



DENMARK

**SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

76TH PRE-SESSIONAL WORKING GROUP, 11-15 NOVEMBER 2019

LIST OF ISSUES

AMNESTY
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INTRODUCTION

Amnesty International provides the below information to the United Nations (UN) Committee on the Elimination of Discrimination against Women (the Committee) ahead of the adoption of the list of issues for the tenth periodic report of Denmark at its 76th Pre-Session.

In March 2019, Amnesty International published an in-depth report “Give us respect and justice! Overcoming barriers to justice for women rape survivors in Denmark”.¹ As elaborated by the Committee in its General Recommendation (GR) No. 35,² gender-based violence “constitutes discrimination against women under article 1 and therefore engages all of the obligations in the Convention.”³ As outlined in the report, Amnesty International has concerns about violations of the Convention on the Elimination of Discrimination against Women in Denmark (the Convention), also related to Sustainable Development Goal Targets 5.1 and 5.2, with regard to sexual violence, in particular:

DISAGGREGATED DATA COLLECTION (ARTICLE 2 AND GR 35)

In 2015, the Committee recommended that the Danish authorities legislate 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.⁴ It also urged Denmark to assess the potentially negative implications of gender-neutral legislation and policy on funding for women-focused initiatives.⁵ In 2017, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), responsible for monitoring the implementation of the Istanbul Convention,⁶ also strongly encouraged the Danish authorities to introduce this type of data collection and to ensure that the information it provides is effectively used in the prevention, protection and prosecution of gender-based violence.⁷ Denmark still has not implemented these recommendations.

In recent years, there has been a gradual shift in Danish policy making towards gender neutrality, including with regard to some aspects of data collection on rape.⁸ For instance, even though data on rape convictions is broken down by sex and age, data on rape reports to the police is not disaggregated.⁹ Overall, data on rape is not disaggregated by other categories, such as sexual orientation, disability or the relationship between the victim and the perpetrator. Failure to disaggregate hampers thorough analysis of the statistics and provides insufficient information, for example, on the level of reporting by women, or the number of rapes committed by intimate partners. No data is collected on sexual violence committed against transgender women.¹⁰

Amnesty International calls on the Danish government to:

- Improve data collection on rape and sexual violence through recording data disaggregated by sex, gender, gender identity, sexual orientation, age, disability, relationship between the perpetrator and the victim, the victim’s migrant, refugee or ethnic minority status, and ensure that the data is reviewed regularly and used to inform policy-making, resource allocation and other measures aimed at preventing and addressing sexual and other gender-based violence.

¹ Amnesty International: “Give us respect and justice!” Overcoming barriers for women rape survivors in Denmark (Index: EUR 18/9784/2019) (hereinafter “Give us respect and justice!”), www.amnesty.org/en/documents/eur18/9784/2019/en/

² CEDAW Committee, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, UN. Doc. CEDAW/C/CG/35, 2017, para 21.

³ CEDAW Committee, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, UN. Doc. CEDAW/C/CG/35, 2017, para 21.

⁴ Concluding Observations, UN Committee on the Elimination of Discrimination against Women: Denmark, UN Doc. CEDAW/C/DNK/CO/8 (2015) (CEDAW Concluding Observations), para. 18.

⁵ CEDAW Concluding Observations para. 40.

⁶ The Council of Europe’s Treaty on preventing and combatting violence against women and domestic violence (“the Istanbul Convention”) was adopted by the Council of Europe in 2011 and came into force on 1 August 2014.

⁷ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Baseline Evaluation Report Denmark*, 2017, p. 51 (GREVIO report), p. 62. www.rm.coe.int/grevio-first-baseline-report-on-denmark/16807688ae

⁸ Give us respect and justice!”, pp. 13-16.

