

# Letter to the Special Rapporteur on freedom of religion, regarding input to the report on Islamophobia, Anti-Muslim Hatred and Discrimination

The following is an input to the UN Special Rapporteur on freedom of religion, in relation to Islamophobia, anti-Muslim hatred and discrimination in Denmark. The contribution is authored by the Center for Danish-Muslim Relations [CEDAR], and has been forwarded to the office of the UN High Commissioner for Human Rights.

This letter focuses primarily on laws, bill-proposals and the Danish legal system and politics in Denmark. This letter will primarily consist of statements and discussions that CEDAR has already addressed in other reports published by the organization itself.<sup>1</sup> This contribution will draw on these freely available documents, highlighting the most significant observations. First, we introduce a list of legislation in Denmark targeting Muslims, followed by more detailed and concrete examples of Islamophobic and anti-Muslim measures.

List of existing violations and legislative restrictions on Muslims' rights in Denmark:

- **Hijab Ban:** In the wider public: None. The parliament rejected a bill-proposal to ban public servants from wearing religious symbols in March 2019.

It is currently prohibited for judges and military personnel to wear hijab. The ban for wearing hijab by judges was introduced in 2008, despite critics and lawyers saying it would be against the Danish constitution. Lawyers held this opinion, despite the ban's general formulation that appeared neutral and non-discriminatory.<sup>2</sup> Nevertheless, the ban on hijab for judges was well-known through public debate to be targeting the hijab, and is even referred to as the "hijab-ban".<sup>3</sup>

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<sup>1</sup> It is particularly these two reports from which excerpts will be included: 1) CEDAR et al.: Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination. And 2) Amani Hassani: *Islamophobia in Denmark: National Report 2019*, in: Enes Bayraklı & Farid Hafez, *European Islamophobia Report 2019*, Istanbul, SETA, 2020.

<sup>2</sup><https://www.advokatsamfundet.dk/Service/Publikationer/Tidligere%20artikler/2008/Advokaten%208/Toerklaadelov%20vil%20vaare%20i%20strid%20med%20grundloven.aspx>

<sup>3</sup> <https://www.dr.dk/nyheder/politik/dommere-faar-forbud-mod-toerklaeder>

- **Halal Slaughter Ban:** None.<sup>4</sup>
- **Circumcision Ban:** Bill-proposal to ban circumcision, but is expected to be rejected by the Government and the biggest opposition party, based on the protection of the Jewish community.<sup>5</sup> When asked about whether the government also have taken Muslims into account, since they also perform this practice, a government MP answered that the ones they are protecting in this case is the Jewish community, thereby refusing to acknowledge to extend the same consideration to the Muslim community.<sup>6</sup>
- **Burka Ban:** Yes, implemented in 2018. The ban on covering one's face is still in effect despite the requirements of face masks on public transportation and shops to protect against the COVID-19 pandemic.
- **Mandatory handshake:** Yes, implemented in 2019.
- **Prayer Ban:** None. The parliament rejected a proposal to prohibit prayer rooms in public educational institutions in 2018.

In 2018 the Danish parliament passed a set of laws with the purpose of eradicating “Ghettos” in Denmark - the so-called “Ghetto Package”. This set of laws is in itself, directly discriminating, since the decisive criteria for a residential area to be categorized as a “Ghetto” is that above 50% of the residents are “non-Western immigrants or descendants”. The majority of Muslims in Denmark can be categorized as having “non-Western” heritage, and these two categorizations are therefore often used interchangeably in government rhetoric. While the Danish government does not have access to citizens’ religious beliefs, they do have access to citizens’ migration background through the CPR-registers. The CPR-number is an individual identification number given to all citizens living in Denmark at the time of their birth or when they become Danish citizens. This number gives the government automatic access to citizens’ migration history, or in the case of children of migrants, their parents’ migration history. This means that the government can implement policies to implicitly target non-Western citizens (assumed to be Muslim) based on information available through these CPR-registers; e.g. housing, employment, education, crime. The “Ghetto Package” is full of several injunctions and prohibitions, which either challenge or directly/indirectly violates the human rights

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<sup>4</sup> However, there is more on this subject in the “Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination” which CEDAR has co-authored.

