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SOCIAL AND CULTURAL RIGHTS

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AMNESTY  
INTERNATIONAL



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# 1. INTRODUCTION

Amnesty International submits this briefing in advance of the consideration of the sixth periodic report of Denmark by the United Nations Committee on Economic, Social and Cultural Rights (the Committee) in September 2019.

In particular, this submission provides information on the failure to uphold the right to sexuality education, violations of the rights of persons born with a variation of sex characteristics and discrimination and risk of homelessness for people living in low-income neighbourhoods. It should not be seen as an exhaustive list of concerns in Denmark.

## 2. RIGHT TO COMPREHENSIVE SEXUALITY EDUCATION (ARTICLE 2(2), 3, 12 & SDG 4.7, 5.1, 5.2 AND 5.C)

### 2.1 LEGAL PROVISIONS

Despite Denmark's reputation for gender equality, a European Union-wide survey in 2014 found that 46% of women in Denmark had experienced some form of physical, sexual or psychological violence, and ranked Denmark highest in terms of the prevalence of rape among women and girls aged 15 and over (19% of women and girls interviewed).<sup>1</sup>

In a recent report, Amnesty International has documented that, while some welcome efforts have been made in recent years, Denmark's legislation and practice in relation to sexual violence continue to fall short of international human rights law and standards in a number of ways with serious consequences for survivors, including due to the prevalence of gender-stereotypes and rape myths in Danish society.<sup>2</sup>

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<sup>3</sup> from the first year of primary school to the final year of lower secondary school.<sup>4</sup> The academic objectives set

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<sup>1</sup> 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](http://www.fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report)

<sup>2</sup> Amnesty International: "Give us respect and justice!" *Overcoming barriers for women rape survivors in Denmark* (Index: EUR 18/9784/2019), [www.amnesty.org/en/documents/eur18/9784/2019/en/](http://www.amnesty.org/en/documents/eur18/9784/2019/en/)

<sup>3</sup> Law on Public Primary and Lower Secondary Education (2017) no. 1510, para. 7.

<sup>4</sup> 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](http://www.emu.dk/sites/default/files/SSF%20-%20januar%202016.pdf)

by the Ministry of Education in 2018 refer to the students being able to discuss, at different ages, “gender roles and diversity”, “sexuality and sexual diversity” and “evaluate norms about body, gender and sexuality”, among others.<sup>5</sup>

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.<sup>6</sup>

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 and linked identified deficits in the pupils’ knowledge and/or competencies to insufficient and inadequate teaching.<sup>7</sup>

## 2.2 LACK OF COMPULSORY EDUCATION ON TEACHING SEXUALITY EDUCATION IN TEACHERS’ CURRICULUM

Teachers for lower primary school grades must obtain a degree in social education, which covers a compulsory module called “Gender, sexuality and diversity”.<sup>8</sup> Teachers at higher primary and lower secondary levels also need to obtain a professional degree, and although sexuality education is offered as part of the programme, it is not compulsory. In fact, according to the Danish Family Planning Association, many teacher-training institutions offer it only sporadically or not at all.<sup>9</sup> A survey conducted by the Ministry of Education found that only a fifth of teaching students participated in such a course.<sup>10</sup> Teachers at upper secondary schools receive no compulsory training in sexuality education.<sup>11</sup>

In 2017, the Danish Family Planning Association called on the government to make sexuality education compulsory in upper secondary education, and to introduce sexuality education provision as a compulsory module for all teachers.<sup>12</sup> 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.<sup>13</sup>

## 2.3 LACK OF EDUCATION ABOUT SEXUAL AUTONOMY, CONSENT AND RELATIONSHIPS

The Istanbul Convention, the Council of Europe’s Treaty on preventing and combating violence against women and domestic violence, ratified by Denmark in 2014, 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

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<sup>5</sup> 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](http://www.emu.dk/sites/default/files/L%C3%A6seplan%20for%20sundheds-%20og%20seksualundervisning%20og%20familiekundskab.pdf)

