

**Submission to the Universal Periodic Review
United Nations Human Rights Council
Denmark – Third Cycle
Submitted by HopeNow – Empowering Trafficked People**

Over the years, the Danish Parliament has signalled its commitment to combating human trafficking through its ratifications of, among others, the Palermo Protocols and the Council of Europe Convention on Action against Trafficking in Human Beings. We also welcome Denmark's continued commitment to combating human trafficking through the Action Plan to Combat Trafficking in Human Beings, now in its fifth iteration. However, despite this commitment, there is a distinct lack of improvement in identifying and assisting victims of trafficking. In fact, recent reports show that Denmark is regressing in its adherence to international commitments. From 2011 to 2018, the Trafficking in Persons (TIP) Report placed Denmark as a top tier country in regards to compliance with anti-trafficking standards. In 2019 Denmark was lowered to the second tier and has remained there in 2020. In addition, the Group of Experts on Action against Trafficking in Human Beings (GRETA), while noting improvements in some areas, maintains steady criticism of Denmark's efforts to identify and house victims of trafficking.

The issues raised in this submission relate primarily to treatment of victims of trafficking during the identification and repatriation process. A common thread of male victims being overlooked also runs through this submission and is addressed in point four. The final point relates to the deterioration of government partnerships with NGOs.

I – Criminalisation of Victims of Trafficking

In recent years, the number of victims being officially identified as trafficked in Denmark has been falling. Only 64 victims of trafficking were identified by Danish authorities in 2019, the lowest number since 2011¹. While on the surface, this appears to show progress, the information gained from HopeNow's outreach work does not show a decrease in the number of trafficking victims (HopeNow's numbers can be provided as required). In addition, prison visits conducted by HopeNow have uncovered numerous victims who have been arrested for migration related offences. The low identification numbers therefore suggest that there is an increased risk of victims of trafficking not being identified as such, and instead being criminalised. This is not the first time that the issue of inappropriate criminalisation of victims of trafficking has been raised as a part of Denmark's UPR review, but unfortunately the situation has not improved.

A vital aspect of international law concerning human trafficking, is that victims cannot be held liable for crimes committed as a direct result of their situationⁱⁱ. It is therefore crucial for frontline workers to be trained in recognising subtle indicators of trafficking to avoid victims of trafficking being processed as criminals. Identification can be difficult as victims are often reluctant to be open with authorities due to distrust, coercion by traffickers, or because the correct questions are simply not being asked during the identification process. Additionally, male victims are considered anomalies in the Danish context, and so are often not identified by immigration services.

A significant part of the problem is the ongoing push against immigrants, refugees, and undocumented migrants within the Danish political landscape. While pursuing undocumented migrants, law enforcement catch victims of trafficking in the net, but can fail to recognise them as

such. In HopeNow's experience, this is particularly true in cases where male victims (especially those trafficked into forced crime or who have absconded from refugee centres) have been detained by police, as the training received by law enforcement still focuses heavily on women in forced prostitution.

Recommendations:

- The political landscape in Denmark raises grave concerns that indicators of trafficking are being overlooked in cases that include migration offences. Denmark must increase its efforts to identify victims so that they do not end up criminalised, or have their human rights further reduced.
- Improved training of frontline workers is needed in order to identify a wider range of trafficked groups. Police and courts in particular, should receive training that increases awareness of other forms of trafficking than sex trafficking, as well as their indicators.
- A procedural change is recommended to allow NGO's to again be present during identification interviews for people who have shown even the slightest indication of being trafficked. The Centre Against Human Trafficking (CMM), in partnership with NGOs, should conduct identification interviews, as these groups are best placed to spot subtle indicators of trafficking. NGO's also have greater capacity to build trust with victims, which leads to more honest information being given during interviews, and will lower the rate of victims of trafficking being criminalised.
- Suspected victims of trafficking should be quickly transferred to shelters or crisis centres, rather than arrest houses and prisons, so as not to infringe on their rights and in order to facilitate trust-building.
- More Resources should be allocated to a specialised law enforcement task force, to combat human trafficking.

II – Protracted Stays in Harsh Detention Environments

Both the Palermo Protocol and the CoE Convention on Action against Trafficking provide for adequate housing to be supplied to victims of trafficking once identified or simply suspected. However, HopeNow is concerned over the growing tendency to house victims, or suspected victims, who have refused to cooperate with repatriation efforts, in harsh migrant detention facilities. HopeNow has worked with residents of Ellebæk and other migration detention facilities, who have been held for as long as a year.

