

Child Welfare Legislation in Denmark: Trends in Child Welfare over the Past Decade

By KAY L. THOMAS*, Social Worker, M.A. Sociology (Copenhagen) Anthropology and Sociology Department, University of Queensland

Introduction

The aim of this paper is to outline essential features of the present Danish welfare legislation regarding the care of minors (under 18 years of age), illustrated with the latest published statistics concerning services to children and their families.¹

This may be of interest to policy-makers, administrators and professionals working in the field of child welfare in Australia. The most interesting feature of Danish Law has been the elaborate attention to administrative planning which preceded introduction of the Welfare Law of 1974. This administrative planning, resting on over a decade of work in the Danish Social Ministry, and the joint Parliamentary Committee on welfare, found it important to decentralize decision making as much as possible in order to increase local community participation in the formation and carrying-out of welfare programmes. Another important principle in the line with this was to maximize access to appeals tribunals by citizens.

It was considered important to ensure early detection of welfare problems in the community. In the case of children this meant establishing much larger local council case work programmes which would co-operate with school authorities, teachers, kindergartens and child health nurses in finding children thought to be socially or emotionally "at risk" as early as possible. Thus administrative changes were aimed at facilitating this early detection, by decentralization of responsibility in the local community and by providing a more flexible provision of resources aimed at supporting families and children. The idea was to offer maximum support – both personal and economic – so as to avoid removal of the child from the parental home. If removal of the child to another setting could not be avoided, this was to occur in an atmosphere of counselling, support and co-operation with the parents. In the few cases of involuntary removal of the child, "due to process of law" was to be ensured and parents given even greater right of appeal (i.e. appeal to the High Court of Denmark).

The administrative changes, child welfare law and implementation will now be described in more detail.

Abstract

This paper deals with the Danish Child Welfare Law, which was passed in 1974 as part of an integrated welfare law aiming at decentralization of decision-making in local government, and maximum citizen participation.

The law provides for counselling, recommendations and injunctions in connection with counselling, appointment of personal guidance officers, and taking children into care. The greater part of decision making is made in co-operation with parents. The few cases of removal of a child from the home without parental consent are conducted under the auspices of the local council welfare committee, presided over by a judge. Parents are given access and must be heard. Parents have wide rights of appeal.

Administrative Background

The formerly separate law regarding child welfare was incorporated into an overall Welfare Law (Bistandslov) covering all aspects of welfare for citizens ranging from temporary economic help, permanent economic help, counselling, practical help in the home, day care, institutional care, nursing homes and protected living arrangements for the elderly, and help for the intellectually handicapped, which was passed on the 19th June, 1974.

This law followed extensive administrative changes which amalgamated smaller councils into larger ones considered more suitable for modern administrative purposes. Local Councils were given primary responsibility for administering social welfare, including establishing certain institutions, such as Nursing Homes and kindergartens. Local councils were to receive backup support from a country welfare administration, which provided for larger regional planning, specialist advice for local welfare counsellors, an appeals body in welfare matters, and larger welfare projects such as hospitals, rehabilitation clinics, children's homes and the like.

The right of appeal in welfare matters was made more open and flexible. Citizens were free to contact the appeals office at any time either verbally or in writing. A

second appeals tribunal was provided in central administration in Copenhagen, in the Social Ministry, who have overall responsibility for welfare matters. Their decisions in cases are sent out regularly to all councils so that they could adjust their administration accordingly.

A General Law

The 1974 law was deliberately made flexible and broad. It was called an "umbrella" law, because it was intended to provide a general framework of rights and responsibilities, for citizens and governments alike for the benefit of all.

A key point in the law was the decentralization of welfare administration, whilst at the same time maintaining an overall national standard in welfare policy. Local councils, in particular, were given much more responsibility for planning services within their own area. The flexibility in the law made it possible for councils in different areas to cater for special needs which might arise, due to different age compositions in various parts of the country, different needs in rural/urban areas, and different political preferences. For example, some councils preferred to expand home care facilities for the elderly rather than expand nursing home facilities, or some preferred day care for children rather than kindergartens. In any case, the council had a certain degree of influence on policy, although overall provisions still had to be made for all.

