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OVERCOMING BARRIERS TO JUSTICE FOR WOMEN RAPE SURVIVORS IN DENMARK

AMNESTY INTERNATIONAL

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EXECUTIVE SUMMARY

Every year, around 5,100 women in Denmark are subjected to rape or attempted rape, according to the Danish Ministry of Justice. The University of Southern Denmark's research estimates that this figure may have been as high as 24,000 in 2017. Yet, according to official statistics, the same year, only 890 rapes were reported to the police, and of these, 535 resulted in prosecutions and only 94 in convictions.

This picture of widespread sexual violence and impunity for it stands in stark contrast to Denmark's high scores in terms of gender equality in many areas of life. For example, Denmark came second only to Sweden in the 2017 Gender Equality Index, which examines areas such as work, money and health. While there is a widespread perception in Denmark that gender equality has been achieved, this report shows that in the area of sexual violence, Danish authorities must do more to live up to this positive image.

While Amnesty International's research in Europe shows that women's access to justice for rape is an issue throughout the region, including in other Nordic countries, Denmark now has the opportunity to improve it, with strong survivors' activism driving change. All sexual violence, regardless of the gender or gender identity of the victim, is a human rights violation. However, this report focuses on one form of sexual violence, namely rape, and specifically on women and girls, who are disproportionately affected by it.

This report is based on Amnesty International's field research in Denmark, as well as desk research carried out between March 2018 and January 2019. The researchers interviewed 18 women and girls over the age of 15, in Aarhus, Copenhagen and Fredericia, as well as 11 representatives of civil society organizations, two lawyers, a law professor, three representatives of the Crime Prevention Council and two experts from Centres for Victims of Sexual Assault (in Aarhus and Copenhagen). Amnesty International also held meetings with 11 representatives of the relevant authorities. In addition, Amnesty International analyzed samples of Danish district courts' judgments (from between May 2017 and May 2018) and prosecution's decisions to close investigations of rape reports (from between December 2017 and May 2018).

In 2014, Denmark became one of the first countries to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the most far-reaching international treaty to tackle violence against women.

Under the Istanbul Convention, Denmark is obliged to collect disaggregated statistical data on violence against women and girls, including sexual violence, which can provide a clearer picture of who the victims are. However, this report shows that there has been a gradual shift in Danish policy making towards gender neutrality, including with regard to some aspects of data collection on rape. 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.

Overall, data on rape is not disaggregated by other categories, such as sexual orientation, disability or the relationship between the victim and the perpetrator. This hampers thorough analysis of the statistics and does not provide sufficient 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.

The Danish authorities should address these gaps in data collection on sexual violence to enable informed policy making and decisions about resource allocation that would support effective strategies to address and prevent it.

This report identifies several legislative gaps in Danish law with regard to sexual violence. Under the Istanbul Convention, rape and all other non-consensual acts of sexual nature must be classified as criminal offences. However, Danish law still does not define rape on the basis of lack of consent, five years since ratification, and despite recommendations from the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which is responsible for monitoring the implementation of the Istanbul Convention, from 2017.

Currently, the Danish Criminal Code defines rape on the basis of physical violence or threat thereof, the presence of duress, or the victim's inability to resist the act. Survivors interviewed for this report stressed how important it was to them that the definition of rape in Danish law is changed to a consent-based one.

46-year-old "Anne" said, "The law is a symbol of what we in our society consider to be right and wrong. And the law should reflect what we think is wrong and what we think is right. So, even though we don't know if more people would be convicted… the important thing is that we have said that we think that every time you have sex without consent that it's rape. And I think that it will be reflected in our culture. And I think that's actually the most important thing."

The law's focus on resistance and violence rather than on consent has an impact not only on the reporting of rape but also on social awareness of sexual violence, both of which are key aspects of overcoming impunity for these crimes and preventing them from happening. Hanne Baden Nielsen from the Centre for Victims of Sexual Assault at Rigshospitalet in Copenhagen said: "Now, a man can say: 'she did not say 'no'.' But the question should be whether she said 'yes'. There must be a mindset change."

Several of the professionals, campaigners and survivors interviewed emphasized that changing the legal definition of rape to one based on sexual autonomy and consent has significant potential to bring about broad, systemic societal change and prevent rape in the long-term, especially if accompanied by adequate sexuality education and awareness-raising from a young age.

Other legislative gaps identified in the report 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 Istanbul Convention. The Danish authorities should revise 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.

This report shows that in addition to legislative changes, the Danish authorities should improve the treatment of victims during all stages of the legal process. In recent years, the authorities have made welcome efforts to

investigate the high number of rape cases that never reach the courts, as well as improve law enforcement agencies' responses to rape, with the Ministry of Justice launching the "Respect for Victims of Rape" plan in 2016.

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. Many are met with dismissive attitudes, victim blaming, and prejudice influenced by gender stereotypes and rape myths.

Current police practice remains inconsistent and often falls short of both the Danish Police National Guidelines on rape and of international standards. This continues to be a serious barrier to reporting. Rape survivors who experience it in the context of domestic violence, women of colour, transgender women, and refugee and migrant women face particular challenges in reporting, and ultimately, in accessing justice.

While Denmark is one of the few countries in the region where victims have the right to assistance of state-funded legal counsel, this report shows 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.

Under the Istanbul Convention, state parties have an obligation to provide initial and continuous training to professionals working on various forms of violence against women, including sexual violence. In Denmark, training in this area is limited for police officers and not mandatory for prosecutors and judges. Survivors, experts and professionals interviewed for this report stressed that this was an important area for improvement.

Denmark, as a state party to the UN Convention on the Elimination of All Forms of Discrimination against Women and other international and regional treaties, 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.

The Danish authorities should ensure that rape myths and gender stereotypes are challenged at all levels of society and the media are encouraged to counter violence against women rather than perpetuating harmful misconceptions.

As this report shows, despite some welcome efforts made in recent years, Denmark's legislation and practice continue to fall short of international human rights law and standards in a number of ways with serious consequences for rape survivors. Many of the women interviewed for this report have been speaking out about their experiences and campaigning to improve access to justice for rape survivors.

39-year-old Kirstine wrote: "I will do everything in my power to use my own story to knock down walls so that in the future far fewer people find themselves in a situation where after having been through a terrible assault they also have to deal with a sceptical and unprepared reporting system, a judiciary based on ancient principles… and an outside world that just wants you to stay silent, put your head down and accept that the system violates and fails those that it is required to protect."

The Danish authorities should listen to survivors and take the opportunity to live up to the country's image as truly gender equal.

KEY RECOMMENDATIONS

To Parliament:

Concerning legislation:

1. 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, as per GREVIO's recommendation to Denmark in its 2017 Baseline Evaluation Report.

To the Minister of Justice:

Concerning legislation:

2. Propose legislation to 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, as per GREVIO's recommendation to Denmark in its 2017 Baseline Evaluation Report.

3. Provide appropriate, systematic, mandatory, initial, as well as continuous training for the relevant professionals (such as police and other law enforcement officials, prosecutors, judges and victim's counsel lawyers) working with sexual violence survivors in prevention and detection of sexual violence, gender equality and intersectional discrimination, rape myths and stereotypes, with a view to preventing secondary victimization, and eradicating discriminatory practices and the application of gender stereotypes at all stages of the legal process.

To the Minister of Education and the Minister for Equal Opportunities:

Concerning prevention of sexual violence and promoting gender equality through education:

4. 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.

METHODOLOGY

This report is based on research carried out by Amnesty International between March 2018 and January 2019 into access to justice for women rape survivors in Denmark.

Sexual violence is widespread and systemic worldwide and all sexual violence, regardless of the gender or gender identity of the victim, is a human rights violation. However, this report focuses on one form of sexual violence, namely rape, and specifically on women and girls, who are disproportionately affected by it.[1] While Amnesty International's research in Europe shows that access to justice for rape is an issue throughout the region,[2] including in the Nordic countries,[3] Denmark now has opportunities to improve it, with strong survivor activism driving change.

Amnesty International's researchers interviewed 18 women and girls over the age of 15 who have experienced rape.[4] The interviews took place in March, May and June 2018 and three interviewees were accompanied by their mothers. Some interviews were conducted in English, some in Danish and some in both languages, with interpretation, in accordance with survivors' wishes. All the survivors interviewed were cisgender women and the report's findings reflect their experiences. Amnesty International researchers interviewed a representative of a trans rights organization, however, the transgender women who were to be interviewed decided that they were not yet ready to share their experiences at this point; this is an important area for future research.

The interviews took place in Aarhus, Copenhagen and Fredericia. The interviewees were identified and contacted with the help of civil society organizations and activists campaigning for improved access to justice for rape survivors.

The names of some of the survivors have been changed and other identifying details withheld to protect their identity and privacy. All those cited have given their informed consent to the inclusion of their stories in this report.

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[1] It is estimated that 16% of rape victims in Denmark are men and 84% are women. See, for instance, Marie Bruvik Heinskou, Laura Marie Schierff, Peter Ejbye-Ernst, Camilla Bank Friis, Lasse Suonperä Liebst, 'Sexual Violations in Denmark, Scope and Character', October 2017, p.15, www.dkr.dk/media/12694/seksuelle_kraenkelser.pdf It is unclear from this study whether the estimates include both cisgender and transgender women. There is no official data or research available on the numbers of transgender women and non-binary people affected by rape in Denmark.

[2] Amnesty International, *Right to Be Free from Rape. Overview of Legislation and State of Play in Europe and International Human Rights Standards* (Index: EUR 01/9452/2018).

[3] Amnesty International, Case Closed. Rape and Human Rights in the Nordic Countries. (Index: ACT 77/001/2010).

[4] Under Danish law, sexual intercourse with a child under 12 constitutes statutory rape. Sexual intercourse with a child under the age of 15 is a criminal offence (Danish Criminal Code, Consolidated Act No. 977 (2017), Articles 216 (2) and 222.)

Amnesty International researchers also met 11 representatives of civil society organizations, two lawyers who represent rape survivors, a law professor, three representatives of the Crime Prevention Council and two experts from Centres for Victims of Sexual Assault (in Aarhus and Copenhagen).

Amnesty International held meetings with relevant authorities, including representatives of the National Police, Sydsjællands and Lolland-Falsters District Police, the Danish Bar Association, the Department for Research of the Ministry of Justice, the Director of the Public Prosecutor's Office and the State Prosecutor's Office for Copenhagen (whose office covers the whole Zealand region). Amnesty International also interviewed a judge from Roskilde District Court and a former senior State Prosecutor. A request for a meeting with the Association of Danish Judges was refused.

In addition to extensive desk research, Amnesty International analysed 94 Danish district courts' judgments handed down between May 2017 and May 2018 and 353 decisions to close investigations taken by the prosecution between December 2017 and May 2018, as samples.

ACKNOWLEDGEMENTS

Amnesty International would like to thank everyone who agreed to be interviewed for this report and in particular the women who so courageously shared their experiences. Amnesty International is also grateful to the representatives of the Danish authorities, lawyers, academics and staff at Centres for Victims of Sexual Assault, as well as representatives of NGOs, who generously shared their time, knowledge and expertise.

TERMINOLOGY

This report uses the terms "victim" and "survivor" interchangeably. The term "victim" is customarily used to describe people whose human rights have been violated, for example, it is the term adopted in the United Nations (UN) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power[5] and the Rome Statute of the International Criminal Court.[6] While acknowledging that "victim" is the appropriate legal term, Amnesty International recognizes that the term "survivor" better reflects the strength and resilience of women and girls who have experienced sexual violence and is preferred by many women and girls themselves and also many by human rights activists.[7]

[5] United Nations General Assembly (UNGA), Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN Doc. A/RES/40/34.
[6] UNGA, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998.
[7] Rahila Gupta, "'Victim' vs. 'Survivor': feminism and language", Open Democracy, 16 June 2014, www.opendemocracy.net/5050/rahila-gupta/victim-vs-survivor-feminism-and-language

1. BACKGROUND

> **"How many more women need to be assaulted before we open our eyes to how wrong this is?"**
>
> "Lene", aged 21[8]

1.1 WIDESPREAD IMPUNITY FOR RAPE

According to a 2018 study by the University of Southern Denmark, an estimated 24,000 women experienced rape or attempted rape in 2017.[9] The Danish Ministry of Justice, on the other hand, estimates that around 5,100 women each year are subjected to rape or attempted rape in the country.[10] Yet, only 890 rapes were reported to the police in 2017[11] and of these, 535 resulted in prosecutions and only 94 in convictions.[12]

This situation of endemic impunity reflects the findings of a 2014 study by the Fundamental Rights Agency on violence against women across the European Union (EU). This ranked Denmark highest in terms of the prevalence of rape among women and girls aged 15 and over (19% of women and girls interviewed) and among the lowest with regard to the number of rapes reported to the police (7%).[13]

This picture of widespread sexual violence stands in stark contrast to Denmark's high scores in terms of gender equality in many areas of life. For example, Denmark came second only to Sweden in the 2017 Gender Equality Index, which examines areas such as work, money and health.[14] Nevertheless, in a follow-up report to the Index published in November 2017, which provides more data on violence against women in EU Member States, Denmark was identified as having the highest prevalence of violence against women, including sexual violence, of any Member State.[15]

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[8] Interview with "Lene", Aarhus, 25 June 2018. (Name has been changed to respect the interviewee's anonymity).
[9] Laura Deen, Kathrine Bindesbøl Holm Johansen, Sanne Pagh Møller, Bjarne Laursen, 'Violence and sexual abuse', 2018, p. 52, www.sdu.dk/da/sif/rapporter/2018/vold_og_seksuelle_kraenkelser. The study was based on the Danish National Health survey, as well as qualitative research and data gathered from 12,615 women and girls above the age of 16.
[10] Anne-Julie Boesen Pedersen, Britta Kyvsgaard and Flemming Balvig, Ministry of Justice, University of Copenhagen, Crime Prevention Council and Director of Public Prosecutions, 'Victims studies survey 2005-2016', p. 88, www.dkr.dk/media/12899/offerrapport_2016.pdf
[11] National Statistics Office, www.dst.dk/en/Statistik/emner/levevilkaar/kriminalitet/domme
[12] National Statistics Office, www.statbank.dk/STRAF10
[13] Fundamental Rights Agency, *Violence against women: an EU-wide survey. Main results report,* 2014 www.fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report
[14] European Institute for Gender Equality (EIGE), *Gender Equality Index 2017. Measuring gender equality in the European Union 2005-2015*, p. 3, www.eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-measuring-gender-equality-european-union-2005-2015-report
[15] EIGE, *Gender Equality Index 2017. Measurement framework of violence against women*, Figure 6, pp. 32-33, www.eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-measurement-framework-of-violence-against-women.

In 2014, Denmark became one of the first countries to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the most far-reaching international treaty to tackle violence against women.[16] However, in its first Baseline Evaluation report on Denmark, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which is responsible for monitoring the implementation of the Istanbul Convention, noted that while the Danish authorities report high conviction rates with respect to sexual violence cases that do make it to court, this may indicate "a restrictive approach to bringing prosecutions".[17]

Since 2015, the Danish authorities have made some efforts to investigate the reasons for the high numbers of cases that do not make it to court. In 2015, 2016 and 2017, the State Prosecutor's Offices for Copenhagen and Viborg conducted reviews of the recording and handling of rape reports by the police. However, the scope of the reviews was limited in terms of the time periods and number of cases investigated and they relied on police districts' self-assessments of their own handling of cases.[18]

In its evaluation of Denmark, GREVIO suggested further research was needed into the reasons why so many cases are closed at the investigation or prosecution stage.[19] In 2016, the UN Committee against Torture also recommended that the authorities "address obstacles to the effective prosecution of acts of violence against women so that the judicial remedy is increasingly sought and used successfully".[20]

1.2 LOSS OF A GENDER PERSPECTIVE

> **"We are going to make everyone a winner of the future… And in Denmark we have a great starting point for doing that. We have free education. We have social security. Welfare. Freedom. Equality between women and men."**
>
> Prime Minister Lars Løkke Rasmussen, New Year's Day speech 2017[21]

Representatives of women's rights NGOs and experts interviewed for this report observed that there is a widespread perception in Denmark that gender equality has been achieved.[22] Helena Gleesborg Hansen, Deputy Chairwoman of the Danish Women's Society, noted: "Denmark is a paradox in terms of gender.

[16] The Istanbul Convention was adopted by the Council of Europe in 2011 and came into force on 1 August 2014.
[17] Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Baseline Evaluation Report Denmark*, 2017, p. 51 (GREVIO report).
[18] State Prosecutor's Office for Copenhagen, reviews of rape cases, 21 October 2015, 4 November 2016 and 3 November 2017; State Prosecutor's Office for Viborg's reviews of rape cases, 2 November 2015, 8 November 2016 and 1 November 2017.
[19] GREVIO report, p. 51.
[20] Concluding Observations, UN Committee against Torture: Denmark, UN Doc. CAT/C/DNK/CO/6-7 (2016) para. 45.
[21] Lars Løkke Rasmussen, Prime Minister of Denmark, New Year's Day speech 2017, www.stm.dk/_p_14467.html
[22] Interviews with Mette Marie Yde, Head of Communication and Knowledge, and Henriette Winther, Senior Communications Adviser, Danner, 13 March 2018; Jeanette and Mathilde, counsellors, Joan Sisters, 14 March 2018; Helena Gleesborg Hansen, Deputy Chairwoman, Danish Women's Society, 14 March 2018; and Trine Baumbach, Associate Professor of Law, University of Copenhagen, Faculty of Law, Copenhagen, 16 March 2018.

