



Inuit Pisinnaatitaaffiit Kalaallit Nunaata Siunnersuisoqatigiivi
Grønlands Råd for Menneskerettigheder

Universal Periodic Review of Denmark
24th session of the UN Human Rights Council 2016

Greenland

**Stakeholder Submission by
The Human Rights Council of Greenland (HRC Greenland)**

Summary:

The politically independent Human Rights Council of Greenland, whose members are representatives from civil society and public institutions, was established by law in 2013 in order to promote and protect human rights in Greenland.

This report contains recommendations on the following topics:

- Equality and non-discrimination
- Administration of justice and the rule of law
- Right to health (children's rights)
- Persons with disabilities

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BACKGROUND AND FRAMEWORK

1. Greenland is a self-governed part of the Kingdom of Denmark. The Greenlandic People's right to self-determination under international law is implemented in the Self-Government Act from 2009 by which Greenland and Denmark are seen as equal partners.¹
2. By the ratification of ILO's Convention concerning Indigenous and Tribal Peoples in Independent Countries, Denmark declared in 1997 that the original inhabitants of Greenland (Inuit) are the only indigenous people in Denmark within the meaning of the convention.² Relevant in this aspect is also the UN Declaration on the Rights of Indigenous Peoples (2007).
3. When ratifying the Council of Europe Framework Convention for the Protection of National Minorities, Denmark declared that only the German minority living in the southern Jutland should be considered as a national minority covered by the convention.³ The Danish government – supported by the then Greenland Home Rule Government – found that Greenland and Greenlanders, including Greenlanders in Denmark, do not fall within the scope of the framework convention.⁴
4. By virtue of the Self-Government Act, Greenland can gradually expand its self-government in a range of areas. At present Greenland has overtaken e.g. regulation of hunting; fishing; taxes; expropriation; primary schools and high schools; the labour market; electricity- water- and heating supplies; natural resources.⁵
5. The Human Rights Council of Greenland is a politically independent council established by law with reference to the UN Paris Principles on National Human Rights Institutions. Funded by the Greenland state budget, the council shall promote and protect human rights in Greenland.⁶ The Council consists of 15 representatives reflecting the views of civil society organisations working with human rights as well as 3 representatives from the Greenlandic government, the national association of local authorities in Greenland and the parliamentary ombudsman of Greenland. The council is commissioned to participate in the strengthening and consolidation of human rights knowledge and competence in Greenland.
6. The Danish Institute for Human Rights is the national human rights institution for Greenland and works in close cooperation with the Human Rights Council of Greenland to monitor the promotion and protection of human rights in Greenland. This stakeholder report is produced by the Human Rights Council of Greenland, assisted by the Danish Institute for Human Rights. A consultation process with civil society in Greenland 17 March 2015 in Nuuk has contributed to the selection of issues mentioned.

Scope of international obligations

Abrogation needed of territorial reservation to the CRC optional protocol on the sale of children, child prostitution and child pornography

7. Denmark's ratification of international human rights conventions is binding for the whole kingdom by default. However and due to mutual agreement between Greenland and Denmark UN core

human rights conventions are generally ratified with a territorial reservation for Greenland. Subsequently, the reservation is revoked on the request of Greenland when Greenland wishes to be bound by the obligations.

8. Greenland requested in 2012 that Denmark took steps to revoke/abrogate the territorial reservation for Greenland to the optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. This request has not yet been met.

*Recommendation to **Denmark:***

- *Abrogate the territorial reservation for Greenland to the CRC optional protocol on the sale of children, child prostitution and child pornography.*

IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Equality and non-discrimination

Lack of a general prohibition on discrimination as well as a complaints procedure

9. A general prohibition on discrimination on the grounds of race and ethnic origin, age, religion, sexual orientation and disability has not been introduced in Greenland. Discrimination in the labour market on these grounds is not prohibited. There is no protection against discrimination outside the labour market, i.e. in social security, health services, education and in goods and services, including housing.
10. Gender discrimination is prohibited by the Greenlandic act on equality of men and women, which establishes the Council of Gender Equality in Greenland.⁷ Danish gender equality law does not apply to Greenland. The mandate of the Council of Gender Equality in Greenland includes examining, on its own initiative or by request, measures relating to gender equality. The preparatory works of the act underlines that the council is not obligated to consider cases referred from individuals. However, the council can decide to give advice to individuals if this is deemed relevant.⁸
11. In cases on discrimination (all grounds), no national complaints procedure for individuals exists other than taking a case to court or (concerning public authorities) refer the case to the parliamentary ombudsman (*Ombudsmanden for Inatsisartut*).