An important aim of making local councils more responsible and viable administrative units was to increase citizen participation in shaping local policy decisions, and making the system more responsive to them.

The disadvantages of the system, (depending on one's viewpoint) might be:

- (i) a lack of uniformity throughout the country, i.e. an inequality in standards of services,
- (ii) a system more open to corruption or "influence",

* This paper is based on practical experience as a social worker in Denmark from 1972-81, when the Social Welfare Laws and administration underwent major changes. The law referred to specifically is Bistandslov (Welfare Law), 1974, and the circular on counselling and supervision of children 1975.¹ Danish Welfare Monthly.

(iii) a system not governed by professional bureaucrats or others in central administration, who are seen to be more "neutral".

As already noted, the lack of uniformity was intentional, as it was recognized that social needs varied throughout the country and could not be dictated by detailed legislation from central government. The power of bureaucrats and knowledge of "experts" was intended to be balanced up against decision-making processes where citizens had much more to say than previously.

It should be noted that major universal welfare provisions remain in the form of pensions, sickness benefits, unemployment benefits and child endowments.

Special Provisions in Law Regarding Children

The overall principle in law is that all adults, both men and women, have responsibility to support and care for their children under 18 years of age. In the case of separation and divorce this requirement is formalized in a maintenance agreement. If a parent fails to pay, the local council will take over payment to the supporting parent, but ensure the money is sought using the same regulations for recovery of unpaid taxes.²

The local council must provide counselling services for all families and ensure that those families in need of counselling are sought out. This help can be provided even when no economic help is needed. Specially educated persons, i.e. social workers or specially trained council employees, are to provide this service.

Local councils are expected to provide emergency housing for families with children, if they are without shelter.

The local council must ensure that all children under its jurisdiction receive adequate care, and must support parents in providing upbringing and care for their children.

If a child has no care-giver, the council must appoint one.

If a child needs special help, this must be investigated by counsellors using professional assistance, e.g. doctors, child psychologists, or child counselling service. In these circumstances the council must provide special support and guidance for the parents.

If special measures are required following on from such investigations, the council can decide to provide them under a "notice of recommendation or injunction regarding the child's care or treatment, upbringing, education or work".³

Secondly, they can appoint a personal guidance officer for the child.

Thirdly, the child can be taken into care by council, and placed in a foster family or institution, outside the biological family.

They follow a pattern of increasing severity, in evaluating the child's needs for care and protection, and may also indicate the actual course of events which a welfare officer follows in a particular case, i.e. from making recommendations or injunctions about certain aspects of care, to appointing a personal guidance officer, to placing the child in care.

The special provision for children will be described in more detail, below.

Counselling

As already noted, a primary goal of the law is to provide counselling services for all age groups, and especially for families with children. Local councils were therefore expected to expand their counselling services, and to make counselling an integrated part of the service, irrespective of whether other forms of economic service were offered or not.

Previously, (prior to 1974), counselling had been provided by specialized agencies, for special groups, e.g. Mother Help provided counselling for single mothers, Rehabilitation provided counselling for sick or injured workers, or for handicapped people entering the workforce. All these were combined into the new Welfare Legislation of 1974, and the large centralized counselling agencies were abolished. Today there are still some specialized counselling services operating apart from that offered by local councils. Hospitals retained their social work services. Private agencies for advising women after rape or physical abuse etc. were set up. The government also provides counselling for released prisoners.

