

**SHADOW REPORT on THE IMPLEMENTATION OF THE CONVENTION ON
THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

DENMARK

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INTRODUCTION

Documentary and Advisory Centre Against Racism (DACoRD/in Danish DRC) is an independent, private institution based on human rights conventions and working against racial discrimination. DACoRD documents racial discrimination and provide advice, guidance and legal assistance to persons who have been subjected to racial discrimination or who have witnessed it. In our work, we are highly aware of the fact that racial discrimination and gender discrimination, as well as other discriminatory grounds, can be interlinked.

Thus, it is our opinion that the eighth periodic report of Denmark according to article 18 of the Convention on the Elimination of All Forms of Discrimination against Women needs to be supplemented by various important comments related to the situation in Denmark during the period under review.

DACoRD acknowledges the efforts made by Denmark regarding the improvement of conditions for women. However, some disadvantaged groups of women, such as migrants, asylum-seekers and stateless women, continue to suffer gender-related discrimination, understood, in accordance to article 1 of the Convention, as any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms.

Bearing in mind the interdependence of human rights, the terms of the Convention strengthen and complement the international legal framework regarding refugees and stateless women and girls. In this sense, this report focuses on issues concerning gender-related dimensions of refugee status, asylum, nationality and statelessness women in Denmark, in accordance with the General recommendation 32 from the Committee on the Elimination of Discrimination Against Women, issued on the 5th of November 2014 (CEDAW/C/GC/32).

Migrant women are a disadvantaged group and, due to their vulnerability condition, female asylum-seekers and girls are in greater risk of becoming victims of trafficking and sexual exploitation, since they are kept on the margins of society, without access to formal employment and basic citizenship rights. This situation requires countries to provide conditions and adopt measures in order to protect women asylum-seekers and girls from such exposure, and they include the granting of resident permits, asylum and, in specific cases, the right to a nationality, thus preventing statelessness.

In fact, the condition of statelessness frequently divest women and girls from essential rights, such as free movement, political rights (including the right to vote and to stand for public office), as well as access to education, health care, property and formal employment. Those circumstances only perpetuate the cycle of marginalization and exclusion that deprives women and girls from their dignity and that disseminate inequality: a stateless woman who cannot work in order to provide for herself and her family is more likely to be subject of sexual exploitation and to endure domestic violence; a stateless girl who cannot go to school or who cannot receive proper health care will be in an evident disadvantaged position, and it is less likely to ever fulfill the criteria for a residence permit that would allow her to work and be part of a society.

Incorporation of CEDAW into Danish law

DACoRD has a long history of providing “Shadow reports” to the Committee on the Elimination of All Forms of Racial Discrimination, and we also provided reports to other UN bodies like the Committee on Economic Social and Cultural Rights. Most recently, we participated together with other civil society organisations in providing a joint report to the UN Committee on Disability. All of these Committees have called for the incorporation of the UN Human Rights treaties into Danish law.

This also follows from the Concluding Observations on Denmark from CEDAW in 2009:

“The Committee calls on the State party to reconsider its decision not to incorporate the Convention into its domestic legal order, with a view to ensuring that all rights protected under the Convention are given full effect in domestic law.” (Concluding Observations 2009 para 15)

Already back in 2001/2002 the present Government refused incorporation, however after a new Government came into power in 2011 it was declared that incorporation was a priority and the work of a Committee of Experts was concluded in August 2014. Consequently, it was expected that a Bill on incorporation would be introduced in Parliament, however now it is stated that the Government will not do so.

Since the Convention is not incorporated into Danish law, there is hardly no mentioning of CEDAW in any Danish court cases. The European Convention on Human rights on the contrary is incorporated and often mentioned in Danish legal decisions. From a legal

point of view, there is thus a real need for the incorporation of the Women's Convention as well.

DACoRD hopes that the Committee will continually urge the Danish Government to introduce a Bill into the Danish Parliament this year, on the incorporation of CEDAW (and other UN Human Rights treaties) into Danish law.

