



ngo group for the crc

## STATE PARTY EXAMINATION OF DENMARK'S THIRD PERIODIC REPORT

40<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE  
CHILD

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*Denmark ratified the Convention on the Rights of the Child (CRC) in 1991. On 26 September 2005, the Committee on the Rights of the Child (the Committee) examined Denmark's Third Periodic Report and the Optional Protocol (OP) on the Involvement of Children in Armed Conflict. The head of the delegation was Mr. Kim Vinthen. The delegation consisted of eleven members including Ms. Kirsten Olesen, a representative of the Home Rule Government of Greenland.*

### Opening Comments

Vinthen reaffirmed the government's appreciation for the Committee's work and observed that human rights were a top priority. Denmark was committed to international cooperation and provided development assistance that exceeded the UN target of 0.7 percent of GDP. He highlighted the creation of the Ministry of Family and Consumer Affairs (2004) to coordinate and prepare

legislation related to children and families, as well as improvements in juvenile justice, such as crime prevention and sentencing of minor offenders.

Olesen pointed out comprehensive reforms regarding education, social policy and health, including activities initiated and implemented to ensure the rights of the child and the explicit use of the CRC in legislation. She described the progress of the “good school” reform, a strategy of early intervention and an information campaign in social policy, and the establishment of working groups for four areas of health: alcohol and violence, food and physical activity, sexual life and smoking.

The country rapporteurs were Mr. Doek and Mr. Parfitt. The latter recognised Denmark’s international contribution to children’s rights and its progress in implementing the CRC. He referred to a number of positive initiatives including the ratification of the OPs, an amendment to prevent children from volunteering for the Danish Home Guard, the creation of a youth forum and a youth parliament and several measures to ensure the equal treatment of ethnic minorities. Nonetheless, he had certain concerns, including the lack of statistical data, in particular for Greenland; the need to make the views of children heard at national, local and school levels; high consumption of alcohol; housing youth and adult offenders in the same facilities; and a lack of responsiveness regarding discriminatory and xenophobic attitudes.

## **Domestic Legislation and the CRC**

The Committee asked what would happen if there was a conflict between the CRC and Denmark’s domestic legislation, reiterating the value of incorporating the CRC into domestic law, noting the precedent of the European Convention on Human Rights (ECHR). The delegation stated that there was no obligation in the CRC to do so. The obligation was to conform to its provisions, and continuous steps were being taken to ensure conformity (e.g. when drafting new legislation). The CRC was a relevant source of law, which could and had been invoked. Thus, incorporation would simply be a symbolic act. The delegation affirmed that the government took its international obligations very seriously and that the lack of incorporation was a technical issue due to the dualistic legal system, whereby international instruments were not automatically incorporated. The system was based on the rule of interpretation and the rule of presumption, assuming that the parliament had not intended to pass a law in conflict with international obligations, so that a new provision would be applied in a way that conformed to the obligations. The Committee reaffirmed the importance of incorporating the CRC, noting that it was possible in a dualistic system and suggesting that it would give the CRC new momentum as it had in Norway. While the incorporated ECHR had been referred to in more than 150 cases, the CRC had been invoked in just four cases and none of these turned on any provision of the CRC. The incorporation of the CRC could lead to more direct use.

The Committee asked for clarification on the reservation to Article 40, paragraph 2b, denying the right of detainees to appeal. The delegation referred to a proposal for a comprehensive judicial reform. The provision preventing the right to appeal at the Supreme Court would probably be reformed in 2007, although minor cases would still be subject to this restriction. The reservation would remain, but would be limited in scope.

## **Information and Awareness**

The Committee asked about the measures in place to ensure that information about the CRC was part of the school curriculum. The delegation responded that there were no specific courses or training for teachers. However, there was training in human rights as part of social responsibility, pedagogy and religious knowledge.

The Committee enquired about the follow-up procedures to the session. The delegation explained that the concluding observations would be posted on the government website and disseminated to the parliament, as was done for previous reports. As a new measure, different ministries would meet after receiving the Committee’s recommendations to ensure an effective follow-up.

