UPR MID-TERM REPORT
THIRD CYCLE | DENMARK

7. July 2024



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Methodology

This report has been prepared by Intact Denmark as a follow up to the recommendations submitted to the State of Denmark in previous UPR cycles. We also address new issues that are emerging since the previous cycle. The comments in this report have been crafted through rigorous review of the initial recommendations, the mid-term reports submitted by the state of Denmark and the Danish Institute of Human Rights, and the independent data of Intact Denmark.

The report follows the suggested template for UPR mid-term report for the 4th cycle from the Office of the High Commissioner for Human Rights (OHCHR) and strives to apply all the best practices of accessibility for digital content.

Executive summary of key developments and UPR implementation

Intact Denmark campaigns for children's right to physical integrity, particularly genital autonomy, regardless of sex. This right has been adopted by the Council of Europe[1] and is ensured by the Convention on the Rights of the Child in the context of the child's right to religious freedom and protection from all forms of violence[2].

Since the third cycle UPR review, Denmark has moved further away from attaining this fundamental right for male children with regards to non-therapeutic circumcision. Despite the fact that the overwhelming majority of the Danish public are in favour of imposing an age limit on the circumcision of male children[3], the State of Denmark has actively moved in the opposite direction of public opinion.

In this report we will refer to the following points:

- One 'supported' recommendation and one 'noted' recommendation from the UPR Third cycle review,
- One 'supported' recommendation from the second cycle review for which there is new information.

[1] https://pace.coe.int/en/files/20174/html
[2] https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child
[3] https://cphpost.dk/2021-04-20/news/foreign-interference-evidence-points-at-us-and-israeli-meddling-in-danish-circumcision-debate/#:~:text=Despite%20the%20government%27s%20decision%2C%20a,of%2018%20should%20be%20introduced.

Follow up to recommendations

Third Cycle

Equality and Non-Discrimination

UPR recommendation	Position	Status of implementation	Description of activities undertaken, results, challenges
60.101 Maintain the efforts to promote and protect the rights of lesbian, gay, bisexual, transgender and intersex persons, especially to protect the body integrity of intersex girls and boys (Chile)	Supported	Not implemented	The state has supported this recommendation but in both its 3rd cycle review and mid-term report[4] has ignored the core element of it, namely, the right to body integrity of intersex children. In 2020[5], 2021[6], and 2023[7] Denmark signed joint declarations on the rights of Intersex people which included to protect the autonomy of intersex adults and children and their rights to health, and to physical and mental integrity. Despite the re-iteration of this pledge, the action to follow it has not materialised. Not only have the government failed in this aspect, but when launching the second LGBT+ action plan in 2022, the 'I' representing 'Intersex' had been removed from LGBTI+ in all mentions of

[4] https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session24/dk/Denmark_Mid-TermReport2023.pdf
[5] https://www.dfat.gov.au/international-relations/themes/human-rights/hrc-statements/45th-session-human-rights-council/joint-statement-led-austria-rights-intersex-persons
[6] https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/
[7] https://finlandabroad.fi/web/geneve/current-affairs/-/asset_publisher/h5w4iTUJhNne/content/general-debate-item-8/384951?fbclid=IwAR2udTG6ip8tSTLGbz0gzTE2B6P9-RPw2sukOw6GNIhDAKAbtGw2TenuMiA

			the plan in the political sphere[8]. We call on the government to follow through on their commitments to Intersex children and adults.

Sexual & reproductive health and rights

UPR recommendation	Position	Status of implementation	Description of activities undertaken, results, challenges
60.99 Develop – in consultation with rights holders – national guidelines for responding to people with variations in sex characteristics, including the possibility to postpone non-emergency, invasive and irreversible genital surgery or hormone treatment on infants and children until they are able to meaningfully participate in decision-making and give their informed consent (Netherlands)	Noted		The state's position of 'Noted' on this recommendation regarding the bodily autonomy of intersex children speaks volumes. It follows a pattern of deflection, like that deployed in the state's response to recommendation 60.101 which we have detailed above. This is a worrying trend being demonstrated by the State.