⁹ See, for instance, National Statistics Office, [www.dst.dk/en/Statistik/emner/levevilkkaar/kriminalitet/domme; www.statbank.dk/STRAF10](http://www.dst.dk/en/Statistik/emner/levevilkkaar/kriminalitet/domme;www.statbank.dk/STRAF10)

¹⁰ “Give us respect and justice!”, pp. 15-16.

LEGISLATIVE GAPS

Under international human rights law, Denmark is responsible for preventing and prosecuting gender-based violence, including sexual violence, by state actors.¹¹ It also has a “due diligence” obligation “to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-state actors which result in gender-based violence against women”.¹² Under the Istanbul Convention, ratified by Denmark in 2014, rape and all other non-consensual acts of sexual nature must be classified as criminal offences.¹³

Amnesty International has identified several legislative gaps in Danish law with regard to sexual violence. Crucially, the Danish Criminal Code still does not define rape on the basis of lack of consent but on the basis of physical violence or threat thereof, the presence of duress, or the victim’s inability to resist the act.¹⁴ In 2017, GREVIO recommended that the authorities amend the law.¹⁵ In June 2019, following advocacy and campaigning by survivor-activists and women’s rights organisations, including Amnesty International, the new Danish government committed to introducing a consent-based rape definition.¹⁶ This is a welcome announcement and Amnesty International will continue advocating for a consent-based rape definition in Danish law until it is introduced and will monitor the proposed bills’ compliance with international human rights law and standards.

Other legislative gaps include the absence of oral penetration in legislation or related prosecution guidelines on rape, as well as non-compliance of some of the provisions on aggravating circumstances with the standards set out in the Istanbul Convention.¹⁷

- Amend the definition of rape in the Criminal Code so that it is based on the absence of consent, bringing it in line with international human rights standards such as the Istanbul Convention;
- Amend the Criminal Code and the relevant guidance for prosecutors to ensure that oral penetration without consent is included in the definition of rape;
- Amend the Criminal Code to ensure that it recognizes as aggravating circumstances sexual violence against a current or former partner, as well as sexual violence committed in situations of abuse of power, for instance in youth institutions or psychiatric wards.

TREATMENT OF SURVIVORS DURING THE LEGAL PROCESS

Amnesty International has found that in addition to legislative changes, the Danish authorities should improve the treatment of sexual violence survivors during all stages of the legal process, as required by international human rights law and standards.¹⁸

While Denmark is one of the few countries in Europe where victims have the right to assistance of state-funded legal counsel, Amnesty International has found that in practice, police do not always provide information about this right and in some cases, no lawyer is available. The level of experience of victim’s counsel lawyers in the area of sexual violence also varies.¹⁹

¹¹ CEDAW, General Recommendation 35, paras 21 and 22.

¹² CEDAW, General Recommendation 19, para. 9. See also General Recommendation 35, para. 24(b).

¹³ Istanbul Convention, Article 5(2).

¹⁴ Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216.

¹⁵ GREVIO report, p. 46.

¹⁶ Amnesty International, Denmark: Government commitment to amend rape law is a hard-won victory, Quote, 26 June 2019, www.amnesty.org/en/latest/news/2019/06/denmark-government-commitment-to-amend-rape-law-is-a-hard-won-victory/

¹⁷ “Give us respect and justice!”, p. 19.

¹⁸ UN Handbook for Legislation on Violence against Women, 2012, p. 37. See also Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UNGA Resolution 60/147, 16 December 2005, UN Doc. A/RES/60/147 92006.

¹⁹ “Give us respect and justice!”, pp. 33-36.