## **Data Collection**

The Committee noted a lack of data on refugee, minority and asylum-seeker children; the total funds available for courts; adoption within Denmark; children refused asylum; infant and child mortality for the past three years; offences committed by children under the age of criminal responsibility; and a general lack of data for Greenland. They noted that it was not just a matter of quantity but also quality. The delegation explained that data was not collected on every issue and recognised there were faults in the system.

For Greenland, a great deal of data was provided on health, social and demographic issues, but there was an absence of data in other areas. A documentation centre had been established to deal with information on the conditions for children and young persons. The centre would gather statistics every two years on a range of issues; its latest report had more data on education, crime, and income levels, but there was a need for further data. Greenland Statistics also existed as a body for data collection, with social and other issues to be given higher priority.

## **Coordination and Monitoring**

The Committee asked for information about the existence of a national plan of action and a focal point for the coordination of policy, as well as the role of municipalities. The delegation noted that a main task of the Ministry of Family and Consumer Affairs was to coordinate policies on children. The new Ministry would coordinate the work of the Ministry of Education and the Ministry of Social Affairs, as well as local counties and municipalities.

The Committee enquired about the amendment of the Social Services Act that would enter into force in 2006. The delegation explained that it required municipalities to create a coherent children's policy by 2007. There would also be guidelines for the coordination of specific local policies within the general policy framework. The municipalities operated in very different ways, which made it difficult to develop specific guidelines.

The Committee enquired about the implementation of a follow-up to the UN's' World Fit for Children' initiative. The delegation responded that there was no explicit action plan but there were various plans, which together met the needs of an overall plan.

## **Budget**

The Committee noted with concern the decline in Danish development aid in recent years. It asked if the Committee's recommendations would be used in Denmark's bilateral relations with developing countries, in particular to ensure the protection of children's rights in poverty reduction strategy papers that were being introduced in a number of countries. The delegation reaffirmed that the level of Danish aid was well above the goal of 0.7 percent of the GDP and noted that the recommendations of all UN's committees were taken into account when drawing up programmes, in close cooperation with the country in question.

The Committee further noted a substantial reduction in the budget for the national council for children. The delegation explained that there were ongoing discussions on the future of the children's council, including making it stronger and more efficient. The Government was looking into the issue, in particular trying to find additional funding, but the delegation noted that it was not considered to be a critical problem and the council was functioning well.

## **Education**

The Committee expressed concern at the compulsory distribution of bilingual pupils. The delegation explained that this system was changed due to criticism of a model that was used. An act by parliament (2005) included measures to strengthen Danish as a second language and created the possibility for students to attend other schools instead of their local district schools for pedagogical or language reasons.

The Committee requested more information on vocational training. The delegation explained that there were problems, as more children were choosing higher education instead of the Vocational Education and Training system. There were also insufficient placements and high dropout rates. There was a new guidance system with national targets to increase information on training and careers after leaving school. In fact, the system had been continuously reformed over the past four or five years.

The Committee asked for more information on bullying. The delegation responded that it was a top priority, referring to an act of 2001 on the education environment as well as a programme initiated by the Danish Centre on Education and Environment (DCUM) in 2003. The latter entailed cooperation between teachers, parents, children, social educators and politicians and produced action plans and anti-bullying policies. The delegation referred to a campaign against bullying by the National Radio of Denmark and a project carried out in primary schools in 2005.

Regarding the UNESCO/Dakar framework, the delegation referred to a new policy programme focusing on youth education. With 78 percent of the youth cohort going from primary and compulsory school into secondary school, the aim would be to raise this to 85 percent by 2010 and 95 percent by 2015.

## **Health**

The Committee asked about the outcomes of the “Mind Your Own Body” programme and action plan to fight obesity. It also pointed out the problem of advertising and young girls suffering from eating disorders. Regarding obesity, the delegation responded that the government recognised the problem and was looking into measures to address it. The National Board of Health issued voluntary guidelines including a recommendation that children engage in an hour of daily exercise. An action plan was in place since 2003 but it was too early to assess the extent of its success.