<sup>5</sup> <https://www.dr.dk/nyheder/politik/s-gruppeformand-regeringen-vil-ikke-forbyde-religios-omskaering>

<sup>6</sup> <https://www.dr.dk/nyheder/detektor/detektor-hvis-og-hvis-s-ordfoerer-affejer-spoergsmaal-om-omskaering-af-muslimere>

of those impacted by them. It must be emphasized that there is a desire for these regulations to primarily affect citizens with a Muslim or “non-western” background, and this is also the case when closely examining the various initiatives.<sup>7</sup>

Another issue that has been addressed in the above-mentioned report, is the proposal to ban donations from Muslim-majority countries and Muslim organizations abroad, to Danish mosques and Muslim associations in Denmark. The following quote demonstrates the government’s challenge when developing bills that are meant to target the Muslim population specifically, but inevitably effects other groups because of the constitutional requirement to not directly discriminate a religious minority:

*At the moment, some Danish MPs are upset because a law against donations to mosques from abroad will also affect other denominations that do not have female preachers: “The Bill is meant to hinder some inappropriate donations from Muslim organisations and countries to some mosques in Denmark, where there are extensive problems, but surely the Lutheran Mission and the Jewish Community are not to be affected. Of course that was never the intention,” says MP Marcus Knuth, the Conservative Aliens and integration spokesperson.*<sup>8</sup>

The following quote addresses the Danish burka ban, which also came into force in 2018:

*Because of Denmark’s adoption of the face covering ban on 1 August 2018, Muslim women wearing the Islamic face veil are prevented from enjoying their legally given rights. The use of the face veil is a personal religious choice as concluded in the studies conducted by the University of Copenhagen at the request of the Government in 2009. The “burka ban”, as it is usually called, interferes with Muslim women’s right to freedom of religion since they are barred from wearing the face veil in public and thus denied the opportunity to freely pursue their economic, social and cultural development. [...] As stated by Naser Khader, Conservative Aliens & Integration and Human Rights spokesman, “There is a majority in the Parliament who would like to ban burkas and niqabs. But we are in a situation where according to the legal staff in the Ministry of Justice it is not possible to mention burka and niqab explicitly. – I should have preferred that we wrote burka and niqab explicitly in the legislation and challenged the Constitution”...“when the police meet a woman wearing a burka or a niqab, they are the ones they should target – and not a Japanese tourist [with a face mask] or somebody on the way to*

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<sup>7</sup> Due to lack of space in this letter, we refer to CEDAR et al: Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination. P. 5 for more on the "Ghetto Package".

<sup>8</sup> CEDAR et al.: Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination. P. 39

Halloween...". The then Prime Minister had also stated, "...we [Liberals] don't like burkas. It is a symbol of oppression of women, and it must be fought...". Furthermore, the face covering ban targets a minority of maximum 150-200 women preventing them from enjoying the right to work [..]. Similarly, the ban is also a violation [...] since women with face veils are barred from entering educational institutions.<sup>9</sup>

In 2019, several laws have been implemented that disproportionately affect Muslims in Denmark. An example is the law on mandatory handshakes at citizenship ceremonies. The law is an example of indirect discrimination, as citizens who are to receive citizenship and who may have personal reservations about handshaking will disproportionately be Muslim individuals because of particular religious interpretations. Nonetheless, the Ministry of Immigration and Integration made a declaration of intent in April 2020 to propose a bill and suspend the law on forced handshakes, due to the risk of infection of the Covid-19 pandemic.<sup>10</sup>

Legislation was introduced in 2019 that allows the deprivation of Danish citizenship from individuals with dual citizenship by the Integration Minister without a trial. The following excerpt from our Islamophobia report 2019 explains it:

*Legislation was introduced to deprive dual citizens of their Danish citizenship easily by political means. This seems to set a problematic precedence for how the government deals with dual citizens in general, particularly Muslim dual citizens. The change in legislation was introduced through an emergency vote on the issue of depriving citizenship of Danish citizens with dual citizenship through the Minister of Immigration and Integration rather than by the traditional judicial procedures. It thus gives one individual - a politician - full power and authority to deprive dual citizens of their Danish citizenship outside of legal procedures. [...]. The bill has been heavily criticised by other politicians, legal experts, and civilrights organisations. Some of the arguments they raise is that the new legislation threatens the division of power in governance as well as being a threat to the Danish judicial system, which already has legal procedures in place to tackle treason as well as other charges related to 'foreign fighters'.<sup>11</sup>*

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<sup>9</sup> CEDAR et al: Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination. P. 40

<sup>10</sup> <https://uim.dk/nyheder/2020-04/covid-19-regeringen-vil-suspendere-handtryk-til-grundlovsцерemonier>

<sup>11</sup> Amani Hassani: *Islamophobia in Denmark: National Report 2019*, in: Enes Bayraklı & Farid Hafez, *European Islamophobia Report 2019*, Istanbul, SETA, 2020. P. 212.