<sup>6</sup> “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](http://www.dr.dk/nyheder/regionale/fyn/eksperter-seksualundervisning-anno-2018-er-vigtigere-end-nogensinde-foer)

<sup>7</sup> Als Research, “Evaluation of Family skills, health education and sex education”, January 2019, p 10, [www.stukuvn.dk/aktuelt/uvm/2019/jan/190118-sundheds-og-seksualundervisningen-halter-efter-i-grundskolen](http://www.stukuvn.dk/aktuelt/uvm/2019/jan/190118-sundheds-og-seksualundervisningen-halter-efter-i-grundskolen)

<sup>8</sup> Ministry of Higher Education and Science, Press release, “Three million for education in gender and gender equality in education”, 2014, [www.ufm.dk/aktuelt/presmeddelelser/2014/tre-millioner-til-undervisning-i-kon-og-ligestilling-pa-paedagoguddannelsen](http://www.ufm.dk/aktuelt/presmeddelelser/2014/tre-millioner-til-undervisning-i-kon-og-ligestilling-pa-paedagoguddannelsen); Danish Family Planning Association, We must work on sexual education in teacher training, 2017, [www.sexogsamfund.dk/content/vi-skal-arbejde-med-seksualundervisning-paa-laereruddannelsen](http://www.sexogsamfund.dk/content/vi-skal-arbejde-med-seksualundervisning-paa-laereruddannelsen)

<sup>9</sup> 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](http://www.sexogsamfund.dk/content/vi-skal-arbejde-med-seksualundervisning-paa-laereruddannelsen)

<sup>10</sup> 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](http://www.ufm.dk/aktuelt/nyheder/2018/filer/bilag3.pdf); [www.jyllands-posten.dk/indland/ECE10840693/ny-undersogelse-kun-hver-femtelaelaererstuderende-deltager-i-seksualundervisning/](http://www.jyllands-posten.dk/indland/ECE10840693/ny-undersogelse-kun-hver-femtelaelaererstuderende-deltager-i-seksualundervisning/)

<sup>11</sup> University of Southern Denmark, “Theoretical pedagogy curriculum 2019”, <https://nextcloud.sdu.dk/index.php/s/NGJkNS2xYwxn458#pdfviewer>. See also, Danish National Union of Upper Secondary School Teachers, [www.gl.org/loenogans/Nygymnasielaerer/paedagogikum/Sider/Hjem.aspx](http://www.gl.org/loenogans/Nygymnasielaerer/paedagogikum/Sider/Hjem.aspx)

<sup>12</sup> 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](http://www.sexogsamfund.dk/content/vi-skal-arbejde-med-seksualundervisning-paa-laereruddannelsen)

<sup>13</sup> Concluding Observations of UN Committee on the Rights of the Child: Denmark, UN Doc. CRC/C/DNK/CO/5 (2017), para. 22(b).

against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.”<sup>14</sup>

However, in the experience of the women and girls interviewed for Amnesty International’s 2019 report “*Give us respect and justice! Overcoming barriers for women rape survivors in Denmark*”, sexuality education in Denmark does not cover topics such as relationships, sexual autonomy or consent. They reported that classes focused solely on biology and sexual and reproductive health, contraception and preventing sexually transmitted diseases. Both survivors and representatives of organizations working with them strongly believed that sexuality education should not be limited to biology but include behaviours and relationships.<sup>15</sup>

UNESCO’s International Technical Guidance on Sexuality Education stresses in relation to CSE curricula which focus mainly on biology and reproduction without sufficiently covering healthy relationships and sexual behaviours, “the omission of key topics will lessen the effectiveness of CSE.” It also notes that “a lack of high-quality, age- and developmentally-appropriate sexuality and relationship education may leave children and young people vulnerable to harmful sexual behaviours and sexual exploitation. Excluding complex issues from CSE renders young people vulnerable and limits their agency in their own sexual practices and relationships.”<sup>16</sup>