The Committee enquired about suicide prevention strategies, including early identification. The delegation responded that there was a reference group with substantial funding that focused on vulnerable groups including girls, elderly men and the mentally ill. It was noted that the number of suicides was declining.

The Committee noted an increase in the incidence of sexually transmitted diseases (STDs), in particular chlamydia. The Committee remarked on the low rates of HIV/AIDS, but enquired whether there were preventive programmes, in particular in schools. The delegation responded that they lacked specific information, but there was a television campaign on the awareness of the risks of chlamydia. Education on STDs was decentralised, but there were classes on sexual education in schools.

The Committee referred to the problem of over-diagnosis and prescription of drugs for Attention Deficit Hyperactivity Disorder. It asked if more research was considered for the diagnosis and treatment, as well as more concrete efforts regarding regulation. The delegation stated that there was no detailed information, but that the Committee’s concerns would be relayed to the government.

Regarding Greenland, the Committee noted the relatively high infant mortality rate of 13.4/1,000, as well as an increase in the incidence of teenage pregnancies and artificial abortions for girls under 18. Concerning the infant mortality rate, Olesen pointed to the demography of Greenland, with long distances and a lack of transport other than boat and plane. There were measures to improve the qualifications of local health staff. New prenatal guidelines were introduced to prevent giving birth at home. Since access to hospitals was so difficult, all pregnant women had to go to their local hospital at least four weeks before the due date. In the event of any indication of a problematic birth, women had to go to the central hospital in the capital. These measures would hopefully reduce the infant mortality rate but were expensive and unpopular (women often gave birth alone). There was an information campaign on health issues including STDs, though Olesen recognised that it was not as effective as previously hoped. The public health programme also focused on sexual health, and

the views of different groups were being collected as part of a process to produce a concrete plan. As part of the programme, there had been campaigns to decrease the high rate of abortion.

### **Children with Disabilities**

The Committee enquired about the integration of children with disabilities into the main school system, referring particularly to physical access and the Dakar framework of “Education for All”. The delegation noted the ongoing negotiations to introduce teaching about children with disabilities. A new national authority dealing with counselling, supervision, evaluation, and quality assurance would be established in 2006. The delegation pointed out that the government could stipulate an all-inclusive policy, but it was up to municipalities to implement it. There were meetings with the municipalities, and the government took action if there was a problem of compliance.

The Committee asked about measures to prevent the admission of children with psychiatric disorders in adult wards. The delegation had no information on this issue but noted the Committee’s concern.

### **Abuse of Drugs and Alcohol**

The Committee noted the high level of alcohol consumption and asked about educating adults and children on the risks of alcohol, and having rules for advertising. The delegation referred to the “Week 40” campaign to educate adults about alcohol and voluntary guidelines (e.g. those published by the National Board of Health). There were restrictions on television and radio advertising regarding children and young people and there was a slight fall in consumption despite the tax reduction in 2004.

The Committee observed that the minimum age for purchasing alcohol was 18 in Greenland and 16 in mainland Denmark. Olesen explained that alcohol abuse had been a problem and that targeted initiatives since the 1990s had helped to substantially decrease its occurrence. Restrictions included a minimum age of 18 to buy alcohol, high taxes and limited hours to purchase it.

The Committee was concerned by the lack of control over new synthetic drugs. Olesen noted that this area had not been addressed since the competence for the health sector had been transferred to the Home Rule Government. Regarding drug abuse in Greenland, it was limited to marijuana and sniffing. The police and health authorities had not found other drugs.

### **Poverty**

The Committee asked for information on the proportion of children in low-income families, noting that post-taxation figures indicated a less favourable purchasing power for families. The delegation referred to a government report which identified 40,000 children with parents in the low-income group. However, it noted that an NGO report had showed that they only spent an average of 5-12 months in poverty conditions. The government recognised that it was a complex question to increase the transfer of income to these families, fearing that it would affect the willingness of parents to engage in employment. Rather, the focus was on fighting a “negative social heritage” with an action plan launched a few years ago. Assistance was also provided for vulnerable groups to gain access to leisure activities, especially sports.