The old Child-care Law, (Børnevaernslov), previously administered by Local Councils, but under a separate administration, was amalgamated into the new general Welfare Law (1974), and some changes made to earlier provisions. Broadly speaking, these made it much more possible for counsellors to offer a range of other services before resorting to taking children into care. It also made all adults responsible for child welfare in the sense of reporting suspected child abuse or neglect to appropriate authorities. All adults in Denmark are criminally liable, if they fail to report child abuse. This provision has not been tested by law.

Injunctions

In this section the council gives a recommendation or injunction regarding the child's care, education or work. Injunctions can range from paying for day-care or kindergarten placement, in cases where the child is thought to need extra stimulation, to home-help for the mother who is overburdened by care of children, because of illness, and so forth.

The injunction is issued by the Welfare Committee of the Local Council following recommendations from caseworkers who

have investigated the problem and gathered additional information from the school, school psychologist, or other persons involved. The Council will usually follow this recommendation as they often consider such a measure more valuable (and cheaper) than placement of the child in an institution or foster family, which is the next step in the process. Thus the Council (in keeping with the spirit in the Act) will often deem it more important to support the family and child.

A recommendation might be to provide a personal kindergarten teacher, to a child who suffers some special physical or mental handicap.

The provision is also designed to protect the child against suspected child abuse, by ensuring extra supervision.

The injunction can also be used to pay for special equipment, transport costs, or any other costs connected with it.

Injunctions, in short, are a very flexible provision under the new Law, and can be used for a whole variety of supportive, treatment or educational goals for children who are considered socially vulnerable. An injunction cannot be given to remove the child from parental care, although they might pay for a school education away from home e.g. boarding school or youth schools (a kind of residential school for young adults, not found in Australia), or own room away from home. Holiday camps can also be paid for under this paragraph. This measure is used as extensively as taking children into care, if we compare services provided, per 1000 populations – i.e. approx. 10 per 1000 in both cases.

TABLE 1
NUMBER OF SERVICES PROVIDED
UNDER INJUNCTIONS AND
RECOMMENDATIONS, RECORDED AS
CASH PAYMENT – 1982⁴

29,336 services = 7% of all cash payments
To 11 per 1,000 families in Denmark

Personal Guidance Officers

Personal guidance officers are appointed mainly for older children (between 12 and 18-19 years). They do not have to be professionally educated, but may be a highly respected member of the community with a special interest in young people. Remuneration is quite minimal. The idea is for the personal guidance officer to establish a close contact with the child and his/her family and give any special support and guidance thought necessary in the area of education, moving into the work force, making contact with sports or recreation clubs and using spare time more productively.

According to the circular on counselling & supervision, 1975 if parents do not follow up an injunction the Welfare Committee cannot immediately resort to force. They

must closely follow the child's development to ensure that the situation does not develop in a dangerous way. In this situation it will be necessary to appoint a personal guidance officer, which can be done without the parent's permission. The caseworker's task is to be oriented about the case and try to motivate the parents. The Social Committee cannot use force, either through the police or courts."⁵

The number of personal guidance offices appointed in 1983 was 3,675 in 1983, and 4,242 in 1982. There were nearly twice as many appointed to boys as girls. The overall rate in 1983 was 2.7 per 1,000 in the population.⁶ One might conclude then, that this is used quite extensively as a supportive and preventive measure for many children, particularly boys, in adolescence.

The personal guidance officer is especially valuable for children who have been involved in criminality or other forms of misbehaviour.

Children Taken Into Care

Only when all other measures fail are children taken into care by the local council Welfare Office. This does not mean that parents lose legal custody. The greatest majority of children are taken into care with the consent of the parents. Only a small proportion of the total (3%) are taken into care without parental consent. Table 2 shows the number of children taken into care by age and length of stay in care.

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70% of children had been in care more than a year, whilst 32% had been in care between 1 and 3 years, mainly in the 15-17 year age group.

About 60% of children returned to the parental home. The remainder would be too old, and would be discharged to independent living arrangements.

