hold any value in The Agency of Family Law. Family court or social service. Today mothers are required to discontinue breastfeeding in order for a father to have uninterrupted and successive visitation with children below the age of two. Mothers are required to attend meetings with social service and The Agency for Family Law shortly after giving birth which stresses her body and thereby milk production.

We find that the equality politic have a negative effect on mothers and babies and we find that it is necessary to enforce a gender specific language to protect the concept of motherhood.

Although the government remarks that it is aware that rape and domestic violence is gender specific the gender-neutral language nonetheless manifest in an oppressive culture within the social- and family court system leading to victim blaming and separation of mothers and children. We recommend that education on domestic violence and coercive control become mandatory for all authorities including psychologist and judges and that the government urgently launch an information campaign about domestic violence and coercive control to raise awareness outside the government about this issue.

Comments to Section 32.4

We appreciate that the Government has increased availability in crisis centres with additional 96 places as well as we appreciate legislation guaranteeing women in crisis centres 10 hours of counselling with a psychologist. There is an overall shortage of places in crisis centres and in 2018 The National Board of Health and Welfare (Socialstyrelsen) reported that crisis centres in 2017 had to reject women seeking refuge 4561 times which is equivalent to 6 in 10 women who are rejected due to lack of available places [26].

We are worried that only 96 extra places are not sufficient to meet the demand for acute protection among women and children habiting in Denmark and even may be fruitless if not followed up by protection in courts, social services and The Agency for Family Law.

Today women and children are not allowed any support in family courts except a lawyer. Feedback from mothers attending family courts demonstrate that many perpetrators are exhibiting an intimidating and threatening behaviour inside the courts and that judges are not willing to stop the behaviour.

Pretending to cut the head off, intense starring, shooting gesticulations, eye rolling and mouthing “I kill you” are the most common behaviour victims experience inside the family court.

Mothers who have children with different father’s experience that the family court allow both



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

fathers in the court at the same time or place hearings on the same day so that the mother has to endure 6-7 hours in court. This despite solid documentation of domestic violence and coercive control and obvious collaboration between the fathers by harassment and shared lawyer.

Judges lack of understanding domestic violence and coercive control often result in the court room being a very unsafe place. Further the family courts are lacking in victim focussed case proceedings leading to victims being severely re-traumatised. Psychologists working in the courts are not specialised in victim focussed communication and frequently these psychologists are the reason why women are re-traumatised. Court appointed psychologists are a rather small group of psychologists consisting of the same psychologists with the same bias and the same lack of understanding of domestic violence and coercive control. These psychologists are extremely harsh towards victims of domestic violence and victims are frequently suffering immense abuse from the psychologists during tests as well as in the court room. These psychologists practice victim blaming and perpetuate myths about domestic violence, coercive control and abuse of children endangering the lives of children and mothers. We are therefore sceptical as to the monopoly by psychologists to treat women in crisis centres and suggest that therapists such as psychotherapists are included in the bill.

However, treating the mother can be meaningless unless the authorities in social service, The Agency of Family Court and family courts equally protects the mothers and children in cases of domestic violence and coercive control.

Although coercive control is criminalised only 2% of the cases lead to a conviction. Due to the low conviction rate, most mothers are too afraid to report coercive control to the police as she will be accused of harassment if the father is not convicted and thereby increase the risk of losing her children.

We highly recommend that family courts allow independent specialised support to survivors of domestic violence and coercive control as well as the use of independent expert witnesses in family courts.

We suggest that Denmark to combat violence against women and children broaden the perspective and focus on the abusers. However, concentrating on the abuser should not decrease the help offered to women which is currently the situation with Live Without Violence (Lev Uden Vold).

We suggest adding a section to the criminal law criminalising none-fatal strangulation and make it punishable according to the regulations set out in the criminal section for attempted murder.

Comments to Section 33

A recent study shows that 70% of the women taking residence in a crisis centre display grave symptoms of PTSD or complex PTSD [27]. Nonetheless mothers are forced to sit with the perpetrator in educational settings such as school meetings with teachers, the family court and social service. As of yet there are no regulations protecting mothers subjected to abuse and violence in meetings with schools or kindergarten. The lack of understanding of domestic



CHAPTER 5. COMMENTS TO THE DANISH GOVERNMENTS REPORT

abuse, re-traumatisation and coercive control in educational institutions is disturbing. Mothers report that they rather not attend meetings with the teachers about their child than sit at the meeting with the perpetrator. Mothers who choose to attend these meetings are re-traumatised. All have difficulties trusting the institution and the teachers because they refuse to conduct separate meetings and are prone to victim blaming. Teachers misinterpret mother's reactions as unwillingness to cooperate which transpire in statements to the social service. We suggest that separate meetings by law should be available to survivors of domestic abuse in public and private schools, kindergarten and social service.

We appreciate the effort made by The Agency for Family Law where it seems that separate meetings have become customary except for a few cases.

