

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

UPR OF
DENMARK
2016

LIST OF SELECTED
RECOMMENDATIONS

UPR DENMARK 2016
LIST OF SELECTED RECOMMENDATIONS – REVISED VERSION

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CONTENT:

INTRODUCTION	8
CONTENTS OF THIS REPORT	8
RECOMMENDATIONS	8
SOURCES	9
STRUCTURE	9
CONTACTS AND ADDITIONAL INFORMATION	9
1 THE DANISH INSTITUTE FOR HUMAN RIGHTS	11
2 RECOMMENDATIONS	13
2.1 BACKGROUND AND FRAMEWORK	13
2.1.1 SCOPE OF INTERNATIONAL OBLIGATIONS RATIFICATION AND RESERVATIONS	13
2.1.2 INCORPORATION	14
2.1.3 REVISED LEGISLATION ON EQUAL TREATMENT	14
2.1.4 TORTURE AS A SPECIFIC OFFENCE	14
2.1.5 STATUTE OF LIMITATIONS IN CIVIL PROCEEDINGS	15
2.1.6 RIGHT TO VOTE FOR PERSONS UNDER LEGAL GUARDIANSHIP	15
2.2 INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE	16
2.2.1 NHRI MANDATE COVERING THE FAROE ISLANDS	16
2.2.2 NATIONAL ACTION PLAN ON THE RIGHTS OF THE CHILD	16
2.2.3 ADMINISTRATION OF JUSTICE – ACCESS TO INTERPRETATION IN COURT	16
2.2.4 SOLITARY CONFINEMENT OF CHILDREN AND ADULTS	17
2.3 POLICY MEASURES	17
2.3.1 CIVIL SERVANTS RIGHT TO FREEDOM OF EXPRESSION AND WHISTLE BLOWER MEASURES	17
2.3.2 MILITARY OPERATIONS	18
3 PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND	19
3.1 EQUALITY AND NON-DISCRIMINATION	19
3.1.1 EQUALITY AND NON-DISCRIMINATION – DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION AND GENDER IDENTITY	19
3.1.2 BOARD FOR EQUAL TREATMENT	20

3.1.3	VISIBILITY OF CEDAW, THE OPTIONAL PROTOCOL AND GENERAL RECOMMENDATIONS	20
3.1.4	EQUAL PAY	21
3.1.5	VIOLENCE AGAINST WOMEN	21
3.1.6	DOMESTIC VIOLENCE – RESIDENCE PERMIT	22
3.1.7	WOMEN AT MANAGERIAL LEVEL	23
3.1.8	GENDER MAINSTREAMING	24
3.1.9	DISCRIMINATION ON GROUNDS OF RACE OR ETHNIC ORIGIN	24
3.1.10	HATE CRIMES	25
3.1.11	RACIALLY MOTIVATED HATE SPEECH	25
3.1.12	RIGHT TO NATIONALITY	26
3.1.13	PERSONS WITH DISABILITIES – RIGHT TO VOTE UNDER LEGAL GUARDIANSHIP	27
3.1.14	INTERSEX PERSONS RIGHT TO SELF DETERMINATION	27
3.2	RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON	27
3.2.1	CONDITIONS OF DETENTION OF MINORS AND WOMEN	27
3.2.2	PEPPER SPRAY	28
3.2.3	COERCION IN PSYCHIATRIC TREATMENT	29
3.2.4	SEPARATION OF CONVICTS AND REMAND PRISONERS	29
3.2.5	DATA PROTECTION IN PUBLIC ADMINISTRATION	29
3.2.6	INTELLIGENCE SERVICES AND CYBER SECURITY.	30
3.3	ADMINISTRATION OF JUSTICE, INCLUDING IMPUNITY AND THE RULE OF LAW	31
3.3.1	PROTECTION OF CHILDREN FROM ABUSE, CHILDREN AS SECONDARY VICTIMS AND CHILDREN AND YOUNG PEOPLE’S SITUATION WHEN PLACED OUTSIDE THEIR HOME	31
3.4	FREEDOM OF RELIGION OR BELIEF, EXPRESSION AND RIGHT TO PARTICIPATE IN PUBLIC AND POLITICAL LIFE	31
3.4.1	DIALOGUE WITH LEADERS OF RELIGIOUS COMMUNITIES	31
3.4.2	NON CRIMINALISATION OF BLASPHEMY	32
3.5	RIGHT TO WORK AND TO JUST AND FAVOURABLE CONDITIONS OF WORK	32

3.5.1	RECRUITMENT TO THE POLICE	32
3.6	RIGHT TO SOCIAL SECURITY AND TO ADEQUATE STANDARD OF LIVING	33
3.6.1	POVERTY LINE LIMITS	33
3.6.2	RIGHT TO HOUSING	33
3.6.3	ABORTION	34
3.7	RIGHT TO EDUCATION	34
3.7.1	MOTHER TONGUE TEACHING	34
3.8	MINORITIES AND INDIGENOUS PEOPLES	35
3.8.1	ROMA PEOPLE	35
3.8.2	NATIONAL MINORITY	35
3.9	MIGRANTS, REFUGEES AND ASYLUM-SEEKERS	36
3.9.1	DETENTION OF ASYLUM SEEKERS	36
3.9.2	ASYLUM SEEKERS AND VICTIMS OF TORTURE	36
3.9.3	TOLERATED STAY	37
3.9.4	VICTIMS OF HUMAN TRAFFICKING	38
3.9.5	AMENDMENTS TO THE DANISH ALIENS ACT	38
3.10	HUMAN RIGHTS AND ARMED CONFLICT	39
3.10.1	INTERNATIONAL LAW, DANISH LEGISLATION AND PRACTICE	39
4	GREENLAND	40
4.1	SCOPE OF INTERNATIONAL OBLIGATIONS	40
4.1.1	RESERVATION TO THE CRC OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY	40
4.2	EQUALITY AND NON-DISCRIMINATION	40
4.2.1	GENERAL PROHIBITION ON DISCRIMINATION AND COMPLAINTS PROCEDURE	40
4.2.2	IMPLEMENTATION OF CEDAW	41
4.2.3	VIOLENCE AGAINST WOMEN	42
4.3	ADMINISTRATION OF JUSTICE AND THE RULE OF LAW	42
4.3.1	TRANSPARENT ADMINISTRATIVE COMPLAINTS STRUCTURES	42
4.3.2	TRANSPARENCY IN LEGISLATIVE PROCESSES AND ACCESS TO LAW AND CASE LAW	43
4.3.3	LANGUAGE PROBLEMS AND UNCLEAR LEGAL TERMINOLOGY IN THE COURTS OF GREENLAND	44
4.4	CHILDREN'S RIGHT TO HEALTH	45
4.4.1	NEGLIGENCE IN CARING FOR CHILDREN	45
4.5	PERSONS WITH DISABILITIES	46
4.5.1	PERSONS WITH DISABILITIES	46

4.6	RIGHT TO WORK AND TO JUST AND FAVOURABLE CONDITIONS OF WORK	47
4.6.1	EQUAL ACCESS TO EMPLOYMENT	47

ABBREVIATIONS

DIHR	Danish Institute for Human Rights
HRCGL	Human Rights Council of Greenland
UPR	Universal Periodic Review

INTRODUCTION

CONTENTS OF THIS REPORT

This report has been compiled by the Danish Institute for Human Rights – Denmark’s National Human Rights Institution (DIHR) for the Universal Periodic Review (UPR) of Denmark in 2016. The report contains an overview of selected recommendations concerning various human rights issues in Denmark and Greenland. The report should be read in combination with the two compilations from the Office of the High Commissioner for Human Rights and the national report from Denmark and Greenland.

The purpose of this collection of issues is to provide an overview of selected concerns, to enlighten the dialogue surrounding the Danish and Greenlandic UPR process and to increase the quality of the recommendations given to Denmark. The publication follows the structure of the two compilations prepared by the Office of the High Commissioner for Human Rights on stakeholder recommendations and official UN documents.