Current police practice remains inconsistent and often falls short of both the Danish Police National Guidelines on rape and of international standards. For example, while the Guidelines acknowledge the need for the reporting of rape to take place in private, testimonies of women interviewed by Amnesty International show that this need for privacy is not always ensured by police officers across the board and that treatment varies even within the same stations.²⁰

Women's access to justice for rape depends on, among other things, the quality of police and prosecution investigations. Denmark's international human rights obligations require that it ensures that the relevant law enforcement agencies respond to all forms of violence promptly and appropriately²¹ and engage adequately in their prevention, including through the employment of preventive operational measures and the collection of evidence.²² The women Amnesty International interviewed had very varied experiences of investigations into their cases by the police. Some investigations were marked by a catalogue of failures.²³

In recent years, the authorities have made welcome efforts to improve law enforcement agencies' responses to rape, with the Ministry of Justice launching the "Respect for Victims of Rape" plan in 2016.²⁴ Despite these efforts, rape survivors in Denmark often find the reporting process and its aftermath immensely traumatizing, particularly when faced with inappropriate questions, flawed investigations and inadequate communication.

Amnesty International calls on the Danish government to:

- Ensure regular, independent monitoring and evaluation of the handling of rape cases by the police and prosecution services, including monitoring of the quality of investigations and whether and how relevant guidelines are implemented;
- Continue to ensure victims' privacy, protection and safety during legal proceedings, for instance by ensuring their access to free quality legal assistance throughout the legal process from their initial report to police and through all proceedings and court hearings.

GAPS IN TRAINING OF PROFESSIONALS

The Committee has recommended that states: "Ensure that all legal procedures in cases involving crimes of rape and other sexual offenses are impartial and fair, and not affected by prejudices or stereotypical gender notions. To achieve this, a wide range of measures are needed, targeted at the legal system, to improve the judicial handling of rape cases, as well as training and education to change discriminatory attitudes towards women."²⁵

The Danish Police Academy curriculum shows that such training is limited, whereas information obtained by Amnesty International from a report submitted to the Ministry of Justice in 2018 by the Director of Public Prosecutions and the National Police indicates a number of ad-hoc training opportunities are available.²⁶ The Committee should probe the Danish government on what exact training is available or mandatory for police and other law enforcement professionals.

Amnesty International understands that prosecutors in Denmark do not receive mandatory training on sexual violence, including on the harmful impact of gender stereotypes and rape myths. During their training, they receive a general introduction by a psychologist to the subject of witness memory, as well as training on questioning vulnerable witnesses who have experienced trauma. As part of their continuous professional education, further training in questioning vulnerable witnesses, for example with a focus on court hearings, is possible.²⁷ The onus, however, is on the individual prosecutor to educate themselves and apply for relevant

²⁰ "Give us respect and justice!", pp. 30-31.

²¹ UN Handbook for Legislation on Violence against Women, 2012, pp. 34-36. See also Istanbul Convention, Article 50(1), and CEDAW General Recommendation 35, para. 38 (b).

²² Istanbul Convention, Article 50(2), and CEDAW General Recommendation 35, para. 38 (b).

²³ "Give us respect and justice!", pp. 36-37.

²⁴ "Give us respect and justice!", p. 26.

²⁵ *Vertido v The Philippines*, CEDAW Communication 18/2008, UN Doc CEDAW/C/46/D/18/2008 (2010), para. 8.9(b).

²⁶ Director of Public Prosecutions and National Police, Report to the Ministry of Justice on the Investigation and prosecution of rape cases, 17 December 2018, pp. 11-17. This document is not public and was shared on Amnesty International's request. Police Academy curriculum, 15 January 2018, www.politi.dk/-/media/mediefiler/pdf/frigspolitiet/uddannelser-i-politiet/politiskolen/politibetjent/studieordning2018.pdf?la=da&hash=D74826806EA1E6434CDEAFB1B3EC6BD2096DEEC3

²⁷ Director of Public Prosecutions and National Police, Report to the Ministry of Justice on Investigation and prosecution of rape cases, 17 December 2018, pp. 11-17, Prosecution Service, "Basic prosecutors' training", www.anklagemyndigheden.dk/sites/default/files/inline-files/Grunduddannelse%20som%20anklager.pdf, "Training 2018/2019", www.anklagemyndigheden.dk/sites/default/files/Uddannelseskatalog_2018.pdf

courses.²⁸ Judges' basic training does not cover modules on sexual violence and further training is not mandatory.²⁹

Amnesty International calls on the Danish government to:

- Provide appropriate mandatory training for all relevant professionals working with sexual violence survivors in the prevention and detection of sexual violence. Such professionals include police and other law enforcement officials, prosecutors, judges and victim's counsel lawyers. Training should be systematic, including initial as well as continuous modules. It should address gender equality and intersectional discrimination, rape myths and stereotypes, with a view to preventing secondary victimization, eradicating discriminatory practices and ending the application of gender stereotypes at all stages of the legal process.