CHAPTER 6

Recommendations

We find that the Kingdom of Denmark lacks compliance with international obligations and show severe disrespect towards the Istanbul Convention. We therefore recommend that GREVIO advise and take measures against Denmark to ensure that Danish authorities educate all staff including court mandated psychologists as well as judges in domestic violence and violence against children.

We also suggest that GREVIO advise Denmark to conduct research directed solely at family law cases where domestic violence has transpired or is alleged by the mother or/and the child subsequently leading to the children being separated from their mothers. The aim and objective should be to explore short- and long-term effects in children and families where the children are taken away from a mother who survived domestic violence, rape and/or abuse, or where the child explicitly has explained it is subjected to violence, abuse and/or paedophilia. Further research into the extend of trauma induced by family court, The Agency of Family Law and appointed psychologists is also recommended.

Further we suggest that non-fatal strangulation be criminalised under its own section in the criminal law punishable according to the regulations set out in the criminal section for attempted murder.

In order for the inter-ministerial working group to work efficiently we suggest that a domestic violence commissioner is appointed. This to guarantee that the inter-ministerial working group obtain increased visibility within the public and to ensure a more centralised regulation ensuring deadlines are met.

To prevent re-traumatising we highly recommend that family courts allow specialised support to survivors of domestic violence and coercive control as well as the use of expert witnesses in family courts.

Lastly, we suggest that GREVIO takes measures against Denmark to guarantee that all cases where domestic violence has not been evaluated as part of the case proceedings are re-opened and re-evaluated according to the child's best interest as defined by the Istanbul Convention, the European Convention for Human Rights and the Convention on the Right of the Child.

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Appendix 1: Confidential

Case 1: Confidential

Case 2: Confidential

Case 3: Confidential

Case 4: Confidential

Case 5: Confidential

Case 6: Confidential

Case 7: Confidential

Case 8: Confidential

Case 9: Confidential

Case 10: Confidential

Case 11: Confidential

Appendix 2: Questions to
The Agency of Family Law
(2021)



APPENDIX 2: QUESTIONS TO THE AGENCY OF FAMILY LAW (2021)

STOP VOLD MOD 

Familieretshuset
Storetorv 10
6200 Aabenraa

Att: Anette Hummelshøj

Ruds Vedby den 13. juli 2021

Vedr. Familieretshusets genoprettelsespligt m.m.

Vi anmoder hermed Familieretshuset om at svare på nedenstående spørgsmål:

1. Såfremt daværende Statsforvaltningen og nuværende Familieretshuset har truffet/træffer afgørelser baseret på kommunale oplysninger, som efterfølgende viser sig ikke at være retvisende, har Familieretshuset så pligt til at revurdere sagen, når de retvisende oplysninger indgår til Familieretshuset?

1.1. Såfremt domstolene stadfæster en afgørelse i en sag, som Statsforvaltningen eller Familieretshuset har truffet midlertidige afgørelser i, også baseret på ikke retvisende oplysninger fra en kommune, agter Familieretshuset derefter at genbehandle og revurdere sagen, når de retvisende oplysninger indgår til sagen?

1.2. Såfremt Statsforvaltningen træffer afgørelse alene på oplysninger fra en kommune, og det derefter viser sig at disse oplysninger ikke er retvisende, er det så ansvarspådragende for medarbejderne som ikke oplyste sagen behørigt?

1.3. Har Familieretshuset pligt til at undersøge eget erstatningsansvar i forbindelse med indgribende afgørelser truffet alene på baggrund af graverende fejloplysninger fra en kommune, og som efterfølgende har bragt et barn eller en forælder i mistrivsel?

1.4. Når Familieretshuset informeres om, at oplysninger fra en kommune er fejlagtige, har Familieretshuset da pligt til at undersøge sandhedsværdien af oplysningerne?



APPENDIX 2: QUESTIONS TO THE AGENCY OF FAMILY LAW (2021)

1.5. Såfremt det viser sig at Statsforvaltningen eller Familieretshuset ikke havde lovhjemmel til at træffe en indgribende afgørelse, har Familieretshuset da pligt til at genbehandle sagen og reparere skaden ved bedst muligt, at stille partnerne som om skaden ikke var sket jf. art. 41 i Den Europæiske Menneskerettighedskonvention?

2. Såfremt Statsforvaltningen eller Familieretshuset har truffet indgribende afgørelser om samvær eller midlertidige afgørelser om samme, bopæl og forældremyndighed (som stadfæstes ved domstolene), hvorefter barnets dagligdag ændres markant, hvor lang en periode skal barnet kunne dokumenteres i mistrivsel, f.eks. via børnefaglige undersøgelser (§ 50), særlig støtte via kommunen, udtalelser fra psykologer og andet fagpersonale inden Familieretshuset revurderer/genbehandler sagen?

3. Hvorledes sikrer Familieretshuset at barnets bedste tilgodeses jf. udviklingsteorien om tilknytning, i pludselige og indgribende afgørelser, hvor barnet flytter bopæl?

3.1. Hvor lang tid anser Familieretshuset, at et barn skal italesætte et savn af en forælder, som barnet pludselig mister via en indgribende afgørelse, førend barnet er i risiko for, at udvikle så alvorlige både korte og længerevarende reaktioner på adskillelsen, at sagen skal genbehandles/revurderes?