RECOMMENDATIONS

This report contains recommendations within various human rights areas that are considered to be suitable for the UPR-process.

When selecting recommendations DIHR have prioritised recommendations that are clear, specific and measurable. In order to have an impact UPR recommendations need to be clear and understandable to all relevant actors, the state party, stakeholders and the public. By prioritising such recommendations it will be easier to monitor the implementation of accepted recommendations. Moreover, DIHR has made an effort to link its recommendations to the newly adopted Sustainable Development Goals (SDGs), which are underpinned by international human rights standards and instruments (see www.humanrights.dk/sdg-guide). Thereby, the recommendations serve a dual purpose of strengthening the implementation of human rights and contributing to sustainable development in Denmark and Greenland.

The recommendations in this publication are supplied with brief explanations.

Each section in this publication contains a prioritised list of recommendations that, in the opinion of DIHR, are most vital to address for Denmark and Greenland. The recommendations from DIHR that are not addressed in the other reports for the Danish UPR are highlighted as new recommendations.

SOURCES

This report draws upon several sources of relevant information concerning the human rights situation in Denmark. The recommendations are based on:

- Previous UPR recommendations
- Treaty body recommendations
- Recommendations from special procedures or other organisations, such as the Council of Europe
- Parallel reports from DIHR or other stakeholders to UPR and treaty bodies
- Recommendations from the annual status report of DIHR
- Recommendations from independent reports of DIHR and other stakeholders
- DIHR legal briefs

STRUCTURE

Each section of this report contains:

- A clear recommendation that can be used in the UPR of Denmark 2015;
- A brief explanatory text concerning the subject and the relevance of the recommendation;
- Reference to sources with further information (treaty bodies, stakeholder reports, previous UPR)

Recommendations that can promote the fulfilment of the Sustainable Development Goals (SDG's) are also highlighted in each section.

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CHAPTER 1

1 THE DANISH INSTITUTE FOR HUMAN RIGHTS

The Danish Institute for Human Rights (DIHR) is Denmark's national human rights institution (NHRI). DIHR was established in 1987 and is regulated by act no. 553 of 18 June 2012 on the Institute for Human Rights – Denmark's National Human Rights Institution.

DIHR is an independent, self-governing institution within the public administration and is established and functioning in accordance with the UN Paris Principles. DIHR is accredited as an A-status NHRI.

DIHR is also appointed as National Equality Body in accordance with EU directives on equal treatment of all persons without discrimination on the grounds of gender and race or ethnic origin. Furthermore, DIHR is designated as independent mechanisms to promote, protect and monitor the implementation of the UN CRPD in both Denmark and Greenland.

DIHR participated in OP-CAT inspections together with DIGNITY – The Danish Institute against Torture and the Parliamentary Ombudsman, who is appointed as NPM of Denmark.

DIHR monitors the human rights situation in Denmark and publishes an annual status report as well as academic research, analyses and reports on human rights.

Greenland is a self-governed part of the Kingdom of Denmark. DIHR is national human rights institution for Greenland and works in close cooperation with the Human Rights Council of Greenland (HRCGL) in order to monitor the promotion and protection of human rights in Greenland.

HRCGL is a politically independent council established by law with reference to the UN Paris Principals on National Human Rights Institutions. The Council is funded by the Greenlandic state budget. HRCGL shall promote and protect human rights in Greenland.

The mandate of DIHR does not extend to the Faroe Islands, the other self-governed part of the Kingdom of Denmark.

CHAPTER 2

2 RECOMMENDATIONS

2.1 BACKGROUND AND FRAMEWORK

2.1.1 SCOPE OF INTERNATIONAL OBLIGATIONS RATIFICATION AND RESERVATIONS

Denmark has not ratified:

- The International Convention for the Protection of All Persons from Enforced Disappearance,
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and
- Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), concerning a general prohibition of discrimination.
- The European Social Charter (revised) (Signature 03/05/1996)
- Furthermore, Denmark has not accepted the right of individual communications and collective complaints in respect of:
- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
- Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (Signature 09/11/1995)

Greenland and the Faroe Islands have not ratified:

- The optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and
 - The protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
-
- **DIHR recommends that Denmark ratify and incorporate core instruments and work to lift reservations. Accede to optional protocols allowing for individual communications.**

DIHR finds it important that Denmark maintains the role as a leading human rights actor by actively supporting all core international and regional human rights instruments. The same steps should be taken in Greenland and the Faroe Islands in cooperation with their governments and legislatures.

2.1.2 INCORPORATION

- **DIHR recommends that Denmark incorporate UN core human rights conventions and protocols into Danish law**

ECHR is the only international human rights convention which is both ratified and incorporated into Danish law. None of the UN core human rights conventions ratified by Denmark have been incorporated.

2.1.3 REVISED LEGISLATION ON EQUAL TREATMENT

- **DIHR recommends that Denmark revise legislation on equal treatment and introduce a single act on equal treatment covering all discrimination grounds and all areas of society**

The Danish legislation prohibiting discrimination consists of several acts which offer different degrees of protection depending on the discrimination ground in question and depending of the area of societal life. The result is insufficient protection against discrimination targeted at certain groups i.e. persons with disabilities. This recommendation corresponds with SDG targets 5.c, 10.3 and 16.b., which call for the promotion and enforcement of non-discriminatory laws and policies.

2.1.4 TORTURE AS A SPECIFIC OFFENCE

Torture is an offence under Danish criminal law, although it is not listed as a specific offence in the Danish Criminal Code.

- **DIHR recommends that Denmark introduces the act of torture as a specific offence in the Danish Criminal Code and the Military Criminal Code.**

CAT and the European Committee for the Prevention of Torture (CPT) have recommended several times that Denmark introduces the act of torture as a specific offence in the Danish Criminal Code and the Military Criminal Code. During the Universal Periodic Review (UPR) of Denmark in 2011 this was also recommended by several countries.

2.1.5 STATUTE OF LIMITATIONS IN CIVIL PROCEEDINGS

- **DIHR recommends that Denmark takes the necessary legal measures to ensure that civil proceedings related to torture and ill-treatment are not subject to statutes of limitations, which could deprive victims of redress, compensation and rehabilitation.**

In its latest concluding observations the CAT Committee (December 2015) raised concern that a civil compensation adjudicated independently of criminal proceedings in the State party, is subject to statutes of limitations. The committee recommended that Denmark ensures that civil proceedings related to torture and ill-treatment are not subject to statutes of limitations, which could deprive victims of the redress, compensation, and rehabilitation due to them.

2.1.6 RIGHT TO VOTE FOR PERSONS UNDER LEGAL GUARDIANSHIP

- **DIHR recommends that Denmark amends national legislation so that persons under legal guardianship are allowed to vote and stand for election**

According to section 29 in the Danish Constitution , persons who are legally incapacitated are prohibited from voting. The Parliamentary Elections Act states that

“Franchise for the Folketing is held by every person of Danish nationality, who is above 18 years of age, and permanently resident in the realm, unless such person has been deprived of his or her legal capacity under a guardianship order, cf. section 6 of the Guardianship Act”. Furthermore, persons placed under legal guardianship are not allowed to vote or stand for municipal, regional or EU parliamentary elections as well as other national referendums.

This recommendation corresponds with SDG target 16.7 to ensure responsive, inclusive, participatory and representative decision-making at all levels.

2.2 INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE

2.2.1 NHRI MANDATE COVERING THE FAROE ISLANDS

Denmark and the Faroe Islands have not established a national human rights institution (NHRI) covering the Faroe Islands.

- **DIHR recommends that Denmark and the Faroe Islands establish a NHRI covering the Faroe Islands.**

Establishment of a NHRI on the Faroe Islands will fulfil recommendations made by the UN General Assembly (1994), the UN Committee on Economic, social and Cultural Rights (2013). It will furthermore address SDG 16.6 to Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

2.2.2 NATIONAL ACTION PLAN ON THE RIGHTS OF THE CHILD

- **DIHR recommends that Denmark develops and implements human rights action plans, in particular on the right of the child**

National human rights action plans, in particular on the right the child, should include sound policy frameworks to eliminate and prevent poverty (SDG 1 on poverty eradication), ensure inclusive and equitable education and promote lifelong learning opportunities (SDG.4) and to end abuse, exploitation trafficking and all forms of violence against children (SDG target 16.2).