There is a perception that we already have equality so there is no need to talk about it. So raising issues such as sexism and 'rape culture' is seen as exaggerated."[23]

GREVIO's 2017 Baseline Evaluation report on Denmark notes that there has been a gradual shift in Danish policy making towards gender neutrality.[24] In the past, policies on sexual violence, including domestic violence, tended to recognize the gendered nature of such violence and sought to address its disproportionate impact on women. While welcoming Denmark's efforts to address sexual violence experienced by people of all genders, including men and boys, GREVIO cautions against the potential of gender neutral policies to obscure its gendered and systemic nature and so to limit the authorities' ability to effectively prevent and address it.[25] GREVIO also notes the disproportionate impact of rape and other sexual violence on women.[26]

Representatives of women's rights NGOs and staff working directly with women survivors of violence interviewed by Amnesty International identified several negative consequences of the loss of a gender perspective in policy and decision making in Denmark. For instance, they pointed out that the failure to understand and address the systemic nature of gender-based violence results in such violence being viewed as an individual or personal issue. The result can be that the responsibility for the violence is placed on the victim.[27] Mette Marie Yde and Henriette Winther from the women's rights organization and shelter Danner told Amnesty International that many of the women who use Danner's services have internalized such attitudes. As Henriette Winther explained: "You don't seek help because you have internalized the notion that the problem lies with you."[28] As GREVIO points out, this violence "should not be considered as abuse experienced individually by women but needs to be understood as a social mechanism to keep women in a subordinate position to men".[29]

International human rights law requires all systems set up to address gender-based violence to be designed in a way that takes into consideration the impact of multiple and intersecting forms of discrimination on women's specific experiences of violence and the different needs they may have, with particular attention to women subjected to compounded discrimination.[30]

Failing to see rape as a form of violence against women, which is systemic and results from gender-based and often other intersecting forms of discrimination, helps perpetuate societal permission for such violence. With the continuing conversation about "rape culture" spurred by the #MeToo movement in 2017, Denmark has an opportunity to introduce more gender-sensitive policies, raise awareness and encourage societal change to reduce and ultimately prevent rape.

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[23] Interview with Helena Gleesborg Hansen, Deputy Chairwoman, Danish Women's Society, Copenhagen, 14 March 2018.
[24] GREVIO report pp. 7, 13, 21 and 59; Action Plan for Equality 2018, um.dk/da/ligestilling/nyheder/newsdisplaypage/?newsID=E0B7C790-19A6-48D2-AE2A-4B8EF1CBA2E5
Action plan on violence within the family (2014-2017), www.um.dk/da/ligestilling/vold-i-familien/handlingsplaner/
[25] GREVIO report, p. 14.
[26] GREVIO report, p. 59.
[27] Interviews with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, 13 March 2018; and Jeanette and Mathilde, counsellors, Joan Sisters, Copenhagen, 14 March 2018.
[28] Interview with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, Copenhagen, 13 March 2018.
[29] GREVIO report, p. 7.
[30] CEDAW Committee, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, UN. Doc. CEDAW/C/CG/35, 2017, paras 41, 43, 47, 48, 49 and 50; Istanbul Convention, Article 3.

1.3 GAPS IN DATA COLLECTION

A gender-neutral approach has also been adopted with regard to data collection, including in some statistics on sexual violence and rape. The data on rape convictions collected by various Danish authorities (for example, the National Statistics Office) is disaggregated by sex and age. However, other relevant data, for example on those reporting rape to the police, is not. [31] The data is not disaggregated by other categories, such as sexual orientation, disability or the relationship between the victim and the perpetrator. This makes analysis of the statistics problematic and does not provide sufficient 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.

> **"As with most services and research in Denmark (and beyond), the surveys are catered to an assumed cisgender recipient. As a result, the only available categories are 'men' and 'women' – leaving out other genders such as for an example non-binary folks – and we do not know whether these 'men' and 'women' are cisgender people or also transgender people. As a result, we have no access to statistics concerning sexual violence and rape of transgender persons in Denmark."**
>
> Nico Miskow Friborg of TransAktion, an organization providing support to transgender people in Denmark[32]

Article 11 of the Istanbul Convention obliges Denmark to collect disaggregated statistical data on violence against women and girls.[33] Doing so consistently would allow the Danish authorities to better assess women rape survivors' access to justice, as well as the impact of sexual violence on women of different ages, those with disabilities, lesbian, bisexual, cisgender and transgender women, non-binary people, intersex people and those from minority and migrant communities. Such information would enable informed policy making and initiatives and lead to better decisions about resource allocation to support effective strategies to address and prevent sexual violence.

In its report on Denmark, GREVIO expressed concern that despite gaps in data disaggregation, policy choices are being made – such as placing increased emphasis on violence experienced by men and so-called "bi-directional violence" – that rely on limited information about prevalence and without a statistical basis.[34] It warned that "a non-gendered approach to data collection, on the assumption that gender equality is already achieved, may easily mask the prevalence of violence against women".[35] GREVIO strongly encouraged Denmark to put more focus on women victims of gender-based violence in its policies and funding choices.[36]

In 2015, the UN Committee on the Elimination of Discrimination against Women (CEDAW) 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.[37] It also urged Denmark to assess the potentially negative implications of gender-neutral legislation and policy on funding

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[31] See, for instance, National Statistics Office, www.dst.dk/en/Statistik/emner/levevilkaar/kriminalitet/domme ; www.statbank.dk/STRAF10
[32] Interview with Nico Miskow Friborg, Co-founder and Chair, TransAktion, Copenhagen, 15 November 2018.
[33] Istanbul Convention, Article 11.
[34] GREVIO report, p. 14. The Ministry of Equality's Action Plan for Equality 2018 refers to violence in relationships instead of violence against women, stressing that young men also experience violence in relationships. This view is supported in a study by the University of Southern Denmark, commissioned by the Ministry of Equality, which argues that there is mutual violence in many relationships, hence men and women are equally perpetrators of violence. Sarah Bøgelund Dokkedahl and Ask Elklit, "Examination of mutual violence", University of Southern Denmark, 2018, www.um.dk/da/ligestilling/nyheder/newsdisplaypage/?newsID=45E71E47-6D96-433D-A0EC-7EB47AE41DA8 Several women's rights organizations, such as Danner, have been critical of the study's assertions: www.danner.dk/blog/nej-kvinder-er-ikke-mere-voldelige-end-m-nd
[35] GREVIO report, p. 21.
[36] GREVIO report, p. 61. Ministry of Equality, Perspective and Action plan for Equality 2018, www.um.dk/da/ligestilling/nyheder/newsdisplaypage/?newsID=E0B7C790-19A6-48D2-AE2A-4B8EF1CBA2E5
[37] Concluding Observations, UN Committee on the Elimination of Discrimination against Women: Denmark, UN Doc. CEDAW/C/DNK/CO/8 (2015) para. 18.

for women-focused initiatives.[38] In 2017, GREVIO also strongly encouraged the Danish authorities to introduce this type of data collection, as well as to ensure that the information it provides is effectively used in the prevention, protection and prosecution of gender-based violence.[39]

[38] Concluding Observations, UN Committee on the Elimination of Discrimination against Women: Denmark, UN Doc. CEDAW/C/DNK/CO/8 (2015) para. 40.
[39] GREVIO report, p. 62.

2. BARRIERS TO JUSTICE IN DANISH LAW

Under international human rights law, Denmark is responsible for preventing and prosecuting gender-based violence, including sexual violence, by state actors.[40] 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".[41]

The Istanbul Convention sets out that parties are obliged to "take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors".[42] Under Article 49(2) of the Convention, Denmark is also required to ensure effective investigation and prosecution of acts of violence against women, including sexual violence.[43]

According to international human rights law and standards, a comprehensive definition of rape should include all non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.[44] Under the Istanbul Convention, rape and all other non-consensual acts of sexual nature must be classified as criminal offences.[45] They should be defined as crimes against a person's bodily integrity and sexual autonomy,[46] as opposed to crimes against morality, public decency, honour or the family and society.

Despite being one of the first states to ratify the Istanbul Convention in 2014,[47] Denmark has not revised its legal definition of rape to bring it in line with the Convention. As GREVIO pointed out in its 2017 assessment of Denmark, criminalization of rape based on the absence of consent, is "a central element in the way the

[40] CEDAW, General Recommendation 35, paras 21 and 22.
[41] CEDAW, General Recommendation 19, para. 9. See also General Recommendation 35, para. 24(b).
[42] Istanbul Convention, Article 5(2).
[43] Istanbul Convention, Article 49(2).
[44] Istanbul Convention, Article 36(1)(a). See also International Criminal Court, "Elements of Crimes" (2011), Elements 1 and 2 of the Elements of Crimes relating to the crime against humanity of rape under Article 7(1)(g)-1, p. 8, and the war crime of rape in international and non-international armed conflicts under Article 8(2)(b)(xxii)-1, p. 28, and Article 8(2)(e)(vi)-1, pp. 36-37.
[45] See Istanbul Convention, Article 36(1). See also Committee of Ministers of the Council of Europe Recommendation (2002)5 and Explanatory Memorandum H/Inf (2004), para. 35, which urges states to punish all non-consensual acts, including where the victim doesn't show resistance. See also Parliamentary Assembly of the Council of Europe Resolution (PACE) Resolution 1691 (2009), para. 5.2.1, which calls on states to "make rape (including marital rape) an *ex officio* crime".
[46] See CEDAW, General Recommendation 35, para. 33; *Vertido v The Philippines*, CEDAW Communication 18/2008, UN Doc CEDAW/C/46/D/18/2008 (2010), para. 8.9(b)(ii). See also Handbook for Legislation on Violence against Women, UN Entity for Gender Equality and the Empowerment of Women, 2012, p. 24.
[47] Chart of signatures and ratifications of Treaty 210, Istanbul Convention, WWW.COE.INT/EN/WEB/CONVENTIONS/FULL-LIST/-/CONVENTIONS/TREATY/210/SIGNATURES

Istanbul Convention frames sexual violence".[48] In its recommendations, it strongly encouraged the Danish authorities to amend the legal definition of rape so that it is based on the notion of freely given consent.[49]

Consent

No international or regional human rights instrument provides an exact definition of consent. The Explanatory Report to the Istanbul Convention states that it is "left to the Parties to decide on the specific wording of the legislation and the factors that they consider to preclude freely given consent". However, Article 36, paragraph 2 of the Convention specifies that:

> **"Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances."**
> Istanbul Convention, Article 36(2)

The Explanatory Report to the Istanbul Convention further clarifies that prosecutions "will require a context-sensitive assessment of the evidence to establish on a case-by-case basis whether the victim has freely consented to the sexual act performed. Such an assessment must recognize the wide range of behavioural responses to sexual violence and rape which victims exhibit and shall not be based on assumptions of typical behaviour in such situations. It is equally important to ensure that interpretations of rape legislation and the prosecution of rape cases are not influenced by gender stereotypes and myths about male and female sexuality."[50]

Consent is a voluntary and ongoing agreement to engage in a particular sexual activity and can be rescinded at any time.[51] Developments in international criminal law have led to the recognition that consent can be given freely and genuinely only where the free will of one of the consenting parties is not overpowered by coercive circumstances and when the person is capable of consenting.[52] Therefore, the definition of rape should include a broad range of coercive circumstances where consent cannot be freely given, whereas outside such circumstances, while the burden of proof remains with the prosecution, the accused should be questioned about steps taken to ascertain whether the complainant was consenting.[53]

There should be no assumption in law or in practice that a victim gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether or not the perpetrator threatened to use or used physical violence.[54] The UN Handbook for Legislation on Violence against Women states that legislation must also provide for aggravating circumstances, including, for example, the age of the survivor, the relationship between the survivor and the perpetrator, the use or threat of physical violence, the presence of multiple perpetrators and grave physical or mental consequences of the attack on the victim.[55] Further, states should:

"Specifically criminalize sexual assault within a relationship (i.e. 'marital rape', either by:

- Providing that sexual assault provisions apply 'irrespective of the nature of the relationship' between the perpetrator and complainant; or
- Stating that 'no marriage or other relationship shall constitute a defence to a charge of sexual assault under the legislation')."[56]

[48] GREVIO report, p. 45.
[49] GREVIO report, p. 46.
[50] Explanatory Report, para. 192.
[51] This has been affirmed in national court judgments, for example, by the High Court of Justice of England and Wales in *R v. DPP and "A"* [2013] EWHC 945 (Admin) and in the USA, the Supreme Court of California, 29 Cal. 4th 756, 60 P.3d 183, 128 Cal. Rptr. 2d 783, 2003 Cal.
[52] International Criminal Court, "Elements of Crimes" (2011), Elements 1 and 2 of the Elements of Crimes relating to the crime against humanity of rape under Article 7(1)(g)-1, p. 8, and the war crime of rape in international and non-international armed conflicts under Article 8(2)(b)(xxii)-1 (p. 28) and Article 8(2)(e)(vi)-1, pp. 36-37. See also International Criminal Court, "Rules of Procedure and Evidence", UN Doc ICC-ASP/1/3 (2002), Rule 70(a), (b) and (c).
[53] *Vertido v. The Philippines*, CEDAW Communication 18/2008, UN Doc CEDAW/C/46/D/18/2008 (2010), para. 8.9(b)(ii).
[54] *M.C. v. Bulgaria* (2003), European Court of Human Rights (ECHR) 651.
[55] UN Handbook for Legislation on Violence against Women, 2012, p. 24.
[56] UN Handbook for Legislation on Violence against Women, 2012, p. 24.

As this chapter shows, Denmark's legislation and practice fall short of these standards in a number of ways with serious consequences for survivors and for efforts to end impunity for the perpetrators of sexual violence, ensure justice for victims and prevent rape.

2.1 THE DEFINITION OF RAPE IN DANISH LAW

> **"The law is a symbol of what we in our society consider to be right and wrong. And the law should reflect what we think is wrong and what we think is right. So, even though we don't know if more people would be convicted… the important thing is that we have said that we think that every time you have sex without consent that it's rape. And I think that it will be reflected in our culture. And I think that's actually the most important thing."**
>
> "Anne", aged 46[57]

The current definition of rape in the Danish Criminal Code was adopted in 2013 following years of campaigning by civil society organizations. The 2013 changes included a number of progressive steps, for example, that the sentence imposed for rape could no longer be reduced or annulled if the perpetrator and the victim of rape were to marry or were married. Such changes brought the law more into line with international human rights standards, which provide that criminal law should enable effective prosecution of any perpetrator for acts of sexual violence.[58]

Nevertheless, the current law still falls short of international standards. For example, while Article 225 of the Criminal Code specifies that provisions on sexual offences "apply, with the necessary modifications, to sexual activity other than sexual intercourse", oral penetration is not specified anywhere in legislation or related guidelines. However, the flaw which was of greatest concern to those interviewed for this report was the failure to incorporate a consent-based definition of rape.

Article 216 of the Danish Criminal Code states:

> **"A penalty of imprisonment for a term not exceeding eight years for rape is imposed on any person who**
> **(i) uses violence or threats of violence to have sexual intercourse; or**
>
> **(ii) engages in sexual intercourse by duress as defined in section 260 or with a person who is in a state or situation in which the person is incapable of resisting the act."[59]**

This definition captures only a limited set of circumstances in which rape may occur.

> **"Instead of introducing the notion that sexual violence is a violation of a woman's right to bodily integrity and sexual autonomy and that consent must be given voluntarily as the result of the woman's free will and assessed in the context of the surrounding circumstances, it criminalises only those acts of a sexual nature in which the circumstances of the case or the characteristics of those involved already lead to an imbalance of power and necessarily negate consent."**
>
> GREVIO[60]

By focusing on sexual intercourse "with a person who is in a state or situation in which the person is incapable of resisting the act"[61] the law places emphasis on the victim's capacity to oppose the assault as

[57] Interview with "Anne", Aarhus, 30 May 2018. (Name has been changed to respect the interviewee's anonymity).
[58] UN Handbook for Legislation on Violence against Women, 2012, p. 24; *SW v. United Kingdom*, Decision on merits, App No. 20166/92, A/355-B, IHRL 2596 (ECHR 1995), 22 November 1995, ECHR, para. 44. See also PACE Resolution 1691 (2009), para. 5.4.
[59] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216.
[60] GREVIO report, p 46.
[61] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216.

opposed to on a range of circumstances under which it would be impossible by definition for a person to consent freely.

Survivors interviewed for this report stressed how important it was to them that the definition of rape in Danish law is changed to a consent-based one. This was echoed by professionals, campaigners and other experts interviewed. Kirstine, who reported rape in 2017, explained the impact on access to justice of a law that focuses on evidence of physical violence, and thus indirectly on the victim's resistance, rather than consent: "I said 'no' many times, 'stop', 'leave me alone'… It should be enough for me to say 'no'. I should not have to fight him." Kirstine described how during the legal process she was asked by the police and in court whether she had resisted. Crucially, the justice officials focused their questions on seeking physical evidence that she did: "I was never asked if I consented. Of course I didn't."[62]

The current legal definition of rape fosters an approach where evidence of physical violence is key to whether the police and the justice system pursue rape charges and, by extension, on whether women report rape. For example, Isabel told Amnesty International that one of the reasons why she did not report the rape to the police was that there were no witnesses to the crime and she did not believe there was evidence of physical violence: "When he grabbed me, he didn't do it hard enough to make bruises".[63] Through her involvement in gender equality activism, Isabel said she was aware of how difficult it is to get justice for rape, even in cases where there is physical evidence or witnesses are present. "So I thought to myself that it would just be like rubbing salt into the wound."[64]

Professor Trine Baumbach of the Law Faculty at the University of Copenhagen also believes that a consent-based legal definition of rape would "enable courts to interrogate whether the accused, in the given circumstances, had reasons to believe that the other party had consented". She clarifies, however, that "the burden would still lie with the prosecution to prove the crime beyond reasonable doubt. A consent-based definition does not jeopardize the accused's fair trial rights."[65]

The law's focus on resistance and violence rather than on consent has an impact not only on reporting of rape but also on social awareness of sexual violence, both of which are key aspects of overcoming impunity for these crimes and preventing them from happening.