3.2. Hvor længe anser Familieretshuset at et barns skolefærdigheder må være reducerede efter en indgribende afgørelse, førend sagen skal revurderes/genbehandles?

3.2. Art. 8 i Den Europæiske Menneskerettighedskonvention giver børn og forældre ret til et familieliv. Har Familieretshuset pligt til at lægge denne artikel til grund i de afgørelser der træffes, såfremt der ikke er vold eller misbrug i sagen?

4. Benytter Familieretshuset Socialstyrelsens definitioner af voldstyper mod børn, når der skal træffes midlertidige afgørelser om samvær, bopæl og forældremyndighed?

Definitionerne kan læses på følgende link:

<https://socialstyrelsen.dk/born/overgreb/seksuelle-og-voldelige-overgreb/fysiske-og-psykiske-overgreb/definition-og-lovgivning-om-vold-mod-born-og-unge>

4.1. Har Familieretshuset retningslinjer og krav til eksterne aktører f.eks. Familieprojektet i forbindelse med overvåget samvær i sager, hvori der indgår vold? F.eks. krav til eksterne aktørers specialviden om de af Socialstyrelsens



APPENDIX 2: QUESTIONS TO THE AGENCY OF FAMILY LAW (2021)



STOP VOLD MOD

definerede voldstyper mod børn, partnervold, re-traumatisering og sluseordninger/beskyttelse af voldsudsatte forældre og børn?

4.2. Har Familieretshuset specifikke krav om specialviden om voldstyper mod børn, reaktioner på vold og partnervold til de psykologer og børnesagkyndige, som arbejder i Familieretshuset, herunder også eksterne psykologer som foretager børnesagkyndige undersøgelser? I så fald hvilke?

4.3. Når et barn fortæller om vold, typisk begået af far mod mor (overværelse af vold) eller mod barnet (psykisk og fysisk), hvorledes skelner Familieretshuset da om barnets fortælling er retvisende og derved skal lægges til grund i en afgørelse?

4.4. Hvorledes afgør Familieretshuset om et barn er i loyalitetskonflikt kontra voldsudsat?

Appendix 3: Answers from
The State Administration
(2018)



APPENDIX 3: ANSWERS FROM THE STATE ADMINISTRATION (2018)



Statsforvaltningen, Østergade 41, 8000 Ringsted

Hjertestilhed - Stop Vold mod Børn
Jens Warmings Vej 34
2300 København S

Dato: 30-08-2018

Kære Hjertestilhed - Stop Vold mod Børn

Forældremyndighed og samvær

Statsforvaltningen er af ministeren blevet bedt om at svare på jeres henvendelse af 17. juli 2018, hvor I stiller flere spørgsmål omkring Statsforvaltningens sagsbehandling i forbindelse med skilsmisser, børn og samvær og vold.

Statsforvaltningen
Storetorv 10
6200 Aabenraa

Sagsnummer: 2018 - 40925
SAGSBEHANDLER: Annette
Gregersen

Indledningsvist skal jeg oplyse, at Statsforvaltningen altid selv oplyser sine sager og således aldrig lægger kommunernes sagsbehandling til grund for en afgørelse omkring samvær. Det er dog ofte relevant at høre en kommune eller inddrage dem, hvis familien har en sag i kommunen.

Telefon: 7256 7000
EAN-Nr. 5798000362222
skrivtil os via borger.dk
www.statsforvaltningen.dk

Det er i øvrigt et stort politisk ønske at kommunen inddrages, så borgere oplever en helhedsorienteret indsats i forhold til deres uenigheder og udfordringer. I det nye familieretshus vil samarbejdet imellem familieretshuset og kommunerne således søges øget betragteligt.

ÅBNINGS- OG TELEFONNUMRE
findes på
www.statsforvaltningen.dk/kontakt

Svar på spørgsmål 1.

Statsforvaltningen bruger følgende parametre til at kategorisere, at en sag er en højkonfliktsag:

- Forældrene har rettet gentagne henvendelser til Statsforvaltningen (der skal være tale om henvendelser af en vis "tyngde").
- Forældrene er fastlåste i forhold til deres konflikt.
- Forældrene har mere fokus på konflikten end på barnets forhold, og mangler evne til at se udover egne behov
- Barnet bliver brugt som en del af forældrenes konflikt
- Forældrene har været til gentagne rådgivninger, konfliktmælinger, jurist- og samarbejds møder, eller har gentagne sager i fogedret, hos politi eller kommune.



APPENDIX 3: ANSWERS FROM THE STATE ADMINISTRATION (2018)

Svar på spørgsmål 2.

Inddragelse af børn i form af egentlige samtaler med barnet afhænger af det enkelte barns modenhed.

Det vil dog formentlig for de fleste ca. 7-årige være muligt at gennemføre en samtale. Der vil også i nogle tilfælde kunne gennemføres samtaler med yngre børn, ligesom der i andre tilfælde vil være 7-årige, som har svært ved at formulere sig og give udtryk for deres synspunkter ved en egentlig samtale.