### **Right to Participation**

The Committee enquired about the youth forum created following the World Summit on Children. It noted that it was described as a pilot project and asked if it had been assessed and if it would be maintained. The delegation explained that the forum was consulted on new policies and legislation concerning issues such as family policy, the school curriculum and divorce. The Ministry prepared issues for discussion in the forum and presented its reports to the appropriate authorities. However, the delegation acknowledged that the forum was not well known. There were plans to transform it into a more public, web-based forum with broad youth participation.

The Committee enquired about the youth parliament. The delegation explained that its latest session was held in spring 2005 in the Danish parliament. Its recommendations, often very concrete on a local level, went to the parliament and were taken seriously.

The Committee applauded the creation of a children's council but observed that there was no specialised office to handle complaints for children and youth. It enquired whether the government planned to respond to the Committee's previous recommendations to create an Ombudsman for children. The delegation noted that the national council for children served as the equivalent of a children's Ombudsman, observing that such an institution was common in Nordic countries, working with general rather than specific cases. Children could also go to the parliament's general Ombudsman and a child had the right to be heard in social cases and on issues such as where it should stay when parents got divorced.

The Committee noted that a third of all children had divorced parents and asked why they did not have a right to contact their parents. The delegation acknowledged the high divorce rate and stated that a recent pilot project provided guidance to couples considering divorce on maintaining their marriage or making divorce easier, especially for children. Parents not living with the child – whether married or not – had the right to contact the child. The issue of granting children the right to contact their parents would be examined in light of the CRC and case law from the European Court of Human Rights with regard to the best interests of the child. A committee established in 2005 was expected to produce its report in 2006.

### **Access to information**

The Committee welcomed the code of conduct on the right to appropriate information, noting the existence of an investigation unit on internet crimes with a focus on pornography. It recommended that it should be extended to include discrimination, violence, paedophilia and other areas relating to child protection. It also noted a recent study on the influence of computer games on young people, enquiring about potential action to regulate the sale of these games. The delegation had no information on the code of conduct, but explained that there was a campaign for safe chat on the internet launched in 2005 under the name "Safe Chat: you draw the line". The Ministry of Education and the Social Ministry sponsored a campaign to provide information and assistance to children, youth and adults about the safety of chat on mobiles and the internet. There were debate forums for children, educational material for parents and teachers, and information folders for schools and institutions.

### **Minorities**

The Committee noted the presence of certain concepts in the communication media fuelling xenophobia, in particular regarding youth and the promotion of violence. The delegation observed that the media was independent but that there were limits to the freedom of expression, including a section of the criminal code dealing with racism. There had been cases where journalists were charged and convicted. The delegation pointed to an action plan established in 2003 to promote equal treatment and diversity and an act on equal treatment (2005) to implement the EU directive on equal treatment irrespective of ethnic origin. It was possible to complain to an independent organ on human rights, which could result in a case being brought before a court or administrative authorities; there was also cooperation with civil society. The delegation cited an example of a programme for journalism for ethnic minorities.

The Committee asked about domestic violence amongst ethnic minorities, noting a fear of reporting violence. It also enquired about steps to combat female genital mutilation (FGM). The first data on FGM were collected in 2004 and there were no cases at the time. The delegation pointed to a government action plan of 2003-5 dealing with arranged marriages; crisis centres and residential facilities for young girls of ages 14-18 and women 18-25; as well as economic support to establish a hotline. An information campaign focused on ethnic minorities, gender and violence.

## **Freedom of Religion**

The Committee was concerned that children under 18 did not have the right to choose their own type of worship against the views of their parents. The delegation explained that the custody holder of a child determined the child's religious upbringing according to Danish law. Although there was no formal right for the child to seek his or her religion, in practice there were no government measures to assist parents in preventing their children from attending particular religious ceremonies.

