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**Reporting for The Universal Periodic Review of Denmark, 2nd May 2011
11th Session of the Working Group under the UN Human Rights Council
from
The Committee for Underground Refugees, Denmark (NGO)**

As the Committee for Underground Refugees in Denmark, a voluntary, independent organization working with refugees, we have elected to submit an individual report. Refugees are particularly susceptible to a wide range of human rights abuses in Denmark. Our Committee has a comprehensive knowledge of the situation: we provide individual counselling to refugees during the process of seeking asylum and as new residents. We also carry out outreach work in asylum centres and are actively involved in the current Danish debate on immigration.

BACKGROUND

Since 2001, the present government has implemented a long range of changes to the law - the latest, this summer, being a thorough revision of the Law on Immigration – almost all of them aiming to limit immigration into Denmark particularly of refugees and family members from non-European countries. The relevant minister now says openly that immigrants who do not contribute to society are unwanted: new residents' worth is judged by their actions while native Danes are assessed only existentially.

The government has deliberately legislated on the brink of international law and shown a disquieting lack of respect for human rights and the agencies trying to uphold them. Laws are frequently set up as theoretically affecting native Danes but in practice creating a problem for refugees and immigrants only. Similarly, laws are often described as promoting better integration while in reality creating more exclusion and discrimination. Racist and bigoted statements even by members of Parliament are becoming more and more offensive and more and more accepted by the general public and in the media. Even to be bi-lingual is seen as negative and immigrants are consistently linked to problems, criminality, Islam.

This Committee's criticisms primarily refer to various forms of discrimination. The guiding principal of The Universal Declaration of Human Rights is that all men are born equal with access to equal rights without discrimination. And this principal is endorsed in a number of the more specific conventions. Article 2 stipulates that there may be no distinction such as to race, colour, sex, language, religion, property ... Yet, on the following areas refugees and immigrants are discriminated in Denmark:

Permanent residency and citizenship

A newly introduced point system (retroactively enacted) mandates qualifications such as: a proficiency in the Danish language impossible to achieve for large groups of refugees and immigrants, whether they want to or not; continuing full-time employment during the most recent four years or a long higher education in Denmark; an examination in Danish at a level commensurate to that required of Danish pupils at the end of nine years of school. The government's own comments on the law acknowledge that not everyone would be equipped to meet the requirements which constitutes a deliberate denial of the rights (including the right to vote) of the weakest group of applicants. To date, Denmark has Europe's most stringent requirements for citizenship (permanent residency included) and there is no particular provision for refugees in spite of Article 34 of the Refugee Convention which stipulates easy access to citizenship for refugees.

Language requirements are so unrealistically high that they discriminate against a vast number of new citizens who have difficulty learning Danish at such levels: for example, due to psychological

problems, PTSD, limited schooling in the home country, age, or word blindness. Even before the latest change of law an increasing number of refugees were rejected when applying for permanent residency – from 5.3% in 2003 to 54,2% in 2009.

Employment requirements are equally unrealistic and inflexible so that even well-integrated persons with experience of the labour market are excluded. This is discrimination in practice taking into account that the employment rate for refugees and immigrants is lower than the average among the population at large and that the Danish labour market is highly specialized.

Marriage and family life

- Reunification of spouses:

The local inhabitant must have had permanent residency for at least three years; be self-sufficient and independent of public support for three years; have a home of suitable size at his/her disposal; and put up a bank guarantee of 8.850 € in a closed account for seven years. The new arrival must immediately pass a comprehensive computer-based test in Danish language and culture which requires about 300 hours of study. Both must have reached the age of 24 and combined have longer ties to Denmark than to any other country (where each party can attain maximum 50 per cent). Refugees are exempted from certain requirements but only as long as they are in actual need of protection.

- Family reunification of children:

Allowed only until a child reaches the age of 16 and children as young as ten can be rejected if assessed as too old for successful integration.

- Fees and location of application:

A fee of 715 € per person is payable just for submitting an application for reunification of spouse and children. In addition applications must be made from the incoming's home country.

***Our criticism:** These innumerable requirements are highly discriminatory and for many constitute a real obstacle to the free exercise of marriage and family life. In particular, the requirements for ties and permanent residency (described above) can be totally impossible for a couple ever to comply with, consequently separating families. Nationals who have been citizens for 28 years are exempt, again a law deliberately targeting new citizens. Children should be classified as dependents until the age of 18 and guaranteed, by law, their right to stay with their parents. The newly introduced fee and requirements for self sufficiency and bank guarantee are economically discriminating in particular because refugees and immigrants are generally known to be less well off than the rest of the population.*

Social health and welfare

- "Start help":

Those neither yet legally resident for seven years nor fully employed for 2.5 years are eligible to receive about half of a native Dane's social assistance entitlements. This means that a considerable number of families, including children born in Denmark of non-Danish parents, grow up in poverty without the opportunities of their Danish neighbours. Many even renounce entitlements in their efforts to obtain family reunification or permanent residency.