This is not the first time that concerns over human rights abuses at Ellebæk have been brought to the attention of the Danish government. In April of 2019, the European Committee for the Prevention of Torture (CPT) inspected the facility and produced a scathing report of the conditions there. The report highlighted that, despite most detainees in Ellebæk Detention Centre having not committed, or even been accused of committing a crime, they are held in prison-like conditions and must follow the same rules that apply in Danish prisonsⁱⁱⁱ. The justification given for long term imprisonment in Ellebæk is that the person is not cooperating with the Danish immigration police in regards to their deportation. This leads to situations where, for example, detainees found in possession of a mobile phone receive a punishment of at least 15 days solitary confinement, in line with prison regulations^{iv}. We highlight again, that these are people who have not been accused of a crime and have often experienced multiple traumas.

A concerning new trend is that of holding victims in arrest houses and prisons rather than sending them to shelters or even transferring them to Ellebæk. This is an issue, as these facilities do not have the resources to provide the extra level of care that victims of trafficking are entitled to, and in many

cases require. Furthermore, persons who have been detained by police and transferred to these facilities have a higher chance of not being recognised as victims of trafficking, which may lead to criminalisation, as discussed above. HopeNow has evidence of male victims being placed in arrest houses and high security prisons.

Recommendations:

- The Danish Government should uphold best practice regarding housing for victims of trafficking and suspected victims of trafficking. Victims of trafficking should under no circumstances be held in detention centres or prisons, as these facilities are not fit for the purpose of providing care for victims of trafficking.
- If government insists on housing victims of trafficking in migration detention centres, these facilities, and the procedures within them, must be brought into line with the rights afforded to victims of trafficking. This includes relaxing restrictions on movement within the facility, allowing detainees access to their mobile phones, allowing detainees access to the internet, training facility staff in migrant rights, enabling access to professional interpreters, and providing them with adequate mental and physical health care.
- Denmark should opt-in to the EU Justice and Home Affairs Council so as to increase best practice for migration detention.

III – Focus on Repatriation over Protection

The trend of repatriating victims of trafficking, regardless of compassionate or security grounds, is a continual problem. Article 7(1) and Article 8(2) of the Palermo Protocols provide for victims of trafficking to be given residence in the receiving state if they so choose. In 2019, not a single report was made of a victim of trafficking receiving residency status.

The current national Action Plan for 2019 – 2021 expressly states that all persons residing in Denmark unlawfully must leave the country regardless of whether they are a victim of trafficking^v. Amendments to the Aliens Act in 2019 has made the situation of vulnerable migrant groups even more precarious, as the provision now exists to give temporary resident permits, along with the power to revoke them if the security situation in the home country is deemed acceptable^{vi}.

The 2020 TIP Report puts much needed focus on the detrimental effect of the de facto preference shown by Denmark for repatriation, stating that it makes victims reluctant to come forward, inhibits successful prosecutions, and leaves victims vulnerable to re-trafficking^{vii}. This echoes the experience of HopeNow when interviewing victims and suspected victims of trafficking. Additionally, the policy of indiscriminate repatriation ignores the security factors that may be present in the victim's home country. This has, in some cases, led to victims being repatriated to communities where they may face reprisals from their traffickers, or into situations where they do not have access to the necessary medical, psychological, or economic assistance that they require. In the case of Nigerian victims, the strong belief in Juju ceremonies means they fear that a curse will be activated if they return home. In extreme cases, victims may contemplate suicide when faced with deportation.

It is also well documented that the reflection and recovery period, provided through the CoE Convention against Trafficking, is designed to give the victim a chance to reflect on whether or not they wish to be repatriated. As a part of this protocol, victims of trafficking are also entitled to information on their legal options, in a language that they can understand^{viii}. The CPT report highlights a lack of official interpreters, but HopeNow has found that victims are generally not provided adequate information on their rights, regardless of the language issue, and are often pressured to repatriate.

Recommendations:

- Denmark should follow recommended guidelines and provide legal residence to persons officially identified as having been trafficked. This is in line with best practice and will increase protection and empowerment of victims.
- Denmark must change the focus to protection, as this will encourage victims of trafficking to come forward. While the threat of forced repatriation persists, victims will remain reluctant to identify themselves, fearing that they will be open to reprisals from traffickers on return. The national Action Plan must address this.
- NGO's must be included in the residence/repatriation process, as they have higher levels of trust with the victims. This trust allows for improved repatriation outcomes.
- Partnership between law enforcement in origin and receiving countries should be increased. This will prevent re-trafficking, by creating greater accountability in both states.
- Trafficked people should not be sent back to areas where their security cannot be guaranteed. Re-trafficking and reprisals are endemic in some origin countries. Instead, long term witness protection should be made possible under Danish law.

IV – Lack of Focus on Male Trafficking Victims

As highlighted in the above points, male victims of trafficking are much less likely to be identified than female victims. The figures in the Danish government's annual reports on human trafficking show that over the past five years, less than 30% of officially identified victims are male^{ix}. In some years, men made up as little as 5% of identified victims. However, a push by the workers union 3F in 2018 to tackle forced labour led to 63% of victims identified that year being male^x. This is the only year that the number of men identified is higher than woman, highlighting that the issue of human trafficking in Denmark is broader than just women trafficked into prostitution, the group which makes up the bulk of identified victims in all other years. HopeNow have, through intensive use of peer-group workers, identified a growing number of male victims of trafficking.