## **Migrants, Refugees, and Asylum Seekers**

The Committee wanted more information on asylum-seekers' access to social services. The delegation explained that accompanied and unaccompanied children were generally hosted in an accommodation centre during the examination of their case, under the responsibility of the immigration service and in cooperation with the Danish Red Cross. The cost of the stay was normally covered by the immigration service, and access to health care was the same as for Danish residents at all stages of the application process. Education for asylum-seeker children was compulsory throughout the process, even when the child was under the obligation to leave Denmark once the final application was rejected. It was not compulsory to provide instruction in the child's mother tongue. The Committee asked for figures on rejected applications. The delegation observed that there were 47 rejections in 2002, the same in 2003 and 52 in 2004.

The Committee asked if Denmark intended to ratify the convention on asylum-seekers and the delegation explained that the Convention was in conflict with certain pieces of legislation but that the Committee's comments would be relayed to the government.

The Committee noted with concern the disappearance of asylum-seeker children on Danish soil. The delegation observed that children disappeared before processing the application, citing the example of Chinese children entering the country in 2004 and disappearing two weeks later. Denmark was not believed to be the final destination.

The Committee enquired about the system where a representative was appointed for unaccompanied children during the application procedure. The delegation explained that the representative was recruited by the Danish Red Cross and had the same responsibilities and powers as other custody holders. Representatives were not paid and their expenses were not covered. Children did not live with them but rather were placed in centres. The only cost for the representatives was the transport to visit the child. The delegation noted that the Red Cross had no difficulty in recruiting representatives. The measure was for the period until the child was given a residence permit, after which the child would be assigned a temporary holder of custody. This person was appointed on the assumption that the "real" custody holder existed somewhere but could remain until the child reached 18, if the latter was not found.

The Committee observed that the starting allowance for non-European families seemed lower. The delegation explained that the starting allowance was intended to provide an incentive to work, strengthen integration and create better opportunities for families. The rules, based on seven years' residence, honoured all international obligations and were the same for foreigners as for returning Danish citizens.

The Committee noted reports of harsh treatment in centres for asylum-seekers. The delegation stated that there was one case of abuse of an asylum-seeker child. The latter was removed from his parents and placed in care with a Danish family.

## **Primary Consideration of the Best Interest of the Child**

The Committee noted that the amendment to the Social Services Act had a provision to make it easier to prolong a placement outside the home in critical cases. It wanted more information on the specific circumstances for such cases, as the overall policy in accordance with the CRC was to reduce the duration outside the home.

## **Adoption**

The Committee enquired about the leave for parents who adopted children. The delegation responded that it was the same as other parents, with 4 weeks before and 48 weeks after the adoption. It was 52 weeks of paternity or maternity leave with benefits.

The Committee asked why adopted children over six seemed to be dealt with as immigrants, noting that measures should be taken to establish family and community ties as soon as possible. The delegation stated that the Danish Aliens Act specified rules for family reunification and granted a residence permit when a child was adopted or fostered, or for other special reasons.

## **Abuse and Neglect**

The Committee asked if there were special programmes to combat sexual abuse. The delegation explained that there were new initiatives. A circular in 2005 established the duty to report sexual crimes of an employee against children to the employer. In addition, a DNA profile database was expanded, so offenders with a sentence of more than 1.5 years, or charged with being in possession of child pornography, could be registered. There was a recent amendment to the action plan against trafficking with special safeguards for children and women. There was a knowledge centre to collect and disseminate information on cases of child sexual abuse. There was a campaign to raise awareness of the general public and professionals working with children.

The delegation referred to an action plan to combat domestic violence against women and children. Those employed in the public sector had an obligation to notify the social authorities if a child was deemed at risk, whether directly from violence or from the effect of violence in the family. A new act in 2004 made it possible for the police to expel violent or threatening individuals from the home instead of the family or children having to leave.

The Committee asked about complaints procedures for children and the delegation noted that the parents managed them, but it was possible to complain about issues related to the home or institution from the age of 12, and on all topics from 15.

## **Juvenile Justice**

The Committee wanted information on the places and conditions of detention for children, noting with concern reports of children ages 15-17 kept with adults. The delegation responded that there was comprehensive instruction regarding the treatment of children in prisons, with detailed information on sentences and rules allowing for complaints. They noted that there was no knowledge of concrete cases of maltreatment of children in prisons. The delegation explained that secure social institutions were used for children as far as possible but that exceptional cases of violent children might necessitate imprisonment for the protection of other children.