Statsforvaltningen er opmærksom på, om der er tale om et barn med funktionsnedsættelser.

Det vil ofte afhænge af det enkelte barn, om dets perspektiv belyses bedst ved en samtale eller på anden måde. Hvis det vurderes, at barnet ikke er modent nok til, at der kan afholdes en samtale med barnet, må barnets perspektiv søges tilvejebragt på anden vis. Dette kan f.eks. ske ved erklæringer fra daginstitutioner eller andre professionelle, der har et godt kendskab til barnet, ved en børnesagkyndig deltagelse i sagsbehandlingen fx ved et tværfagligt møde, eller ved en børnesagkyndig undersøgelse eller udtalelse.

Statsforvaltningen kan også undlade at inddrage barnet direkte i sagen, hvis det må antages at være til skade for barnet. Det kan også undlades at indkalde barnet til samtale, hvis det vurderes at være unødvendigt, fx fordi forældrene bliver enige, hvis det for kort tid siden har været inddraget i en sag, eller hvis der er tale om uenighed omkring mindre ting, som vil kunne afgøres, uden at barnet inddrages. Her tænkes fx på spørgsmålet om afhentningssteder og afhentningstidspunkter, der kan fastsættes uden, at det har nogen betydning for barnets situation.

Når Statsforvaltningen træffer afgørelser om forældremyndighed, bopæl og samvær sker det altid ud fra, hvad der er bedst for barnet. Barnets perspektiv bliver belyst på flere måder. En af dem er ved en børnesamtale med barnet, hvis barnet er så modent, at der kan holdes en samtale. Det fremgår af vejledning om samvær, at der i takt med barnets alder og modenhed skal lægges afgørende vægt på barnets egne synspunkter ved afgørelser om samvær.

Det fremgår også af vejledningen, at det kan forekomme, at barnets udtalelser må antages ikke at være udtryk for barnets egen mening om samværet, fordi barnet er under kraftig påvirkning fra en af forældrene eller andre.

Når Statsforvaltningen således skal vurdere, hvilken vægt et barns ønske om samvær skal tillægges, ses der på barnets alder og på, om barnets udtalelser er udtryk for barnets egen mening, og om barnet vurderes at kunne overskue sine egne ønsker.

Svar på spørgsmål 3.

Statsforvaltningen har et korps af eksterne psykologer, der udarbejder de børnesagkyndige undersøgelser.

Børnesagkyndige undersøgelser udarbejdes af autoriserede psykologer, gerne med speciale i børnepsykologi/-psykoterapi. Når vi visiterer sagerne, ser vi på, hvad der er på spil hos forældrene, og matcher dem op imod kompetencerne hos vores eksterne undersøgere, så vi i videst muligt omfang sikrer, at de præcist rigtige kompetencer tilstedes.



APPENDIX 3: ANSWERS FROM THE STATE ADMINISTRATION (2018)

Der kan klages over undersøgelser til psykolognævnet, og det har alvorlige konsekvenser for den pågældende psykolog, hvis vedkommende ikke har levet op til psykologlovens bestemmelser.

Når nye psykologer rekrutteres, slås stillingen op og de bedst kvalificerede psykologer indkaldes til samtale. Der er interne børnesagkyndige, som læser undersøgelser igennem og sikrer kvaliteten løbende.

Hvis en børnesagkyndig undersøger laver en undersøgelse, der ikke lever op til Statsforvaltningens krav til kvaliteten, får de fremadrettet ikke nye undersøgelser hos Statsforvaltningen.

Svar på spørgsmål 4.

Statsforvaltningens faglige referenceramme er udviklingspsykologien og herunder tilknytningsteorien.

Statsforvaltningen anbefaler som hovedregel korte, men hyppige samvær for små børn, både for at sikre, at barnet ikke adskilles for lang tid fra sin primære omsorgsperson, men også for at sikre børn mulighed for at knytte sig til den anden forælder.

Tilknytningsforskningen peger på, at børn typisk har flere voksne de er knyttet til, og at dette også er sundt for barnets udvikling. Statsforvaltningen træffer som hovedregel ikke afgørelser om, at et barn helt skal adskilles fra sin primære omsorgsperson. Det er domstolene, der træffer afgørelser om ændret bopæl og forældremyndighed.

Svar på spørgsmål 5.

FNs børnekonvention ligger til grund for den lovgivning, der regulerer Statsforvaltningens arbejde, både hvad angår børns ret til at blive inddraget om egne forhold, børns ret til beskyttelse og børns ret til at kontakte sin familie.

Medarbejderne i Statsforvaltningen er embedsmænd, der skal overholde og følge reglerne på det familieretlige område, det være sig konventioner, love, bekendtgørelser, vejledninger og instruktioner fra ledelsen etc. I det omfang at man som medarbejder måtte vælge ikke at udføre sit arbejde i henhold til de udstukne retningslinjer, vil dette naturligvis have ansættelsesretlige konsekvenser.

Svar på spørgsmål 6.

