



THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

SELECTED LIST OF ISSUES  
ON THE UN CONVENTION  
ON THE ELIMINATION OF  
ALL FORMS OF  
DISCRIMINATION  
AGAINST WOMEN

DENMARK 2014

**SELECTED LIST OF ISSUES ON THE UN CONVENTION ON THE ELIMINATION OF  
ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

**DENMARK 2014**

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# CHAPTER 1

## 1 PREFACE

This report is compiled by the Danish Institute for Human Rights (DIHR), and contains selected input to the UN Committee on the Elimination of Discrimination against Women on relevant topics concerning Denmark and Greenland for the adoption of list of issues. Each issue is followed by recommendations for the Committee's list of issues for Denmark and Greenland.

The selection of issues included in this report is based on recommendations to the governments of Denmark and Greenland from various international bodies such as UN treaty bodies, UN Special procedures and The Universal Periodic Review of Denmark. Furthermore the selection of issues is based on relevant human rights debates in Denmark, previous recommendations given by the Danish Institute for Human Rights or civil society through legal briefs, thematic reports etc.

This report consists of three main sections. The first section (Chapter 2 on general obligation) is focused on structural challenges in Denmark concerning human rights protection. The second section (Chapter 3 on specific rights) concerns material issues which are sorted according to the relevant articles in the UN Convention on the Elimination of Discrimination against Women (CEDAW). The third section (Chapter 4 on Greenland) concerns human rights issues in Greenland and has been compiled in consultation with the Human Rights Council of Greenland.

### **1.1 THE DANISH INSTITUTE FOR HUMAN RIGHTS**

The Danish Institute for Human Rights (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. DIHR is established and functioning in accordance with the UN Paris Principles and DIHR has been accredited as an A-status National Human Rights Institution by the International Coordinating Committee of National Human Rights Institutions.

Since 2011 DIHR has also been appointed by the Danish Parliament as the Danish equality body in relation to gender. DIHR is mandated to promote, evaluate,

monitor, and support equal treatment of women and men without discrimination on the basis of gender. Victims of gender discrimination can contact DIHR for guidance and assistance.

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 issues. In general, the monitoring work of DIHR relies on surveys and statistics provided by DIHR as well as other organisations or institutions, including ministries, other government agencies, universities and civil society organisations. In May 2012 the DIHR published a new type of status report which highlights the essential human rights challenges in Denmark. The status report provides the basis for follow-up advisory activities in respect of Parliament and Government as well as other relevant stakeholders. A summary of the report is available in English at [www.humanrights.dk](http://www.humanrights.dk).

DIHR also interacts with the UN treaty body system and the Universal Periodic Review by submitting parallel reports and contributing to list of issues as well as being present during the examination of Denmark.

DIHR includes women's rights issues in its general monitoring work and international reporting as well as addressing the issues in domestic reports. The DIHR annual status report also contains a chapter on gender equality. If the rights of women is identified as an issue of concern this will be put forward to the treaty body system.

The core funding of DIHR is based on the Danish Finance Act and covers activities within monitoring, research and education. In addition DIHR receives separate funding for equal treatment work within the field of gender, ethnic origin and rights of persons with disabilities.

In 2014, DIHR was appointed as the national human rights institution of Greenland. The mandate of DIHR thus extends to Denmark and Greenland. DIHR is not the national human rights institution of the Faroe Islands, the other self-governed part of the Kingdom of Denmark. As a result this report does not contain topics concerning the implementation of specific rights of the convention in the Faroe Islands.

## **1.2 COOPERATION WITH THE HUMAN RIGHTS COUNCIL OF GREENLAND**

Greenland is a self-governed part of the Kingdom of Denmark. DIHR cooperates with the Human Rights Council of Greenland in carrying out the monitoring function in Greenland.

The council is established by Inatsisartut Act no. 23 of 3<sup>rd</sup> of December 2012 on the Human Rights Council of Greenland and consists of 15 representatives reflecting the views of civil society organisations working with human rights as well as 3 representatives from the Greenlandic government, the national association of local authorities in Greenland and the parliamentary ombudsman of Greenland. The council is commissioned to participate in the strengthening and consolidation of human rights knowledge and competence in Greenland.