2.2.3 ADMINISTRATION OF JUSTICE – ACCESS TO INTERPRETATION IN COURT

- **DIHR recommends that Denmark establishes an official education for interpretation in the most common refugee and immigrant languages and introduce certification for interpreters.**

Qualified interpretation in court ensures equal access to justice for all, will fulfil SDG target no. 16.3 to promote the rule of law at the national and international levels and ensure equal access to justice for all.

2.2.4 SOLITARY CONFINEMENT OF CHILDREN AND ADULTS

- **DIHR recommends that Denmark adopts legislation to limit the use of solitary confinement and abolish solitary confinement of children**
- **DIHR recommends that Denmark bring its legislation and practice on solitary confinement into line with international standards**

Solitary confinement has potentially harmful effects and can result in inhuman and degrading treatment. The recommendations correspond with SDG target no. 16.2 to end abuse, exploitation, trafficking and all forms of violence against and torture of children.

Furthermore the CAT Committee is concerned that the Danish Administration of Justice Act allows the placement of remand prisoners in solitary confinement for up to eight weeks for adults and four weeks for minors. The Committee is also concerned at the use of solitary confinement as a disciplinary measure for convicts, which may be enforced for a continued period of up to 28 days.

2.3 POLICY MEASURES

2.3.1 CIVIL SERVANTS RIGHT TO FREEDOM OF EXPRESSION AND WHISTLE BLOWER MEASURES

- **DIHR recommends that Denmark takes legislative measures to ensure a shared burden of proof in court cases involving civil servants freedom of expression**
- **DIHR recommends that Denmark take legislative measures to consider a higher compensation in cases where civil servants have been wrongfully dismissed for exercising their freedom of expression.**

There is, at the moment, a considerable insecurity among civil servants as to where the limits of their right to expression extends. In the past seven years, 50 cases of freedom expression involving civil servants have been identified. In 38 of these cases, the public authority employer had tried, in different forms, to hinder the civil servants right to freedom of expression. In most of these cases, the court found the handling of the matter by the employers to be in violation of the law. This recommendation corresponds with SDG target 16.10 to ensure public access to information and protection of fundamental freedoms, in accordance with national legislation and international agreements.

In regards to establishment of a whistle blower measure:

- **The DIHR recommends the respective public authorities to consider whether there is an administrative basis for establishment of a whistle blower measure in the public authority.**
- **Furthermore, the DIHR recommends that public authorities disseminate knowledge on the regulation pertaining civil servants right to freedom of expression**

2.3.2 MILITARY OPERATIONS

- **DIHR recommends that Denmark finalises the preliminary investigation carried out by the internal task force under the Danish Defence Command which revealed a number of critical circumstances and questions about the Danish forces' handling and transfer of detainees in Iraq in 2003-2007 and which was suspended when the (now defunct) Independent Commission was established.**

The CAT Committee is concerned that the mandate of the Commission of Inquiry on the Danish participation in the Iraq and Afghan wars set up, inter alia, to investigate circumstances of the transfer of prisoners by the Danish contingent of the International Security Assistance Force to the custody of other states' forces is terminated without having made definite conclusions as to whether there had been breaches of international obligation by the State party not to expose those prisoners to ill-treatment. A civil claim for compensation against the Danish Ministry of Defence is pending before a Danish High Court. The case concerns an Iraqi prisoner who was captured by Danish military forces in November 2004 in Iraq and transferred to Iraqi authorities and allegedly exposed to torture. The ministry argues that the Court due to statutes of limitation in Danish law cannot examine the case.

CHAPTER 3

3 PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

3.1 EQUALITY AND NON-DISCRIMINATION

3.1.1 EQUALITY AND NON-DISCRIMINATION – DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION AND GENDER IDENTITY

- **DIHR recommends that Denmark expressly prohibits discrimination outside the labour market due to disability, religion, age, sexual orientation and gender identity**
- **DIHR recommends that Denmark ratify protocol 12 to the European Convention on Human Rights on a general prohibition against discrimination**

Danish non-discrimination legislation provides inadequate protection against discrimination outside the labour market due to disability, religious belief, age, sexual orientation and gender identity.

Revision of the anti-discrimination legislation and introduction of a general prohibition against discrimination complies with Denmark's obligations in accordance with the International Covenant on Civil and Political Rights (ICCPR) article 26, the Convention on the Rights of Persons with Disability (CRPD) article 5, UPR – Recommendation (2011)106.31. Review its body of legislation prohibiting discrimination to ensure equal protection on all grounds, and in this regard, consider elaborating a single comprehensive act covering all grounds for possible discrimination (Canada). These recommendations will contribute to reaching SDG targets 5.c, 10.3 and 16. b, which call for the promotion and enforcement of non-discriminatory laws and policies.

3.1.2 BOARD FOR EQUAL TREATMENT

- **DIHR recommends that Denmark ensures that the Board of Equal Treatment is given the possibility to hear oral testimonies**

The Board's case handling is on a written basis only, which to some can be a barrier in itself. Furthermore, the Board receives many complaints regarding access to restaurants and pubs, but as the restaurants and pubs deny the accusations, the cases are dismissed due to lack of evidence and there is no way of examining the case further. The Board's inability to hear oral testimonies has especially an impact on cases of discrimination on grounds for race and ethnic origin, where the Board has to often dismiss these cases. There is a considerable underreporting when it comes to complaints regarding discrimination on the grounds of race and ethnic discrimination. This recommendation corresponds with SDG targets 16.3 on access to justice, and; target 16.6 on effective institutions.

WOMEN

3.1.3 VISIBILITY OF CEDAW, THE OPTIONAL PROTOCOL AND GENERAL RECOMMENDATIONS

- **DIHR recommends that Denmark disseminate and give publicity to the Convention, the Optional Protocol thereto and the Committee's general recommendations among all segments of society and facilitate access to information, including with Danish language translations, on the Committee's views and recommendations on individual communications and inquiries, including through capacity-building programmes for lawyers, judges, prosecutors, police officers and other law enforcement**
- **DIHR recommends that Denmark raise awareness among women of their rights under the Convention and of legal remedies available at the national and local levels, including through information campaigns and the media**

The CEDAW Committee is concerned that there is inadequate awareness of the Convention in general, the procedures under the Optional Protocol for filing claims of violations of women's rights, the Committee's general recommendations and the Committee's views and recommendations on individual communications and inquiries. These recommendations will contribute to reaching SDG target 5.1. to end all forms of discrimination against women and

girls, and; target 5.c to adopt and strengthen sound policies for the promotion of gender equality and the empowerment of women and girls.

3.1.4 EQUAL PAY

- **DIHR recommends that Denmark strengthen the Danish Equal Pay Act further by obligating employers to inform employees about the Equal Pay Act including the right to discuss wages (section 2a) and the protection against victimization (section 3)**
- **DIHR recommends that Denmark clarify the concept of equal pay for job of equal value making it operational for the social partners and all, who negotiate wages.**
- **DIHR recommends that Denmark consider strengthening the legal protection of women in cases of discrimination in the workplace relating to pregnancy and childbirth**

In its Concluding Observations from 2015 the Committee recommends, that Denmark takes proactive concrete measures to narrow or close the wage gap between women and men.

The CEDAW committee is concerned about the persistent gender wage gap and the lack of legal obligations that require transparency, the lack of legal clarity on the definition of work of equal value, the prevalence of de facto employment discrimination relating to pregnancy and childbirth;

These recommendations will contribute to achieving SDG target 5.1. to end discrimination against women, and; target 8.5. to achieve equal pay for work of equal value.