In its 2017 assessment of Denmark, GREVIO, the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), 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.<sup>17</sup>

Amnesty International welcomes initiatives such as the “Week 6/Week Sex” “campaign week” run by the Danish Family Planning Association and co-funded by the government,<sup>18</sup> as well as the campaign *Tune Ind* by the Danish Crime Prevention Council, launched in September 2018 and focusing on preventing sexual assault, targeting young people between the ages of 15 and 17.<sup>19</sup> However, education about relationships, sexual autonomy and consent should be included in compulsory school sexuality education programmes.

## 2.4 RECOMMENDATIONS

While some areas required by international and regional human rights law and standards are covered in school curriculums in Denmark, 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 sexual violence including rape in the long-term. Amnesty International calls on the Danish authorities:

- To 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.
- To introduce a compulsory module on teaching sexuality education as part of all teachers’ training.

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<sup>14</sup> Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) was adopted by the Council of Europe in 2011 and came into force on 1 August 2014; Article 14(1).

<sup>15</sup> Amnesty International, “*Give us respect and justice! Overcoming barriers for women rape survivors in Denmark*” (Index: EUR 18/9784/2019, [www.amnesty.org/en/documents/eur18/9784/2019/en/](http://www.amnesty.org/en/documents/eur18/9784/2019/en/), p.50.

<sup>16</sup> UNESCO International technical guidance on sexuality education: an evidence-informed approach, Paris 2018 [22787], 2nd rev. ed., p.18.

<sup>17</sup> Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Baseline Evaluation Report Denmark*, 2017, p. 26 (GREVIO report).

<sup>18</sup> “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](http://www.dr.dk/nyheder/regionale/fyn/eksperter-seksualundervisning-anno-2018-er-vigtigere-end-nogensinde-foer) The campaign has been run since 2008. In 2017, approximately 500,000 students and more than 15,000 teachers took part.

<sup>19</sup> 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](http://www.dr.dk/nyheder/regionale/fyn/eksperter-seksualundervisning-anno-2018-er-vigtigere-end-nogensinde-foer)

# 3. THE RIGHTS OF PEOPLE BORN WITH VARIATIONS OF SEX CHARACTERISTICS (ARTICLE 2 AND 12 & SDG 3, 5)

## 3.1 THE RIGHT TO HIGHEST ATTAINABLE STANDARD OF HEALTH AND NON-DISCRIMINATION

The right of the child to the highest attainable standard of health, and the prohibition of discrimination on the grounds of sex is not being met by the current Danish medical practice of people born with a variations of sex characteristics.<sup>20</sup> Denmark does not explicitly include sex characteristics as protected grounds in anti-discrimination provisions.<sup>21</sup>

The medical standards and decision-making processes in Denmark which lead to non-emergency, irreversible medical interventions being carried out on young children, constitute a violation of the child's right to express their views and to participate in decisions which affects them.<sup>22</sup> When failing to ensure that the healthcare system and its staff provide information to enable parents and guardians to make an informed decision about medical interventions, states are in violation of this right as well as Article 18.2 of the CRC, which requires states, in order to guarantee and protect children's rights, to render appropriate assistance to parents and legal guardians in the performance of their responsibilities.<sup>23</sup>

In the report *'First, do no harm'* Amnesty International has examined the human rights violations experienced by people born with variations of sex characteristics in Denmark. Non-emergency, invasive and irreversible medical interventions, both surgical and hormonal, on infants and children can have extremely harmful and long-lasting consequences.<sup>24</sup> This practice constitutes a violation of their right to a private life and bodily integrity, to the highest attainable standard of health.<sup>25</sup>

In 2006 (republished in 2016) the US and the European endocrinological societies published a consensus statement where the term "Disorders of Sex Development" (DSD) replaced the term Intersex and