Statsforvaltningen indkalder forældre til separate møder, når forældre gør gældende, at det ikke er muligt for dem at sidde sammen til samme møde fx på grund af vold eller trusler om vold. Det er ikke et krav for at få mødet opdelt, at vold skal være anmeldt til politiet. Mødelederen har også mulighed for at opdele et møde, hvis det viser sig at den ene forælder er bange for den anden forælder. Statsforvaltningen har netop udarbejdet en faglig guideline, hvor medarbejdere vejledes om i endnu højere grad, at bruge separate og opdelt møder i sager, hvor der er mistanke om vold.

Svar på spørgsmål 7.

Vores børnesagkyndige rådgivere er som udgangspunkt psykologer eller socialrådgivere med relevant efteruddannelse og erfaring omkring børn og børns udvikling. Hertil kommer, at vi efteruddanner internt og løbende sikrer faglig udvikling og sparring. Vi har valgt at have forskellige faggrupper ansat, da de har forskellige styrker, som kan bruges i et tværfagligt samarbejde omkring familierne til gavn for børnene.



APPENDIX 3: ANSWERS FROM THE STATE ADMINISTRATION (2018)

I nævner, at vores børnesagkyndige rådgiver Helle Hundahl tager rundt og informerer medarbejdere om, at de fleste anklager om vold er falske. Dette er ikke korrekt og må bero på en stor misforståelse, idet Helle Hundahls oplæg netop har handlet om alvoren og de store konsekvenser ved at opleve vold i familien.

Desuden kan vi forsikre Hjertestilhed om, at den amerikanske undersøgelse om fordomme i forældremyndighedssager i U.S.A. ikke gælder for de børnesagkyndige i Statsforvaltningen.

Med venlig hilsen

Annette Gregersen
Kontorchef

Appendix 4: Questions to
and answers from The
Danish Supervisory Board of
Psychological Practice
(Psykolognævnet) (2021)

APPENDIX 4: QUESTIONS TO AND ANSWERS FROM THE DANISH SUPERVISORY BOARD OF PSYCHOLOGICAL PRACTICE (PSYKOLOGNÆVNET) (2021)



MEPUB (111)

1010150517734

Att: Psykolognævnet

7. august 2021 | 13.42 | 79 KB

Fra:

hjerstetilhed@hjerstetilhed.dk

Til:

ast@ast.dk

Kære Psykolognævnet

Den 21. august 2021 sendte vi en mail til jer via Ankestyrelsens e-boks mailadresse. Idet vi ikke har fået en kvittering fra jer om, at I har modtaget vores skrivelse, tillader vi os hermed at sende vores spørgsmål til jer via almindelig mail. I er meget velkomne til at bruge denne mail eller benytte jer af vores e-boks mail, når I svarer os.

Vi har med interesse læst Psykolognævnets Retningslinjer for den praktiske uddannelse (autorisation) med tilhørende bilag. I den forbindelse opstod et par spørgsmål, som vi håber I vil finde tid til at svare på:

1. Er der i fbm. autorisationen specifikke krav til, at psykologen tilegner sig specialviden om vold?

Herunder;

- 1.1. Partnervold?
- 1.2. Vold (psykisk og fysisk) mod børn?
- 1.3. Psykisk vold?
- 1.3. Fysisk vold?
- 1.4. Social kontrol?
- 1.5. Økonomisk vold?
- 1.6. Stalking?
- 1.7. Strukturel vold?

2. Er der i fbm. autorisationen specifikke krav til, at psykologen tilegner sig specialviden om børn og voksnes reaktioner på de ovenfor nævnte former for vold? Herunder f.eks. en kontekstuel forståelse af børn og voksnes positioneringer, vurdering af testresultater etc. I så fald hvad er kravene og hvorledes tilser Psykolognævnet, at psykologen arbejder indenfor rammerne af disse?

3. Er der i fbm. autorisationen specifikke krav til, at psykologen tilegner sig specialviden om tilrettelæggelse af undersøgelser (børnesagkyndige- og forældrekompetenceundersøgelser), når der forekommer en af de ovennævnte voldsformer i familien? I så fald hvilke krav til psykologens specialviden er der?

1110150517734

1010150517734

APPENDIX 4: QUESTIONS TO AND ANSWERS FROM THE DANISH SUPERVISORY BOARD OF PSYCHOLOGICAL PRACTICE (PSYKOLOGNÆVNET) (2021)



11/08/2021 (12:12)

11/08/2021 (12:12)

4. Er PsykoLognævnet enig i, at autoriserede psykologer, som udfører opgaver i Familieretshuset og ved domstolene, har en særlig forpligtigelse til at beskytte børn mod alle former for vold, herunder også den af Socialstyrelsen definerede voldtpe "overværelse af vold"?

Link til definitioner kan læses via følgende link: <https://socialstyrelsen.dk/.../definition-og-lovgivning...>

Såfremt PsykoLognævnet ikke er enig, kan PsykoLognævnet give en nærmere defineret redegørelse af hvorfor?