3.1.5 VIOLENCE AGAINST WOMEN

- **DIHR recommends that Denmark enact legislation providing for the collection of data, disaggregated by age, ethnicity, nationality and relationship between the victim and the perpetrator, on all forms of violence against women and establish a mechanism with a clear mandate**

as well as adequate human, technical and financial resources for the analysis of such data

- **DIHR recommends that Denmark further strengthen the quality and accessibility of protection measures, including restraining orders, for women who are victims of violence in Greenland and the Faroe Islands**
- **DIHR recommends that Denmark adopt a legislative framework that explicitly provides for the protection of women from psychological violence, in line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, to which Denmark is a party.**
- **DIHR recommends that Denmark adopts guidelines for a uniform handling of cases about domestic violence in all police districts.**
- **DIHR recommends that Denmark disseminates knowledge about restraining orders, barring orders and evictions, and access to long-term psychological treatment for women victims of violence.**

The CEDAW committee express concern about the absence of gender-disaggregated data on all forms of violence against women, the inadequacy of protection and restraining orders for victims of violence against women in Greenland and the Faroe Islands and the absence of explicit legal provisions ensuring that women are protected from psychological violence.

These recommendations contribute to the realisation of SDG target 5.2. to end all forms of violence against women and girls, and; target 5.c. to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of women and girls.

3.1.6 DOMESTIC VIOLENCE – RESIDENCE PERMIT

- **DIHR recommends that Denmark Does not asses the willingness of the foreigner to integrate him- or herself into society, solely on the circumstances during the abusive relationship but that consideration is also given to the willingness and wish to be integrated after the cessation of the relationship**

- **DIHR recommends that Denmark ensures that, the reception of welfare benefits – linked to the circumstances created by the domestic violence - does not influence the decision to give a residence permit**

DIHR is concerned about the safety of victims who are not able to document, that they have been exposed to, especially physical, violence. Furthermore, the victim is required to show willingness to integrate him- or herself into Danish society in order to obtain an autonomous residence permit, which can be difficult when being in a violent relationship.

DIHR is concerned that victims of domestic violence whose residence permit depends on cohabitation with a partner are at risk of not obtaining an autonomous residence permit when leaving the partner because of the violence. The reason for this is the general requirement in the Aliens Act that a person must not – as a starting point - have received any welfare benefits within the last three years of applying for a residence permit. If for instance a victim of domestic violence cannot hold a job due to the domestic circumstances and therefore needs to receive welfare benefits, this can

These recommendations contribute to achieving SDG target 5.3. to eliminate all forms of violence against women, including trafficking and sexual and other types of exploitation.

3.1.7 WOMEN AT MANAGERIAL LEVEL

- **DIHR recommends that Denmark ensures that all companies and institutions, covered by the regulations, have proficient knowledge of their obligations and potential sanctions for non-compliance.**
- **DIHR recommends that Denmark take measures to ensure a more gender-balanced distribution between parents' caring responsibilities.**

CEDAW article 7 obligates States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life and ensure women the right to participate in non-governmental organizations and associations concerned with public- and political life.

According to the Gender Gap Report 2014 prepared by The World Economic Forum, Denmark ranks five out of 142 countries in the overall ranking. Unfortunately, Denmark ranks 72 in terms of the gender gap among legislators,

senior officials and managers, with 28 percent women in upper level management positions.

Policies for flexibility and parental leave would lower barriers to women's career advancement. The Danish government has indicated that they would like to promote fathers to take more parental leave, but currently the government has no policy initiatives ensuring a more gender-balanced distribution between parents' caring responsibilities.

These recommendations correspond with SDG target 5.4. to promote shared responsibility within the household and the family, and; target 5.5. to ensure women's equal opportunities for leadership at all levels of decision-making in political, economic and public life.

3.1.8 GENDER MAINSTREAMING

- **DIHR recommends that Denmark adopts legislation obligating Denmark to collect and disseminate data disaggregated by gender to consolidate the implementation of gender mainstreaming**
- **DIHR recommends that Denmark considers more effective monitoring mechanisms to ensure public sector compliance with the duties within gender mainstreaming.**

Gender mainstreaming is part of Articles 1- 3 in CEDAW. In its Concluding Observations from 2015 the Committee inter alia recommends that Denmark take measures to facilitate the development of gender mainstreaming tools for legislation and for context-specific strategy plans for gender mainstreaming at the municipal level, including in Greenland and the Faroe Islands. A recent report published by DIHR highlights the importance of access to gender statistics and data disaggregated by gender in municipalities. The report shows that there is a need for easy access to clear data and statistics and for a development of locally defined clear targets for gender equality.

This recommendation corresponds with SDG target 5.c. to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality.

RACE AND ETHNIC ORIGIN

3.1.9 DISCRIMINATION ON GROUNDS OF RACE OR ETHNIC ORIGIN

- **DIHR recommends that Denmark should take necessary administrative and legal measures to combat institutional discrimination on grounds of race and ethnic origin in access to goods and services, health services, housing and education.**

According to the Danish national Integration Barometer (2014) 45 percent of the migrants of non-western descent experienced discrimination in particular to equal access to goods and services provided by both public authorities and private businesses.

This recommendation corresponds with SDG target 16.b to promote and enforce non-discriminatory laws and policies for sustainable development.

3.1.10 HATE CRIMES

Despite these good efforts, there are however still areas that need improvement. The lack of proper statistics is for instance a continuing challenge

- **DIHR recommends that Denmark Develops a national action plan for combatting hate crimes in order to ensure continuity and sustainability**
- **DIHR recommends that Denmark establishes an overview of cases where section 81, no. 6 has been invoked by the Danish courts**

According to section 81, no. 6 of the Criminal Code, the courts should, when sentencing in criminal cases, consider it an aggravating circumstance, if a criminal act is motivated by the ethnic origin, religious belief, sexual orientation etc. of the victim. Statistics on the number of cases in which section 81, no. 6 has been invoked and applied by the courts is however lacking. This means, that there is very limited knowledge about the extent to which section 81, no. 6 is actually applied by the Danish courts. The Director of Public Prosecution has several times indicated that he would look into a way of making useful statistics, so far without result. This recommendation corresponds with SDG target 16.1. to significantly reduce all forms of violence.

3.1.11 RACIALLY MOTIVATED HATE SPEECH

In order to ensure a higher degree of transparency as well as a higher degree of insight

- **DIHR recommends that Denmark Publishes – in anonymized form – the reasoning for discontinuing an investigation into a violation of section 266b as well as the decision to withdraw charges**

Section 266b was introduced in the Danish Criminal Code in 1939 and was amended in 1971 to ensure the effective implementation of the CERD.

3.1.12 RIGHT TO NATIONALITY

- **DIHR recommends that Denmark amends the Danish Nationality Act in order to grant non-Nordic immigrant descendants the same right to Danish nationality by declaration as Nordic immigrant descendants who are entitled to Danish nationality by declaration if they are between 18 and 23 years of age, have resided in Denmark for at least 10 years of which 5 must have been within the last 6 years and do not have a criminal record.**
- **DIHR recommends that Denmark pays due attention to the barriers to naturalization that may exist for permanent residents who due to illiteracy or other special backgrounds may not be able to pass the Danish language requirement.**
- **DIHR recommends that Denmark reduces statelessness among children by obligating the authorities to inform parents to stateless children born in Denmark about their children’s entitlement to Danish nationality by application**

DIHR is concerned about the difference in treatment between immigrant descendants of Nordic and non-Nordic origin, about the relatively low number of naturalisation and about the number of stateless children born in Denmark. DIHR would like to draw the attention to the General Recommendation no. 30: Discrimination Against Non-Citizens, 15 paragraph 13, from which it follows that State Parties should ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalisation, and to pay due attention to possible barriers to naturalisation that may exist for long-term or permanent residents.

These recommendations correspond with SDG target 16.9. to provide legal identity for all.

DISABILITY

3.1.13 PERSONS WITH DISABILITIES – RIGHT TO VOTE UNDER LEGAL GUARDIANSHIP

- **DIHR recommends that Denmark amends national legislation so that persons under legal guardianship are allowed to vote and stand for election**

By amending national legislation persons under legal guardianship will be able to have equal access to participation in democratic process and thereby will Denmark fulfil SDG target no. 16 on promotion of peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

This recommendation corresponds with SDG target 16.7 to ensure inclusive, participatory and representative decision-making at all levels.