*Recommendations to **Greenland:***

- *Adopt legislation to prohibit discrimination based on race and ethnic origin, age, religion, sexual orientation and disability within and outside of the labour market.*
- *Adopt legislation to establish an equal treatment body to ensure access to an effective remedy for individuals who experience discrimination.*

Administration of justice and the rule of law

Lack of transparent administrative complaints structures

12. The right to appeal administrative decisions made by a government body is impaired by unclear administrative structures. In some cases it has been doubtful whether government agencies are autonomous entities or if they should be seen as departments within a specific ministry's central administration. The Parliamentary Ombudsman (*Ombudsmanden for Inatsisartut*) has raised concern over this, as citizens' right following legal tradition to appeal agency decisions to the minister is only in place if the agency is an autonomous authority. If an agency is part of a department within the ministry, there is no right to appeal to the minister since the minister would be directly responsible for the original decision.
13. Uncertainty regarding the legal status of government agencies causes confusion for the citizens as to where to get access to justice and can lead to mistakes in case handling.

*Recommendations to **Greenland**:*

- *Clarify the status and mandates of administrative structures within central government.*

Lack of transparency in legislative processes and poor access to law and case law

14. Greenland does not operate with consolidated acts, which means that original legislation and subsequent amendments are not consolidated in one document. This makes it difficult to get an overview of which legislation is current and applicable.
15. There is no publicly accessible database containing both historical and current Greenlandic law and historical as well as current law of the Kingdom of Denmark applicable in Greenland. Greenlandic law is published on-line and searchable since 2010 with references as to whether documents are historical or current. Danish law applicable in Greenland is published on-line since 2008, is searchable but has no indication of whether documents are repealed or still current.⁹
16. Revision and quality assurance is needed for laws of the Kingdom of Denmark which are put into force for Greenland (*Rigslovgivning*). Danish legislation for Greenland is rarely adopted through a regular law process in the Danish parliament. Instead, Danish laws made for Danish conditions are put into force in Greenland by Danish royal decrees (*anordninger*). Adjustments to Greenlandic conditions takes place to a limited extent. However, as decrees have no preparatory works, no guidance to the interpretation of the provisions of the legislation for Greenland is provided. The preparatory works made for the original Danish act are accessible but provide little or no guidance in a Greenlandic context. Clear, concise and useful legislation is required in every aspect of law for which Denmark is responsible, including legislation for Greenland in areas not governed by Greenland self-rule.
17. A further challenge is the lack of public access to Greenlandic case law. No systematic publishing takes place of jurisprudence from leading cases/test cases. This makes it difficult to find jurisprudence from the courts of Greenland for professionals as well as for citizens.

*Recommendations to **Greenland**:*

- *Introduce the concept of consolidated acts in Greenlandic law to improve foreseeability and accessibility.*
- *Establish a database containing relevant Greenlandic case law.*

*Recommendations to **Greenland** and **Denmark**:*

- *Establish a database containing primary and secondary law of Greenland and all applicable laws of the Kingdom of Denmark covering Greenland.*

*Recommendations to **Denmark**:*

- *Limit the use of royal decrees (anordninger) as a tool for regulating Greenlandic conditions and increase the use of specified laws for Greenland taking Greenlandic context onto account adopted by the Danish parliament.*

Language problems and unclear legal terminology in the courts of Greenland

18. The administration of justice is an area not taken over by the Greenlandic self-rule. The area is thus covered by Danish law specifically aiming at Greenlandic conditions.
19. Both Greenlandic and Danish is applicable in Greenlandic courts.¹⁰ It is for the judge to decide whether Greenlandic or Danish will be applied in court proceedings. The act on the administration of justice in Greenland guarantees that some legal documents, including indictments, the evidence summary (*bevisfortegnelse*), judgements and decisions on appeal should be made available in a language understood by the parties of a case.¹¹ This, however, does not guarantee that other central documents of evidence be available in a language understood by the parties. Evidence provided by public authorities is almost always provided in Danish, whereas the mother tongue of most people in Greenland is Greenlandic. This impairs the right of primarily Greenlandic speaking/reading persons to prepare and present their case in court.
20. Confusion of legal terms is frequent as different interpreters and translators translate Danish legal terms differently in Greenlandic.

*Recommendations to **Denmark** to be considered in dialogue with **Greenland**:*

- *Make written evidence – not only the evidence summary – available in a language that is well understood by the parties in a court case.*
- *Establish a Greenlandic commission for legal terminology that ensures a uniform understanding of key legal concepts in Greenlandic and Danish.*

Right to health

21. Greenland chose to be bound by the Convention of the Right of the Child in 1993.

Negligence in caring for children

22. Most children in Greenland do well and have normal and functional lives. However, this is not the case for some 5000 children who have serious problems in their lives, are subject to bullying in school, and are lonely and reclusive. Recent studies show that a significant number of Greenlandic children do not thrive due to sexual and physical abuse or negligence by parents who are suffering from alcohol abuse or parents' lack of economic, personal and social resources. Even though there is a right to education for all children, the primary school education standards do not meet the scholastic qualities necessary to enable Greenlandic children to complete higher educations and be competitive enough in acquiring employment. Lack of adequate housing compounds the social and economic problems Greenlanders have to face.
23. The Danish National Centre for Social Research – SFI (*Det Nationale Forsknings Center for Velfærd –SFI*) in its latest report (April 2015) commissioned by the Greenlandic government, Naalakkersuisut, notes that every other women and every other third male indicated that they have been subject to sexual contact with an adult before they turned 15 years of age. Seven percent indicated that their first sexual contact occurred before they had turned 7 years of age.¹²
24. There is general lack of human resources and knowledge among the Greenlandic municipal authorities to have in place measures to prevent maltreatment and child abuse and to intervene in families where children are at risk or are being abused.