In 2014 DIHR and the Human Rights Council of Greenland jointly published a status report on the human rights situation in Greenland. The report is available in Danish and Greenlandic at [www.humanrights.dk](http://www.humanrights.dk).

## CHAPTER 2

# 2 GENERAL OBLIGATIONS

### 2.1 INCORPORATION

The European Convention on Human Rights (ECHR) is the only international human rights convention incorporated into Danish law thus making it a part of Danish legislation. None of the UN core human rights conventions are incorporated into Danish law.

The Danish government has stated that CEDAW and other UN conventions are relevant sources of law in Denmark which are applied by the Danish courts and other law-applying authorities. Danish case law however shows reluctance by courts to include human rights instruments in Danish judgments even if a case party bases an argument on human rights. In cases where human rights are taken into account, the court often refers solely to the ECHR. UN human rights treaties are rarely applied by Danish courts or individual parties to a case. Furthermore the Danish Supreme Court has stated that non-incorporated treaties do not have full effect in Danish Law.

The Danish government has established an expert committee on incorporation which is expected to deliver a report in 2014 with recommendations on whether or not Denmark should incorporate further human rights instruments.

**DIHR recommends that the following questions are added to the list of issues for Denmark:**

- In how many cases has CEDAW been applied by Danish courts?
- Is CEDAW directly applicable in Danish court cases?
- What are the current plans to incorporate CEDAW and additional UN conventions into Danish law?

## 2.2 RATIFICATION OF HUMAN RIGHTS INSTRUMENTS

Denmark has not ratified the following international human rights conventions and protocols:

- 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), containing a general prohibition against discrimination.
- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR),
- The third Optional Protocol to the Convention on the Rights of the Child.

**DIHR recommends that the following question is added to the list of issues for Denmark:**

- What are the current plans to ratify further core human rights conventions and optional protocols?

## 2.3 NHRI MANDATE FOR THE FAROE ISLANDS

The Kingdom of Denmark consists of mainland Denmark, Greenland and the Faroe Islands. Greenland and the Faroe Islands are self-governing communities. DIHR is appointed as National Human Rights Institution (NHRI) in Denmark and Greenland. Currently there are no plans to broaden the mandate of DIHR to cover the Faroe Islands.

**DIHR recommends that the following questions are added to the list of issues for Denmark:**

- What measures are being taken by Denmark and the home-rule government of the Faroe Islands to ensure that the entire jurisdiction of the Danish realm is covered by a functioning national human rights

institution?



#### **2.4 NATIONAL HUMAN RIGHTS ACTION PLAN AND FOLLOW UP ON RECOMMENDATIONS**

Denmark has several action plans concerning various human rights issues but currently Denmark lacks a comprehensive and complete action plan for human rights to ensure a proper identification of relevant human rights problems and implementation of human rights standards.

Even though Denmark has a high level of human rights protection the Danish efforts to promote and protect human rights nationally could be strengthened by a systematic follow up on recommendations at a cross-ministerial level.



**DIHR recommends that the following questions are added to the list of issues for Denmark:**

- What procedural steps will be taken to ensure a systematic and comprehensive follow up on the recommendations of the Committee on the Elimination of Discrimination against Women?
  - What are the current plans to develop a complete human rights action plan for Denmark?
  - To what degree is civil society organisations involved in the follow up on the committee's recommendations?
- 

## CHAPTER 3

### 3 SPECIFIC RIGHTS

#### 3.1 ARTICLE 3 – GENDER MAINSTREAMING

Section 1a of the Danish Act on Equal Treatment for Men and Women obligates all public authorities covered by the act to promote equality and to incorporate gender equality in all planning and management. A similar obligation is set out in section 1b of the Act on Equal Pay to Men and Women.

**DIHR recommends that the following question is added to the list of issues for Denmark:**

Please provide information on measures taken to ensure gender mainstreaming in accordance with the Danish Act on Equal Treatment for Men and Women and the Danish Act on Equal Pay to Men and Women.