> **"Now, a man can say: 'she did not say 'no'.' But the question should be whether she said 'yes'. There must be a mindset change."**
>
> Hanne Baden Nielsen, Head Nurse, Centre for Victims of Sexual Assault at Rigshospitalet in Copenhagen[66]

Several of the professionals, campaigners and survivors interviewed emphasized that changing the legal definition of rape to one based on sexual autonomy and consent has significant potential to bring about

[62] Interview with Kirstine, Fredericia, 15 March 2018.
[63] Interview with Isabel, Aarhus, 30 May 2018.
[64] Interview with Isabel, Aarhus, 30 May 2018.
[65] Interview with Trine Baumbach, Associate Professor of Law, University of Copenhagen, Faculty of Law, Copenhagen, 16 March 2018. Helle Hald, lawyer and victim's counsel, told Amnesty International that she believed access to justice for rape could be improved not through legislative change but by improving the practice and implementation of the law, for instance through ensuring prompt and thorough police investigations (interview with Helle Hald, Copenhagen, 13 March 2018).
[66] Interview with Hanne Baden Nielsen, Copenhagen, 14 March 2018.

broad, systemic societal change and prevent rape in the long-term, especially if accompanied by adequate sexuality education and awareness-raising from a young age.

Some of the survivors interviewed by Amnesty International whose stories are cited in this report expressed a belief that if the definition made clear that sex without consent is rape, they would perhaps never had been raped in the first place.

> **"Maybe it wouldn't have happened if the law was different. The law has a lot do with exactly why I didn't realize it was rape. It's such a fragile situation, and a situation where you're so ashamed, so if the law tells you that it's not a rape if there's no violence… I think it's a question about the definition. And so it's not up to you to feel that it was rape but you can look at these definitions and say 'yes, that happened, that happened, that happened'."**
>
> Liva, aged 25, who was raped by a man she knew at a music festival in 2017[67]

The Danish National Police Guidelines on handling rape and rape-related cases list "resistance to the perpetrator" as one of the circumstances that officers should ask the complainant about.[68] The focus on the victim's capacity to oppose the assault reinforces the notion that the onus should be on victims to oppose and not on perpetrators not to rape.[69]

In practice, the current definition of rape in Danish law means that rape cases where physical force, its threat or proof of inability to resist are not shown, often fall through the cracks of the legal system. Amnesty International has analyzed 353 decisions to close cases from December 2017 to May 2018 and these show that prosecutors do indeed focus on whether the complaint falls within the law's narrow definition requiring proof of physical violence. Similarly, of the 55 convictions for sexual offences handed down between 1 May 2017 and 1 May 2018 by Danish district courts analyzed by Amnesty International, proof of physical violence was key to the conviction.

Cases where no violence occurred rarely make it to court. Prosecution decisions to close cases analyzed by Amnesty International show a strong emphasis on the victim's resistance. For example, a decision not to prosecute in a case from Midt og Vestjyllands Police states: "It is my overall assessment that it cannot be proven that X was aware that you did not want to have intercourse with him, because, according to your own explanation, you did not say anything, just like you did not resist."[70] Another decision, regarding a case from Sydøstjyllands police, states: "You have explained that you did not at any point in the process say that you did not want to [have sex] or shout for help. There are thus no witnesses to the episode… The perpetrator had to understand that you did not wish to have intercourse with him. Based on your own explanation of the episode, I do not find that it will be possible to prove that the perpetrator had the intent to rape you."[71]

Court judgments analyzed by Amnesty International show that some judges also place strong emphasis on the victim's physical and verbal resistance as an indicator of lack of consent. For example, the District Court of Viborg reasoned when acquitting three men of rape: "Even if after the explanations it can be concluded that the claimant during the episode on the toilet said 'No, I cannot do this', she did not take the initiative to leave the toilet or shout for help, or in any other way resist."[72]

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[67] Interview with Liva, Copenhagen, 29 May 2018.
[68] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 6.
[69] *M.C. v. Bulgaria* (2003) ECHR 651.
[70] Midt og Vestjyllands Police 4100-72303-00001-1.
[71] Sydøstjyllands police 3700-72301-00021-17.
[72] Decision 4333/2017, District court of Viborg, p. 21. The dissenting judge in this connection pointed out: "the episode took place in a little trailer toilet, where two of the accused had placed themselves nearest the locked door, so that the claimant was unable to leave the toilet unless the two accused moved and opened the door", p. 22, 9 May 2018.

Despite the expectation that a "model" rape victim will fight her attacker back, "freezing" when confronted with a sexual attack has been recognized as a common physiological and psychological response, leaving the person unable to oppose the assault, often to the point of immobility. For example, a 2017 Swedish clinical study found that 70% of the 298 women rape survivors assessed experienced "involuntary paralysis" during the assault.[73]

Women interviewed in the course of this research also noted how perceptions of how one "should" behave when sexually assaulted influenced their own thinking about what they had experienced. "Sofia"[74] told Amnesty International: "no one had told me why I did freeze when he assaulted me instead of fighting because I always thought of myself as strong, as a fighter. I was raised that way, it's such a huge part of my identity, when I couldn't [fight], it just ruined everything I thought I was. I thought I was weak, and, not necessarily that it was my fault but that I could have done more."[75]

There has been much debate in Denmark following Sweden's adoption of a consent-based definition of rape in May 2018,[76] and in October 2018, the Danish Minister of Justice Søren Pape Poulsen expressed a willingness to reform the legal definition of rape in Denmark, to consider basing it on consent and to look at how to improve access to justice for rape survivors.[77] The Minister set up an expert group consisting of civil society organizations, representatives of the National Police, the prosecution service and other relevant authorities to take this forward.

Amnesty International and women's organizations raised concerns that there is no agreement yet in the government about whether the law should adopt a consent-based definition and, if it did, whether it should apply to all types of rape as defined in international law. Indeed, a proposal for a consent-based law on rape put forward by the opposition Red-Green Alliance was voted down by parliament on 20 December 2018. Nevertheless, the fact that the current law is under discussion is an opportunity for civil society and others to engage in meaningful conversations with decision makers about bringing the definition of rape into line with international human rights law and standards.

International human rights law provides that there should be no assumption in law or in practice that a victim consents because they do not physically resist the unwanted sexual conduct.[78] In 2003, the European Court of Human Rights made it clear that: "Member States' positive obligations under Articles 3 and 8 of the [European] Convention [on Human Rights] must be seen as requiring the penalisation and effective prosecution of any non-consensual sexual act, including in the absence of physical resistance by the victim."[79] As a State Party to the European Convention of Human Rights since 1953, Denmark should amend its legal definition of rape to be based on the lack of consent as opposed to focusing on the victim's capacity to resist.

[73] Anna Möller, Hans Peter Söndergaard and Lotti Helström, "Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression", *Acta Obstetricia et Gynecologica Scandinavica* 96 (2017), www.obgyn.onlinelibrary.wiley.com/doi/abs/10.1111/aogs.13174
[74] Interview with "Sofia", Copenhagen, 26 June 2018 (Name has been changed to respect the interviewee's anonymity).
[75] Interview with "Sofia", Copenhagen, 26 June 2018.
[76] Criminal Code (Sweden) *Brottsbalk* (1962: 700) as amended in 2018, Chapter 6; Amnesty International, "Sweden: New rape law is historic victory for campaigners" (News story, 23 May 2018). See for example: www.dr.dk/nyheder/udland/sex-kraever-samtykke-efter-ny-lov-i-sverige; www.politiken.dk/udland/art6611602/Ny-lov-tr%C3%A6der-i-kraft-i-Sverige; www.information.dk/debat/2018/11/samtykkelov-holdningsaendring-brug; www.nyheder.tv2.dk/udland/2017-12-17-sverige-vil-forbyde-sex-uden-udtrykkeligt-samtykke
[77] www.politiken.dk/indland/art6747022/Er-klar-til-at-se-p%C3%A5-om-sex-skal-kr%C3%A6ve-samtykke
[78] *M.C. v. Bulgaria* (2003) ECHR 651.
[79] *M.C. v. Bulgaria* (2003) ECHR 651, para. 166.

2.2 PENALTIES AND AGGRAVATING CIRCUMSTANCES

The flaws in Danish law on sexual violence are not confined to the definition of rape and its consequences.

Articles 218-220 of the Criminal Code criminalize sexual intercourse in situations where a person exploits another person's mental disability or their dependency, for instance in situations of deprivation of liberty, in institutions such as youth institutions or psychiatric wards.[80] Article 221 of the Criminal Code criminalizes obtaining sexual intercourse through deception.[81] The Criminal Code does not specify explicitly that these offences constitute rape and they carry lesser penalties than those defined as such in it.

The Criminal Code provides that penalties for rape can be determined on the basis of the presence or absence of broadly defined aggravating circumstances, which include if the offence was committed "in a particularly dangerous manner",[82] caused "particular degradation",[83] if the victim was trafficked to the country,[84] or if the perpetrator had a relevant prior conviction.[85] When the victim is under the age of 15, it is an aggravating circumstance if the perpetrator took advantage of their physical or mental superiority.[86] The guidelines for prosecutors investigating sex crimes also refer to "common aggravating factors", such as if the perpetrator was unknown to the victim or if the rape was committed by more than one person.[87]

By posing unknown attackers as an aggravating factor, the law also suggests that if the attacker is known to the victim, it is a lesser crime. Several of the women interviewed by Amnesty International raised this as a concern related to how they were treated by the justice system and indeed how they responded themselves. Such notions reflect a deeply entrenched view of the rapist as an unknown "stranger".

This "stranger myth" affects how rapes committed by partners or other perpetrators known to victims are perceived and treated by the legal system. However, it is a myth with little basis in fact. Research from 2017 shows that 37% of rapes in Denmark were perpetrated by a current or former husband or other intimate partner.[88] Nevertheless, the power of such entrenched myths means that when the attacker is a friend or an acquaintance, victims sometimes do not immediately perceive rape to be rape.

Cathrine, who had experienced domestic violence including rape at the hands of a former boyfriend, told Amnesty International how, for a period of time, she did not consider what had happened to her as rape due to the image of rapes as only being committed by a stranger who "pulls you behind a bush" and not by partners. She also noted that the "stranger myth" creates a perception that if the crime is committed by a partner or another person known to the victim, it is not "as bad".[89] Cathrine is now involved in raising awareness about sexual violence in Denmark with Break the Silence (*Bryd Tavsheden*), an organization working with young people. She said that she hears the same myth repeated by the young people she works with.[90]

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[80] Danish Criminal Code, Consolidated Act No. 977 (2017), Articles 218-220.
[81] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 221.
[82] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216(3).
[83] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216(4).
[84] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 216(5).
[85] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 81(1).
[86] Danish Criminal Code, Consolidated Act No. 977 (2017), Article 222.
[87] Danish Prosecution Guidelines for prosecutors investigating sex crimes, April 2018, Section 5.1.5, www.vidensbasen.anklagemyndigheden.dk/h/6dfa19d8-18cc-47d6-b4c4-3bd07bc15ec0/VB/a47861d0-4490-461c-aec7-da2aa4151928
[88] Marie Bruvik Heinskou, Laura Marie Schierff, Peter Ejbye-Ernst, Camilla Bank Friis, Lasse Suonperä Liebst, "Sexual Violations in Denmark, Scope and Character", p. 23, October 2017, www.dkr.dk/media/12694/seksuelle_kraenkelser.pdf
[89] Interview with Cathrine, Copenhagen, 31 May 2018.
[90] Interview with Cathrine, Copenhagen, 31 May 2018.

In its 2017 assessment of Denmark's compliance with the Istanbul Convention, GREVIO noted the difference in the length of penalties for the offences of sexual violence which are not explicitly defined as rape in the Criminal Code: "it seems inappropriate to issue a lesser sentence… for sexual intercourse following the exploitation of a 'mental illness/disability' compared to sexual intercourse with an intoxicated woman incapable of consenting to the act, which currently carries a maximum prison term of eight years. This creates a hierarchy of victims of sexual violence which would run counter to the prohibition of discrimination on the basis of health." It strongly encouraged the Danish authorities to bring the penalties for the offences defined in Articles 218-220 of the Criminal Code into line with those for rape (Article 216).[91]

The Istanbul Convention requires situations in which the perpetrator abused their authority, as well as those where the offence was committed against a person made vulnerable, to be considered as aggravating circumstances.[92] The fact that the offences covered by Articles 218-220 of the Danish Criminal Code carry lower criminal sanctions than rape as defined by Article 216 indicates that they are in fact considered mitigating factors.

In its January 2017 report to GREVIO, Denmark stated that the list of aggravating circumstances is non-exhaustive.[93] While GREVIO recognized that this "would allow judges to consider all aggravating circumstances as set out in Article 46 of the Istanbul Convention", it expressed concern that the aggravating circumstance of the offence being committed against a former or current partner or spouse was not listed anywhere in the legislation. In fact, GREVIO found that when the perpetrator of the sexual offence is or was a partner, this tended to be viewed as a mitigating, rather than aggravating circumstance and led to a lesser penalty. It also noted that the authorities made "no particular effort" to inform judges of the list of aggravating circumstances as provided for by the Istanbul Convention. [94]

GREVIO recommended that the Danish authorities take measures to ensure application of all the aggravating factors specified under Article 46 of the Istanbul Convention, including improving the awareness of the judiciary. It stressed that judges should be made aware that "lenient sentences in domestic violence cases and other forms of violence against women do not serve the principle of ensuring justice for victims and ending impunity of perpetrators".[95]

Amnesty International believes that the Danish Criminal Code should be revised to make sexual violence against a current or former partner an aggravating circumstance. It also believes that, as required by the Istanbul Convention, the offences covered by Articles 218-220 should be considered aggravating circumstances, reflecting the seriousness of the offence, and that punishment should correspond to the gravity of the crime.

[91] GREVIO report, p. 46; Istanbul Convention, Article 4(3).
[92] Istanbul Convention, Articles 46(a) and (c).
[93] Report submitted by Denmark pursuant to Article 68, para. 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), received by GREVIO on 18 January 2017, GREVIO/Inf(2017)2, p. 45.
[94] GREVIO report, p. 47.
[95] GREVIO report, p. 47.

3. BARRIERS TO REPORTING RAPE

"If you follow the news just a little bit, you will see that the most obvious cases are being dismissed again and again and again, and all they have to say is that they thought she wanted it, that she likes it rough or something like that and it will be dropped even if there were massive injuries… The chance of actually winning a case, it is so slim that it feels so futile to even try."

"Maya", aged 31[96]

The vast majority of rapes committed in Denmark are not reported to the police. The discrepancy between the number of rapes reported (890)[97] and the estimated rapes and attempted rapes (between 5,100 and 24,000) in 2017[98] underscores the extent of women's reluctance to report sexual violence. The reasons why women and girls do not report rape are complex, but often include the fear of not being believed, self-blame and lack of trust in the justice system.[99]

International human rights law and standards require states to ensure that those reporting sexual violence are protected from secondary victimization at all stages of the legal process.[100] In practice, survivors often find the reporting process and its aftermath immensely traumatizing, particularly when faced with inappropriate questions, lack of information on their rights and inadequate communication. While some are lucky enough to encounter sensitive and trained professionals when reporting rape, many are met with dismissive attitudes, victim blaming, and prejudice influenced by gender stereotypes and rape myths.

In recent years, the Danish authorities have made some welcome efforts to investigate the high number of rape cases that never reach the courts. Reviews conducted in 2015, 2016 and 2017 by the State Prosecutor's Offices for Copenhagen and Viborg into the police handling of reported rapes revealed that, among other things, practices varied and that police officers were not following the same procedures

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[96] Interview with "Maya", Copenhagen, 28 May 2018. (Name has been changed to respect the interviewee's anonymity).
[97] National Statistics Office (Statistics Denmark), www.dst.dk/en/Statistik/emner/levevilkaar/kriminalitet/domme
[98] Anne-Julie Boesen Pedersen, Britta Kyvsgaard and Flemming Balvig, Ministry of Justice, *Victims' studies survey 2005-2016*, University of Copenhagen, Crime Prevention Council, Police, p. 88, www.dkr.dk/media/12899/offerrapport_2016.pdf,
Laura Deen, Kathrine Bindesbøl Holm Johansen, Sanne Pagh Møller, Bjarne Laursen, "*Vold og seksuelle krænkelser*", University of Southern Denmark, 2018, p. 52, www.sdu.dk/da/sif/rapporter/2018/vold_og_seksuelle_kraenkelser
[99] The 2013 "Barometer on rape" compiled by the European Women's Lobby noted that low levels of reporting are a wide-spread phenomenon across the region.
[100] Article 56(1) of the Istanbul Convention states that "Parties shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings, in particular by: a) providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation." CEDAW has recommended that states "take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities" (CEDAW General Recommendation No. 33 on women's access to justice, UN Doc. CEDAW/C/GR/33, (2015), para. 51(c)).

consistently. The 2015 review of the cases in Copenhagen and the Zealand region found, for example, that disproportionate numbers of reports were incorrectly recorded or closed by police officers or other non-legal staff even though the power to close cases lies with the prosecution service, not the police. It found that officers were dividing rape reports into those where they considered there was a high chance of prosecution ("sharp numbers") and those where there was not ("investigation numbers"),[101] with only the former making it into the rape statistics, thus obscuring the true picture.