INTERSEX PERSONS

3.1.14 INTERSEX PERSONS RIGHT TO SELF DETERMINATION

- **DIHR recommends that Denmark take the necessary legislative, administrative and other measures to guarantee the respect for the physical integrity and autonomy of the intersex persons and ensure that no one is subjected during infancy or childhood to unnecessary medical or surgical procedures.**

Denmark continues to subject intersex infants to medical or surgical procedures in order to determine the child's gender. The medical or surgical interventions are irreversible with dire impact on the lives of the people concerned.

3.2 RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON

3.2.1 CONDITIONS OF DETENTION OF MINORS AND WOMEN

- **DIHR recommends that Denmark should be attentive that measures in place continue to protect minors placed with adults and women in mixed gender prisons against abuse and exploitation. The Committee encourages the State party to undertake a study on both regimes, identifying the**

advantages and risks, as well as the impact on minors and women's reintegration in society after their release from prison.

In its latest concluding observations the CAT Committee notes that very few juvenile offenders are placed in carceral environment. It also notes that their best interest and safety prevail when placed with adults, and due consideration is given to the selection of co-detainees with whom they are in contact. Moreover, the Committee notes that women are detained in mixed gender prisons and that protection measures are in place to reduce the risk of abuse and exploitation.

3.2.2 PEPPER SPRAY

- **DIHR recommends that Denmark restricts and regulates the use of pepper spray more precisely in Danish law.**
- **DIHR recommends that Denmark prohibits the use of pepper spray on persons who have been brought under control.**
- **DIHR recommend that Denmark ensures that pepper spray, as a starting point may not be used in confined spaces, if less severe means of force can be used.**
- **DIHR recommends that Denmark adopts further measures to reduce the use of pepper spray on mentally ill persons, including further training of personnel.**

Since 2008, Danish police officers have been able to use pepper spray as a means of force. In 2011, Danish prison officers were allowed under certain conditions to carry pepper spray and to use it in prisons and detention centres. In its latest concluding observations the CAT Committee express about reports of pepper sprays' still fairly frequent use by the Police and in prisons.

3.2.3 COERCION IN PSYCHIATRIC TREATMENT

- **DIHR recommends that Denmark abolish the use of forced physical restraints lasting more than 48 hours**
- **DIHR recommends that Denmark limits the use of coercive measures in psychiatric institutions through legislative amendments and revision of guidelines**
- **DIHR recommends that Denmark amends legislation in order to give due weight to the views of children capable of forming their own views, with the aim of changing the scope of the safeguards and standards provided for children in the psychiatric system**

According to the European Committee for the Prevention of Torture (CPT) applying physical restraint to psychiatric patients for several days cannot have any medical justification and amounts to ill-treatment. In 2014, CPT expressed serious concern about the frequent and prolonged use of immobilisation in Danish psychiatric hospitals, which had increased despite measures taken to reduce immobilisation. Particularly the use of immobilisation for more than 48 hours had steadily increased and reached all-time peaks in 2012 and 2013. In 2014, CRPD also expressed concern about coercive treatment in Danish psychiatric institutions.

These recommendations contribute to achieving SDG target 3.4. to promote mental health and well-being.

3.2.4 SEPARATION OF CONVICTS AND REMAND PRISONERS

- **DIHR recommends that Denmark cease the practice of placing convicted persons with pre-trial detainees.**

The CAT Committee is concerned that occasionally convicts serving short sentences are placed in remand prisons.

3.2.5 DATA PROTECTION IN PUBLIC ADMINISTRATION

- **DIHR recommends that Denmark conducts an independent evaluation and analysis of the Executive Order on Data Retention and its accordance with**

Article 8 of the ECHR. The evaluation should, inter alia, assess the possibility of strengthening the legal safeguards, including that data retention be carried out with as limited scope as possible and over the shortest possible time interval.

- **DIHR recommends that Denmark ensures that a privacy impact assessment (PIA) be included as permanent mandatory practice prior to the introduction of IT solutions that process personal information in the public sector.**

A report by the Danish Auditor General (*Rigsrevisionen*) from 2013 and 2014 revealed that several state institutions have inadequate protection of personal data. This can lead to unauthorised persons gaining access to these data. The many cases of leakage of personal information underscore the need to strengthen security and supervision in the handling of personal information by public institutions.

3.2.6 INTELLIGENCE SERVICES AND CYBER SECURITY.

- **DIHR recommends that Denmark carries out an analysis and systematic assessment of the overall supervision of the intelligence services, including the Centre for Cyber Security (the state warning service for internet)**
- **DIHR recommends that Denmark investigates how the Danish supervision of processing and exchange of personal data on social media platforms can be enhanced.**

With the creation of the Centre for Cyber Security in 2012 and the adoption of a law on Centre for Cyber Security in 2014, the state warning service for internet threats (GovCert) is now part of the Defence Intelligence Service (FE). This entails increased access to exchanging data between the FE and the warning service as well as increased access to exchange information between the intelligence services'. At the same time, the basis for data collection has been expanded. This makes the requirements for supervision and control over the Centres processing and exchange of personal data much more urgent.

3.3 ADMINISTRATION OF JUSTICE, INCLUDING IMPUNITY AND THE RULE OF LAW

3.3.1 PROTECTION OF CHILDREN FROM ABUSE, CHILDREN AS SECONDARY VICTIMS AND CHILDREN AND YOUNG PEOPLE'S SITUATION WHEN PLACED OUTSIDE THEIR HOME

- **DIHR recommends that Denmark ensures that the municipality's anti-abuse measures are well developed and supported to include the prevention and management of all forms of child abuse, including psychological abuse;**
- **DIHR recommends that Denmark ensures that there are enough qualified and specialised placement possibilities for children with special problems, and that the placement institutions are made aware of the children's cultural and religious background and any special needs;**
- **DIHR recommends that Denmark clarifies in the legislation, administrative regulations and government practices that children have a right to express their views in all matters affecting them, and that their views must be given due weight in accordance with their age and maturity, also in connection with the use of force against them.**

Children continue to be subject to lack of protection against serious neglect. This emerges from a case taken up by the Danish Parliamentary Ombudsman against a municipality which, despite 11 serious reports from, among others, police, schools and citizens, had not taken any action to assist siblings who lived under absolutely intolerable conditions. Children placed outside their home do worse than other children in almost all areas including schooling, health and general well-being. Children placed outside their home continue to run much greater risk of not getting an education, and this applies especially to children who are placed at a later stage in their life.

These recommendations contribute to achieving SDG target 16.2 to end abuse, exploitation, trafficking and violence against children.

3.4 FREEDOM OF RELIGION OR BELIEF, EXPRESSION AND RIGHT TO PARTICIPATE IN PUBLIC AND POLITICAL LIFE

3.4.1 DIALOGUE WITH LEADERS OF RELIGIOUS COMMUNITIES

- **DIHR recommends that Denmark should engage the relevant leaders of religious communities in a dialogue when taking legislative or**

administrative measures that have an impact on religiously based customs and traditions, as well as measures to curb radicalization.

Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities recommended Denmark (2014) to adopt a sensitive approach to issues that touch upon religious minorities' customs and traditions and to consider solutions that take religious freedom in to consideration.

3.4.2 NON CRIMINALISATION OF BLASPHEMY

- **DIHR recommends that Denmark abolishes the criminalisation of blasphemy for the Criminal Code (section 140)**

Since the cartoon crisis in 2005, there has been public and political debate about the extent to which Danish law should take account of freedom of expression. In this connection, the Criminal Law Council has reviewed the legal implications of a possible abolishment of the Criminal Code's provisions prohibiting blasphemy and has stated that the prohibition does not preclude sharp criticism of religion and religious dogma. The government has therefore decided not to propose repealing the blasphemy ban. The Danish Institute for Human Right, however, recommends a repeal of the ban on blasphemy, as human rights does not protect against blasphemy of religion. A ban on the burning of religious works and similar acts can also be enforced by other means.