As previously alluded to, there is a preconception that men are less likely to be victims, and so the questions that can identify them as such are not being asked. HopeNow has interviewed male victims who have, for example, never been asked who financed their transportation to Europe. Authorities also tend to be suspicious and reluctant to identify victims who do not immediately share their true stories, making trust building vital from both sides, to avoid incorrect criminalisation of victims. In HopeNow's experience, this is less of a problem with women.

Recommendations:

- More focus needs to be put on identifying male victims of trafficking. HopeNow's outreach work shows far more male victims than official data suggests, as the areas where they are exploited receive less attention than that of women in forced prostitution.
- Preconceived notions of who is a victim of trafficking need to be changed. This can most effectively be done through increased training for both frontline workers and policy makers.
- Increased focus is also needed on combating forced crime and forced labour. This change should be reflected in the national Action Plan.

V – Decline of Meaningful NGO Partnerships

On top of these issues, HopeNow would also like to take this opportunity to raise the concern that NGO's are being increasingly excluded from the identification process, and subsequent residence/repatriation process of victims of trafficking. The CoE Convention against Trafficking explicitly encourages governments to form tight partnerships with NGO's^{xi}, and while this has existed

in Denmark in the past, there is currently a move in the opposite direction. This is concerning, as NGO's have vital on the ground experience, but even more so, as it makes governmental procedure less transparent.

The deterioration in interdisciplinary partnerships is evident in a variety of ways. There is a lack of consultation with NGOs on procedural and structural change. A structural change occurred in early 2020 when the Danish government did not renew repatriation cooperation with the IOM. NGOs were not consulted regarding this decision, and as of October 2020, HopeNow has yet to receive information on the new procedures for repatriation. This means that we cannot give clients accurate information. Troublingly, we also have reports from victims of trafficking that when victims, or suspected victims, ask to have HopeNow present during their interview process, they are informed that only government authorities are permitted to be there. In the past, police would often contact HopeNow when a suspected victim was detained and extend an invitation to be a part of the process. This diminished partnership is also reflected in the reduced role that NGO's are given under the national Action Plan, in favour of the government operated Centre for Human Trafficking (CMM). These actions, when taken together, undermine the appearance of NGO's as viable actors and has a direct negative impact on an NGO's ability to combat human trafficking and to protect victims of trafficking.

Compounding the issue is the Danish opt out on the EU Justice and Home Affairs Council, which creates barriers for Danish NGO's wanting closer cooperation with the EU. It also locks NGO's such as HopeNow out of EU funding.

Recommendations:

- An independent rapporteur must be appointed to increase accountability across all aspects of combating human trafficking. CMM regards this as one of their roles, however, they cannot be independent as they are a government organisation.
- Re-establish a procedural requirement for greater NGO access to victims who are being processed. In this way, by lessening the operational preference towards CMM, transparency can be improved.
- Increased government-NGO partnership is needed to bring Denmark into line with best practice and to ensure that NGO's can operate more effectively. NGOs are not currently included in the creation of new procedures and are not informed of new procedures for repatriation and rehabilitation within a reasonable timeframe. Decisions are taken within government and often not relayed to NGOs.
- Descriptions of NGO's, along with their specific areas of operation, must again be included in the national Action Plan. This would give greater agency to NGO's working with human trafficking, and signal that they are respected partners in the fight against trafficking in human beings.

ⁱ United States Department of State, *2020 Trafficking in Persons Report - United States of America*, 25 June 2020, p.185.

<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

ⁱⁱ Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, Art. 26.

<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008371d>

ⁱⁱⁱ Council of Europe: Committee for the Prevention of Torture, *Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to 12 April 2019*, 17 September 2014, CPT/Inf (2019) 35, Paragraph 113. <https://rm.coe.int/1680996859>

^{iv} Ibid., Paragraph 142.

^v Ministry of Foreign Affairs of Denmark, *Action Plan to Combat Trafficking in Human Beings 2019-2021*, September 2018, p.12.

<https://bsr-trm.com/wp-content/uploads/2019/10/Action-Plan-to-Combat-Trafficking-in-Human-Beings-2019-2021.pdf>

^{vi} United States Department of State, *2020 Trafficking in Persons Report - United States of America*, 25 June 2020, p.185.

^{vii} Ibid.

^{viii} Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, Art. 12,

^{ix} Centre Against Human Trafficking, *Tal over Tid*, <https://www.cmm.dk/statistik/tal-over-tid>

^x Asger H. Eriksen (2019, July 18), *Fagforeninger finder flere ofre for menneskehandel*, *Fagbladet3F*.

<https://fagbladet3f.dk/artikel/fagforeninger-finder-flere-ofre-menneskehandel>

^{xi} Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197, Art. 35.