This prompted the then Minister of Justice to launch an action plan called "Respect for Victims of Rape" (*Handlingsplan Respekt for ofre for voldtægt*) in January 2016.[102] The plan included six measures aimed at improving law enforcement agencies' responses to rape, namely: the creation of National Police Guidelines on handling rape and rape-related cases; further training for the police and prosecution services in interviewing vulnerable witnesses; improving victims' access to legal counsel through the introduction of lists of legal aid lawyers; a campaign encouraging people to report rape to the police; the creation of an advisory group to the police and prosecution service consisting of practitioners and experts in the field which would convene twice a year; and a survey on the profile of perpetrators to be conducted by the Ministry of Justice. The action plan did not provide a timeframe for evaluation, review or revision.

The National Police Guidelines on handling rape and rape-related cases, issued in April 2016, instruct officers to record every rape and attempted rape report. They also state that all such cases should be allocated a specific case number ("sharp number"). "Investigation numbers" may only be allocated in exceptional circumstances, for instance if it is unclear from the report which offence may have been committed. However, the Guidelines state, such cases should be more closely examined without delay in order to be allocated a "sharp number". The Guidelines state that police may only reject a report in exceptional circumstances, when it is clearly unfounded, but do not provide further detail regarding when this may be the case.[103]

In a subsequent, 2016 review, the State Prosecutor's Office for Copenhagen found the recording of rape cases by the police vastly improved: "investigation numbers" fell from 88 closed cases reviewed in 2015 to 38 in 2016. The 2017 review found that recording had improved still further, with 19 cases closed recorded under "investigation numbers".[104] Similarly, the review by the State Prosecutor for Viborg found that "investigation numbers" fell from 52% of closed cases reviewed in 2015 to 29% in 2016.[105] Experts interviewed for this report attributed the increase in the number of rapes reported to the police in 2017 (890 up from 744 in 2016) to the improvements in the recording system sparked by the "Respect for Victims of Rape" plan.[106]

Nevertheless, the experiences of many interviewees indicate that current police practice remains inconsistent and often falls short of both the National Guidelines and international standards and that this continues to be a serious barrier to the reporting of rape.

[101] State Prosecutor's Office for Copenhagen, Review of rape cases for 2015, 21 October 2015.
[102] Ministry of Justice of Demark, "Respect for Victims of Rape" Action Plan, 27 January 2016, www.justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2016/Respekt%20for%20voldt%C3%A6gtsofre.pdf
[103] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 4.
[104] State Prosecutor's Office for Copenhagen, Reviews of rape cases for 2016 and 2017.
[105] The 2017 review did not provide data on this. State Prosecutor's Office for Viborg, Reviews of rape cases for 2015 and 2016.
[106] Interviews with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, 13 March 2018; Helle Hald, lawyer and victim's counsel, 13 March 2018; and Hanne Baden Nielsen, Head Nurse, Centre for Victims of Sexual Assault, *Rigshospitalet*, Copenhagen, 14 March 2018.

3.1 LACK OF CONFIDENCE IN THE POLICE

Women survivors and experts working with rape victims interviewed for this report said that the fear of not being believed or even being blamed and shamed by police and justice officials were among the primary reasons for not reporting rape.

> **"I was in a relationship at that point, so I told my boyfriend. And he told me to report it, and my first thought was that I won't report it because it doesn't matter, because I know him, it was at my own home, there will be no legal process at all, they will just laugh at me when I tell them."**
>
> Kirstine Marie, aged 24, who was raped by a friend who stayed at her flat[107]

Fear of how the police would respond was one of the main reasons Isabel gave as to why she did not report that she had been raped. She had heard about the negative treatment other survivors had experienced and told Amnesty International that she was worried that if she did report and the police blamed her for what had happened this would have added to the guilt that she was already feeling at the time:

> **"At first, I also thought it was my fault, and if a policeman indicated that it was my fault, I just think that I would think it even more. And I don't think that's a very healthy thing."**
>
> Isabel, aged 19[108]

Kirstine's story

Kirstine, a 39-year-old journalist, communications adviser and activist from Fredericia in central Denmark, told Amnesty International that she had to make four attempts before she was able to file a report of rape with the police in August 2017.

She first phoned the police station in her home town and was informed that the report should be directed to a station in Copenhagen, where the events took place. An officer from the police station in Copenhagen informed Kirstine that there was no time to take her report as the officers were busy dealing with a lot of gang shootings and that it was important to make the report in person, so she should try her local station face to face.[109]

At the local station the following day, a young male officer told Kirstine that she could go to prison if she was lying about having been raped and that there were a lot of false reports. After discussing her experience briefly with her, he told Kirstine that cases where victims and perpetrators know each other rarely get anywhere. He then proceeded to inform her that he was in fact unable to take her report as he had never done this before. He advised her to go to the police station in Kolding, a town around 20km away.[110]

Kirstine drove there, crying. "If I was 20 years old, I wouldn't have proceeded after the first attempt to report," she told Amnesty International.[111] Kirstine had to recount her experience several times: twice over the phone, another time in person in Fredericia, where the officer told her he was not going to take her report, and later at the station in Kolding and during several subsequent interviews in Copenhagen.[112]

> *"If reporting a rape means enduring new fear, shame and humiliation, they can stick their campaigns to get us to report up their ass… I am an angry but determined woman. Give us respect and justice when we say no to violence and abuse!"*
>
> Kirstine[113]

[107] Interview with Kirstine Marie, Copenhagen, 26 June 2018.
[108] Interview with Isabel, Aarhus, 20 May 2018.
[109] The police acknowledged this conduct in a response to Kirstine's complaint over the handling of her case, admitting that it was not in line with the Guidelines. Document on file with Amnesty International.
[110] The police officer's conduct was acknowledged by the police, with the exception of the statement regarding false reports, which the officer in question denied. Document on file with Amnesty International.
[111] Interview with Kirstine, Fredericia, 15 March 2018.
[112] Interview with Kirstine, Fredericia, 15 March 2018.
[113] Kirstine's social media, 8 March 2018.

For some women, the fear of not being believed is compounded by their circumstances, such as uncertain immigration status. "Letitia"[114], who is a lesbian woman from Uganda and now has recognized refugee status, initially came to Denmark to work as an *au pair*. When her male employer raped her, "Letitia" was at a complete loss as to where to go or who to seek help from:

> **"I didn't have anyone. I didn't know anybody… I would think of reporting him a thousand times… He told me, which used to make me feel afraid, that he's Danish and they won't listen to a black person… And after he told me that, it made me feel small. It made me feel not worthy."**
>
> "Letitia"[115]

Bwalya Sørensen, spokesperson for Black Lives Matter Denmark, told Amnesty International: "It is very difficult for black women to report rape by a white man to the police. This is where intersectionality comes into play… When black women report white men to the police for rape, the men know the system from within and that they will be listened to… It doesn't matter what she says, because it is his word that is prioritized."[116]

Therese Christensen, a Consultant for Southeast-Asian Women with Danner, has come across cases of migrant women in Denmark who did not report rape to the police for fear of their immigration status being questioned or their immigration permission applications being denied. She recalled: "I came into contact with a Filipino *au pair* who rented a room from a Danish man after her employment contract with the family she was working for was terminated. After the man spiked her wine and raped her for the first time, she did not report it to the police as she believed her immigration permission was no longer valid since the first work contract was no longer in place. She ended up staying with the man for some time and being raped and physically abused repeatedly."[117]

According to Nico Miskow Friborg from TransAktion, most transgender people also have very little faith in the system, and systemic discriminatory attitudes towards them also put them at increased risk of sexual violence: "the known lack of access to rights and justice for transgender people makes them 'easy victims'. There are no surveys or research on the scope or impact of rape on transgender people in Denmark. But from transgender persons' accounts we do know that the situation in Denmark is similar to other countries. One example is the transgender woman Fernanda Milan's account of getting raped by several men while in an asylum detention camp for men. From our work counselling transgender people in TransAktion, we know that transphobia and trans exclusion are serious barriers when accessing services in the public system – both generally and specifically, in relation to sexual violence."[118]

3.2 RAPE IN THE CONTEXT OF DOMESTIC VIOLENCE

Up until as recently as 2013, a rape sentence could be reduced or annulled in Denmark if the perpetrator and the victim were to marry or were married, perhaps showing how ingrained retrogressive attitudes towards rape in intimate-partner relationships are in society. Sometimes, when the rape takes place in the context of broader domestic violence, victims do not mention sexual violence to the police. Frequently, this reluctance is borne of a sense of shame and victims of domestic violence are not necessarily asked about whether sexual violence also took place.

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[114] Name has been changed to respect the interviewee's anonymity.
[115] Interview with "Letitia", Copenhagen, 27 June 2018.
[116] Interview with Bwalya Sørensen, Spokesperson, Black Lives Matter Denmark, Copenhagen, 15 November 2018.
[117] Interview with Therese Christensen, Consultant for South-East Asian Women, Danner, Copenhagen, 27 June 2018.
[118] Interview with Nico Miskow Friborg, Co-founder and Chair, TransAktion, Copenhagen, 15 November 2018. Media coverage of Fernanda Milan's story, Politiken, 12 August 2012, www.politiken.dk/indland/art5406377/Transk%C3%B8nnede-Fernanda-Jeg-blev-voldtaget-ikke-bare-af-%C3%A9n-mand-men-af-mange

For example, Cathrine told Amnesty International that neither the staff at the hospital where she was treated nor the police officer who interviewed her asked any questions about whether sexual violence had occurred. She was too embarrassed to volunteer this information, especially since both at the hospital and the police station she was accompanied by her mother. She said: "The only thing you could see… was my battered face so that was what people were talking about."[119]

The Danish Act on Parental Responsibility (2007) can also discourage women with children from reporting rape in domestic violence contexts.[120] While the Act requires that the best interests of the child are considered, it also places a strong emphasis on children having contact with both parents following a relationship breakdown.[121] Women who leave abusive relationships are required by the State Administration to attend mediation meetings with the perpetrator in order to agree on custody and visiting rights. In its 2017 assessment of Denmark, GREVIO noted the very serious risks that this presents because it fails to recognize the power imbalance or risks to the safety of victims of violence.[122]

Women who experience rape in the context of domestic violence know that the state will not necessarily afford them sufficient protection from the abuser following separation if children are involved. As a result, many remain in abusive relationships and never report rape by their partners. Representatives of Danner stated that, because of the focus on shared custody or visiting rights, "women in such situations may not want to report rape to avoid making the conflict with the perpetrator worse".[123]

Harmful views about rape in marriage are an obstacle to many women in reporting rape. Therese Christensen, a Consultant for South-Asian Women with Danner, has noticed strong feelings of shame among the migrant women from outside the European Economic Area (EEA) married to Danish citizens with whom she works. She described to Amnesty International how "many of these women have an internalized perception that marital rape is not really rape. This often prevents them from reporting it to the police."[124]

The Istanbul Convention protects all women within the state party's jurisdiction, including migrant and refugee women, and provides that women should be able to obtain an independent residence permit in specific circumstances.[125] While Danish law does allow for this possibility,[126] it can be difficult in practice to obtain such a permit.

According to Danner, "Danish legislation protects family-reunified women who are victims of violence but only if the woman can document the violence. At the same time, emphasis is placed on whether the woman has demonstrated the ability and willingness to integrate into Danish society, which may be difficult in view of the woman's vulnerability."[127] Therese Christensen told Amnesty International that it was as if there was a "government sanction for these men to do what they do".[128]

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[119] Interview with Cathrine, Copenhagen, 31 May 2018.
[120] Interview with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, Copenhagen, 13 March 2018.
[121] Act on Parental Responsibility (2007). At the time of writing, the Danish Parliament was considering amendments to the Act.
[122] GREVIO report, pp. 39-40.
[123] Interview with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, Copenhagen, 13 March 2018.
[124] Interview with Therese Christensen, Consultant for South-East Asian Women, Danner, Copenhagen, 27 June 2018.
[125] Istanbul Convention, Article 59.
[126] Aliens Act 2003(2013), Articles 19(7) and (8) and Article 26. See also, Danish Immigration Service, Guidance for applicants: www.nyidanmark.dk/en-GB/Your-situation-is-changing/Family/Family-reunification/Divorce-or-end-of-cohabitation
[127] Danner, *Violence against migrant women in Denmark. Experience and data from Danner's outreach work with an especially vulnerable group: 2012 to 2018,* 2018, p. 31 www.danner.dk/sites/default/files/danner/Diverse/RapportFinal.pdf
[128] Interview with Therese Christensen, Consultant for South-East Asian Women, Danner, Copenhagen, 27 June 2018.

3.3 POLICE RESPONSES TO REPORTS OF RAPE

In its 2017 assessment of Denmark, GREVIO noted that experts from the Centre for Sexual Assault Victims at *Rigshospitalet* found that the 2016 Ministry of Justice "Respect for Victims of Rape" action plan contributed to a fall (from 7% to 5% in 2017) in the number of women in Copenhagen who tried to report a rape but felt discouraged.[129]

As part of this plan, in 2017, the Danish National Police rolled out a campaign encouraging women to report rape called "Even though it started out well, it can still be rape".[130] The campaign targeted 14 to 25-year-olds who had experienced sexual assault by someone they knew. A representative of the National Police told Amnesty International that the campaign videos were seen almost 600,000 times on social media and a live Facebook chat had an audience of 26,000. Since the campaign, the police state that they have seen a rise in reports.[131]

An important further component of the campaign was to influence police officers. The National Police told Amnesty that they communicated about the campaign directly to heads of different units in the police districts and made information available on the police intranet, including the National Guidelines on rape. "We think from our evaluation that the campaign reached the target groups both internally and externally, and that there was a broad acceptance of the form and the messages internally in the police", Steen Hansen, Special consultant at the National Police's Centre of Investigations, told Amnesty International.[132]

Survivors interviewed for this report had varying opinions about this initiative. Some reported positive experiences and victims' counsel lawyer Helle Hald and Hanne Baden Nielsen from the Victims of Sexual Assault in Copenhagen also welcomed the initiative.[133] However, the experiences of other victims show that the action plan is not being implemented fully and consistently and that distressing experiences in reporting to the police persist. The response by the police and justice officials to victims is crucial. It can either reaffirm the pre-existing shame and blame many victims feel, particularly when the perpetrator is known to them, or challenge it and support survivors in seeking justice.

3.4 LACK OF PRIVACY WHEN REPORTING

Kirstine Marie decided to report the rape to the police three days after it happened. She spent over an hour sitting in an open area of the Central Police Train Station in Copenhagen being approached and questioned by several different officers. This was after officers informed her that the report had to be made at a station closer to the crime scene but that they could do an initial log of her case, after which she would have to wait for a phone call from another station in Copenhagen, inviting her to attend and give her statement.[134]

International human rights standards require states to take all necessary measures to protect the rights and interests of the victims, including their special needs as witnesses, at all stages of investigation and legal proceedings.[135] To this end, states should put in place measures to protect the privacy and the image of the

[129] GREVIO report, p. 49; Data collected by the Centre for Victims of Sexual Assault at *Rigshospitalet* Copenhagen.
[130] Danish National Police campaign, www.anmeldvoldtaegt.dk
[131] Email from Steen Hansen, Special consultant, National Center of Investigation, National Police, 28 November 2018.
[132] Email from Steen Hansen, Special consultant, National Center of Investigation, National Police, 28 November 2018.
[133] Interviews with Helle Hald, lawyer and victim's counsel, Copenhagen, 13 March 2018, and Hanne Baden Nielsen, Head Nurse, Centre for Victims of Sexual Assault, *Rigshospitalet*, Copenhagen, 14 March 2018.
[134] Interview with Kirstine Marie, Copenhagen, 26 June 2018.
[135] 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.

victim.[136] The Explanatory Report to the Istanbul Convention clarifies that such measures should include, for example, speaking to victims "in premises that are designed to establish a relationship of trust between the victim and the law enforcement personnel".[137]

The Danish National Police Guidelines on handling rape and rape-related cases acknowledge the need for the reporting of rape to take place in private and that requests from the complainant for one-to-one discussion in "a suitable room" should be accommodated.[138] However, 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.

For example, "Bolette"[139] was asked to attend a police station at a later stage after already talking to two officers at her home, where the crime took place. At the police station, she was interviewed in a separate room, although another survivor who reported at the same station was not, which shows that practice at this location differs.[140]

3.5 POLICE TREATMENT OF VICTIMS DURING INTERVIEW

The National Police Guidelines on handling rape and rape-related cases clearly recognize the need to treat rape complainants with empathy, stating that "the police should be aware that the complainant is in an especially vulnerable position. It is important that the police display understanding and provide support for the complainant."[141] They stress the importance of those reporting rape being interviewed by specially trained and experienced officers as far as possible and of accommodating requests to be interviewed by an officer of the same gender whenever possible.[142] They also provide direction on best interviewing practices. Alcohol and drugs intake (which could possibly point towards drug rape) are among the facts that the Guidelines require officers to establish.[143] They state clearly, however, that while officers can ask the complainant about details such as their clothing and behaviour in order to obtain all relevant details, they should explain the reasons for asking such questions. This is to be done "in order to prevent the complainant feeling that the police's questions are accusatory or blaming".[144]

"Sofia's" story

In September 2016, "Sofia", a 20-year-old acting student reported that she had been raped to the police. She told Amnesty International she was interviewed by a male police officer who walked her through the process and explained what questions he was going to ask and why. This included questions about the details of the assault and the clothing she was wearing, which he explained was the type of information the police would later be able to cross-check with what the suspect would say when questioned about it. She recalled:

"[He] made me a hundred percent aware that it had nothing to do with me at all, it was just something that he had to ask… I felt like he was there for me and he was there to help me get the

[136] UN Handbook for Legislation on Violence against Women, 2012, p. 39; Istanbul Convention, Article 56 (f); and CEDAW General Recommendation No. 33, para. 18(f).
[137] Explanatory Report, para. 258.
[138] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 2.
[139] Name has been changed to respect the interviewee's anonymity.
[140] Interviews with "Bolette", Copenhagen, 26 June 2018, "Maya", Copenhagen, 28 May 2018.
[141] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 2.
[142] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 6. In its 2017 report, GREVIO noted that the low number of women law enforcement officers in Denmark (15%) makes it difficult to ensure that a complainant can be interviewed by a female officer within a reasonable period of time (GREVIO report, p. 50).
[143] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 5.
[144] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 6.

justice I deserve. I know that my experience isn't in any way the one that a lot of girls have but I feel like I want to show that it can be different and there are police officers who want to help… who know how to handle themselves… He's one of my heroes."