3.5 RIGHT TO WORK AND TO JUST AND FAVOURABLE CONDITIONS OF WORK

3.5.1 RECRUITMENT TO THE POLICE

- **The DIHR recommends that Denmark intensifies the efforts to recruit and retain ethnic minority candidates to the Danish National Police, including having specific targets for the numbers of pupils and employees.**

The persistent challenges for a better recruitment of ethnic minority candidates underlines the need for intensifying the efforts by the police

This recommendation will contribute to achieving SDG 8 regarding full and productive employment for all.

3.6 RIGHT TO SOCIAL SECURITY AND TO ADEQUATE STANDARD OF LIVING

3.6.1 POVERTY LINE LIMITS

At the last UPR Denmark (2011) was recommended to introduce a poverty line limit - a recommendation that Denmark did comply, by introducing a relative national poverty line. The government also published an annual report on trends in the number of economically poor.

The current government has proposed a suspension of the use of the national poverty line and the annual reports.

- **The DIHR recommends that Denmark does not suspend the poverty line indicator before another viable indicator is found to measure and monitor development of poverty in Denmark.**

The government argues that that poverty is more complex than simply having a line determining relative economic poverty. However, it is important that poverty be monitored by having indicators such as a relative poverty line; likewise, the SDG's contain a political commitment to work for reducing poverty.

This recommendation is a precondition for achieving SDG target 1.2. to reduce by half the proportion of men, women and children living in poverty in all its dimensions according to national definitions.

3.6.2 RIGHT TO HOUSING

- **DIHR recommends that Denmark conducts a systematic registration of the use of all letting instruments aggregated by data on socio-economic status, disability, gender and ethnic origin**
- **DIHR recommends that Denmark Examines the housing situation for citizens who are precluded due to the alternative letting rules with regard to the risk of indirect discrimination of ethnic minority persons, as well as disabled and social marginalized persons**

The combination of alternative letting rules and restrictions on the municipalities' access to allocate social housing for both non-EU/EEA-citizens and socially disadvantaged people and the fact that there has been a significant decrease in the number of social housing dwellings affordable to those receiving

the lowest welfare benefits may amount to significant obstacles in access to housing.

Furthermore people with a Middle Eastern name will statistically have to send 27 percent more applications in order to receive a positive response than people with a Danish name.

These recommendations correspond with SDG target 11.1. to ensure access for all to adequate, safe and affordable housing.

3.6.3 ABORTION

- **DIHR recommends that Denmark take measures to reduce the high prevalence of abortion in Greenland, including through education on sexual and reproductive health, especially in schools**
- **DIHR recommends that the Faroe Islands review its position on abortion in the Faroe Islands, with a view to ensuring that women and girls there have the equal access to safe and legal abortion services as women and girls in mainland Denmark**

The CEDAW Committee is concerned about the high prevalence of abortion, especially by underage women, in Greenland. The Committee notes that the legislation on abortion in the Faroe Islands does not allow for the same access to abortion services by women there as is available to women in Greenland and mainland Denmark. The Committee is concerned that the geographic isolation of the Faroe Islands may lead to situations in which women or girls seeking a termination of pregnancy there may be subject to unnecessary risks or are disadvantaged compared with women and girls in mainland Denmark and Greenland.

These recommendations correspond with SDG target 3.7. to ensure universal access to sexual and reproductive health-care services and the integration of reproductive health into national strategies and programmes, and; target 5.6. to ensure universal access to sexual and reproductive health and reproductive rights.

3.7 RIGHT TO EDUCATION

3.7.1 MOTHER TONGUE TEACHING

Before 2002, all children in Denmark were provided with free mother tongue teaching. However, since 2002, the municipalities are only obligated to provide mother tongue classes for children from countries within the European Union (EU) and European Economic Area (EEA) as well as children from the Faroe Islands and Greenland. Children from other countries are only offered mother tongue teaching in those municipalities, which have decided to support this through supplementary education.

- **DIHR recommends that Denmark analyses the effects of the abrogation of the access to mother-tongue teaching for children from outside the EU-/EEA-countries regarding their educational results, including the opportunities for developing respect and understanding for their own cultural identity, language and values.**

Mother tongue teaching contributes to the development and self-esteem of the child. Mother tongue teaching strengthens the child's connection to their own cultural identity. As such, mother tongue teaching strengthens the child both socially and academically.

3.8 MINORITIES AND INDIGENOUS PEOPLES

3.8.1 ROMA PEOPLE

The ICERD Committee is concerned about racist publications in the media, including online, the increase in Islamophobia, the terror attack against the Jewish community in Copenhagen in February 2015 and the stigmatization of the Roma community.

- **DIHR recommends that Denmark intensifies efforts to fight discrimination, especially against Roma minorities and supports targeted policies promoting their full and effective equality in all areas.**

This corresponds with SDG target 16.b to promote and enforce non-discriminatory laws and policies for sustainable development.

3.8.2 NATIONAL MINORITY

Greenlanders living in Denmark are not recognized as a national minority

- **DIHR and CERD recommends that Denmark engages in a dialogue with Greenlanders in Denmark with the purpose of examining whether they wish to be recognized as a national minority**

In Denmark Greenlanders are met with prejudices and surveys show that they feel discriminated against or stigmatized in the encounter with public authorities, the health care system, employers and the educational system

This corresponds with SDG target 16.b to promote and enforce non-discriminatory laws and policies for sustainable development.

3.9 MIGRANTS, REFUGEES AND ASYLUM-SEEKERS

3.9.1 DETENTION OF ASYLUM SEEKERS

- **DIHR recommends that Denmark reduce the length of administrative detention of asylum-seekers authorised according to the Aliens Act for as short a period as possible, bearing in mind that detention should be used as measure of last resort;**
- **DIHR recommends that Denmark ensure that facilities accommodating asylum-seekers are appropriate for their status and situations, especially as some of them may be victims of torture or ill-treatment. As such, the State party should alter layout and fixtures so as to change the carceral appearance of facilities hosting asylum-seekers**

In its latest concluding observations the CAT Committee regrets that the State party considers prison-like structural layout and fixtures at the Ellebæk Prison as necessary for security reasons. The Committee also finds excessive the total length of detention of asylum-seekers of 18 months authorized by article 37 of the Aliens Act.

3.9.2 ASYLUM SEEKERS AND VICTIMS OF TORTURE

- **DIHR recommends that Denmark put into place procedures for the systematic screening and medical examination of alleged torture victims by qualified personnel throughout the asylum process, including at reception centres and places of detention such as the Ellebæk Prison**

- **DIHR recommends that Denmark ensure that victims of torture are not held in places of deprivation of liberty and have prompt access to rehabilitation services**

The CAT Committee is concerned at the lack of regular mechanism for the identification of victims of torture throughout the asylum process. Moreover, the Committee is concerned that intake procedures at the Ellebæk Prison for Asylum-seekers and Others Deprived of their Liberty (Ellebæk Prison), where decisions on fitness of asylum-seekers for detention and identification of victims of torture are made by a nurse, are inadequate. It is also concerned at the lack of system for handling victims of torture upon their identification during administrative detention.

3.9.3 TOLERATED STAY

DIHR is concerned about the application of the rules on tolerated stay in Denmark (*tålt ophold*) for foreigners who have lost their residence permit in Denmark due to e.g. committed crimes but who cannot be sent back to their home country because of a real risk of torture or ill-treatment.

- **DIHR recommends that Denmark on a regular basis evaluates whether it in individual cases would be a violation of the prohibition against torture or inhuman or degrading treatment or punishment in article 3 in ECHR to order a foreigner on tolerated stay continuously to spend the nights in a refugee camp and report to the police on a daily basis.**
- **DIHR recommends that Denmark ensures that authorities on a regular basis on their own initiative, evaluates whether a foreigner on tolerated stay may reacquire a residence permit, especially if the said person has been on tolerated stay in a refugee camp for a long period and expulsion seems futile.**

Foreigners on tolerated stay are required to spend nights in a refugee camp and to report to the police on a daily basis (*opholds og meldepligt*). The parliamentary Ombudsman recently raised critique of current practice. It was, however, not examined whether it in individual cases might be in conflict with the prohibition on torture, inhuman or degrading treatment (according to ECHR art. 3) continuously to impose a foreigner on tolerated stay the duty to spend nights in a refugee centre and report to the police on a daily basis.