#### 3.2 ARTICLE 3 – VIOLENCE AGAINST WOMEN

In 2014 Denmark ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. However the ratification has led to questions regarding different subjects which are covered by the Convention.

**DIHR recommends that the following questions are added to the list of issues for Denmark:**

- Please inform how Danish legislation will protect against psychological violence in accordance with article 33 of the Council of Europe

Convention on preventing and combating violence against women and domestic violence.

- Please inform to what extent Danish legislation protects against stalking.
- Please inform how the Danish police and other authorities can make better use of the Danish Act on restraining order, barring order and eviction, which aims to give the police tools to prevent and combat domestic violence.

### 3.3 ARTICLE 6 – TRAFFICKING IN HUMAN BEINGS

In recent years Denmark has made combating trafficking in human beings a priority. However there are still areas that needs strengthening, such as the identification process and the area concerning incarceration. Victims of human trafficking often come in contact with the authorities through encounters with the police and the judicial system. The structures that should ensure protection of trafficking victims including that less invasive measures - such as section 34 in the Aliens Act - are applied is in this aspect not fully functioning.

**DIHR recommends that the following is added to the list of issues for Denmark:**

- Please inform to what extent the police apply section 34 instead of section 36 in the Aliens Act when they encounter foreign women in prostitution or others that fall within the group where there is a suspicion of trafficking.
- Please inform whether it is registered when respectively section 34 and section 36 in the Aliens Act is applied.
- Please inform how it is ensured that all relevant authorities have the necessary qualifications to identify victims of trafficking and whether there is continuous and thorough education aimed at police authorities, judges, the prosecution and defence lawyers on trafficking in human beings.
- Please inform whether educational initiatives aimed at police authorities, judges, the prosecution and defence lawyers include the

legal aspects such as the possibility of applying section 34 and withdrawal of charges.

- Please inform how many victims of trafficking applying for asylum are granted asylum due to their trafficking background.

### 3.4 ARTICLE 7 – POLITICAL RIGHTS AND PARTICIPATION

Despite an increase in women's political participation at national level, women's representation in municipal politics remains low, and has done so throughout past municipal elections (2005, 2009, 2013). The 2009 election resulted in a 32 percent female representation among the elected politicians, with 17 percent female mayors, which demonstrated an improvement from earlier elections. However in 2013 only 727 of the 2,444, or 29.7 percent of the elected local politicians were female, and 13 percent of the elected mayors were women.<sup>1</sup>

Other Scandinavian countries have to a larger extent succeeded in including women in the local political democracy. During the latest local elections in Sweden and Norway female elected candidates represented 43 percent and 38 percent respectively.<sup>2</sup>

According to section 10a of the Danish Gender Equality Act public authorities or organizations are required to suggest a gender balanced representation on local boards and regional councils. Nonetheless, in 2011 female participation at municipal level was 34%.

**DIHR recommends that the following questions are added to the list of issues for Denmark:**

- Please provide information on measures taken to enhance female representation in local politics.
- In line with the Government's declared policies on gender equality, are there any alternative measures or tools in place to increase the underrepresented gender in local boards and regional councils?

### 3.5 ARTICLE 10 – EDUCATION

The Danish *Folkeskole* (comprehensive primary and lower secondary education) has lately been reformed, which has led to several changes in the Act on the Folkeskole The Danish Primary and Lower Secondary School. In this regard there has not been taken any concrete gender mainstreaming measures.



- Please provide information which gender mainstreaming measures has been taken in the Danish Primary School.



### 3.6 ARTICLE 11 – EQUAL PAY

According to the Danish Equal Pay Act employers are liable to secure equal pay not only for the same work but also for work to which equal value is attributed. The law gives no clear definition of what is meant by work to which equal value is attributed. The social partners therefore have no guidance when applying the law and assessing whether the different jobs can be of equal value.