The Committee was concerned by children aged 15-17 being kept in solitary confinement. The delegation observed that solitary confinement could be used for these children in exceptional cases and for very brief periods. There were only three cases in 2002 and 2003 and they generally involved children who were almost 18. The delegation stressed it was not a disciplinary measure. It was taken on the basis of the decision of the court and during pre-trial detention, based on the assumption that the child would otherwise disrupt the case and that detention would not be sufficient. The delegation observed that "special" secure institutions for violent or mentally ill youth could place them in isolation for a maximum of four hours under supervision.

The Committee noted a lack of statistics on offences committed by children under the age of criminal responsibility and asked about the use of secure institutions for children under 15. The delegation explained that institutionalisation was a last resort, after social measures including exploring possibilities such as leisure activities, establishing a contact person, and the use of electronic devices to allow children to serve sentences at home. Rehabilitation programmes in prisons were expanded to include children aged 15-17 and involving drug, alcohol or anger



management. Criteria for placement in a secure institution included a danger to the child or to others, pedagogical observations assessing the need for treatment, pre-trial detention, and youth sanctions. The delegation stressed that institutions treated young people in a stable environment and were subject to a time limit of two months for 12 to 15 year olds (prolonged no more than once) and six months for 15 to 17 year olds (prolonged no more than once).

The Committee requested more information on the increase in delinquency figures, especially regarding girls. The delegation stated that authorities were looking into this problem and noted the changes in girls' behaviour (acting "more like boys").

## **Child Labour**

The Committee noted the low minimum age for work in Denmark and Greenland, referring to statistics on accidents in employment, which indicated that 15 percent of 13 to 14 year olds were employed. The delegation observed that the law for Greenland was recently changed to bring the minimum age to 15 in compliance with ILO Convention 138. In Denmark, the figures were due to young children acting in films and television as well as singing in church. Each case needed permission from the police in compliance with the ILO Convention. Concerning accidents, the delegation pointed out that children often went with their parents on their farms and although not allowed to work, were included in statistics on accidents in employment. There was only one death per year.

## **Initial Report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

The OP was ratified by Denmark in 2002. The Committee stated that there were no problems regarding Denmark's formal compliance with the OP, with the required minimal ages in place and no active involvement of children under the age of 18. The delegation highlighted Denmark's work with the UN Security Council and a productive partnership with NGOs, including the launch of Save the Children's security brief on "Child Protection in Emergencies". It observed that relevant domestic legislation was in place before the application of the OP.

## **International Cooperation**

The Committee suggested that it might be useful to cooperate with the Security Council's committee working on children in armed conflict. The delegation noted that Denmark played an active role in the process leading to the adoption of the resolution and would pass on the idea of collaboration between the two bodies. It also referred to the EU policy guidelines on children involved in armed conflict, which was in force for a year and to be evaluated end of 2005, noting that 'children in armed conflict' was only one aspect of the prioritisation of children in Denmark's development work.

## **Asylum Seekers from Countries in Armed Conflict**

The Committee enquired about the specific consideration given to children who came from countries of armed conflict as asylum-seekers or refugees. The delegation explained that the authorities received children from countries engaged in armed conflict and that the possible trauma of a child was taken into consideration during the application process.

## **Military Training in Schools**

The Committee enquired if there were cadet schools or military training provided in ordinary schools. The delegation replied that, to their knowledge, there was no such training provided for children under the age of 18.

## **Concluding Remarks**

The Committee noted that there was no information about the Faroe Islands. Particular concerns remained within the areas of health care and education, especially for minorities and refugees. It thanked the delegation for the dialogue and reiterated that its concerns should not detract from Denmark's admirable status of children's rights.

Vinthen expressed his appreciation of the openness and candour of the discussions. He reaffirmed the government's commitment to ensure full compliance with Denmark's international obligations and looked forward to a continuing dialogue.