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<sup>20</sup> This Committee has specifically noted in General Comment 14 this right confers obligations on States to respect the right to health, by 1) abstaining from enforcing discriminatory practices as well as obligations to protect the right to health by 2) taking measures to protect all vulnerable or marginalized groups of society. The CESCR has, in the same General Comment, noted that states also have obligations to fulfill the right to health, by 3) ensuring that health-care staff are trained to recognize and respond to the specific needs of vulnerable or marginalized groups...[and] supporting people in making informed choices about their health. The UN Special Rapporteur on the Right to Health has explicitly stated that "Health-care providers should strive to postpone non-emergency invasive and irreversible interventions until the child is sufficiently mature to provide informed consent", noting that "This is particularly problematic in the case irreversible medical procedures such as genital surgery, which is a painful and high-risk procedure with no proven medical benefits".<sup>20</sup>

<sup>21</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 10, 2017

<sup>22</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 11, 2017. The right to respect for physical and mental integrity is also protected by Article 3.1 of the Charter of Fundamental Rights of the European Union; Article 3.2 stipulates the respect for free and informed consent in medicine.

<sup>23</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 11, 2017

<sup>24</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 13, 2017

<sup>25</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 43, 2017

Hermaphrodite<sup>26</sup> as the new medical term. In medicine there is no consensus on what kind of variations of sex characteristics go under the term “DSD”, which has excluded people with hypospadias, even though hypospadias in newborns can serve as an indication of the presence of a “DSD”, prompting physicians to investigate further.<sup>27</sup> In addition, the term “DSD” contributes to further pathologise people with variations of sex characteristics and serves to justify the medical practice of “normalising” bodies with variations of sex characteristics through non-emergency, invasive and irreversible medical interventions. The treatments are gender normalising based on genderstereotyped assumptions about how ‘boys’ and ‘girls’ should look and act. It reinforces a history of medicalization that has brought physical and emotional pain to people with variations of sex characteristics.<sup>28</sup>

Another problem is the difficulty getting access to medical records and filing complaints in relation to non-emergency, invasive and irreversible medical interventions. In Denmark, the Statutes of limitation for filing a complaint about an issue with one’s medical care or treatment is two years after the patient has become aware of the incident for which they are filing a complaint and at most, five years after the incident happened.<sup>29</sup>

In practice, this means that barely anyone born with variations of sex characteristics and who has undergone non-emergency, invasive and irreversible medical interventions, is able to submit a complaint. Their case will have exceeded the statutes of limitations by the time they reach an age and a level of maturity where they are able to submit a complaint. In Denmark there have been no successful court cases in this regard.<sup>30</sup>

These harmful practices are persistent and grounded in discrimination based on, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering. Such practices end up impairing the recognition, enjoyment and exercise of the human rights and fundamental freedoms of people with variations of sex characteristics, including infants and children.<sup>31</sup>

## 3.2 NO EVIDENCE-BASED JUSTIFICATION FOR EARLY INTERVENTION

The report ‘The rights of children in Biomedicine, challenges posed by scientific advances and uncertainties’ commissioned by the Committee on Bioethics of the Council of Europe concludes that, in spite of clinical trials to find data which supports “gender-normalizing” treatment for intersex children, there is no qualitative data confirming its positive benefits for children.<sup>32</sup> The report also points out that, after examining all evidence in the field, only three medical procedures were identified as meeting the criteria to be characterized as “necessary” interventions on intersex children, while other procedures, are described as posing a risk of irreversible harm.<sup>33</sup>

The justification for subjecting children with variations of sex characteristics to non-emergency and irreversible medical interventions to “normalize” their bodies is based on stereotypical assumptions that everyone is born heterosexual<sup>34</sup> and that children born with variations of sex characteristics will suffer psychological damage as a result. However, these assumptions are not backed up by evidence.<sup>35</sup> Since 1990s, an increasing number of people with variations of sex characteristics who had undergone extensive surgical and other medical interventions beginning in childhood started to speak out about their experience –