TABLE 2
NUMBER OF CHILDREN IN CARE PER 31 DECEMBER 1983
BY AGE AND LENGTH OF STAY IN CARE

Length of Stay	Age in Years						TOTALS
	0-6	7-11	12-14	15-17	18-19	20 & over	
0-2 months	153	117	142	173	6	1	692
3-5 months	127	151	219	347	23	1	868
6-11 months	230	298	413	615	61	2	1,619
1-2 years	447	678	768	1,334	234	7	3,468
3-6 years	242	662	636	985	298	43	2,866
7 yrs and over	1	209	329	516	167	17	1,239
Not known	-	-	1	3	1	-	5
TOTAL IN CARE = 13,940 or 10.1 per 1,000 in the population. ⁷							

Children Taken Into Care WITHOUT Their Parent's Consent

This decision is based on very serious evidence that the child is threatened in emotional, social, educational or psychological development, or because the parents have not ensured necessary special treatment of psychic or physical illness.

When a child is taken into care without parental consent the decision is made by the local council welfare committee made up of elected representatives of the council, together with a judge from the local law court. There must also be a psychologist present with special experience in children's cases, appointed by the county welfare board.

The parents or those with parental custody must be given an opportunity to state their case prior to a decision being made; and they can choose to use the help of a third person as spokesman for them. This person need not be a lawyer, but could also be a social worker or any other person whom they wish to defend their interests. The role of the judge is to preside over the council meeting when the decision is made, to ensure that the welfare committee understands the law pertaining to their decision, to direct proceedings, and ensure that the necessary investigations have been made.

In emergency cases, the head of the welfare committee can make an interim order to take children into custody without parental consent but the case must be heard in the regular way at the earliest possible time.

These decisions are open to appeal. Firstly there are the regular channels of appeal set up for other welfare case decisions (Country and Central Government). Secondly, the case can be heard by the regular High Court. Finally, the Ombudsman can take up any case whether referred or not, which the Ombudsman's department thinks might have been improperly handled.

Types of Placement

The types of placements used vary widely.

There are foster homes which are usually members of Foster Homes Organizations, who support the families giving care, provide social work assistance and investigate families wanting to become foster families. These are usually more suitable for younger children. (See Table 3, following page).

There are also a variety of children's homes usually quite small.

Children's Homes also include a small number of therapeutic homes for children with severe emotional or mental problems. These homes are run with a very high staff-child ratio, and with specially trained therapists, teachers, social workers and psychologists.

These two types of care account for the largest proportion of children in care. (See Table 3, following page).

There are also boarding schools, social collectives set up especially for children, ships projects (where children can sail on a sailing ship with staff), and own room (mainly for older children).

Social Collectives (communes) for children are set up by trained teachers and paedagogues (an intermediate training for care-givers in children's institutions, not found in Australia), who live collectively themselves and provide foster care for a number of children as well. This type of care can be more suitable for children with behavioural problems, or for those who cannot adjust to a traditional family situation. Because of their extra training, the adults in these collectives are more likely to be able to handle the more difficult child or young adult.

Ship's projects describes special projects set up to give a group of children experience of living collectively on the high seas for a set time. They learn to appreciate "natural discipline" necessary to maintain and run a sailing ship or fishing boat, and survive together as a group. The Danish Criminal Welfare Agency (a Government department for the care and supervision of young law-offenders) uses this type of ship project regularly, as it is particularly suitable for young people with "behaviour problems".

The category "own room" refers to young people who are helped to leave home before the age of 18, if the Welfare Committee judges they are able to cope with it. They may be assisted to further their education, or enter the workforce with the assistance of a case-worker and possible a personal guidance officer. This of course does not apply to all children leaving home before the age of 18, only those with social or emotional problems.

The table below describes the numbers of children in different types of care per 31 December, 1983, by age and sex.