5. Er der specifikke krav til autoriserede psykologer om, at garantere individers eller grupperes ytringsfrihed? F.eks. ifbm. autoriserede psykologer, som udfører opgaver i Familieretshuset og ved domstolene, der helt konkret anmoder voldsudsatte forældre om ikke at fortælle om partnervold eller andre former for vold?

Vi ser frem til at høre fra jer. Skulle PsykoLognævnet have ønske om en uddybende forklaring på spørgsmålene er I velkomne til at kontakte os på tlf: 6022 8366 eller herigennem.

På forhånd tak.
Med Venlig hilsen
Stop Vold mod Børn

De venligste hilsner

Stop Vold mod Børn

Non Profit Organisation



VAT/CVR: 396 36 441

11/08/2021 (12:12)

11/08/2021 (12:12)



SV: Fwd: Att: Psykolognævnet



Ankestyrelsen <ast@ast.dk>

Fre 2021-10-29 12:50

Til: hjertestilhed@hjertestilhed.dk



Kære Malou

Psykolognævnet kan ikke afgive et decideret responsum på baggrund af de stillede spørgsmål.

Nævnet kan dog oplyse følgende:

Ad 1-2)

Den praktiske uddannelse til autorisation er en bred efteruddannelse. Efter Psykolognævnets gældende retningslinjer for uddannelsen stilles der ikke krav om erfaring inden for specifikke fagområder.

Ad 4-5)

Psykolognævnets virksomhed er baseret på psykologlovens regler, og de særlige forpligtelser, der gælder for autoriserede psykologer, fremgår af psykologloven (lov om psykologer m.v., jf. lovbekendtgørelse nr. 1534 af 1. juli 2021).

Efter denne lov har en autoriseret psykolog blandt andet pligt til at udvise omhu og samvittighedsfuldhed ved udøvelsen af sit virke.

Der er ikke efter psykologloven et specifikt krav til autoriserede psykologer om at garantere individers eller grupperes ytringsfrihed.

Der gælder heller ikke efter loven en *"særlig forpligtelse for de autoriserede psykologer til at beskytte børn mod alle former for vold, herunder også den af Socialstyrelsen definerede voldstype "overværelse af vold".*

APPENDIX 4: QUESTIONS TO AND ANSWERS FROM THE DANISH SUPERVISORY
BOARD OF PSYCHOLOGICAL PRACTICE (PSYKOLOGNÆVNET) (2021)



Psykolognævnet henviser i den forbindelse til, at servicelovens regler om underretningspligt, herunder den skærpede underretningspligt efter § 153, også gælder for autoriserede psykologer.

Psykolognævnet beklager det sene svar.

Med venlig hilsen

Trine Langberg Pedersen
Fuldmægtig
Sekretariatet for Psykolognævnet

På vegne af Psykolognævnets formand Sanne Bager



Psykolognævnet

Postadresse: Ankestyrelsen, 7998 Statsservice
Mail: ast@ast.dk

Hovedtelefon: 33 41 12 00
Hjemmeside: www.ast.dk
Åbningstid: 9.00-15.00 alle hverdage

Appendix 5: Questions to
and answers from The
Association of Danish
Courts (2021)

APPENDIX 5: QUESTIONS TO AND ANSWERS FROM THE ASSOCIATION OF DANISH COURTS (2021)



Webmail (110)

15/08/2021 11:12

Hvad er "barnets bedste" samt spørgsmål?

2. marts 2019 | 11:19 | 224 KB

Fra:

hjerstitialhed@hjerstitialhed.dk

Til:

post@domstolsstyrelsen.dk

Bcc:

post@hoejesteret.dk, post@dommerudnaevnelseraadet.dk, post@procesbevillingsnaevnet.dk, post@sorinskrivarin.fo, post.rig@domstol.gl, post@oestrelandsret.dk, post@vestrelandsret.dk, densaerligeklageret@hoejesteret.dk, post@hoejesteret.dk, frederiksberg@domstol.dk, bornholm@domstol.dk, aarhus@domstol.dk, aalborg@domstol.dk, viborg@domstol.dk, sonderborg@domstol.dk, svendborg@domstol.dk, roskilde@domstol.dk, randers@domstol.dk, odense@domstol.dk, naestved@domstol.dk, nykobing@domstol.dk, lyngby@domstol.dk, kolding@domstol.dk, horsens@domstol.dk, holstebro@domstol.dk, holbaek@domstol.dk, hjorring@domstol.dk, herning@domstol.dk, hillerod@domstol.dk, glostrup@domstol.dk, helsingor@domstol.dk, kobenhavn@domstol.dk, esbjerg@domstol.dk, amam@hjerstitialhed.dk, er@hjerstitialhed.dk

Kære Domstole

Det er med bekymring, at vores sagkyndige modtager henvendelser fra et stort antal voldsramte mødre, som ved dom har tabt forældremyndigheden og bopælen over deres børn. Pigebørn helt ned til tre måneder bliver ved dom overdraget til deres far, fordi moren bliver anset som værende samarbejdsvanskelig og derfor ikke egnet til at være mor. Dette til trods for, at barnet trives i hendes varetægt.