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<sup>26</sup> Ellen K. Feder and Katrina Karkazis, *What's in a Name? The Controversy over “Disorders of Sex Development”*, Page 33, 2018 [https://www.researchgate.net/publication/23412006\\_What's\\_in\\_a\\_Name\\_The\\_Controversy\\_over\\_Disorders\\_of\\_Sex\\_Development](https://www.researchgate.net/publication/23412006_What's_in_a_Name_The_Controversy_over_Disorders_of_Sex_Development)

<sup>27</sup> Wittenhagen, ‘The Hypospadias Guidelines by Odense University Hospital’

<sup>28</sup> Ellen K. Feder and Katrina Karkazis, *What's in a Name? The Controversy over “Disorders of Sex Development”*, Page 33, 2018 [https://www.researchgate.net/publication/23412006\\_What's\\_in\\_a\\_Name\\_The\\_Controversy\\_over\\_Disorders\\_of\\_Sex\\_Development](https://www.researchgate.net/publication/23412006_What's_in_a_Name_The_Controversy_over_Disorders_of_Sex_Development)

<sup>29</sup> Styrelsen for patientklager, *Klag over behandlingsstedet eller sundhedspersonen*, 8 August, 2019 <https://stpk.dk/da/behandling/klag-over-sundhedsfaglig-behandling/>

<sup>30</sup> Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany*, page 11, 2017

<sup>31</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/78/PDF/N1462778.pdf?OpenElement>

<sup>32</sup> Kavot Zillén, Jameson Garland and Santa Slokenberga, *The rights of children in Biomedicine: Challenges posed by scientific advances and uncertainties*, 2017, p. 41 <https://rm.coe.int/16806d8e2f>

<sup>33</sup> Kavot Zillén, Jameson Garland and Santa Slokenberga, *The rights of children in Biomedicine: Challenges posed by scientific advances and uncertainties*, 2017, p. 43 <https://rm.coe.int/16806d8e2f>

<sup>34</sup> For example children born without a vaginal opening.

<sup>35</sup> UNESCO, ‘*School Violence and Bullying: Global Status Report*’, 2017, available at: <http://unesdoc.unesco.org/images/0024/002469/246970e.pdf>



many expressed their opposition to “normalizing” medical treatments.<sup>36</sup> The United Nations Committee on the Rights of the Child (CRC) in 2017, in their fifth periodic report on Denmark, has also made recommendations for Denmark to address harmful practices which included undergone non-emergency, invasive and irreversible medical interventions.<sup>37</sup>

## 3.3 RECOMMENDATIONS

Amnesty International recommends that the Danish authorities:

- Put forward a proposal to introduce sex characteristics as a ground of discrimination in the Danish Act on Non-discrimination, the Danish Act on Equal Treatment and relevant anti-discrimination provisions within legislation in the areas of health, housing, education and employment, as well as hate crime legislation.
- Develop – in consultation with individuals with variations in sex characteristics and activists working on these issues - guidelines at the national level for responding to people with variations in sex characteristics that are human rights-focused and include an emphasis on postponing non-emergency, invasive and irreversible genital surgery or hormone treatment on infants and children with variations in sex characteristics until they are able to meaningfully participate in decision making and give their informed consent, in line with the principle of evolving capacities of children and adolescents
- In consultation with individuals with variations in sex characteristics and activists working on these issues, develop and provide mandatory training to medical and healthcare professionals on gender and bodily diversity, focusing on individuals with variations in sex characteristics.

# 4. THE RIGHT TO ADEQUATE HOUSING (ARTICLE 11 & SDG 10.3, 10.4, 11.1)

## 4.1 DISCRIMINATION AND RISK OF HOMELESSNESS FOR THOSE LIVING IN LOW-INCOME NEIGHBOURHOODS

Amnesty International is deeply concerned that the Danish government’s plans to put in place a new set of laws and policies to regulate low income neighbourhoods is inherently discriminatory, including against residents from ‘non-Western country’ backgrounds, and risks pushing residents in these areas into inadequate housing and even homelessness.