In its latest concluding observations the CAT Committee express concern about the regime of control and limitation of rights under which individuals at tolerated stay are subject to, especially as they may be in such status for a long period of time.

3.9.4 VICTIMS OF HUMAN TRAFFICKING

- **DIHR recommends that Denmark to treat victims of human trafficking as *victims* and not as illegal migrants, which is the approach at the moment.**
- **DIHR recommends, furthermore, that Denmark ensures that victims of human trafficking are not incarcerated and are protected in so called “safe houses” while the identification is taking place.**

Human trafficking is a serious violation of human rights, in particular of a person’s dignity and integrity. Therefore, it is imperative that victims of human trafficking are not treated as criminals by the authorities by being subject to legislation pertaining to illegal migrants. Likewise, it is important that victims who have not been identified are not incarcerated during the identification process.

These recommendations contribute to achieving SDG target 16.2 to end trafficking.

3.9.5 AMENDMENTS TO THE DANISH ALIENS ACT

Denmark's new government, elected in June 2015, has introduced a range of amendments to the Danish Alien Act. The aim of these amendments is to improve the integration of foreigners into the Danish society and secondly to make Denmark less attractive for asylum seekers and migrants.

- **DIHR recommends that Denmark introduces clear and precise regulation on the maximum duration of detention upon entry and an individual assessment of each alien’s conditions of health**
- **DIHR recommends that Denmark introduces clear and precise regulation on the maximum duration of the suspension of the individual alien's right to judicial review**

- **DIHR recommends that Denmark, due to the disproportional interference into family life, abolishes the three-year waiting period for family reunification for persons granted temporary protection**

According to the government, the aim is to tighten legislation as much as possible while still respecting Denmark's international human rights obligations. Furthermore the government is willing to run the risk of not complying with its human rights obligations before international human rights monitoring mechanisms in order to deter refugees from seeking asylum in Denmark and to ensure that the integration capacity of Denmark is not over stretched or the situation runs out of control.

3.10 HUMAN RIGHTS AND ARMED CONFLICT

3.10.1 INTERNATIONAL LAW, DANISH LEGISLATION AND PRACTICE

- **DIHR recommends that Denmark clarifies the extent to which Danish forces involved in international military operations are bound by human rights, the Danish Constitution and by other Danish legislation;**
- **DIHR recommends that Denmark in future mission-specific directives, specifically addresses the Danish forces' commitments in relation to children's rights to special respect and protection under both international humanitarian law and human rights law**
- **DIHR recommends that Denmark also clarifies whether the Military Prosecution Service (FAUK) and its investigations meet the requirements from, among other things the ECHR, including whether FAUK in practice possesses the necessary independence from the armed forces.**

In recent years, Denmark has participated in several international military operations and actively participated in several armed conflicts, including in Afghanistan, Iraq, Libya and most recently in Mali in 2013 and in Iraq in 2014. Denmark's participation in these conflicts has created a number of new issues in relation to international law obligations and Danish law and practice. First, when is it legal to take part in an armed conflict (*jus ad bellum*). Secondly, which rules of international law regulate the conduct of the war (*jus in bellum*).

CHAPTER 4

4 GREENLAND

4.1 SCOPE OF INTERNATIONAL OBLIGATIONS

4.1.1 RESERVATION TO THE CRC OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Denmark's ratification of international human rights conventions is binding for the whole kingdom by default. However and due to mutual agreement between Greenland and Denmark UN core human rights conventions are generally ratified with a territorial reservation for Greenland. Subsequently, the reservation is revoked on the request of Greenland when Greenland wishes to be bound by the obligations.

- **DIHR and Human Rights Council Greenland (HRCGL) recommends that Denmark abrogate the territorial reservation for Greenland to the CRC optional protocol on the sale of children, child prostitution and child pornography.**

Greenland requested in 2012 that Denmark took steps to revoke/abrogate the territorial reservation for Greenland to the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. This request has not yet been met.

This recommendation will contribute to achieving SDG target 8.7. to secure the prohibition and elimination of the worst forms of child labour, and; target 16.2 to end abuse, exploitations and violence against children.

4.2 EQUALITY AND NON-DISCRIMINATION

4.2.1 GENERAL PROHIBITION ON DISCRIMINATION AND COMPLAINTS PROCEDURE

In cases on discrimination (all grounds), no national complaints procedure for individuals exists other than taking a case to court or (concerning public

authorities) refer the case to the Greenlandic parliamentary ombudsman (*Ombudsmanden for Inatsisartut*).

- **DIHR and HRC Greenland recommends that Greenland adopt legislation to prohibit discrimination based on race and ethnic origin, age, religion, sexual orientation and disability within and outside of the labour market**
- **DIHR and HRC Greenland recommends that Greenland adopt legislation to establish an equal treatment body to ensure access to an effective remedy for individuals who experience discrimination.**

A general prohibition on discrimination on the grounds of race and ethnic origin, age, religion, sexual orientation and disability has not been introduced in Greenland. Discrimination in the labour market on these grounds is not prohibited. There is no civil law protection against discrimination outside the labour market, i.e. in social security, health services, education and in goods and services, including housing.

This recommendation corresponds with SDG targets 5.c, 10.3 and 16. b., which call for the promotion and enforcement of non-discriminatory laws and policies, as well as; target 16.6. to develop effective and accountable institutions.

4.2.2 IMPLEMENTATION OF CEDAW

There is little evidence and there are few research studies on discrimination against women as well as on gender equality in general in Greenland. For instance, there is a lack of information on possible exploitation of women or girls in vulnerable situations, including working conditions for immigrant women working in the service industries.

- **DIHR recommends that Greenland provides analyses or funding for research studies on discrimination against women and gender equality in Greenland in order to obtain a planning base for necessary actions against gender discrimination.**
- **DIHR recommends that Greenland establishes an independent mechanism or consideration of gender discrimination cases ensuring that this mechanism can award compensation and bring a case to court in the event of non-compliance with the mechanism's ruling in the case**

These recommendations correspond with SDG target 5.1. to end all forms of discrimination against all women, and: target 5.c. to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality.

4.2.3 VIOLENCE AGAINST WOMEN

According to the Greenlandic governments official website on violence in close relations (www.brydtavsheden.gl, 'Break the silence') 62.4 percent of women over 17 years of age in Greenland have at some point during their lives been subjected to violence or to serious threats of violence. When women are subjected to violence, the perpetrator is in 65.2 percent of the cases her partner or a previous partner.

- **DIHR recommends that Greenland provides information on how the Government (*Naalakkersuisut*) will ensure that all persons employed to give counselling or treatment to victims of violence and their perpetrators have the necessary skills to fulfil the goals of the Strategy and Action Plan against Violence 2014-2017.**
- **DIHR recommends that Greenland provides information on how developments in relation to the goals of the Strategy and Action Plan against Violence 2014-2017 are monitored and followed-up on during the strategy period.**

A prerequisite for the fulfilment of the strategy is skilled and professional counselling personnel. In Greenland, however, far from all persons employed in these matters have a relevant education.

These recommendations contribute to achieving SDG target 5.2. to eliminate all forms of violence against women, and; target 5.c. to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality.

4.3 ADMINISTRATION OF JUSTICE AND THE RULE OF LAW

4.3.1 TRANSPARENT ADMINISTRATIVE COMPLAINTS STRUCTURES

Uncertainty regarding the legal status of government agencies causes confusion for the citizens as to where to get access to justice and can lead to mistakes in case handling.