I linket herunder og i det vedhæftede informations- og evidensbaserede bilag, beskrives de skader og livslange konsekvenser det har for børn at blive adskilt fra deres primære omsorgsperson:

<https://www.sciencedirect.com/science/article/pii/S0022395610002153?via%3Dihub>

Som kan læses, er der en signifikant høj risiko for at børnene, når de separeres fra deres primære omsorgsperson, senere i livet udvikler skizofreni, svær depression og suicidal adfærd samt fysiske sygdomme.

Selv korte perioder med adskillelse kan give nedsat livskvalitet, både på kort men især på længere sigt.

Vi er bekendte med at de fleste domstole bruger børnesagkyndige, oftes psykologer, til at vurdere hvad der er barnets bedste.

<https://mail.one.com/hjerstitialhed@hjerstitialhed.dk/INBOX.Sent/8/249>

Side 1 af 3

APPENDIX 5: QUESTIONS TO AND ANSWERS FROM THE ASSOCIATION OF DANISH COURTS (2021)



Webmail (110)

15/08/2021 11.12

a)

I den forbindelse vil vi gerne bede de danske domstole uddybe hvorledes man sikrer sig, at disse børnesagkyndige har den fornødne viden om vold, voldsdynamikker og senskadedefølger af vold, overgreb, stalking, chikane og pædofili?

b)

Vi vil også gerne bede om eventuelle undersøgelser eller anden evidens der understøtter, at overflyttelse af barnets bopæl og forældremyndighed til en medforælder som har udøvet psykisk og fysisk vold mod barnet eller barnets primære omsorgsperson, er bedst for barnet?

Statens Forskningsinstitut (SFI), nu VIVE Det Nationale Forsknings- og Analysecenter for Velfærd udkom i 2011 med undersøgelsen "Dom til Fælles Forældremyndighed". I denne undersøgelse er ikke inddraget sager hvor der forekommer vold, pædofili, chikane og/eller stalking, hvilket også bliver beskrevet som en begrænsning af studiet. Det er ikke lykkedes os at finde undersøgelser, som har undersøgt børnenes trivsel på kort og længere sigt, når domstolene dømmer, at barnets bopæl og forældremyndigheden skal overdrages til en medforælder, som aldrig har fungeret som barnets primære omsorgsperson.

c)

Vi anmoder derfor de danske domstole om eventuelle interne eller andre nationale undersøgelser, der kan give et indtryk af de negative såvel som positive konsekvenser det har for et barn pludseligt at blive overflyttet til en forælder som ikke har varetaget den primære omsorgsrolle?

d)

Hvis det er muligt vil vi gerne bede om domstolenes overvejelser i forhold til tilknytnings- og udviklingsteorien, når der afsiges indgribende domme.

Vores næste spørgsmål er begrundet i et stort antal domme, hvor domstolenes børnesagkyndige og dommere ikke har forholdt sig til vold, overgreb, chikane, stalking og pædofili, men i stedet har vurderet sagen ud fra et samarbejdsperspektiv. De mange sager vi har indhentet, hvor en mor og et barn har mistet hinanden via dom, inkluderer problematikker som vold og overgreb. Disse problematikker har fremkaldt en "højkonflikt", hvor samarbejdet er vanskeligt, hvilket har store konsekvenser for børnene, idet børnene er vidner til, at deres primære omsorgsperson udsættes for psykisk og fysisk vold. Umiddelbart ser det ikke ud til at de danske domstole undersøger de underlæggende problematikker på hvorfor en primær omsorgsperson bliver samarbejdsvanskelig. I de mange domme vi har liggende har domstolene udelukkende taget stilling til et øjebliksbillede, hvor den primære omsorgsperson udviser ængstelse, uro og usikkerhed, som oftets er reaktioner på den vold hun er udsat for, samt det psykiske pres som truslen for at miste sit barn er. Ofte bliver barnet ikke inddraget og i tilfælde hvor barnet inddrages og fortæller om vold indgår disse fortællinger ikke forhold til vurderinger om barnets sikkerhed og trivsel på længere sigt. Generelt indeholder disse indgribende domme ikke betragtninger om hvorvidt den psykiske og fysiske vold barnet fortæller om har effekt på barnet senere i livet og dommene begrundes i stedet i samarbejdsproblematikker.

<https://mail.one.com/hjertestilhed@hjertestilhed.dk/INBOX.Sent/8/249>

Side 2 af 3

APPENDIX 5: QUESTIONS TO AND ANSWERS FROM THE ASSOCIATION OF DANISH COURTS (2021)



Webmail (110)

15/08/2021 11.12

e)

I henhold til ovenstående, hvorledes afvejer de danske domstole og dommere hvad der er "barnets bedste", når der skal afsiges dom af så indgribende karakter, som overdragelse af forældremyndighed- og bopæl er?

f)

Slutteligt vil vi gerne bede om de danske domstole og dommers holdning til de afsagte domme, hvor barnets ret til to forældre har haft højere prioritet fremfor barnets ret til sikkerhed og ret til en sorgfri barndom. Er det muligt, at disse sager fra d.1. april 2019, hvor den nye forældreansvarslov træder i kraft, kan genoptages med henblik på at vurdere "barnets bedste" ud fra barnets sikkerhed, oprindelige tilknytning og den signifikante øgede risiko barnet har for at udvikle svær psykiatri qua den abrupte adskillelse fra sin oprindelige primære omsorgsperson?