8 https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/midtermreports/ngosmidtermreports/denmark-annex-1-intersex.pdf

Children: definition; general principles; protection

UPR recommendation	Position	Status of implementation	Description of activities undertaken, results, challenges
60.222 Raise the awareness of children of their rights, including through developing programmes and campaigns in schools to increase their knowledge about the Convention on the Rights of the Child (Slovakia);	Supported	Partially implemented	We commend the Danish state for the steps taken to address gaps in sexual education in schools. Sexual education has been made mandatory at secondary level in the 2023-2024 school year[9]. This is a welcome development that will help to ensure all children are aware of their rights with regards to sexual education. However, in its initial response to the recommending state, the Danish state referred to the "children's rights canon, which would obligate schools to raise awareness of children's rights in class."[10] But in their mid-term comments 2 years later, it is clear that this act has been watered down from a comprehensive, inclusive, national plan to a plan that only targets "schools in vulnerable residential areas with a high proportion of children from other ethnic backgrounds"[11]. We call on the state of Denmark to think nationally and include all schools, regardless of location and demographics, in its plans for rights-based education.

[9] https://emu.dk/stx/undervisningsmiljoe/seksualundervisning/seksualundervisning-i-de-gymnasiale-uddannelser#:~:text=Efter%20gentagne%20opråb%20og%20to,uddannelsesforløb%20fra%20skoleåret%202023%2F24

[10] https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session24/dk/Denmark_Mid-TermReport2023.pdf

[11] https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session24/dk/Denmark_Mid-TermReport2023.pdf

Second Cycle

Sexual & reproductive health and rights

UPR recommendation	Position	Status of implementation	Description of activities undertaken, results, challenges
121.143 Refrain from banning or setting age limit on non-therapeutic circumcision of boys (Egypt)	Supported		The Danish State supported this recommendation in the 2nd cycle review with a comment stating that "the current Danish legislation is already consistent with the recommendation"[12]. The fact that the State chose to support this recommendation rather than note it, despite their assertion that the legislation already ensured this, was curious. The reasoning behind this decision became clear when in 2023 they adopted into the Act on authorization of healthcare professionals and on healthcare activities a new law which was phrased as "strengthened punishment for illegal circumcision of male children"[13]. We draw attention specifically to the phrasing here because there was previously no mention of circumcision of male children in this Act, or any other Act for that matter, and all non-therapeutic circumcisions could be prosecuted under section 244 in the criminal code[14] with up to 3 years in prison. Clearly, this punishment

[12] https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session24/DK/Denmark_Mid-TermReport2018.pdf
[13] https://www.retsinformation.dk/eli/lta/2023/737
[14] https://www.retsinformation.dk/eli/lta/2024/434 section 244

			is significantly stronger than the 1 year now defined, so it is increasingly transparent that the goal of this legislation was not to "strengthen" the punishment of anything at all but something else. By introducing this legislation, with this phrasing, into this act rather than the criminal code, the true goal of the State is obvious. **It has implicitly created a definition between legal vs illegal non-therapeutic male circumcision of children where none existed before**. When we compare this with the way the legislation banning FGM was introduced, in explicit terms, in a new section 245a in the criminal code, and with a punishment **6 times** more severe[15] than the "strengthened" punishment for illegal male circumcision, it is hard not to conclude that this process was intentionally convoluted to avoid public scrutiny and oversight. This legislative action, quietly implemented by the State, has cemented its support and alignment with Egypt's recommendation, and is a worrying development for a country that has traditionally led in its support for individual human rights and open democratic processes.

[15] https://www.retsinformation.dk/eli/lta/2024/434 section 245 a

			When other countries such as Iceland[16], Germany[17], and Malta[18] are stepping up their efforts to protect children's genital autonomy rights, Denmark is lagging and, in some cases, actively moving in the other direction. We call on the State of Denmark to rethink its actions.

[16] https://www.government.is/topics/human-rights-and-equality/equality/legislation/gender-autonomy/#:~:text=Right%20to%20Physical%20Integrity,prohibited%20without%20their%20written%20consent.

[17] https://dserver.bundestag.de/btd/19/279/1927929.pdf

[18] https://legislation.mt/eli/cap/540/eng/pdf