"Sofia" described how when she shared this positive experience with a friend, this friend decided to report that she herself had been raped to the police. "And that's something that means a lot to me," "Sofia" said. "That this police officer, through the way he treated me, also helped another girl."[145]

Several of the women interviewed for this report had positive experiences when being interviewed by the police and described practices that were in line with international human rights standards and the police Guidelines. However, others received a very different response.

In their cases, the Guidelines were not followed and officers did not explain to them why they were asking about details such as their dress, their behaviour or their alcohol intake, leaving them feeling as if they were being blamed for the rape.[146] For example, 20-year old Emilie recalled that the officers "really pushed" when asking her whether she had been flirting with the man who she reported raped her.[147]

19-year old Dyveke told Amnesty International that the police officer told her that it looked like she was lying after having questioned the two suspects and their testimonies not matching Dyveke's. Dyveke recalled being told that: "these three stories clearly do not match, there are only two of them that are right. So it is now time to tell the truth about what happened that night. And then I panicked because I had told her everything that I could possibly remember and everything that happened. So then I completely broke down because I suddenly felt that it was an attack on me. And it wasn't especially nice to be doubted because I was feeling very low at that time." [148]

"I felt that I was almost going to jail for something that I was recommended to do. She said directly to me that if I did not tell the truth then in court it would be me who would be prosecuted."

Dyveke, aged 19[149]

The Guidelines place a strong emphasis on the need for impartiality. They unambiguously state that "during interviews, the interviewer cannot simply seek to have a particular presumption confirmed" and remind officers that "due consideration must be given to the fact that complainants have been subject to a violent and unpleasant experience and can therefore be especially vulnerable and affected by trauma reactions".[150] Clearly, as shown by this and other cases analyzed by Amnesty International, there is some way to go to ensure that all officers adhere to the Guidelines.

In its 2017 assessment of Denmark, GREVIO welcomed the "Respect for Victims of Rape" plan and noted its overall positive assessment on the part of specialist support centre staff.[151] While the measures proposed in the action plan are positive and promising, Amnesty International's research found that, three years on, survivors' experiences of the legal process varied throughout the country[152] and that the authorities still have a long way to go to improve access to justice for rape survivors.

[145] Interview with "Sofia", Copenhagen, 26 June 2018.
[146] Interview with Stine, Aarhus, 30 May 2018; Interview with Kirstine Marie, Copenhagen, 26 June 2018.
[147] Interview with Emilie, Aarhus, 25 June 2018.
[148] Interview with Dyveke, Aarhus, 29 May 2018.
[149] Interview with Dyveke, Aarhus, 29 May 2018.
[150] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 6.
[151] GREVIO report, p. 49.
[152] A similar finding has been made by GREVIO, p. 49.

4. BARRIERS TO JUSTICE: THE LEGAL PROCESS

4.1 LIMITED ACCESS TO EXPERIENCED VICTIM'S LEGAL COUNSEL

States are required by international human rights law to take measures to protect the rights of victims of gender-based violence at all stages of the legal process.[153] These measures include timely and effective access to legal proceedings; removing fees or court charges;[154] access to adequate and timely information on available support services and legal measures for victims and survivors;[155] and the provision of free legal aid, interpretation and court support, including independent legal counsel and intermediaries.[156]

According to Article 57 of the Istanbul Convention, Denmark has an obligation to "provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law".[157] The Explanatory Report to the Convention stresses that while free legal aid is not an automatic right under the Convention, it can be of immeasurable benefit to the victim. It explains that "judicial and administrative procedures are often highly complex, and victims need the assistance of legal counsel to be able to assert their rights satisfactorily. In these cases, it might be difficult for victims to effectively access legal remedies because of the high costs which can be involved in seeking justice".[158]

Denmark is among the few countries in Europe that provide the assistance of free legal counsel to victims of crime, including rape survivors, in certain circumstances. Under the Administration of Justice Act 2018, victims are entitled to a state-funded and appointed victim's counsel lawyer (*bistandsadvokat*)[159] or can choose to appoint a lawyer themselves – this will also be paid for by the state.[160] This right was first

[153] 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.
[154] UN Handbook for Legislation on Violence against Women, 2012, p. 37, and CEDAW General Recommendation 35, para. 44.
[155] Istanbul Convention, Article 19.
[156] UN Handbook for Legislation on Violence against Women, 2012, p. 38, and Istanbul Convention, Articles 56(d), (e), (h) and 57. The UN Handbook for Legislation on Violence against Women includes among its recommendations the provision of "free court support, including the right to be accompanied and represented in court by a specialized complainants'/survivors' service and/or intermediary, free of charge, and without prejudice to their case, and access to service centres in the courthouse to receive guidance and assistance in navigating the legal system", p. 39.
[157] Istanbul Convention, Article 57.
[158] Explanatory Report, para. 294.
[159] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(a)(1).
[160] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(a)(2).

introduced into Danish legislation in 1977.[161] The role of the victim's counsel is among other things, to provide guidance and direction to the injured party.[162]

Victim's counsel

The role of the victim's counsel is to:

- support the victim during police interviews and court proceedings;
- help claim damages and compensation for the victim;
- advise the victim about the possibility of applying for a restraining order;
- advise on a more general level about medical and psychological help available;
- keep the victim informed about the proceedings in their case;
- prepare the victim on how to give testimony in court;
- support the victim in asserting their rights, such as the right to privacy during legal proceedings.[163]

The victim's counsel is entitled to:

- be present during all police interviews of the victim, as well as during their testimony in court;
- ask the victim further questions during police interviews and in court;[164]
- receive a copy of the victim's interview report from the police, and other documents regarding the victim;
- be informed about other relevant material collected by the police if the prosecution decides to press charges, however, not the evidence relating to the accused (in order to ensure their right to a fair trial);
- share such material with the victim with police consent;
- make a request to the prosecution to refer to a specific piece of evidence in court, which the prosecution decides upon (the victim's legal counsel does not have the right to identify evidence to be used in court, as the defence lawyer does);[165]
- request the court to hold the proceedings behind closed doors or for the victim not to testify in the presence of the defendant;[166]
- object to the use of evidence regarding the victim's previous sexual behaviour;[167]
- receive the court's decision in writing; and
- share it with the victim, but only with the court's permission.[168]

The National Police Guidelines on handling rape and rape-related cases instruct officers that they should inform the person reporting a rape of the possibility of having a victim's counsel lawyer appointed before or immediately after making the report, that is preferably before their first interview, in line with the Administration of Justice Act.[169] The police should also provide the person making the report with

[161] Ministry of Justice, Criminal Justice Committee, "Report on improving the status of rape victims" 2005, p. 15, www.foxylex.dk/media/betaenkninger/Betaenkning_om_forbedring_af_voldtaegtsofres_retsstilling_afgivet_af_Justitsministeriets_Strafferetsplejeudvalg.pdf
[162] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(c).
[163] Report No. 1102 on the position of victims in rape and violence cases submitted by a committee set up by the Ministry of Justice, 1983, para. 2.4.2, www.foxylex.dk/media/betaenkninger/Betaenkning_om_den_forurettedes_stilling_i_voldtaegts_og_voldssager.pdf
[164] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(c)(1).
[165] Report of the Working Group on strengthened action for protection of victims of crime, 2010, p. 35; and Administration of Justice Act, Consolidated Act No.1284 Chapter 77.
[166] Comments to section 741(c) of the Administration of Justice Act, FT 1979-80, Appendix A, question 470.
[167] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(c)(1).
[168] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(c)(4).
[169] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 3; Administration of Justice Act, Consolidated Act No.1284 (2018), Article 741(b)(1).

information about the role of the victim's counsel and give them the opportunity to talk to their lawyer before the first interview.[170]

However, in practice, women rape survivors in Denmark are not always provided with information about their right to access a victim's counsel lawyer and in some cases, they do not obtain a lawyer's assistance because no lawyer is available.[171]

Sara Parding from the Centre for Victims of Sexual Assault in Aarhus told Amnesty International that: "while access to lawyers has generally been improving for victims, it remains an issue when a report is made during the weekend, late at night or takes place in a small village."[172] The 2017 review of closed rape reports by the State Prosecutor's Office for Copenhagen noted that several police districts reported difficulties in accessing legal counsel when the report is made outside office hours and referred to a proposal to put in place an out-of-hours system to address this.[173]

Søren Ravn-Nielsen, Deputy Police Inspector from Sydsjællands and Lollands-Falsters District Police told Amnesty International that this proposal will probably be discussed by the expert group set up by the Minister of Justice. He also told Amnesty International that when the Guidelines for police officers are next revised, they will state that if the victim does not specifically say no to a victim's lawyer, one will automatically attend. He also told Amnesty International: "There are big differences in the quality of the lawyers, and the level of interest they put into the case."[174]

Anne Birgitte Styrup, former senior prosecutor at the State Prosecutor's Office for Copenhagen, also told Amnesty International she believed that the quality of the work of victim's lawyers varies. In her opinion, a good victim's counsel makes a big difference and can ensure that the woman is ready to go to court, for instance by bringing her to the courtroom earlier to prepare. She told Amnesty International: "I also found it terrible that when I questioned a victim and she broke down in court, I then had to say goodbye. I was also unable to call them before to tell them I thought they should bring a friend or their mum with them. All those things I was unable to do, as I could then be seen as influencing the process, the victim's counsel can do."[175] Emil Folker, senior prosecutor at the State Prosecutor's Office for Copenhagen, told Amnesty International that he believes that the victim's counsel's presence improves the standard of police interviews and that the fact that a victim has this access to a professional who is fully and solely representing the victim is positive.[176]

According to lawyer and victim's counsel in rape cases, Lise Holten, their primary role is to support the victim, "to be a security person, a person who comes to the interview with the police, who guarantees that the victim's rights won't be violated. Makes them safe." She also told Amnesty International that part of her job as a victim's counsel is to discuss the options available and the next steps with the victim if the case is closed before it reaches the courts, for instance the option to complain about the closure, or not. She stressed that it is important to her to make the victim feel safe about the decision that has been made.[177]

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[170] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 3; Decree on the duty of the police and prosecutor to guide and inform injured persons in criminal cases and to appoint a contact person for injured persons no. 1108, 2007, www.retsinformation.dk/Forms/R0710.aspx?id=2866

[171] Interviews with Kirstine, Fredericia, 15 March 2018; "Maya", Copenhagen, 28 May 2018; Stine, Aarhus, 30 May 2018; Cathrine, Copenhagen, 31 May 2018; "Lene", Aarhus, 25 June 2018; and Kirstine Marie, Copenhagen, 26 June 2018.

[172] Interview with Sara Parding, Head of Campaigns, Centre for Victims of Sexual Assault, Aarhus, 15 March 2018.

[173] State Prosecutor's Office for Copenhagen, reviews of rape cases 2015, 2016 and 2017.

[174] Interview with Søren Ravn-Nielsen, Deputy Police Inspector, Sydsjællands and Lolland-Falsters District Police, Greater Copenhagen, 11 October 2018.

[175] Interview with Anne Birgitte Styrup, former senior prosecutor, State Prosecutor's Office for Copenhagen, Copenhagen, 8 October 2018.

[176] Interview with Emil Folker, senior prosecutor, State Prosecutor's Office for Copenhagen, Copenhagen, 5 November 2018.

[177] Interview with Lise Holten, victim's counsel and defence lawyer, Copenhagen, 9 October 2018.

After her interview with the police, Kirstine Marie felt that it would have made a difference to have a lawyer present:

> **"I was just one 21-year-old woman, sitting there with two guys looking at me, saying, 'are you sure you want to report this?' So, if there had been a lawyer with me, they would probably have said, 'yes, she is, that's why we are here' in a way that I didn't have the authority to do because I was just a young girl, 'claiming' to have been raped."**
>
> Kirstine Marie, aged 24[178]

Helena Gleesborg Hansen from the Danish Women's Society told Amnesty International that she believes that women are not always aware of the possibility of having a lawyer and don't realize why they would be entitled to one. "Because why would I need a lawyer – I am the victim?", she pointed out. "Being given this information by the police is crucial."[179] Helle Hald, lawyer and victim's counsel in rape cases, told researchers that she found the victim's ability to involve a lawyer from the beginning to be crucial.[180] Ensuring that victims are able to access a lawyer early in the process was also among the recommendations made to the Danish authorities by survivors interviewed in the course of this research,[181] as well as by GREVIO.[182]

The women interviewed who did have a lawyer's assistance had varying experiences. For example, 20-year-old Emilie's experiences with two different lawyers were positive, with one especially engaging with her and communicating well.[183] However, expertise in the area of sexual violence was not always a given; a real estate lawyer was assigned to Kirstine, for example, forcing her to find another counsel.[184] Between reporting the rape to the police and the case going through different court hearings, Kathrine was assigned three different lawyers. She said having to tell her story to a different person time after time was one of the most difficult aspects of this part of the process.[185]

While the fact that rape survivors have the right to a free victim's counsel lawyer is a positive aspect of the Danish system, the authorities need to improve the availability of counsel, including outside office hours; guarantee access to their services early in the process and, where possible, ensure continuity; and ensure that they have the relevant expertise in dealing with cases of sexual violence.

4.2 FLAWED INVESTIGATIONS

Women's access to justice for rape depends on, among other things, the quality of police and prosecution investigations. International human rights law and standards require states to ensure that the relevant law enforcement agencies respond to all forms of violence promptly and appropriately[186] and engage adequately in their prevention, including through the employment of preventive operational measures and the collection of evidence.[187]

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[178] Interview with Kirstine Marie, Copenhagen, 26 June 2018.
[179] Interview with Helena Gleesborg Hansen, Deputy Chairwoman, Danish Women's Society, Copenhagen, 14 March 2018.
[180] Interview with Helle Hald, lawyer and victim's counsel, Copenhagen, 13 March 2018.
[181] Interviews with Stine, Aarhus, 30 May 2018, and Kirstine Marie, Copenhagen, 26 June 2018.
[182] GREVIO report, p. 54.
[183] Interview with Emilie, Aarhus, 25 June 2018.
[184] Interview with Kirstine, Fredericia, 15 March 2018.
[185] Interview with Kathrine, Copenhagen, 27 June 2018.
[186] 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).
[187] Istanbul Convention, Article 50(2), and CEDAW General Recommendation 35, para. 38 (b).

Under Article 49(2) of the Istanbul Convention, the Danish authorities have a responsibility to ensure that investigations into violence against women, including rape, are carried out in an effective manner.[188] The Explanatory Report to the Convention specifies that this comprises, for example: "establishing the relevant facts, interviewing all available witnesses, and conducting forensic examinations, based on a multi-disciplinary approach and using state-of-the-art criminal investigative methodology to ensure a comprehensive analysis of the case."[189]

The Danish National Police Guidelines on handling rape and rape-related cases outline the various investigative steps that the police must undertake when investigating sexual crimes. These include securing the crime scene; ensuring that a personal forensic examination of the complainant is carried out by relevant medical professionals; securing evidence, such as clothing, bed sheets and mobile phones; and identifying witnesses.[190]

The experiences of women Amnesty International spoke to varied greatly with regard to how their cases were investigated by the police. Some were marked by a catalogue of failures. For example, the police informed Kirstine that some of the case documents were lost in the post when the file was passed onto Copenhagen police and during the court proceedings it came to light that the officers committed errors in collecting vital evidence. During the court hearing, it became apparent that the prosecutor did not have the forensic analysis of the clothing Kirstine was wearing on the night in question. In their response to Kirstine's complaint, the police explained that they did not consider this necessary because during the police interview, the accused had admitted intercourse and did not contest that his semen may have been on the clothes. However, during the trial, he changed his version of events and claimed that they were naked. The evidence that would have countered this statement was never collected. This was a clear breach of the National Police Guidelines on handling rape and rape-related cases, which state that officers should secure the complainant's clothing as soon as possible.[191]

In a response to Kirstine's complaint, the police acknowledged that: "Any technical statement about this would have been able to substantiate your explanation in the national court as more credible than the explanations of declarations that were changing."[192] However, the Director of Public Prosecutions did not find that this was a sufficient ground for appealing the judgment acquitting the man.[193] Kirstine also found out that the police had never visited the crime scene and interviewed the suspect almost a month after she had made the report. Her report to the police that she suspected the man was under the influence of alcohol or drugs was also never investigated.[194]

Failure to secure the crime scene is contrary to international human rights standards, as well as the National Police's own Guidelines.[195] Making a decision about questioning or arresting the suspect is also among the steps that the Guidelines urge officers to carry out "as soon as possible",[196] and the month's delay in Kirstine's case points to a breach of this protocol.

[188] Istanbul Convention, Article 49(2).
[189] Explanatory Report, para. 56.
[190] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 5.
[191] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 5.
[192] Copenhagen Police response to Kirstine's complaint, dated 2 May 2018, on file with Amnesty International.
[193] Copenhagen Police response to Kirstine's complaint, dated 2 May 2018, on file with Amnesty International.
[194] Interview with Kirstine, Fredericia, 15 March 2018.
[195] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 5.
[196] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 5.