De venligste hilsner

Hjertestilhed - Stop Vold mod Børn



CVR: 396 36 441

Vedhæftede filer:





Hjertestilhed

18. september 2019

Sendt til hjertestilhed@hjertestilhed.dk

J.nr.: 2019-4399-0014-7
Sagsbehandler:
Anne Aagaard Madsen

Svar fra Domstolsstyrelsen

Domstolsstyrelsen har modtaget Hjertestilheds henvendelse af 2. marts 2019. Domstolsstyrelsen skal indledningsvis beklage den lange svartid.

Domstolsstyrelsen kan oplyse følgende:

Den 1. april 2019 trådte det nye familieretlige system i kraft. Det har været og er en overordnet vision at skabe samlede og helhedsorienterede forløb for familierne med barnet i centrum. Hensynet til barnets bedste og barnets trivsel er altafgørende både i behandlingen af familieretlige sager og i de afgørelser, der træffes i det nye familieretlige system.

Familierettens behandling af familieretlige sager er reguleret i retsplejelovens kapitel 42. I kan læse mere om familierettens behandling af sager [her](#).

Udover de særlige regler om sagsbehandlingen i familieretten gælder som udgangspunkt også kontradiktionsprincippet, hvorefter parterne skal have adgang til at gøre sig bekendt med indlæg og bevisførelse fra den anden part og udtale sig om det materiale, der kan danne grundlag for rettens afgørelse. Desuden medfører princippet om fri bevisbedømmelse, at dommeren ikke er bundet af regler om, hvilke former for beviser han skal lægge mest vægt på. Det er således dommeren, der i hver enkelt sag og ved hvert enkelt bevis i den konkrete sag afgør, hvilken vægt beviset kan tillægges.

Efter retsplejelovens § 450 b, stk. 2, afholdes samtaler med børn efter § 34 i forældreansvarloven i sager om forældremyndighed, barnets bopæl og samvær af en børnesagkyndig fra Børneenheden i Familieretshuset. Familieretten kan dog anmode en anden børnesagkyndig om at afholde samtalen, hvis det konkret vurderes at være nødvendigt.

De børnesagkyndige, der udpeges, er således som udgangspunkt ansat af Familieretshuset. I tilfælde, hvor retten vurderer, at det er nødvendigt, at en anden børnesagkyndig afholder samtalen, udpeger retten en børnesagkyndig, som typisk vil være tilknyttet den enkelte byret. Desuden benyttes rettens "egne" børnesagkyndige i tilfælde, hvor Familieretshuset ikke har mulighed for at sende en ud. Når retterne antager en sådan børnesagkyndig, forudsættes det, at den pågældende er psykolog med en specialistgodkendelse eller erfaring svarende hertil.

APPENDIX 5: QUESTIONS TO AND ANSWERS FROM THE ASSOCIATION OF DANISH COURTS (2021)



Dommere ved Danmarks Domstole uddannes kontinuerligt gennem hele ansættelsen. Uddannelserne består af en lang række tilbud til dommerne indenfor både faglige- og personlige kompetenceemner. Dommerne kan vælge, hvad de finder mest relevant og dækkende for netop deres behov.

I forbindelse med implementeringen af det nye familieretlige system, har alle dommere der beskæftiger sig med familieretlige sager, desuden haft mulighed for at efteruddanne sig inden for emner som; samvær, børns udvikling, familier og børn i konflikt samt andre relevante emner og problemstillinger i forbindelse med familieretlige sager ved domstolene.

Efteruddannelse af dommerne tilpasses løbende konkrete behov og samfundets udvikling og dermed påvirkning af domstolene.

Domstolsstyrelsen bemærker afslutningsvis, at vi ikke udtaler os om konkrete domme. Det kan dog generelt oplyses, at dommere altid foretager en konkret vurdering af den enkelte sag, og at der i sager med børn involveret er et lovbestemt krav om, at barnets bedste skal komme i første række.

For så vidt angår jeres spørgsmål om genoptagelse af en række sager efter indførslen af det nye familieretlige system, kan vi oplyse, at retssager kan appelleres og/eller genoptages i det omfang, retsplejeloven tillader det. Der er ikke ved indførslen af det nye familieretlige system indført særlig mulighed for at genoptage den nævnte type sager. Domstolene genoptager ikke sager af egen drift. Domstolsstyrelsen må således henvise jer til at rette henvendelse til lovgiver om dette.

Med venlig hilsen

Anne Aagaard Madsen

Appendix 6: Attachment -
Report “You Will Never See
Your Child Again” of
February 2020 by the
Physicians for Human Rights
(PHR), The Persistent
Psychological Effects of
Family Separation.