Statelessness

Denmark is a part of the 1961 Convention on the Reduction of Statelessness, which integrate the comprehensive international human rights legal framework. Furthermore Denmark must apply CEDAW Article 9.

Despite being legally bound by those international instruments, there is evidence that Denmark is failing to comply with its obligations under the aforementioned Conventions.

At the moment a Commission is investigation the handling of applications from stateless youngsters who applied for Danish citizenship. It seems that these youngsters were treated as if they already had another nationality and they were not informed about their specific status as stateless. For example, the staff of the Ministry admitted that they knowingly failed to publish information on the homepage of the Ministry with regard to these specific rules (See Jesper Tynell, "Mørkelygten" page 144-145) and the Commission is going to make a report on any findings of violations of the rules.

DACoRD also receives complaints with regarding the denial of the right to a nationality for statelessness - including amongst others a complaint from a girl born in the territory of Denmark from a Moroccan mother and whose father is unknown. The mother, a Moroccan refugee, gave birth to the girl in 2006 in Denmark and, as the child does not satisfy the requisites of the Moroccan Nationality Code, the Moroccan Embassy in Denmark refused to issue a Moroccan passport to the child or to register her as Moroccan.

CEDAW a dynamic instrument that promotes the development of international and human rights law. The General Recommendations issued by the Committee on the Elimination of Discrimination Against Women complement and reinforce the role of the Convention, providing authoritative guidance to State parties on the implementation of their obligations.

In this sense, the General Recommendation n. 32, from November 5th 2014, specifically addresses the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, and makes explicit reference to the 1961 Convention on the Reduction of Statelessness and to the United Nations Refugee Agency Guidelines on Statelessness n. 04: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness (HCR/GS/12/04).

Article 1 of the 1961 Convention places primary responsibility to grant nationality on contracting states in whose territory children who would otherwise be stateless are born, and children can also be stateless if neither of the parents can confer their nationality upon them. Moreover, according to UNHCR Guidelines n. 04, “a Contracting State must accept that a person is not a national of a particular State if the authorities of that State refuse to recognize that person as a national. A State can refuse to recognize a person as a national either by explicitly stating that he or she is not a national or by failing to respond to inquiries to confirm an individual as a national” (paragraph 19).

In the case presented before DACoRD, there has been an official refusal by the Moroccan authorities to recognize the girl as their national, which entails the obligation, to Denmark, to grant her the Danish citizenship. However, Danish authorities have refused to do so, sustaining, despite the Moroccan Embassy denial to issue her passport, that the girl is, according to Danish perception, Moroccan. The girl is now eight years old, and is being deprived of a series of basic human rights protections, such as the freedom of movement, the right to education, to a national identity, etc. Being stateless mean that she will probably continue to be marginalized and that she might undergo prejudices and discrimination. Under these circumstances, and bearing in mind that the condition of statelessness is particularly detrimental to women and girls, DACoRD believes that Denmark’s refusal to grant citizenship to stateless girls born in the territory of Denmark is a clear violation of The Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Reduction of Statelessness. This policy calls for revision.

DACoRD hopes that the Committee will also urge the Danish Government to introduce a specific office/unit in the Ministry of Justice on the assessment of cases relating to statelessness. This would make it much more transparent for applicants and the public.

Since many countries still only allows the father to pass on nationality (or they will not allow the mother to pass on nationality when the child is born abroad) a number of children in Denmark are de-facto stateless. DACoRD would hope that the Committee ask the Danish Government how many applications they have from children – who due to gender discriminatory rules on nationality in the mother’s country of origin – are stateless? It would also be important to know how many children are granted Danish nationality because of statelessness due to the rules in the country of origin of the mother – if any? Such figures should also be made public know, so other children could benefit from this, when they are in a situation of statelessness.

Copenhagen January 16, 2015