4.3 ACCESS TO INFORMATION AND COMMUNICATION WITH SURVIVORS

According to the Istanbul Convention, states must ensure that victims of violence against women, including rape, receive "adequate and timely information on available support services and legal measures in a language they understand".[197] The UN Handbook for Legislation on Violence against Women recommends that domestic legislation requires that survivors are informed, promptly and adequately, about, for example, their rights, the details of legal proceedings and their case, as well as the reasons why their case may have been dropped.[198]

In Denmark, general information about the legal process in rape cases and victims' rights is available, including online, for instance, in Guidance for Complainants or resources on the National Police's website.[199] In its 2017 Baseline Evaluation of Denmark, GREVIO noted that information about support for people who experience sexual violence is also widely available.[200]

The National Police Guidelines on handling rape and rape-related cases also provide for more personal contact and information sharing for complainants. According to the Guidelines, the person reporting rape should be appointed a contact point within the police force or the prosecution service "if the complainant is expected to give evidence as a witness in court, and if the complainant is regarded, depending on the nature and seriousness of the case, as being in need of support and guidance from the police/prosecution".[201] The police or prosecution service are also expected to provide victims with information on the progress of their case. In cases where the person reporting was appointed a victim's counsel lawyer, communication about the progress of their case should be conducted through them.[202]

Several of the women interviewed for this report said they were never assigned a contact person or experienced a complete lack of communication from the police or the prosecution until an email with a decision to close their case was sent to them through a so-called "e-box", a communication system between individuals and the Danish authorities. Interviewees said that not having a contact person to ask about the progress of their case added to their anxiety and uncertainty. Those with assigned victim's counsel lawyers also found communication non-existent or poor at times.

For example, Kathrine told Amnesty International that she was ready to celebrate a conviction when the two-week deadline for appealing the verdict had passed since she had not heard from her lawyer and assumed that the accused had not appealed. She decided to call her lawyer just in case and found out that the defence had in fact lodged an appeal.[203] Kathrine said she found the lack of information about the progress of her case and constantly having to follow up with lawyers herself extremely frustrating: "It should be our right, to be the first person you inform about the process as there is no doubt about who this is the hardest on."[204]

> **"There are many times when we ourselves have to get in touch with them and ask 'what now?' and 'what should happen now?'… it means a lot when you stand as a victim in such a situation, it almost fills your whole**

[197] Istanbul Convention, Article 19.
[198] UN Handbook for Legislation on Violence against Women, 2012, p. 35.
[199] Guidance for Complainants, 16 July 2014, www.vidensbasen.anklagemyndigheden.dk/h/6dfa19d8-18cc-47d6-b4c4-3bd07bc15ec0/VB/b72c9454-34bb-47fd-ab19-50adf64b3908, www.politi.dk/anmeld/seksualforbrydelser/voldtaegt-og-seksuelle-overgreb
[200] GREVIO report, p. 32.
[201] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 3.4.
[202] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, p. 3.5.
[203] Interview with Kathrine, Copenhagen, 27 June 2018.
[204] Interview with Kathrine, Copenhagen, 27 June 2018.

life when it happens. So I think it's important that you get that information, that you have a little more involvement in it, so you feel a bit more heard, feel a little more important in this."

Emilie, aged 20[205]

In Kirstine's case, neither the police nor her lawyer explained what would happen between the reporting and the potential court hearing. The police officer in Copenhagen only told her that if she received no news at all, without an indication of the relevant time period, this meant that the prosecution was not going ahead. Kirstine said she felt that this significantly impeded her healing process. After making the report, she said she did not leave the house for weeks. Without a timeframe, she felt that she had to be in a state of permanent readiness to recall all the details of what had happened to her in case she was asked further questions by the police.

No one contacted Kirstine to inform her that the court had decided to acquit the accused. The prosecution also never contacted her or her lawyer to inform them that they had decided not to appeal the decision, or to explain their decision. Kirstine only found out after a friend called and informed her that the man had posted a Facebook update saying that the day when the deadline for appeals had passed was a fantastic day.[206] One of the practical changes she would like to see in Denmark is improved communication and access to information for survivors. She told Amnesty International: "I would like rape victims to have more information about the process, not just to sit and wait for what happens next."[207]

Positive guidance and procedures are in place, but the Danish authorities need to ensure that they are implemented, and that police and victim's lawyers provide survivors with contact details and regular information about the progress of their case. Delivering such information in a sensitive manner would also ensure that victims are treated with respect and dignity throughout the process.

4.4 POLICE CLOSURE OF CASES

Under the Danish Administration of Justice Act, it is the prosecuting authorities that have the authority to reject a report of rape or attempted rape, close an investigation, drop charges or choose not to appeal a case.[208]

The National Police Guidelines on handling rape and rape-related cases explain that such decisions lie with the prosecution service irrespective of whether the case was allocated a "sharp" or an "investigation" number by the police. They also explain that the only circumstances in which police officers or other police staff are authorized to reject a rape report are when it is clearly unfounded or "where the reported crime is obviously not punishable under criminal law".[209] Despite these regulations, the State Prosecutors' reviews of cases closed in 2015, 2016 and 2017, as well as some interviewees' experiences show that the law is not always implemented fully or consistently by police.[210]

[205] Interview with Emilie, Aarhus, 25 June 2018.
[206] Interview with Kirstine, Fredericia, 15 March 2018.
[207] Interview with Kirstine, Fredericia, 15 March 2018.
[208] Administration of Justice Act, Consolidated Act No.1284 (2018), Article 749.
[209] National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 13.
[210] State Prosecutor's Office for Copenhagen, reviews of rape cases 2015, 2016 and 2017; State Prosecutor's Office for Viborg, reviews of rape cases 2015, 2016 and 2017.

"Maya's" story

"Maya", aged 31, did not report the rape by her ex-boyfriend immediately, but decided to do so a year later, in 2015. She phoned a police hotline to ask whether she could still report and was informed that the time limit to do so was 72 hours. This information was incorrect as no such statute of limitations is in place, nor was at the time.[211]

Some seven months later, as the relationship continued on and off and the physical and psychological violence was escalating, "Maya" decided to contact the police again. She told Amnesty International: "At one point it got so bad that I went to the police and blurted everything out at once".[212] The female police officer listened and was kind, but there and then, without doing any investigative work, advised "Maya" that her complaint had little chance of getting anywhere. "Maya" said she believed that the officer was probably trying to spare her the experience of being questioned and re-traumatized in court as she had heard that rape cases can be tough on victims: "I think she asked me about bruises and I didn't have any. She said to me: 'I believe you, I really do, but there is nothing you can do. It's your word against his.'"

Despite taking the steps to report the rape and the other violence several times, the police's lack of interest resulted in "Maya" feeling like she still had not done enough. "The more time passes, the more I'm letting go. But I do feel like justice has not been done."[213]

4.5 LENGTHY LEGAL PROCESS

Excessively long proceedings can be extremely frustrating for rape survivors as it can mean months if not years of uncertainty and having to be ready to relive the experience. The Istanbul Convention addresses this and states that: "investigations and judicial proceedings in relation to all forms of violence covered by the scope of this Convention are [to be] carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings."[214]

The National Police Guidelines on handling rape and rape-related cases strive to ensure that such international human rights standards are fulfilled. They stress that "it is crucial that all reports of rape are handled as quickly as possible" and refer to the objective of bringing rape cases to court within 60 days from charging the suspect.[215]

In practice, survivors' experiences with case processing times vary. Helle Hald, lawyer and victim's counsel in sexual violence cases, told Amnesty International that often there is a long delay between the report to the police and the case reaching court.[216] This was echoed by survivors. For example, it took 18 months from Kathrine's rape report to her receiving the final court judgment.[217] Dyveke found the months of waiting for the case to progress a particularly difficult time: "it was just a couple of really hard months where I tried to

[211] A 72-hour limit used to be in place for victims' reporting but only in relation to being able to claim compensation. This provision was amended in 2018 (Act amending the Criminal Code, Law on limitation of claims, liability law and the law on state compensation to victims of crime, no. 140 (2018)).
[212] Interview with "Maya", Copenhagen, 28 May 2018.
[213] Interview with "Maya", Copenhagen, 28 May 2018.
[214] Istanbul Convention, Article 49(1).
[215] Four months in cases that require the suspect's psychological evaluation. National Police Guidelines on handling rape and rape-related cases, Version 1, April 2016, s. 14; Memorandum of the Director of Public Prosecutions no. 11/2008 regarding objectives for case handling times for cases involving violence, rape and weapons and reporting of these to the Director of Public Prosecutions, p. 4.
[216] Interview with Helle Hald, lawyer and victim's counsel, Copenhagen, 13 March 2018.
[217] Interview with Kathrine, Copenhagen, 27 June 2018.

get back, to be alright again but it resulted in the end with me not being able to sleep, I didn't sleep for four days in a row once, because I just continued to build up the anxiety."[218]

4.6 GAPS IN TRAINING OF PROFESSIONALS

Under the Istanbul Convention, state parties have an obligation to provide initial and continuous training to professionals working on various forms of violence against women.[219] Such training should include prevention and detection, gender equality, victims' needs and rights, as well as prevention of secondary victimization. The professional groups who should receive such training include police and other law enforcement officials, prosecutors, judges and educational staff.[220]

CEDAW 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."[221]

In its 2017 report, GREVIO found that these requirements were met to varying degrees in Denmark. It noted that staff providing specialist support, for example at centres for sexual assault victims, had a high level of training and expertise. However, with regard to law enforcement officials, it observed that there were significant gaps in training and that while some training on violence generally was mandatory and provided at the Danish Police Academy, specific training on sexual violence was not included.[222] GREVIO recommended that the Danish authorities introduce mandatory initial training for law enforcement officials covering all forms of violence against women, as well as ensure that continuous professional training is also provided. It stressed that all such training should be reinforced by protocols and guidelines for staff.[223]

The Police Academy curriculum, as well as 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 show that such training is limited. Police officers undergo modules in questioning vulnerable people during their training at the Police Academy. During the final semester, students are taught about sexual offences, relevant legislation, investigative methods and case processing in sexual violence cases. The report to the Ministry of Justice provides that the Academy also offers five training modules to officers who meet rape victims in their daily case work, covering topics such as prejudices, including, for example, notions about who is exposed to rape and how rape victims react and the questioning of rape victims. However, this is not reflected in the publicly available Police Academy curriculum.[224]

Søren Ravn-Nielsen, Deputy Police Inspector from Sydsjællands and Lollands-Falsters District Police, told Amnesty International that new police officers were trained by shadowing more experienced colleagues

[218] Interview with Dyveke, Aarhus, 29 May 2018.
[219] Istanbul Convention, Article 15, and Explanatory Report, para. 99.
[220] Explanatory Report, para. 100.
[221] *Vertido v. The Philippines*, para. 8.9(b).
[222] GREVIO report, p. 27.
[223] GREVIO report, p. 28.
[224] 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/rigspolitiet/uddannelser-i-politiet/politiskolen/politibetjent/studieordning2018.pdf?la=da&hash=D74826806EA1E6434CDEAFB1B3EC6BD2096DEEC3

working on rape cases. He also said that after a police officer has graduated and started work, they can attend different short, subject specific courses at the Police Academy.[225]

The Ministry of Justice's 2016 action plan envisaged further training on interviewing vulnerable witnesses for the police and prosecution services.[226] The Centre for Victims of Sexual Assault at *Rigshospitalet* in Copenhagen currently provides a two-hour training module on sexual violence and working sensitively with rape survivors. The fact that specialized professionals from centres such as this one provide training to others was positively assessed by GREVIO.[227]

Prosecutors in Denmark do not receive mandatory training on sexual violence. 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.[228] The onus, however, is on the individual prosecutor to educate themselves and apply for relevant courses. Anne Birgitte Styrup, former senior prosecutor told Amnesty International: "It is the individual [prosecutor] who decides… We don't get any training in sexual violence. If there is a course offered, you can apply to go."[229]

Karoline Normann of the Danish Bar Association told Amnesty International that while lawyers must complete a mandatory number of training hours when they begin to practise, the topics can vary.[230] Victim's counsel Lise Holten, told Amnesty International that she did not receive training in sexual violence as part of her legal training but that the Copenhagen organization for appointed lawyers once organized such training themselves. "A lot of people don't know about it," she told Amnesty International. "We do not get any training on this. I do a lot of explaining to victims that their reactions are completely normal."[231]

Senior prosecutor Emil Folker told Amnesty International that he believed the training of judges could be better. He specifically underlined the importance of officials in the legal system not having stereotypical notions of how a victim should behave after, before or during a rape.[232] Judges' basic training does not cover modules on sexual violence and further training is not mandatory.[233] Lise Leth-Nissen, judge at the Roskilde District Court, told Amnesty that training on sexual violence is voluntary and that judges can choose which courses to attend, as well as attend the Court Academy twice a year, which in 2018 offered a half-day course on rape and victims.[234]

GREVIO observed that the level and nature of training received by these professionals does not ensure adequate awareness of the gendered nature of violence against women and thus impacts on their responses to victims.[235] Representatives of Danner told Amnesty International that they noted that "frontline staff, such

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[225] Interview with Søren Ravn-Nielsen, Deputy Police Inspector, Sydsjællands and Lolland-Falsters District Police, Greater Copenhagen, 11 October 2018.
[226] Ministry of Justice, "Respect for Victims of Rape" Action Plan, 27 January 2016.
[227] GREVIO report, p. 27.
[228] 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
[229] Interview with Anne Birgitte Styrup, former senior prosecutor, State Prosecutor's Office for Copenhagen, Copenhagen, 8 October 2018.
[230] Interview with Karoline Normann, defence lawyer, Danish Bar Association, Copenhagen, 10 October 2018.
[231] Interview with Lise Holten, victim's counsel and defence lawyer, Copenhagen, 9 October 2018.
[232] Interview with Emil Folker, State Prosecutor's Office for Copenhagen, Copenhagen, 5 November 2018.
[233] 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, **Error! Hyperlink reference not valid.**
[234] Interview with Lise Leth-Nissen, judge at Roskilde District Court, Roskilde, 11 October 2018.
[235] GREVIO report, p. 8.

as police officers or social workers, are often unable to recognize that a woman who they know is in danger, for instance in domestic violence situations, and cannot decode what is going on".[236]

The women interviewed by Amnesty International stressed the importance of police officers being trained in how to work with rape survivors.[237] "Anne" told Amnesty International: "It should be a greater priority to, in general, teach the police about consent… And I think that they are part of society, so of course they reflect the rest of society. So, I think that we need a lot more focus on consent and boundaries in the education of police officers, but also in the public".[238]

Survivors, experts and professionals interviewed for this report stressed that better training of law enforcement officials, prosecutors and judges could improve women's access to justice for rape. The Danish authorities should introduce continuous, mandatory training on working with sexual violence survivors, as well as on rape myths and gender stereotypes. Such courses should be provided at the Police Academy. The authorities should also ensure that prosecutors and judges receive appropriate and ongoing modules on these topics and that any legal aid-funded lawyers working as victim's counsel in sexual violence cases are adequately trained.

4.7 SURVIVORS' EXPERIENCES IN COURT

Emilie's case

"It was like an assault all over again… It was really hard to go through it all, and the way you were interrogated… You really felt that they thought you were just sitting there lying… I also think that even though of course no innocent person should be convicted, and of course they have to ask questions, I think there has to be a limit to how much you can push a victim. Because for me, my reaction was that I completely froze, in utter shock, so it was really hard afterwards for me to accept my way of dealing with it. So when they sit there and really push me in court, it is almost like experiencing it all over again, and then you end up feeling worse about yourself, feeling like 'it's my fault, it was me who did something wrong'. You shouldn't feel like that as a victim, that you should go through it all again, because you had a reaction that was different from someone else."

Emilie, aged 20, recalling her experience of being questioned during an appeal hearing, which took around two hours.[239]

Emilie told Amnesty International that after the defendant was acquitted, she felt that not only did the justice system not help her but that the experience made everything worse and that if she were ever to be raped in the future, she would absolutely not report it.[240]

[236] Interview with Mette Marie Yde, Head of Communication and Knowledge and Henriette Winther, Senior Communications Adviser, Danner, Copenhagen, 13 March 2018.
[237] Interviews with Isabel, Aarhus, 30 May 2018; "Anne", Aarhus, 30 May 2018; Helena Gleesborg Hansen, Deputy Chairwoman, Danish Women's Society, Copenhagen, 14 March 2018; and Sara Parding, Head of Campaigns, Centre for Victims of Sexual Assault, Aarhus, 15 March 2018.
[238] Interview with "Anne", Aarhus, 30 May 2018. Name has been changed to respect the interviewee's anonymity.
[239] Interview with Emilie, Aarhus, 25 June 2018.
[240] Interview with Emilie, Aarhus, 25 June 2018.

Under the Istanbul Convention, the Danish authorities have a duty to "take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings."[241] This includes, for example, testifying in court remotely, for instance through video communication technologies, or without the presence of the alleged perpetrator.[242] The UN Handbook for Legislation on Violence against Women provides useful recommendations with respect to victim protection during legal proceedings related to sexual violence.[243] These include, for example, support in court, including being accompanied and represented by a specialized survivors' service, as well as measures to ensure they do not have to meet the defendant in court.[244]

Survivors have the right to decide whether or not to appear in court or to submit evidence by alternative means and to give evidence in court in a manner that does not require confronting the defendant,[245] as well as protection within the court structure to ensure that contact between victims and perpetrators is avoided where possible.[246] In its Evaluation of Denmark, GREVIO stated that: "Should it be necessary to prevent any contact between victim and perpetrator, the law enforcement agencies can notify the court and request, for example, the use of separate waiting rooms at court."[247]

In Denmark the legal process affords survivors a number of protections that comply with some, though not all, international standards. For example, rape survivors have the right to request that the general public be excluded during their testimony to prevent re-victimization by having strangers listen to their account.[248] The court can also decide that the case cannot be referred to publicly until after the end of the trial, or that certain persons' names (for example, that of the victim or the accused) cannot be referred to in written and oral communications about the trial, to protect their right to privacy.[249]

Rape victims can also request that the defendant leaves the courtroom during their testimony if the presence of the accused would mean that the witness would not be able to give an unreserved testimony. The court has the authority to decide whether or not the defendant should leave the courtroom.[250] The victim can stay and attend the remainder of the hearing after giving the testimony or choose to leave. Their legal counsel can also be present during the victim's testimony and ask them additional questions.