**DIHR recommends that the following question is added to the list of issues for Denmark:**

- Please provide information on, what measures will be taken to make the concept of work to which equal value is attributed useful and understandable for the social partners in wage negotiations and disputes on equal pay.



### 3.7 ARTICLE 11 – LABOUR MARKET

The Danish government adopted an amendment to the Danish Act on Commercial Enterprises (Årsregnskabsloven), the Danish Companies Act (Selskabsloven) and of the Consolidation act on Gender Equality (ligestillingsloven) 15 December 2012. The new legislation requires the 1.100

largest companies and all public institutions to ensure women's participation on boards and at management level. Moreover, according to section 11 (4) of the Consolidation act on Gender Equality, public institutions as well as companies exceeding 50 employees are required to formulate a policy to balance the amount of women and men employed.

DIHR has suggested several initiatives aimed at strengthening the recruitment of women on boards, such as special offers on professional management training for women, initiatives to support female entrepreneurs, mentor programs for potential female board candidates and special obligations for recruitment agencies to ensure diversity in their services and databases.

**DIHR recommends that the following question is added to the list of issues for Denmark:**

- Please provide information on initiatives taken to strengthen the equal recruitment of men and women at all levels of public institutions or companies.

### **3.8 ARTICLE 12 – HEALTH**

Mortality among Danish women is unequally distributed. A recent medical study shows that Danish Lesbian women's suicidal rate is six times higher than the average and cancer mortality is 60 percent higher.<sup>3</sup> In Denmark there is no action plan addressing this issue and in general only sparse knowledge on the health and life quality of LGBT persons. In 2013 the Minister of Health stated that she saw no reasons for targeted actions, as the group of LGBT persons is already covered on equal footing in the present national health care services, among other, the prevention of suicide and fighting cancer.

**DIHR recommends that the following is added to the list of issues for Denmark:**

- Please inform how equal access to health care is ensured for lesbian

women.

### 3.9 ARTICLE 12 – HEALTH

As recommended through the CEDAW Committee’s General Recommendation No. 14: Female Circumcision, 1990, A/45/38 and Corrigendum: State parties are encouraged to *“include in their reports to the Committee under articles 10 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women information about measures taken to eliminate female circumcision”*.

**DIHR recommends that the following is added to the list of issues for Denmark:**

- What knowledge exist at national level regarding the use of and scope of female genital mutilation practices in Denmark?
- What measures are in place to monitor female genital mutilation in a Danish context and what prevention mechanisms are being executed at national level?
- What is done to enhance public knowledge on legislation preventing female genital mutilation, specifically Article 245 a and 246 of the Danish Criminal Code?
- Please provide data on re-infibulation practice in Denmark.

### 3.10 ARTICLE 12 – UNDOCUMENTED MIGRANTS’ ACCESS TO PUBLIC HEALTH CARE IN DENMARK

According to Danish health care legislation persons residing in Denmark are entitled to urgent medical treatment, and follow-up treatment. This covers persons with legal residence permit, illegal immigrants, EU citizens and non-EU

citizens. Undocumented migrants however, are not entitled to additional non-urgent treatment.<sup>4</sup>

As a consequence, Danish Red Cross together with the Danish Medical Association and the Danish Refugee Council opened a privately financed health clinic in August 2011, to accommodate this. In its first two years, the clinic performed 4500 examinations, and prepared around 1600 medical journals for individual patients. In December 2013 a second clinic opened in Aarhus/Århus, Denmark. Undocumented migrants forms a large and diverse groups, including pregnant women potentially facing risks of complications during pregnancy.<sup>5</sup>

Currently no tangible statistical material on this group is available. Rough estimations from a 2010 study by Danish Red Cross, the Danish Medical Association and the Danish Refugee Council however, suggests that between 1,000-5,000 undocumented migrants lived in Denmark at the time.<sup>6</sup>

**DIHR recommends that the following question is added to the list of issues for Denmark:**

- Are there any Danish initiatives, besides the privately funded Red Cross clinic, in place to accommodate non-urgent medical demands for pregnant women and what is being done in terms of data collection and/or monitoring of this group?