RAPE MYTHS AND GENDER STEREOTYPES (ARTICLE 5(A)) AND SEXUALITY EDUCATION (ARTICLE 10(C) AND (H))

Denmark is obliged to counter and eliminate harmful gender stereotypes in society, for instance through provision of comprehensive, age-appropriate, evidence-based and unbiased sexuality and relationships education to children and young people.³⁰

Despite Denmark's reputation for gender equality and some welcome efforts made in recent years, Amnesty International's research has revealed that much remains to be done to fulfil these international obligations and address deeply entrenched gender stereotypes, both among law enforcement officials and the wider society, and ensure justice for survivors of rape.

Sexuality education is a compulsory subject in Danish schools, although the amount of time that should be allocated to it is not stipulated. The Law on Public Primary and Lower Secondary Education provides that "family skills, health education and sex education" are to be integrated as part of the school curriculum³¹ from the first year of primary school to the final year of lower secondary school.³² The academic objectives set by the Ministry of Education in 2018 refer to the students being able to discuss, at different ages, "gender roles and diversity", "sexuality and sexual diversity" and "evaluate norms about body, gender and sexuality", among others.³³

Additionally, since 2008, the Danish Family Planning Association has been running a government co-funded "campaign week" called "Week 6/Week Sex" (*Uge 6*), in which primary and lower secondary schools across Denmark can voluntarily participate. In 2017, approximately 500,000 students and more than 15,000 teachers took part.³⁴

However, a study commissioned by the Ministry of Education in 2018 showed that only 36% of the 741 seventh grade students in state primary schools interviewed received sexuality education. The study

²⁸ "Give us respect and justice!", p 42.

²⁹ Danish Courts Administration, "Judge at the court", www.domstol.dk/om/jobidanmarksdomstole/jobtyper/fuldmaegtig/domstolene/Pages/default.aspx, "Strategic Competence Development, www.domstol.dk/om/publikationer/HtmlPublikationer/Retten%20Rundt/Retten%20Rundt%2022/kap01.html, European Commission, "Judicial training structures in the EU. Denmark" 2012, www.e-justice.europa.eu/content_national_training_structures_for_the_judiciary-406-en.do

³⁰ CEDAW General Recommendation 35, para. 35 (a).

³¹ Law on Public Primary and Lower Secondary Education (2017) no. 1510, para. 7.

³² Ministry of Education, "Health and sex education and family skills – compulsory subject: Aim for the subject health and sex education and family knowledge", 2016, www.emu.dk/sites/default/files/SSF%20-%20Januar%202016.pdf

³³ Ministry of Education, "Curriculum: Health and sex education and family skills," 2018, www.emu.dk/sites/default/files/L%C3%A6seplan%20for%20sundheds-%20og%20seksualundervisning%20og%20familiekundskab.pdf

³⁴ "Experts: Sexual education in 2018 is more important than ever before", DR, February 2018 www.dr.dk/nyheder/regionale/fyn/eksperter-seksualundervisning-anno-2018-er-vigtigere-end-nogensinde-foer

identified deficits in the pupils' knowledge and/or competencies and linked these to insufficient and inadequate teaching.³⁵