However, in criminal cases, video testimony in court is only permissible in Denmark for children and adults with significant mental disorders or disabilities.[251] Louise Varberg, Legal Advisor at the National Centre of Investigations, told Amnesty International that in her opinion, video testimony could be potentially problematic: "Judges use the reactions from the victim to form an impression of the person among other things about the credibility," she said.[252] Nevertheless, enabling survivors to testify in court remotely, for instance through video technology, is required under international human rights standards, including the Istanbul Convention.[253] To have such an option would have been beneficial in Kirstine's case, for example. Kirstine told Amnesty International: "my trauma therapist told me it was not advisable for my well-being to attend the proceedings in person. And I did feel I was in a very bad state after."[254]

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[241] Istanbul Convention, Article 56.
[242] Istanbul Convention, Article 56(i).
[243] UN Department of Economic and Social Affairs, Division for the Advancement of Women, UN Handbook for Legislation on Violence against Women.
[244] UN Handbook for Legislation on Violence against Women, p. 40.
[245] Istanbul Convention, Article 56(i), UN Handbook for Legislation on Violence against Women, p. 39.
[246] UN Handbook for Legislation on Violence against Women, p. 39; Istanbul Convention, Article 56(g).
[247] GREVIO report, p. 55.
[248] Administration of Justice Act, Consolidated Act No.1284 (2018) Article 29(a).
[249] Administration of Justice Act, Consolidated Act No.1284 (2018) Article 30-31(a).
[250] Administration of Justice Act, Consolidated Act No.1284 (2018) Articles 845, 856 (1).
[251] Administration of Justice Act, Consolidated Act No.1284 (2018) Article 745 e(1).
[252] Interview with Louise Varberg, Legal Advisor, National Center of Investigation, National Police, 11 October 2018.
[253] Istanbul Convention, Article 56.
[254] Interview with Kirstine, Fredericia, 15 March 2018.

International human rights standards provide that evidence relating to past sexual history and conduct of the victim shall be permitted, in both civil and criminal proceedings, only when it is relevant and necessary.[255] In Denmark, the victim's counsel lawyer and the judge have the right to object to the use of evidence regarding the victim's previous sexual behaviour. Such evidence can only be allowed by application to the judge if it is considered to be of significant importance to the case.[256] However, the practice is not always consistent with the regulations. In Kirstine's case, the defence lawyer brought up the fact that seven years earlier, when Kirstine and her husband had broken up, she had seen other men. The defence lawyer suggested that this was evidence of her "promiscuous behaviour".[257] Kirstine's lawyer objected to this being brought up during the hearing, but the court allowed the questions. Kirstine told Amnesty International that she felt that this made her seem like she was not trustworthy and that the questions should not have been allowed. "What does it even matter what sexual experiences I had seven years ago?" she said.[258]

In its 2017 assessment of Denmark, GREVIO welcomed the availability of victim protection measures but noted that the authorities provided very little information on their use. It encouraged the authorities to ensure that all such measures are implemented in practice and noted that in order for this to be properly assessed, the authorities should regularly collect data and carry out research into this area, including from victims' perspectives.[259]

The protections afforded by the Danish system, if properly implemented, would remove a number of barriers to justice faced by women who report rape. Improving court practices, to bring them into line with international standards, and indeed implementing Denmark's own provisions, would be a significant step forward in ensuring that justice is done and plays an important role in encouraging reporting of rape.

[255] UN Handbook for Legislation on Violence against Women, p. 42; Istanbul Convention, Article 54; and Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, adopted by the General Assembly under its resolution 65/228 (2010), para. 15(e).
[256] Administration of Justice Act Consolidated Act No.1284 (2018), Articles 741(c)(1), 185(2).
[257] Interview with Kirstine, Fredericia, 15 March 2018.
[258] Interview with Kirstine, Fredericia, 15 March 2018.
[259] GREVIO report, p. 54.

5. BARRIERS TO JUSTICE: RAPE MYTHS AND GENDER STEREOTYPES

The Istanbul Convention obliges States to "promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men."[260] States should also conduct educational campaigns to "increase awareness and understanding among the general public of the different manifestations of all forms of violence"[261] and "information on measures available to prevent acts of violence".[262]

Under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states are required to take all appropriate measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".[263]

CEDAW has also stressed that states should provide "age appropriate, evidence-based and scientifically accurate comprehensive sexuality education for girls and boys",[264] "target stereotyped gender roles and promote values of gender equality and non-discrimination, including non-violent masculinities" through "integration of gender equality content into curricula at all levels of education both public and private from the early childhood on and in education programmes with a human rights approach".[265] Finally, states should encourage media "to eliminate discrimination against women in their activity, including harmful and stereotyped portrayal of women or specific groups of women, such as women human rights defenders".[266]

Despite Denmark's reputation for gender equality, it is clear 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.

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[260] Istanbul Convention, Article 12(1). See also CEDAW, Article 5 (a).
[261] Istanbul Convention, Article 13(1).
[262] Istanbul Convention, Article 13(2).
[263] CEDAW, Article 5(a).
[264] CEDAW General Recommendation 35, para. 35 (a).
[265] CEDAW General Recommendation 35, para. 35 (a).
[266] CEDAW General Recommendation 35, para. 37.

5.1 ATTITUDES AMONG LAW ENFORCEMENT OFFICIALS

Rape survivors' experiences with the justice system in Denmark gathered in this report reveal attitudes and perceptions among law enforcement officers that are heavily influenced by rape myths rooted in gender stereotypes. These myths influence the treatment of survivors, as well as decision making at all stages of the legal process. Despite some efforts on the part of the Danish authorities to raise awareness of rape myths in recent years, such as the 2017 campaign by the National Police, more remains to be done to counter them and eradicate the way in which they hinder victims' access to justice.

Lawyer Helle Hald identified prejudice and victim blaming attitudes among various professionals as significant barriers to access to justice for rape victims in Denmark. She spoke about the "domino effect" of victim blaming and inappropriate questions from the police or undue focus on the victim's clothing. "They can create shame and fear in complainants," she said, "resulting in them 'crumbling' during interviews, which may affect the entire legal process, impacting on the victim, as well as future complainants. If prejudice leads to a prosecution not being successful, the next rape report may not even be investigated properly because officers will think that its prosecution will fail as well."[267]

The myth that only certain "types" of women or those behaving or dressing in certain ways are raped is a persistent one encountered by survivors. It is closely linked to the perception that male perpetrators were simply not able to "help themselves" when encountering women dressed or behaving in a certain way. These perceptions stem from deep-rooted stereotypes about male and female sexuality. Kirstine Marie, for example, recalled how the man who raped her said afterwards: "He told me at the apartment, before I kicked him out, that it was because I was just too hot to handle, he couldn't keep his fingers off me. And then he actually smacked me on the butt while saying that."[268]

"Bolette" from Copenhagen recalled how a police officer asked about her sexual preferences during an interview: "What does this have to do with anything at all? This was not sex, this was violence."[269] In fact, "Bolette's" victim's counsel advised her not to be too honest about her sexuality after this happened. She was outraged at the suggestion that to openly talk about her sex life was potentially detrimental to her case.

To "Bolette", this expectation was to be a "model" survivor and

> **"to say that 'oh, I close my eyes and think of God or of the Queen and the father country and endure this.' No, I enjoy sex but this had nothing at all to do with sex. And that they make that conclusion too, that a woman [who] expresses that she has a sex life, an active sex life and enjoys that, and therefore sort of accepts a violent attack, that really made me angry. There's absolutely no connection between these two things."**
>
> "Bolette"[270]

Helena Gleesborg Hansen from the Danish Women's Society also noted how the focus on whether the victim said "no" in rape proceedings instead of asking whether she said "yes" reinforces an outdated and stereotypical perception of female sexuality, according to which women need to be "convinced" to have sex by men instead of expressing their willingness to do so freely.[271]

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[267] Interview with Helle Hald, lawyer and victim's counsel, Copenhagen, 13 March 2018.
[268] Interview with Kirstine Marie, Copenhagen, 26 June 2018.
[269] Interview with "Bolette", Copenhagen, 26 June 2018.
[270] Interview with "Bolette", Copenhagen, 26 June 2018.
[271] Interview with Helena Gleesborg Hansen, Deputy Chairwoman, Danish Women's Society, Copenhagen, 14 March 2018.

Hanne Baden Nielsen from the Centre for Victims of Sexual Assault at *Rigshospitalet* in Copenhagen also noted that men are largely granted societal permission with regard to rape. She pointed towards the fact that awareness-raising and rape prevention usually centres on women and girls, their behaviour and what to wear or not to wear in order not to be raped. "Men are excused by their gender," she told Amnesty International. "It's 'I'm sorry, it's because I'm a man!' And I think the time has come where parents must start talking to their boys about how they should behave… It's time to talk to men, let women be."[272]

Several prosecution decisions to close cases analyzed by Amnesty International refer to past history between the complainant and the accused. Many describe the woman's behaviour prior to the alleged rape. For example, in a case from Midt-og Vestjyllands police, the decision states: "there is consensus that… as you were to sleep at his place, you voluntarily went into his bedroom."[273] Given the limited information on the prosecution's reasoning available in these decisions, it is not always possible to conclude that such factors are the primary reasons for closing the investigation. However, the victim's behaviour prior to the rape and any intimate relationship with the perpetrator in the past should never be taken as a justification for rape.

Amnesty International also came across examples of judgments where the victim's behaviour prior to the rape, for instance where there was a prior sexual relationship with the accused, was interpreted as a mitigating circumstance. For example, the District Court of Odense explained its reasoning for handing down a three-year sentence to two men for rape and attempted rape as follows: "the court has taken into account the fact that she had earlier had a sexual relationship with one of the accused and the limited amount of violence that she was subjected to."[274]

5.2 SEXUALITY EDUCATION IN DENMARK

The UN Handbook for Legislation on Violence against Women notes that the educational system is "one of the most effective entry points at which discriminatory attitudes regarding gender equality and violence against women can be challenged".[275] The Istanbul Convention obliges states to take "the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education".[276]

Sexuality education is a compulsory subject in Denmark, 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 curriculum[277] from the first year of primary school to the final year of lower secondary school[278] and the academic objectives set by the Ministry of Education for this refer to the students being able to discuss, at different ages, for example "gender roles and diversity", "sexuality and sexual diversity" and "evaluate norms about body, gender and sexuality".[279]

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[272] Interview with Hanne Baden Nielsen, Head Nurse, Centre for Victims of Sexual Assault, *Rigshospitalet*, Copenhagen, 14 March 2018.
[273] Midt- og Vestjyllands Police: 4100-72303-00001-18.
[274] Decision 3-1479/2018, District court of Odense, p. 16, 23 March 2018.
[275] UN Handbook for Legislation on Violence against Women, ST/ESA/329, 2009, p. 30.
[276] Istanbul Convention, Article 14(1).
[277] Law on Public Primary and Lower Secondary Education (2017) no. 1510, para. 7.
[278] 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
[279] 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

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.[280]

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 noted that: "The pupils' knowledge and/or competencies in this area indicate that teaching is insufficient when it comes to issues such as reproduction; sex, sexuality and sexual health; as well as norms and diversity in relation to gender, body and sexuality".[281]

Lower primary school grades' teachers must obtain a degree in social education, which covers a compulsory module called "Gender, sexuality and diversity".[282] Teachers at higher primary and lower secondary levels also need a professional degree, and although sexuality education is offered as part of the programme, it is not compulsory. According to the Danish Family Planning Association, many teacher-training institutions offer it only sporadically or not at all.[283] A survey conducted by the Ministry of Education found that only a fifth of teacher training students had participated in the voluntary course on sexuality education.[284] To teach at an upper secondary school, teachers are required to have a Master's degree, but they receive no training in sexuality education.

In 2017, the Danish Family Planning Association called on the government to make sexuality education compulsory in upper secondary education. It also criticized the government for the inadequate education of teachers in sexuality education and called for a compulsory module to be introduced in their training.[285]

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.[286]

[280] "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
[281] AIs Research, "Evaluation of Family skills, health education and sex education", January 2019, p 10, www.stukuvm.dk/aktuelt/uvm/2019/jan/190118-sundheds--og-seksualundervisningen-halter-efter-i-grundskolen
[282] 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
[283] 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
[284] 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-undersoegelse-kun-hver-femte-laererstuderende-deltager-i-seksualundervisning/
[285] 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
[286] Concluding Observations of UN Committee on the Rights of the Child: Denmark, UN Doc. CRC/C/DNK/CO/5 (2017), para. 22(b).

5.3 LACK OF EDUCATION ABOUT SEXUAL AUTONOMY, CONSENT AND RELATIONSHIPS

In its 2017 assessment of Denmark, GREVIO, while appreciating the existence of initiatives such as "Week 6/Week Sex", found that teaching in Danish schools focuses generally on children's rights to protection against different forms of violence without a gender dimension. It recommended that the authorities introduce education about gender-based violence into primary and secondary school curriculums and monitor how teachers use existing educational materials in this regard.[287]

In the experience of the women and girls interviewed for this report, sexuality education in Denmark does not cover topics such as relationships, sexual autonomy or consent. They reported that such classes focused solely on biology and sexual and reproductive health, contraception and preventing sexually transmitted diseases.[288] Survivors, as well as representatives of organizations working with them, strongly believed that sexuality education should not be limited to biology but include behaviours and relationships.[289]

Education about bodily autonomy and consent was seen as crucial by many interviewees, both in terms of preventing sexual violence and in addressing it if it does occur. For example, 20-year-old "Sofia" told Amnesty International that she believed if consent had been part of sexuality education at her school, her classmates would probably have known better how to react and support her after finding out that she had been raped. Instead, when a friend of the man who raped her started spreading rumours about the incident, "Sofia" felt that she was "branded a slut" and was not believed.[290]

In September 2018, the Danish Crime Prevention Council launched a campaign focusing on preventing sexual assault, targeting young people between the ages of 15 and 17. The campaign is called *Tune Ind,* is mainly online and uses music to initiate discussions about the importance of noticing, sensing and respecting each other's verbal and non-verbal signals.[291] While this is an important and welcome initiative, relationships, sexual autonomy and consent should be included in school sexuality education programmes.

Lawyer Helle Hald stressed the importance of early awareness-raising to prevent sexual violence.[292] The survivors interviewed also believed that it would be beneficial for age-appropriate education about bodily integrity and consent to be available to children younger than teenagers.[293] "Anne" from Aarhus said: "You have to start much earlier… [For young children] it doesn't have to be linked to sex… You can teach consent from a very young age, and I think of course that it should be done in the family, but also that it should be done in day care and classes in public school, and so on… There are a lot of things that come before consent and are implicit in the way we treat consent."[294]

Isabel pointed towards the importance of teaching children about consent and being careful about not reinforcing gender stereotypes in the process: "Even in kindergarten, when boys or girls pull each other's hair or try to take some clothes off, or any sort of harassing behaviour, they just say 'oh, it's just because they're kids, they're just having fun' or 'boys will be boys', you know. So, I think that as soon as they learn to

[287] GREVIO report, p. 26.
[288] Interviews with Dyveke, 29 May 2018; Isabel, Aarhus, 30 May 2018; Cathrine, 31 May 2018; Karla, 1 June 2018; and Kirstine Marie, Copenhagen, 26 June 2018.
[289] Interview with Jeanette and Mathilde, counsellors, Joan Sisters, Copenhagen, 14 March 2018
[290] Interview with "Sofia", Copenhagen, 26 June 2018.
[291] Interview with Flemming Wridt Jensen, Crime Prevention Council, Copenhagen, 10 October 2018.
[292] Interview with Helle Hald, lawyer and victim's counsel, Copenhagen, 13 March 2018.
[293] Interviews with "Anne"; Isabel, Aarhus, 30 May 2018; Karla, 1 June 2018; and Kirstine Marie, Copenhagen, 26 June 2018.
[294] Interview with "Anne", Aarhus, 30 May 2018.

interact with each other, that's when you have to educate them about how to do it in a way where you're respecting each other's limits."[295]

Karla, aged 20, told Amnesty International that openly discussing rape and consent was necessary so that young people know how to talk about these issues.[296] Nanna, a 23-year-old kindergarten worker, stressed that the approach should be one of mutual respect. She said: "to be young in Denmark, it's to go out and party and have fun, and you shouldn't stop just because there are some idiots in the world who think that they can do exactly what they want… I think it's important to go out and say, of course you should have your freedom in your life when you are young… I'm not changing what I'm wearing just because it's short or you can see a lot of skin, because it doesn't give anyone any right to do something."[297]

Ingrid Soldal Eriksen, analyst at the Danish Crime Prevention Council, told Amnesty International that research shows that most rape victims are teenagers and that the rapes usually take place in private homes and often in connection with parties. She told Amnesty International that: "the Council's qualitative study shows that there is something around norms. They have pretty gender stereotypical ideas of norms, for example that boys have to take the initiative and that girls have to give consent. And then they don't have a language for consent."[298]

The Explanatory Report to the Istanbul Convention points out that: "attitudes, convictions and behavioural patterns are shaped very early on in life. The promotion of gender equality, mutual respect in interpersonal relationships and non-violence must start as early as possible and is primarily the responsibility of parents. Educational establishments, however, have an important role to play in enhancing the promotion of these values."[299]

Age-appropriate, comprehensive sexuality education from an early age is a valuable entry point for raising young people's awareness about relationships, gender equality and consent, ultimately contributing to building a society that respects bodily integrity and sexual autonomy, where gender-based violence and sexual violence are not permissible.