### **3.11 ARTICLE 13 – ACCESS TO GOODS AND SERVICES**

The Danish Equality Act prohibits gender discrimination in the access to and supply of goods and services which are available to the public, including from service providers in the private sector.

**DIHR recommends that the following is added to the list of issues for Denmark:**

- Please provide information on measures taken to inform service providers and citizens' about their rights and duties concerning the

- access to goods and services.
- Please inform what measures are being taken to monitor the compliance with the law in the private sector.

### **3.12 ARTICLE 16 – MARRIAGE AND FAMILY RELATIONS**

Despite an increased political awareness on the issue and consequences of social control, it seems the national focus of the topic predominantly is on ethnic minorities and ethnic minority women in particular.

**DIHR recommends that the following question is added to the list of issues for Denmark:**

What is the Danish strategy for monitoring and acting on harmful social control, not only among ethnic minority women (as described in the Eights Periodic Report by the Government of Denmark), but among all women in Denmark?

## CHAPTER 4

# 4 GREENLAND

Greenland is a self-governed part of the Kingdom of Denmark. The Danish Institute for Human Rights is the national human rights institution for Greenland and works in close cooperation with the Human Rights Council of Greenland in order to monitor the promotion and protection of human rights in Greenland. The Human Rights Council of Greenland has contributed to this selected list of issues with the below mentioned topics constituting challenges with a view to an effective implementation of CEDAW in Greenland.

### 4.1 INCORPORATION OF THE CONVENTION

Parliamentary (Inatsisartut) Act No. 3 of 29 November 2013 on equality between men and women and the former Landsting Act No. 7 of 11 April 2003 on equality between women and men are the primary legislative instruments for implementation of the Convention, which in the preparatory work refers to Greenland's international obligations under the CEDAW. This can mean that the law does not always take into account direct or indirect discrimination or that the law unintentionally affects women's opportunities and rights. Reference is also made to recommendations from the Committee under the CEDAW in the Strategy and Action Plan against Violence, 2014 to 2017. Aside from this, the Convention is seldom mentioned in connection with preparatory work for other relevant legislation, nor in connection with other national strategies/action plans (e.g. the Education Strategy 2012). At the municipal level, the Convention is also seldom brought into consideration.

Application of the Convention by the courts (or other authorities) is extremely limited. The Greenland courts are based on Greenlandic law and apply the Convention only in so far as there is a need to understand the Greenlandic legislation in light of the Convention. The Convention is not perceived as directly applicable, and its role is limited if the judges or contesting parties do not refer to it in the specific case. As the Greenland courts do not publish their decisions and since there exists no collection of decisions (online or physical), it is not

possible to assess whether gender issues are included in the decisions or whether discrimination – within or outside the labour market is an object of the court's treatment.

The Council of Gender Equality in Greenland has no jurisdiction to deal with specific complaints. Therefore, it is only the courts or the ombudsman (if the case falls within their jurisdiction) who can decide on equality issues between men and women and on the application of the Convention in specific cases. It must be assumed that the Gender Equality Council can advise citizens in specific cases.

The Council of Gender Equality's financial framework in relation to its tasks limits its ability to effectively carry out its mandate. In addition, the Council has, for a brief period of time, had to await the appointment of a new chairman.

## **4.2 POLITICAL PARTICIPATION OF WOMEN IN DECISION-MAKING**

In general, women are less well represented in Greenland's political bodies (the sex ratio in the Parliament (Inatsisartut) is 11/33) and in the Government (Nalakkersuisut) 2/9, while the figures for the municipal councils vary: Kommuneqarfik Sermersooq 9/19; Qeqqata Municipality 5/15; Qaasuitsup Municipality 2/21; and Kujalleq Municipality 7/15).

In the Greenland courts, there is a predominance of female judges on the circuit court level, but there is an equal distribution of male and female court officials and judges.

## **4.3 STEREOTYPES AND EDUCATION**

The Greenlandic educational patterns and labour market reflect fixed gender patterns that are difficult to breach. There does not appear to be a concerted effort to fight against prejudice and stereotypes.