Danish housing laws categorise low income areas into three broad categories: ‘vulnerable areas’, ‘ghettos’ and ‘hard ghettos’. ‘Vulnerable areas’ are those areas that meet two of the four following criteria - higher than average rates of unemployment, criminal convictions, low education, and low income.<sup>38</sup> A so-called ‘ghetto’

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<sup>36</sup> Amnesty International, First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany, page 19, 2017

<sup>37</sup> <https://www.refworld.org/docid/5a0ebb974.html>

<sup>38</sup> Vulnerable areas are defined in the those that meet two of the four following four criteria.

is defined as a housing area, where the proportion of immigrants and descendants from ‘non-Western countries’ exceeds 50 percent, and where at least two of the four criteria for ‘vulnerable areas’ are met.<sup>39</sup> A so-called ‘hard ghetto’ is defined by the government in the explanatory comments to L38 as a housing area that has met the criteria for ghettos for 4 consecutive years.

At the very outset, the categorization of neighbourhoods in this manner and the application of special regulatory measures to residents living in areas with higher than average rates of unemployment, low income families, low education and families of ‘non-western backgrounds’ is a clear case of discrimination including on grounds of race and ethnicity.

## 4.2 L38 AN AMENDMENT TARGETING RESIDENTS LIVING IN LOW INCOME NEIGHBOURHOODS

On 22 November 2018, the Danish Parliament adopted a bill amending the Act on Social Housing, the Act on Renting Social Housing, and the Act on Rent – the bill was named L38.

L38, under the guise of urban regeneration is intended to change the composition<sup>40</sup> of tenants in areas categorized as ‘vulnerable areas’, ‘ghettos’ or ‘hard ghettos’. The bill intends to implement the changes in two ways: Privatization and demolition of social housing, both which will lead to the eviction of the original tenants.

According to accompanying explanatory notes,<sup>41</sup> the main purpose of L38 is to enable the government, the regional and the municipal authorities to take steps to dismantle social housing areas by selling social housing building complexes to private investors, for them to turn them into owner-occupied flats or demolish them and build new housing. According to L38, the private investor/landlord is obliged to give the original tenants their notice of eviction,<sup>42</sup> and to subsequently rehouse them.

Further, as per the explanatory remarks to L38, the implementation of the bill will entail privatization or demolition of approximately 11.000 social welfare flats meant for families. Several social housing associations have raised concerns that due to the lack of sufficient housing stock it is highly unlikely that it will be possible to procure the necessary, affordable housing for the people who will be evicted from their original housing as a result of L38.

Once a social housing area has been labelled a ‘hard ghetto’, the social welfare housing association and the municipality are obliged to agree upon a development plan for the area (so it will no longer qualify as a ‘ghetto’). If they fail to agree on the plan, the municipal council will be authorized to make its own plan. If the social welfare housing association fails to comply with the municipality’s plan, the Housing Minister can issue an order to sell or dismantle the housing area. If necessary, the Minister can issue an order to carry into effect a state takeover.<sup>43</sup>

Amnesty International is therefore concerned, that the privatization or demolition of social housing without ensuring the availability of adequate alternative housing will result in people who are already marginalized and facing discrimination being forced to live in inadequate housing and even homelessness. Demolition and reduction of social housing stock in the absence of international human rights safeguards could lead to forced evictions which are a violation of the right to adequate housing.