While some areas required by the Istanbul Convention are covered in school curriculums in Denmark and initiatives such as "Week 6/Week Sex" speak to many young people, the authorities should take further steps to ensure that the provision of such education is consistent and comprehensive. Allocating a mandatory number of hours to comprehensive sexuality education in school curriculums at all levels, as well as ensuring that all teachers receive training in teaching this subject could hugely contribute towards achieving this goal. Through improving the access to and the scope of sexuality education provided and ensuring that it covers topics such as gender-based violence, relationships and consent, the Danish authorities have an opportunity and an obligation to work with young people towards preventing rape in the long-term.

[295] Interview with Isabel, Aarhus, 30 May 2018.
[296] Interview with Karla, Copenhagen, 1 June 2018.
[297] Interview with Nanna, Copenhagen, 26 June 2018.
[298] Interview with Ingrid Soldal Eriksen, Analyst, Crime Prevention Council, Copenhagen, 10 October 2018. See also: www.dkr.dk/materialer/vold-og-voldtaegt/seksuelle-kraenkelser/
[299] Explanatory Report, para. 94.

5.4 THE ROLE OF THE MEDIA

The Istanbul Convention requires that states "encourage the private sector, the ICT sector, and the media, to set guidelines and self-regulatory standards to enhance respect for the dignity of women and thus contribute to preventing violence against them", as well as encourage such actors to "establish ethical codes of conduct for a rights-based, gender-sensitive and non-sensationalist media coverage of violence against women".[300]

In its Evaluation report on Denmark, GREVIO noted that there were several laws on ethical standards in the media in Denmark,[301] as well as self-imposed guidelines adopted in 2013 by the Union of Journalists and the Association of Danish Media.[302] GREVIO was critical, however, of the absence of measures in these standards to address harmful gender stereotypes or guidelines on covering cases of violence against women. It recommended that the Danish authorities increase efforts to encourage non-state actors such as private media companies to actively participate in preventing and combating violence against women, in line with Article 17 of the Istanbul Convention.[303]

The shadow report jointly submitted by several Danish NGOs to GREVIO in January 2017 observed that: "Cases of sexualized violence are at times presented with unnecessary sexual details, additionally victimizing the women in question."[304] Media reports on sexual violence invariably focus on what the victim was wearing or whether she had drunk alcohol, perpetuating misunderstandings around rape and consent, diminishing women's confidence that they will be believed and discouraging them from accessing justice.

The experiences of the women interviewed by Amnesty International highlight how media reporting and language around rape can help perpetuate harmful stereotypes and myths and undermine survivor's search for justice.

"Anne" from Aarhus observed that the Danish media often do not respect victims' right to privacy, including descriptions that can easily identify them and allowing readers to comment on articles about rape, which usually results in a lot of victim blaming. She also noted that media reports of rape typically erase the perpetrator from the picture.[305]

Isabel noted that the media frequently portrays rape as a form of sex and not as a violent crime. In relation to the coverage of Peter Madsen's murder and rape of journalist Kim Wall, she recalled how a newspaper article referred to the crime as "sex misuse". "I was just really stunned that they would use the word sex because she was stabbed in the vagina with a knife twenty times, and I don't think that has anything to do with sex."[306]

[300] Explanatory Report, para. 107.
[301] For instance, Media Liability Act, Radio and Television Broadcasting Act, Marketing Act; GREVIO report p. 30.
[302] www.journalistforbundet.dk/presseetiske-regler, www.danskemedier.dk/wp-content/uploads/guide_presseetiskeregler_pages1.pdf; www.pressenaevnet.dk/god-presseskik/
[303] GREVIO report, pp. 30 and 64.
[304] Danish NGOs' Shadow Report to GREVIO, January 2017, p. 17, www.danner.dk/sites/default/files/danner/Dokumenter/NGOers_rapport_om_Dk_og_Istanbulkonventionen.pdf.
[305] Interview with "Anne", Aarhus, 30 May 2018.
[306] Interview with Isabel, Aarhus, 30 May 2018.

5.5 CONCLUSION

The Danish authorities should ensure that rape myths and gender stereotypes are challenged at all levels of society, that professionals working with rape survivors receive adequate continuous training from experts and that the media are encouraged to counter violence against women rather than perpetuating harmful misconceptions. A 2013 study by the European Institute for Gender Equality (EIGE) noted that "campaigns are critical to prevent violence against women, not only by raising awareness of what constitutes violence and its unacceptability, but also to challenge the underlying attitudes and behaviours which support it".[307]

In its 2017 Concluding Observations on Denmark, the UN Committee on the Rights of the Child recommended that the Danish authorities "take adequate awareness-raising measures, in cooperation with the media and the education sector, targeted at the public at large to promote positive, non-violent behaviour and to dismantle all notions about the inferiority of women and girls".[308]

GREVIO positively assessed government-led campaigns on rape in Denmark specifically targeting professionals and noted that improvements in responses to these crimes demonstrated "the importance of such measures, in particular in relation to law enforcement agents, where this does not already form part of their initial training".[309]

Awareness-raising at all levels of society, comprehensive sexuality education and stereotype and myth busting are crucial for eradicating "rape culture" and ultimately preventing sexual violence, including rape, against women and girls, and impunity for it.

[307] European Institute for Gender Equality, "Study to identify and map existing data and resources on sexual violence against women in the EU", 2013, p. 10, www.eige.europa.eu/rdc/eige-publications/study-identify-and-map-existing-data-and-resources-sexual-violence-against-women-eu-report
[308] Concluding Observations, UN Committee on the Rights of the Child: Denmark, UN Doc. CRC/C/DNK/CO/5 (2017), para. 22(a).
[309] GREVIO report, p. 25.

6. "TOGETHER WE ARE STRONGER"

> **"The only thing that has kept me going through all of this has been to fight for others."**
>
> Dyveke[310]

Many of the women interviewed for this report have been speaking out about their experiences and campaigning to improve rape survivors' access to justice. Out of difficult personal experiences has emerged a desire to connect with others and to turn inner strength into fuel for change.

For example, Cathrine, who experienced domestic violence and rape, is involved in awareness-raising among young people in Denmark with an organization called Break the Silence (*Bryd Tavsheden*);[311] Stine spoke about her experiences in a television documentary and wrote her MA thesis in educational psychology on rape survivors;[312] Kathrine published an account of going through the justice system, an experience that to her was largely positive and that resulted in the perpetrator's conviction.[313] For many of these women, protecting others has been a strong motivating factor.[314]

> **"My report [to the police] two years ago really sparked something because I was so mad about what happened. And really, by thinking of other young girls sitting in that chair not being able to speak up for themselves. Because I actually had the guts to tell him [the police officer], 'I know what you're doing, don't do this to me, I'm not here for fun'. But I could imagine a lot of young girls being, [after] they were told 'are you sure you want to report this?' like 'no, not really'."**
>
> Kirstine Marie[315]

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[310] Interview with Dyveke, Aarhus, 29 May 2018.
[311] Interview with Cathrine, Copenhagen, 31 May 2018.
[312] DR, 16 January 2016, www.dr.dk/tv/se/dr1-dokumentaren-12/voldtaegt/dr1-dokumentaren-jeg-blev-voldtaget#!/ and interview with Stine, Aarhus, 30 May 2018.
[313] Information, 16 September 2017, "It was difficult for me to report my assailant. But the judicial system worked" www.information.dk/debat/2017/09/overvindelse-melde-overgrebsmand-retssystemet-fungerede?lst_cntrb
[314] Interviews with Kirstine, Fredericia, 15 March 2018; Kirstine Marie, 26 June 2018; and Kathrine, Copenhagen, 5 July 2018.
[315] Interview with Kirstine Marie, Copenhagen, 26 June 2018.

Following the acquittal of the man accused of raping her, Kirstine has begun campaigning for improved access to justice for survivors of rape and for legislative change. She felt so strongly about the need to improve how rape survivors are treated by the system that she decided to tell her story in a public social media post, which she published on International Women's Day in 2018. She told Amnesty International:

> **"After the verdict, I felt I should be ashamed again. Why? I did all that I had to do. It was my duty to report to the police. I did all I had to do yet I didn't get justice… I want to change things. I write well. Together we are stronger".**
>
> Kirstine[316]

In one of her social media posts, Kirstine said:

> **"I will do everything in my power to use my own story to knock down walls so that in the future far fewer people find themselves in a situation where after having been through a terrible assault they also have to deal with a sceptical and unprepared reporting system, a judiciary based on ancient principles… and an outside world that just wants you to stay silent, put your head down and accept that the system violates and fails those that it is required to protect."**
>
> Kirstine[317]

Liva described how important it was for her to share her story publicly because in the aftermath of what happened to her, she struggled to find similar experiences online.

> **"Before I talked to Politiken, I was looking on the internet for similar articles, because I was seeing the guy afterwards, and I couldn't find any articles about that. So, it was such a good experience to share it, and a lot of women and girls contacted Politiken about my story, because they'd had the same experience as me, and had never heard that kind of story from others before."**
>
> Liva[318]

20-year-old Karla told researchers that she has been trying to use the fact that it has been relatively easy for her to talk about her experience of rape to raise awareness of the issue publicly and for the benefit of others.

> **"I don't want to go around feeling like a victim and feel sorry for myself," she said, "I don't want others to feel sorry for me… I want to do something with it and that's what I do now. Because I can so freely talk about it, I want to do it for those who can't."**
>
> Karla[319]

Nanna completed a school project on the subject, which involved her giving talks at other schools. She also spoke about her experience to around 120 students at her own secondary school and was interviewed by a local television station.[320] She said:

> **"I wanted to tell my story so it doesn't happen to other people."**
>
> Nanna[321]

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[316] Interview with Kirstine, Fredericia, 15 March 2018.
[317] Kirstine's social media, 29 March 2018.
[318] Interview with Liva, Copenhagen, 29 May 2018.
[319] Interview with Karla, Copenhagen, 1 June 2018.
[320] TV2 Fyn, 9 February 2017, www.tv2fyn.dk/artikel/drugrape-og-voldtaegt-oure-elev-deler-egne-erfaringer
[321] Interview with Nanna, Copenhagen, 26 June 2018.

The women who spoke to Amnesty International have shown great strength and courage in sharing their experiences with the justice system, good and bad. Their determination to improve the system and work towards a society which stands against rape and respects women's sexual autonomy is unwavering.

Their commitment deserves a response from the Danish authorities that takes all the measures necessary to prevent rape and to improve access to justice for rape survivors. Above all, their courage demands that the authorities listen to survivors and act.

7. RECOMMENDATIONS

To Parliament:

Concerning legislation:

1. 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, as per GREVIO's recommendation to Denmark in its 2017 Baseline Evaluation Report.

2. Amend the Criminal Code and the Guidelines for Prosecutors Investigating Sex Crimes in order to comprehensively include a range of aggravating circumstances as per Article 46 of the Istanbul Convention, including sexual violence committed against a current or former partner and by perpetrators abusing their authority over the victim (reflected in Articles 218-220 of the Criminal Code - sexual intercourse in situations where a person exploits another person's mental disability; their dependency, for instance in situations of deprivation of liberty, in institutions such as youth institutions or psychiatric wards; as well as through deception). Take appropriate measures to ensure the understanding and application of all types of aggravating factors listed in Article 46 of the Istanbul Convention in the legal process by improving the awareness of law enforcement officials, prosecutors and the judiciary.

3. Amend the Criminal Code and the relevant guidance for prosecutors to ensure that oral penetration without consent is included in the definition of rape.

4. Remove the requirement from the Aliens Act to demonstrate "an attachment to Denmark" for non-EEA migrant women on spousal residence permits or family reunification in cases of separation due to domestic violence, including sexual violence, to ensure that all migrant women in such circumstances can obtain independent immigration permissions.

5. Amend the Administration of Justice Act to include the possibility of testifying remotely in court, for instance via video, for victims in rape trials.

To the Minister of Justice:

Concerning legislation:

6. Propose legislation to 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, as per GREVIO's recommendation to Denmark in its 2017 Baseline Evaluation Report.

7. Propose legislation to amend the Administration of Justice Act to include the possibility of testifying remotely in court, for instance via video, for victims in rape trials.

Concerning policies and practices:

8. 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 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.

9. Ensure that regular, independent monitoring and evaluation of the handling of rape cases by the police and prosecution services, including the quality of investigations and whether and how relevant guidelines are implemented, is conducted.

10. Conduct research and analysis into root causes of high rates of reported cases that do not proceed to court with a view to systematically addressing them.

11. Review, evaluate and update the "Respect for Victims of Rape" action plan, providing a timeframe for its implementation and evaluation.

12. Improve the timeliness and efficiency of the legal process and reduce the length of time between reporting to police and court proceedings, as well as the duration of court processes.

13. Provide appropriate, systematic, mandatory, initial, as well as continuous training for the relevant professionals (such as police and other law enforcement officials, prosecutors, judges and victim's counsel lawyers) working with sexual violence survivors in prevention and detection of sexual violence, gender equality and intersectional discrimination, rape myths and stereotypes, with a view to preventing secondary victimization, and eradicating discriminatory practices and the application of gender stereotypes at all stages of the legal process.

14. Put measures in place to improve communication between the police, prosecution, victim's counsel lawyers and survivors, for example, by ensuring that training received by the relevant professionals covers communication and that the progress of the case is conveyed to victims in a sensitive manner orally before being communicated via the "e-box".

15. Provide regular communication and training to police officers throughout the country on the National Police Guidelines and their revisions and independently monitor compliance to ensure consistency of how sexual violence survivors are treated when reporting rape and during the investigation stage.

16. Ensure that survivors' privacy is consistently safeguarded when reporting rape and other sexual violence at police stations through the use of private rooms with closed doors, for instance, and through regular training and independent monitoring of compliance with the National Police Guidelines.

17. Ensure that people reporting sexual violence do not have to make contact with multiple police stations or give multiple interviews in order to prevent their secondary victimization.

18. Continue efforts to increase reporting of sexual violence to the police, based on evidence of real improvements in the handling of rape cases and women's access to justice.

Concerning victim support in legal proceedings:

19. Continue to ensure victims' protection and safety during legal proceedings, for instance by ensuring their access to free legal assistance from the beginning of the legal process that is, when reporting to the police, and throughout the proceedings and in court.

20. Ensure the accessibility of victim's counsel lawyers in practice, including outside office hours, and ensure continuity of legal support to prevent secondary victimization and guarantee efficacy.

21. Ensure effective victim protection from secondary victimization by ensuring they do not have to meet the defendant when appearing in court, allowing for *in camera* proceedings, testifying through video link, and prohibiting the introduction of survivors' sexual history into proceedings unless relevant to the case.

To the Minister for Children and Social Affairs, the Minister for Equal Opportunities and the Minister for Immigration and Integration:

Concerning sexual violence in the context of domestic violence:

22. Ensure that the processes establishing child custody and visiting rights do not jeopardize the safety and access to justice of women experiencing domestic and/or sexual violence in intimate relationships or prevent them from reporting such violence.

To the Minister of Education and the Minister for Equal Opportunities:

Concerning prevention of sexual violence and promoting gender equality through education:

23. Provide mandatory, comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality and relationships 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.

24. 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.

To the Minister of Higher Education and Science:

25. Introduce a compulsory module on teaching sexuality education as part of all teachers' training.

To the Minister for Equal Opportunities:

26. Encourage and work with private media companies to develop standards in order to address harmful gender stereotypes and actively participate in preventing and combating violence against women, including sexual violence.

To the Union of Journalists and the Association of Danish Media:

27. Amend the 2013 guidelines for media workers, to include guidance on covering cases of violence against women, including sexual violence, and addressing rape myths and harmful gender stereotypes.

To the Danish Immigration Service and the Minister for Immigration and Integration:

28. Ensure that all migrant women on spousal residence permits or family reunification in cases of separation due to domestic violence, including sexual violence, can obtain independent immigration permits.

29. Ensure that migrant women have access to information about their rights, as well as services and support available, if they experience intimate-partner violence.

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“GIVE US RESPECT AND JUSTICE!”

OVERCOMING BARRIERS TO JUSTICE FOR WOMEN RAPE SURVIVORS IN DENMARK

Women in Denmark encounter many barriers in accessing justice for rape. The vast majority of rapes are never reported and out of those that are, very few end up with a conviction. A critical obstacle is the narrow definition of rape in Danish Criminal Code that defines it on the basis of physical violence or threat thereof, the presence of duress or the inability to defend oneself, rather than on the basis of the absence of consent, as required by international human rights law, for example the Istanbul Convention.

In recent years, the Danish authorities have made welcome efforts to improve law enforcement agencies’ responses to rape. Despite these efforts, survivors often find the reporting process and its aftermath immensely traumatizing, particularly when faced with inappropriate questions, flawed investigations and inadequate communication about their cases. Many are met with dismissive attitudes and victim blaming, influenced by gender stereotypes and rape myths.

This report, which includes interviews with survivors, activists and officials, highlights that while there is a widespread perception in Denmark that gender equality has been achieved, the authorities must do more to live up to this positive image. Amnesty International calls on the Danish authorities to change the legal definition of rape to one based on sexual autonomy and consent and to improve the treatment of victims during all stages of the legal process.

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