#### 4.4 PROSTITUTION AND TRAFFICKING

Prostitution is not considered to be a problem in Greenland, but there are no studies on whether there exist other forms of exploitation, such as young girls in vulnerable situations or vulnerable women, for example, in connection with the pubs. Nor are there any examples of trafficking, but at the same time, there is no knowledge about the conditions or background of groups such as Asian women in Greenland who work in the service industries.

#### 4.5 VIOLENCE AGAINST WOMEN

Greenland has launched its Strategy and Action Plan against Violence 2014-2017 and launched the website <http://brydtavsheden.gl/> ('Break the silence'). It is too early to tell whether the Strategy and Action Plan will achieve its objectives, but there is no immediate information about how the citizen and interest organisations can monitor developments in relation to the goals.

The Council of Gender Equality, in its earlier comments on the draft of the Government's Strategy and Action Plan against Violence 2012-2016, has already stated that it is unsatisfactory that the victim support person scheme (bistandsbisidderordningen) as mandated by the Judicial Code §333, does not function as intended.

A victim support person must be appointed by the court if the victim so requests in cases of violation of §37 of the Criminal Code with regard to violence or threat thereof, or in cases of violation of §74 and §77-81, §84 (1) §86(1); see §12, §88 and §89, §90(3), §91, §92 and §112. Most of these provisions refer to situations where the woman is at particular risk of becoming a victim. The lack of implementation, therefore, has particular importance for women and their rights.

#### 4.6 EMPLOYMENT AND RECONCILIATION OF WORK AND FAMILY

As mentioned, the labour market tends to follow the traditional tendencies. In addition, unemployment among women in the villages is significantly higher than for men.<sup>7</sup> Studies of wage level differences between men and women show relatively large differences, which can be explained by the fact that women are more often employed in part-time work and also rarely have management

positions. This in itself is evidence of an unfortunate trend that will also mean that when these women retire from the labour market, they are likely to be more vulnerable than men due to having had fewer opportunities to earn pension benefits, etc.



#### **4.7 HEALTH**

The abortion statistics remain high in Greenland, despite years of effort.<sup>8</sup> Meanwhile, the amount of imported tobacco has been declining, which might have an impact on those young people who smoke and on their health.



## END NOTES

- <sup>1</sup> <http://forside.kvinfo.dk/tema/kommunalvalg-2013/kvinder-er-underrepraesenteret-i-kommunalpolitik>  
<http://webmagasin.kvinfo.dk/artikler/antallet-af-kvinder-dykker-i-kommunerne>  
<http://www.statistikbanken.dk/statbank5a/Selectout/pivot.asp>
- <sup>2</sup> <http://webmagasin.kvinfo.dk/artikler/antallet-af-kvinder-dykker-i-kommunerne>
- <sup>3</sup> <http://ije.oxfordjournals.org/content/early/2013/03/08/ije.dyt024.short?rss=1>
- <sup>4</sup> <https://www.retsinformation.dk/forms/r0710.aspx?id=130455>
- <sup>5</sup> Vibeke Lenskjold (2014) Sundhedsklinik for udokumenterede migranter -23. AUG. 2011 – 31. DEC. 2013.
- <sup>6</sup> Notat fra Lægeforeningen, Dansk Røde Kors og Dansk Flygtningehjælp, Udokumenterede migranternes adgang til sundhedsydelser i Danmark December 2010.
- <sup>7</sup> See Grønlands Statistik's report on employment for 2012 (February 2014), <http://www.stat.gl/publ/da/AR/201404/pdf/Ledighed%20og%20arbejdsstyrke%202012.pdf> and Grønlands Statistik's report on employment for 2010 (January 2014); <http://www.stat.gl/publ/da/AR/201402/pdf/Beskæftigelsen%202012.pdf>
- <sup>8</sup> See <http://naalakkersuisut.gl/~media/Nanog/Files/Attached%20Files/Landslaegeembetet/DK/Aarsberetninger/2011%20og%202012/Kapitel%204%20dk.pdf>

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