Recommendations to Greenland:

- *Reform and upgrade municipal competences and accountability in order to apply constructive measures and promote protection of the child against violence and assist families in rehabilitation efforts on substance abuse and addiction.*

Persons with disabilities

25. Denmark, including Greenland, ratified the UN Convention on the Rights of Persons with Disabilities in 2009. The monitoring mechanism under the convention's article 33(2) is not yet in place but under consideration by the Greenlandic government, Naalakkersuisut.
26. No general prohibition of discrimination on the ground of disability is included in national law in Greenland. For recommendations about this please refer to paragraph 9-11 above.
27. Persons with disabilities in Greenland, including children, have limited access to support, including physical aids, counselling, educated professionals and appropriate housing. Some persons with severe disabilities are placed in foster homes far away from their family, some even in Denmark because of lack of possibilities in Greenland.
28. Little knowledge, research and baseline data is available relating to persons with disabilities in Greenland in many aspects, including accessibility as well as the right to education of persons with disabilities.

Recommendations to Greenland:

- *Take measures to systematically collect data and statistics relating to the situation of persons with disabilities in Greenland.*

- Takes measures to support the creation of representative organisations of persons with disabilities in Greenland.

¹ See the preamble in act no. 473 of 12 June 2009 on Greenland Self-Government (*Lov nr. 473 af 12. juni 2009 om Grønlands Selvstyre*).

² See Denmark's declaration in order no. 97 of 19 October 1997 of the ILO convention no. 169 of 28 June 1989 (*Bekendtgørelse nr. 97 af 9. oktober 1997 af ILO-konvention nr. 169 af 28. juni 1989 vedrørende oprindelige folk og stammefolk i selvstændige stater*).

³ Order no. 13 of 23 April 1998 Council of Europe's Framework Convention of 1 February 1995 (*Bekendtgørelse nr. 13 af 23. april 1998 af Europarådets rammekonvention af 1. februar 1995 om beskyttelse af nationale mindretal*).

⁴ Proposal for parliamentary decision no. B 69 of 27 November 1996 (*Forslag til folketingsbeslutning nr. B 69 af 27. november 1996 (som fremsat) om Danmarks ratifikation af Europarådets rammekonvention af 1. februar 1995 om beskyttelse af nationale mindretal, alm. bem., pkt. II*).

⁵ The Prime Minister's Office "Overview of matters that are taken over by Greenland Home Rule (I and II), respectively Government of Greenland (III)" (*Oversigt over sagsområder, der er overtaget af Grønlands hjemmestyre (I og II) henholdsvis Grønlands Selvstyre (III)*) available in Danish at: http://stm.dk/multimedia/Oversigt_sagsomr_der_241111.pdf

⁶ Greenlandic act no. 23 of 3 December 2012 on the Human Rights Council of Greenland (*Inatsisartutlov nr. 23 af 3. december 2012 om Grønlands Råd for Menneskerettigheder*).

⁷ Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women (*Inatsisartutlov nr. 3 af 29. november 2013 om ligestilling af mænd og kvinder*).

⁸ Preparatory works to Greenlandic act no. 3 of 29 November 2013 on equal treatment of men and women, special remarks to section 27(1), page 34 (*Bemærkninger til forslaget, EM 2013/112, 30. juli 2013, til § 27, stk. 1, s. 34*).

⁹ Greenlandic law is since 2010 published at inatsisit.gl/lovgivning.gl. Danish law applicable to Greenland is since 2008 published on-line at Lovtidende.dk. Older, still current, Danish law for Greenland is included in the Danish Prime Minister's annual yearbook "Grønlandsk Lovsamling", published in pdf format and available through inatsisit.gl/lovgivning.gl.

¹⁰ Danish act no. 305 of 30 April 2008 on the Administration of Justice in Greenland (*lov nr. 305 af 30/04/2008 Retsplejelov for Grønland*).

¹¹ Danish act no. 305 of 30 April 2008 on the Administration of Justice in Greenland (*lov nr. 305 af 30/04/2008 Retsplejelov for Grønland*), sections 438 (indictments), 443 (evidence summary), 478 (judgements) as well as 539 and 553 (appeal).

¹² "Unge i Grønland – med fokus på seksualitet og seksuelle overgreb" ("Young in Greenland – focus on sexuality and sexual abuse"), the Danish National Centre for Social Research – SFI (*Det Nationale Forsknings Center for Velfærd –SFI*), april 2015, available in Danish only at http://www.sfi.dk/resumé_unge_i_grønland- med_fokus_på_seksualitet_og_seksuelle_overgreb-15490.aspx