Teachers for lower primary school grades must obtain a degree in social education, which covers a compulsory module called "Gender, sexuality and diversity".³⁶ Teachers at higher primary and lower secondary levels also need to obtain a professional degree, and although sexuality education is offered as part of the programme, it is not compulsory. In fact, according to the Danish Family Planning Association, many teacher-training institutions offer it only sporadically or not at all.³⁷ A survey conducted by the Ministry of Education found that only a fifth of teaching students participated in such a course.³⁸ Teachers at upper secondary schools receive no compulsory training in sexuality education.³⁹ In its 2017 Concluding Observations on Denmark, the UN Committee on the Rights of the Child recommended the introduction of mandatory learning on the unacceptability of violence against women and girls at all levels of the school curriculum.⁴⁰

Moreover, in the experience of the women and girls interviewed for Amnesty International's 2019 report, sexuality education in Denmark does not cover topics such as relationships, sexual autonomy or consent. They reported that classes focused solely on biology and sexual and reproductive health, contraception and preventing sexually transmitted diseases.⁴¹

UNESCO's International Technical Guidance on Sexuality Education stresses in relation to CSE curricula which focus mainly on biology and reproduction without sufficiently covering healthy relationships and sexual behaviours, "the omission of key topics will lessen the effectiveness of CSE." It also notes that "a lack of high-quality, age- and developmentally-appropriate sexuality and relationship education may leave children and young people vulnerable to harmful sexual behaviours and sexual exploitation. Excluding complex issues from CSE renders young people vulnerable and limits their agency in their own sexual practices and relationships."⁴²

Amnesty International calls on the Danish government to:

- Provide mandatory, comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality and relationship education to pupils and students of all genders at all levels of education and outside the education system. These should include education about consent, bodily and sexual autonomy and the right to bodily integrity;
- Introduce a compulsory module on teaching sexuality education as part of all teachers' training;
- Promote changes in the social and cultural patterns of behaviour of people of all genders with a view to eradicating harmful gender stereotypes and myths around sexual violence, for instance through informed awareness-raising campaigns owned by and directed at everyone in Danish society, including people of all genders.

³⁵ Als Research, "Evaluation of Family skills, health education and sex education", January 2019, p 10,

www.stukuvvm.dk/aktuelt/uvvm/2019/jan/190118-sundheds--og-seksualundervisningen-halter-efter-i-grundskolen

³⁶ Ministry of Higher Education and Science, Press release, "Three million for education in gender and gender equality in education", 2014, www.ufm.dk/aktuelt/pressemeddelelser/2014/tre-millioner-til-undervisning-i-kon-og-ligestilling-pa-paedagoguddannelsen; Danish Family Planning Association, We must work on sexual education in teacher training, 2017, www.sexogsamfund.dk/content/vi-skal-arbejde-med-seksualundervisning-paa-laereruddannelsen

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³⁸ The questionnaire was sent to all fourth-year students enrolled in teacher training (2,222) students and answered by 792. Appendix 3, Sub-report on assessment 2 of the evaluation of teacher training, Questionnaire for students, Ramboll, July 2018, p. 1, pp. 24-25, www.ufm.dk/aktuelt/nyheder/2018/filer/bilag3.pdf; www.jyllands-posten.dk/indland/ECE10840693/ny-undersogelse-kun-hver-femtelaelaererstuderende-deltager-i-seksualundervisning/

³⁹ University of Southern Denmark, "Theoretical pedagogy curriculum 2019", <https://nextcloud.sdu.dk/index.php/s/NGJkNS2xYwxn458#pdfviewer>. See also, Danish National Union of Upper Secondary School Teachers, www.gl.org/loenogans/Nygymsiaslaerer/paedagogikum/Sider/Hjem.aspx

⁴⁰ Concluding Observations of UN Committee on the Rights of the Child: Denmark, UN Doc. CRC/C/DNK/CO/5 (2017), para. 22(b).

⁴¹ "Give us respect and justice!", p. 50.

⁴² UNESCO International technical guidance on sexuality education: an evidence-informed approach, Paris 2018 [22787], 2nd rev. ed., p.18.

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