TABLE 3
NUMBERS OF CHILDREN BY SEX IN DIFFERENT TYPES
OF CARE AS AT 31 DECEMBER 1983

Type of Care	Sex		TOTALS
	Boys	Girls	
Foster family	3,339	2,315	5,654
Children's home	2,816	1,677	4,493
Hospital	16	4	20
Social collective for children	85	38	123
Boarding school	1,589	1,106	2,695
Own room	333	471	804
Ship's project	122	25	147
Unknown	3	1	4
Total	8,303	5,637	13,940
Per 1,000 in the population	11.8	8.4	10.1

The following table shows the same figures broken down by age and sex, in the different kinds of care.

TABLE 4
NUMBERS OF CHILDREN BY AGE AND SEX IN THE DIFFERENT
KINDS OF CARE PER 31st DECEMBER 1983

	Age in Years											
	0-6		7-11		12-14		15-17		18-19		20+	
	B	G	B	G	B	G	B	G	B	G	B	G
Foster family	438	348	795	607	816	541	1022	671	3	137	20	10
Children's homes	261	195	519	257	751	303	1050	782	18	129	17	11
Hospitals	1	-	3	1	6	-	6	3	-	-	-	-
Social collectives	1	1	4	-	16	1	54	28	10	8	-	-
Boarding schools	4	3	31	22	348	194	1133	826	66	52	7	9
Own room	2	1	1	-	3	6	240	366	79	95	8	3
Ship's project	1	1	1	-	13	3	99	20	8	1	-	-
Unknown	-	-	-	1	2	1	1	-	-	-	-	-
Totals	708	550	1354	888	2000	1048	3605	2696	584	422	53	33
Per 1000 in the population	3.5	2.8	7.5	5.1	18.0	9.9	29.1	22.8	6.8	5.2	-	-

Discussion

The Danish Law for the protection and care of children, as part of the general welfare law of 1974, is closely administered by local authorities with a greater knowledge of local families and conditions of living than is possible for a central administration. The major aim of the whole reform was to decentralize decision-making, and promote greater citizen participation in social welfare administration in the local community.⁸

The law aimed at a greater flexibility in decision-making, and avoided specification of provisions, which were left up to a combined politico/social process, in individual cases. Local authorities also have some measure of autonomy in forming welfare policies in their areas, although they must provide services. It is more of a question of how they are provided.

The law emphasizes a greater responsibility for children than for any other group in the community, both on the part of citizens and government authorities. It also relies to a great degree on counselling and persuasion, rather than force. However, to do this, cases must be detected early enough. This can be accomplished by a close liaison between schools and local government counsellors, by a widespread child home-nursing service and by close contact with day-care facilities and kindergartens, all of whom have daily contact with the children in the community.

A good feature of the law is the flexible provision for "recommendations or injunctions", which enable a wide variety of services to be offered to children and their families in lieu of removing children from the home. Additional support can be offered through personal guidance officers. Both these provisions have been widely used.

Early detection of children who are considered to be socially or emotionally at risk allows for case work intervention aimed at supporting parents and co-operating in measures to help children, rather than resorting to force, against the wishes of parents.

As can be seen, only 3% of children offered services under the act are removed from the home without parental consent. Even then, every effort is made to allow parents to be heard. The judicial procedure outlined allows for "due process of law" to be followed without taking the case away from a social welfare setting, or democratic responsibility in decision-making. There are additional avenues of appeal available in these cases, due to the seriousness with which they are regarded in the general public.

The Danish welfare law makes much more use of local participation, in a variety of ways, so that decisions about child care

are not based on "expert" opinion, or closed bureaucratic decision making. Local politicians elected to local councils have responsibility for most decisions, which are to be based on the recommendation of counsellors and professional opinion of various kinds. However, they are also open to the opinions of ordinary citizens, who have wide right of appeal against council decisions.

This does not mean that child welfare problems in Denmark are solved by any means. However, the law itself provides some ideas which policy-makers in Australia might like to consider.

References

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3. Bistand til born og ung 1982 og 1983, Opat.
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