Moreover, with the introduction of L38, once a ‘ghetto’ area changes status from ‘vulnerable area’ and ‘ghetto’ to ‘hard ghetto’, the municipal council (and ultimately the Minister for Housing) can compel the social housing association to come up with a plan that will reduce family housing to 40 percent of the total housing capacity (private dwellings, social housing) in the area. This reduction to 40 percent can only be achieved as mentioned earlier through privatization or demolition (or transformation into housing for students

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The proportion of tenants between 18 and 64 years of age, who have no connection with the labour market or education, exceeds 40 percent, as an average over 2 years.

The proportion of tenants convicted of the Penal Code, the Arms Act or the Act on Euphoria amounts to three times the national averages as average over the last two years.

The proportion of tenants between 30 and 59 years of age whose education amounts to primary school, exceeds 60 percent.

The average gross income for persons liable to pay taxes between 15 and 64 years of age in the area – people under education not included – amounts to less than 55 percent of the average gross income for the same group of persons in the region.

<sup>39</sup> Cf. Act on Social Housing, section 61a, subsection 2.

<sup>40</sup> Composition is used by the government to describe a range of parameters – social background, national or ethnic origin etc.

<sup>41</sup> L38, p. 7, p. 11-12 para 2.2.2, p. 17, para 2.6.2, p. 24, para 2.11, p. 27, para 4.1., p.35, para 4, p. 40, no. 23, p.42, no. 28, p.44.

<sup>42</sup> Making the flats more “saleable” by evicting the original tenants is a precise quotation of the explanatory remarks and does not reflect the opinions of Amnesty International.

<sup>43</sup> A compulsory purchase which must be carried out by law.

or elderly people). The housing area cannot be de-categorized to a non-ghetto, even if the status of the tenants changes in terms of level of education, employment etc.

Several of the housing associations which commented on the bill expressed disagreement with the fact that once a social housing area has been deemed a 'hard ghetto', it cannot be "freed" from this label and legal situation. Amnesty International is concerned that such draconian policies will only lead to further stigmatization and discrimination that people living in low-income neighbourhoods and those belonging to ethnic minorities will face.

## 4.3 ACCESS TO SOCIAL WELFARE HOUSING

The adoption of L38 also means that the municipalities are not entitled to allocate social housing tenancies in so-called 'ghettos'<sup>44</sup>, 'vulnerable areas' or areas with unemployed inhabitants, if the prospective tenants have criminal convictions or have been evicted from their home because of violations of rules pertaining to their housing situation or come from a 'non-Western country' or are on social welfare benefits.

## 4.4 RECOMMENDATIONS

Amnesty International is therefore concerned that residents of areas categorized as 'ghettos' or 'hard ghettos' would not only be at a higher risk of eviction but would also subsequently have greater difficulty being admitted to affordable housing, especially if they belong to families with 'non-Western country' origins.

In the light of these developments, Amnesty International calls on the Danish government:

- to repeal L38 and engage with affected people and residents to devise plans and policies to address concerns around unemployment, criminality etc. in a manner that is non-discriminatory and compliant with Denmark's national, regional and international human rights obligations.
- to ensure that its urban regeneration and other programmes that impact housing, uphold the right to adequate housing and do not result in forced evictions, homelessness and situations where people are forced to live in inadequate housing.

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<sup>44</sup> Amnesty International does not agree with the use of terminology such as "ghetto", "hard ghettos" or "vulnerable areas" – but the words are used by the government in the L38.



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## CONTACT US



[info@amnesty.org](mailto:info@amnesty.org)



+44 (0)20 7413 5500

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# DENMARK

## SUBMISSION TO THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

63<sup>RD</sup> SESSION, 30 SEPTEMBER- 18 OCTOBER 2019

Amnesty International submits this briefing in advance of the consideration of the sixth periodic report of Denmark by the United Nations Committee on Economic, Social and Cultural Rights (the Committee) in September 2019.

In particular, this submission provides information on the failure to uphold the right to sexuality education, violations of the rights of persons born with a variation of sex characteristics and discrimination and risk of homelessness for people living in low-income neighbourhoods. It should not be seen as an exhaustive list of concerns in Denmark.