- Health services:

A particular health care system is available in the asylum centres only for emergencies or relief of pain during the process of seeking asylum and when refused asylum. This is particularly problematic for trauma sufferers and asylum seekers who have to live in centres for many years. "Undocumented" persons living under ground do not have any access to health services: there are no specific clinics and they do not have actual access to the public health system. Neither are refugees/immigrants with residency for seven years provided with free interpretation at the physician's or hospitalized whatever their level of comprehension of Danish. This constitutes economic discrimination and, because of misunderstandings due to language, is potentially life threatening according to the Danish Medical Association.

Vulnerable groups

- **Women:** The many preconditions particularly affect women. Immigrant women frequently have shorter schooling, are more tied to the home because of small children and have fewer opportunities in the labour market than their Danish counterparts. In reality even Danish women do not enjoy equal rights and generally earn 20 per cent less than Danish men. Battered reunified female spouses lose their residence status if they leave a violent husband.
- **Children** of refugees/immigrants are often affected by poverty or denied a life in Denmark with a parent. A new law deprives the child of its residence status if parents send it to the home country for "reeducation". Possible individual grounds for children of refugee families to seek asylum are not taken into consideration and a child's welfare is seldom taken into account in decisions to do with residency permits.
- **The literacy challenged** have no chance whatsoever of obtaining permanent residence excluding them from the right to family reunification and citizenship.
- **The elderly** have particular difficulty in meeting language and self-sufficiency requirements.
- **The mentally and physically sick** and **victims of trauma or torture** are unlikely to qualify. Refugees/immigrants eligible for pensions due to permanent disability are not allowed to claim dispensation from the full employment condition when people with relatively minor health problems have difficulty maintaining a full-time job in the Danish labour market.
- **Victims of trafficking/human smuggling** have no possibility of obtaining asylum in Denmark whether or not they cooperate with the police in their work to identify racketeers.

Torture

The concept of torture is not inscribed in Danish law but is perceived as aggravated assault. In addition torture victims are not provided with treatment prior to residency permits and often endure long waits for treatment. For example, there are no dispensations when applying for citizenship on grounds of PTSD or other after-effects of torture. Torture victims become prisoners like other asylum seekers (described under the Rule of law).

Rule of law/legal certainty

- Many laws in the immigration area are adopted retroactively. There are few examples of this procedure in other areas of Danish law.
- A rejection by the Refugee Council cannot be appealed to a court of law.
- Even though cases are decided within a year a ten or twelve year stay in the asylum system is not unusual. Applications might be rejected but repatriation cannot be implemented either due to the situation in the home country or doubt about an asylum seeker's identity. A formula for residency should be proffered after a certain period in order to secure this group's human rights. It is well documented that the uncertainty of life in refugee camps - no right to work or to education - result in serious health problems deteriorating over time.
- Persons accused of terrorism are completely outside the rule of law and not even their personal lawyers are privy to knowledge of the grounds for prosecution or allowed to be present during a trial.
- Persons granted "sanctioned residence" administratively (for example if suspected of terrorism) have to report daily to a specific centre. This is tantamount to sentencing without trial, open-ended sentencing, restriction of personal freedom, denial of the right to work, and, frequently, constitutes a real obstacle to family life.
- Asylum seekers can be imprisoned for unlimited periods alone on suspicion of intending to go underground or for submitting false identity papers. Many for up to a year. In addition, asylum seekers are sentenced to imprisonment for document falsification if they present false passports on arrival – directly contravening Refugee Convention Article 31.

Proportionality

- A Danish national might be fined or sentenced to jail for breaking the law, a non-Danish resident is subject to disproportionately serious consequences. For example, deportation for taking part in a non-violent sit-down strike (despite permanent residency). A two-month jail

sentence could defer access to citizenship by eight years and the two months could mean permanent deportation depending on the sentence.

- A Danish national faces certain economic consequences when dismissed or resigning from his job. For a refugee/immigrant with permanent residence the consequences could be enormous and the family's future and access to various rights jeopardised. Even a short period as unemployed could mean going back to square one.

Democracy and citizenship

An increasing number of people will come to live their lives in Denmark with no influence on government decisions because only nationals are eligible to vote and run for Parliament. A number of offices and duties of trust similarly require citizenship. Even children of non-Danish citizens born in Denmark must apply for citizenship when reaching eighteen and then on various conditions. There is a serious risk of such a group without influence or rights in their own country turning against a society that does not accept them. A society that has created a group of second class citizens.

CONCLUSION

As indicated in our list of criticisms above, refugees and immigrants are punished by a series of laws unfortunately and frequently discriminatory on the government's side due to its narrow, nationalistic mentality promoting assimilation. Danish legislation incorporates a regrettably materialistic approach to the rights of new citizens: rights should be "earned" by means of jobs, knowledge of the Danish language, and adopting a traditional Danish way of life. With objectives so unachievable for many then there is talk of real discrimination. In our opinion the situation is particularly acute in that it is not solely a question of unplanned, deplorable discrimination but, in addition, of a deliberate rejection of the principals of human rights.

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