- **DIHR and HRCGL recommends that Greenland clarify the status and mandates of administrative structures within central government**

The right to appeal administrative decisions made by a government body is impaired by unclear administrative structures. In some cases it has been doubtful whether government agencies are autonomous entities or if they should be seen as departments within a specific ministry's central administration. The Greenlandic Parliamentary Ombudsman (*Ombudsmanden for Inatsisartut*) has raised concern over this, as citizens' right following legal tradition to appeal agency decisions to the minister is only in place if the agency is an autonomous authority. If an agency is part of a department within the ministry, there is no right to appeal to the minister since the minister would be directly responsible for the original decision.

This recommendation contributes to achieving SDG target 16.3 to ensure equal access to justice for all.

4.3.2 TRANSPARENCY IN LEGISLATIVE PROCESSES AND ACCESS TO LAW AND CASE LAW

Revision and quality assurance is needed for laws of the Kingdom of Denmark which are put into force for Greenland (*Rigslovgivning*). Danish legislation for Greenland is rarely adopted through a regular law process in the Danish parliament. Instead, Danish laws made for Danish conditions are put into force in Greenland by Danish royal decrees (*anordninger*). Adjustments to Greenlandic conditions takes place to a limited extent. However, as decrees have no preparatory works, no guidance to the interpretation of the provisions of the legislation for Greenland is provided. The preparatory works made for the original Danish act are accessible but provide little or no guidance in a Greenlandic context. Clear, concise and useful legislation is required in every aspect of law for which Denmark is responsible, including legislation for Greenland in areas not governed by Greenland self-rule.

A further challenge is the lack of public access to Greenlandic case law. No systematic publishing takes place of jurisprudence from leading cases/test cases. This makes it difficult to find jurisprudence from the courts of Greenland for professionals as well as for citizens.

- **DIHR and HRC Greenland recommends that Greenland introduce the concept of consolidated acts in Greenlandic law to improve foreseeability and accessibility.**
- **DIHR and HRC Greenland recommends that Greenland establish a database containing relevant Greenlandic case law**
- **DIHR and HRC Greenland recommends that Greenland and Denmark establish a database containing primary and secondary law of Greenland and all applicable laws of the Kingdom of Denmark covering Greenland**
- **DIHR and HRC Greenland recommends that Denmark limit the use of royal decrees (*anordninger*) as a tool for regulating Greenlandic conditions and increase the use of specified laws for Greenland taking Greenlandic context onto account adopted by the Danish parliament.**

Greenland does not operate with consolidated acts, which means that original legislation and subsequent amendments are not consolidated in one document. This makes it difficult to get an overview of which legislation is current and applicable.

There is no publicly accessible database containing both historical and current Greenlandic law and historical as well as current law of the Kingdom of Denmark applicable in Greenland. Greenlandic law is published on-line and searchable since 2010 with references as to whether documents are historical or current. Danish law applicable in Greenland is published on-line since 2008, is searchable but has no indication of whether documents are repealed or still current.

These recommendations contribute to achieving SDG target 16.3 regarding access to justice for all, and; target 16.10 to ensure public access to information.

4.3.3 LANGUAGE PROBLEMS AND UNCLEAR LEGAL TERMINOLOGY IN THE COURTS OF GREENLAND

Confusion of legal terms is frequent as different interpreters and translators translate Danish legal terms differently in Greenlandic.

- **DIHR and HRC Greenland recommends that Denmark in dialogue with Greenland make written evidence – not only the evidence summary – available in a language that is well understood by the parties in a court case**

- **DIHR and HRC Greenland recommends that Denmark in dialogue with Greenland establish a Greenlandic commission for legal terminology that ensures a uniform understanding of key legal concepts in Greenlandic and Danish**

The administration of justice is an area not taken over by the Greenlandic self-rule. The area is thus covered by Danish law specifically aiming at Greenlandic conditions.

Both Greenlandic and Danish is applicable in Greenlandic courts. It is for the judge to decide whether Greenlandic or Danish will be applied in court proceedings. The act on the administration of justice in Greenland guarantees that some legal documents, including indictments, the evidence summary (*bevisfortegnelse*), judgements and decisions on appeal should be made available in a language understood by the parties of a case. This, however, does not guarantee that other central documents of evidence be available in a language understood by the parties. Evidence provided by public authorities is almost always provided in Danish, whereas the mother tongue of most people in Greenland is Greenlandic. This impairs the right of primarily Greenlandic speaking/reading persons to prepare and present their case in court.

These recommendations contribute to achieving SDG target 16.3 regarding access to justice for all, and target 16.10 to ensure public access to information.

4.4 CHILDREN'S RIGHT TO HEALTH

4.4.1 NEGLIGENCE IN CARING FOR CHILDREN

There is general lack of human resources and knowledge among the Greenlandic municipal authorities to have in place measures to prevent maltreatment and child abuse and to intervene in families where children are at risk or are being abused.

- **DIHR and HRC Greenland recommends that Greenland reform and upgrade municipal competences and accountability in order to apply constructive measures and promote protection of the child against violence and assist families in rehabilitation efforts on substance abuse and addiction**

Recent studies show that a significant number of Greenlandic children do not thrive due to sexual and physical abuse or negligence by parents who are suffering from alcohol abuse or parents' lack of economic, personal and

social resources. Even though there is a right to education for all children, the primary school education standards do not meet the scholastic qualities necessary to enable Greenlandic children to complete higher educations and be competitive enough in acquiring employment. Lack of adequate housing compounds the social and economic problems Greenlanders have to face.

The Danish National Centre for Social Research – SFI (*Det Nationale Forsknings Center for Velfærd –SFI*) in its latest report (April 2015) commissioned by the Greenlandic government, Naalakkersuisut, notes that every other woman and every other third male indicated that they have been subject to sexual contact with an adult before they turned 15 years of age. Seven percent indicated that their first sexual contact occurred before they had turned 7 years of age.

This recommendation contributes to achieving SDG target 3.5. regarding the prevention and treatment of substance abuse, and; target 16.2. to end abuse, exploitations and all forms of violence against children,

4.5 PERSONS WITH DISABILITIES

4.5.1 PERSONS WITH DISABILITIES

Persons with disabilities in Greenland, including children, have limited access to support, including physical aids, counselling, educated professionals and appropriate housing. Some persons with severe disabilities are placed in foster homes far away from their family, some even in Denmark because of lack of possibilities in Greenland.

Little knowledge, research and baseline data is available relating to persons with disabilities in Greenland in many aspects, including accessibility as well as the right to education of persons with disabilities.

- **DIHR and HRC Greenland recommends that Greenland take measures to systematically collect data and statistics relating to the situation of persons with disabilities in Greenland.**
- **DIHR and HRC Greenland recommends that Greenland takes measures to support the creation of representative organisations of persons with disabilities in Greenland.**

Denmark, including Greenland, ratified the UN Convention on the Rights of Persons with Disabilities in 2009. The monitoring mechanism under the

convention's article 33(2) is not yet in place but under consideration by the Greenlandic government, Naalakkersuisut.

No general prohibition of discrimination on the ground of disability is included in national law in Greenland.

These recommendations will contribute to achieving SDG target 16.b to promote and enforce non-discriminatory law and policies.

4.6 RIGHT TO WORK AND TO JUST AND FAVOURABLE CONDITIONS OF WORK

4.6.1 EQUAL ACCESS TO EMPLOYMENT

There is a risk that persons with a low level of foreign language skills are mostly persons of Greenlandic ethnic origin, as schools are lacking skilled teachers especially in small villages (*bygder*)

- **Review the scholastic level of its foreign language classes in primary and secondary schools in order to ensure access to work, to free choice of employment and protection against unemployment and to just and favourable remuneration (art. 5(e)).**

In small villages only about half of the teaching personnel is trained/educated as teachers. Hence, it is necessary that the Greenlandic education system ensures foreign languages classes for all pupil/students on a sufficiently high level.

This recommendation contributes to achieving SDG target 4.4. to substantially increase the number of youth and adults who have relevant skills for employment, decent jobs and entrepreneurship and; target 4.5. to ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations

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