An example from Danish jurisprudence, is the case of a now former Danish Muslim citizen; The expulsion of Sam Mansour.

Sam Mansour, who previously went by the name Said Mansour, was deprived of his Danish citizenship by the courts in 2016 and expelled from the country permanently. In 2019, Sam Mansour was deported from Denmark to the Moroccan authorities in Morocco. In October 2020, Sam Mansour was sentenced by the Moroccan authorities to death for complicity in terrorism.<sup>12</sup> Extradition or deportation of a citizen to a country where the life of that citizen will be in danger, is a violation of the most basic human right - the right to life. The Danish state only extradited Sam Mansour to Morocco, as they believed they had received sufficient guarantees for the safety of his life, by not being sentenced to death. The guarantees do now not seem to have been sufficient. Rather than reacting immediately and trying to meet their obligation to this former citizen, the Danish authorities showed passivity, and it took days before the Danish Minister of Immigration and Integration even chose to comment on the matter.<sup>13</sup> Today, the Ministry states that their expectation is that Sam Mansour will not be executed, due to Morocco's practice of not executing death sentences since 1993 and the fact that the Ministry is in dialogue with the authorities in Morocco.<sup>14</sup> However, this does not change the fact that Sam Mansour still currently has a legal judicial decision of a death sentence pending.<sup>15</sup> Opposition parties<sup>16</sup> and the former minister Inger Støjberg<sup>17</sup>, who in her time entered into the agreement to extradite Sam Mansour, do not hide the fact that "they do not miss" the deported citizen, and express no interest in ensuring that Denmark complies with their human rights obligation. MP Morten Messerschmidt, member of the Danish People's Party and vice chairman of the party, even stated in the case: "For my sake, they can dig him [Sam Mansour] into a hole".<sup>18</sup>

The list of discriminatory measures in this letter is not exhaustive, but should be able to illustrate the point we wish to make. CEDAR, as an anti-racist organization concerned with the rights of Muslims in Denmark, have great concerns about Muslims' rights in Denmark, and how these are being challenged and limited in the current political climate. These challenges are not only restricted to the

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<sup>12</sup> <https://www.dr.dk/nyheder/indland/mansour-doemt-til-doenen-i-marokko-trods-garanti-stiller-den-danske-stat-i-uheldig>

<sup>13</sup> <https://www.berlingske.dk/samfund/medier-boghandleren-fra-broenshoej-er-idoemt-doedsstraf-i-marokko>

<sup>14</sup> <https://jyllands-posten.dk/international/Afrika/ECE12528116/marokko-bekraeftet-doedsdom-over-said-mansour/>

<sup>15</sup> <https://www.bt.dk/politik/danmark-hjaelper-doedsdoemte-said-mansour>

<sup>16</sup> <https://www.bt.dk/politik/tordner-mod-minister-hvorfor-hjaelper-i-doedsdoemte-said-mansour>

<sup>17</sup> <https://www.berlingske.dk/danmark/inger-stoejberg-efter-doedsstraf-til-said-mansour-i-marokko-jeg-kan>

<sup>18</sup> <https://www.bt.dk/politik/danmark-hjaelper-doedsdoemte-said-mansour>

measures listed in this letter; on the contrary, there will most likely continue to be even more violations and restrictions in the future.

Examples that we have not been able to review in more detail in this letter are:

- The inhuman conditions at the two detention centers Ellebæk and Nykøbing Falster.<sup>19</sup> A large proportion of the residents of these centers are Muslim.<sup>20</sup>
- Proposal to deprive Muslim free schools of state funding.<sup>21</sup> Deprivation of state funding will in practice mean that all Muslim free schools will close.<sup>22</sup>

What CEDAR finds particularly worrying, is that these various limitations on the ability of Muslims in particular to practice their religion cannot be justified within Denmark's own constitution, the European Convention on Human Rights or the UN Declaration of Human Rights. Instead, various prohibitions and measures that restrict the ways in which Muslims can live out their religious identity, are being justified and legitimized by illegitimate and abstract principles, that are not recognized by the aforementioned fundamental conventions and constitution. An example of such an illegitimate and abstract principle is "the cohesion of society", which cannot be regarded as a necessary consideration in a democratic state governed by the rule of law. To great disappointment to the protection of human rights in Denmark and Europe in general, international tribunals have in recent years chosen to recognize and allow discriminatory laws, that violate individuals' human rights. This is very clearly illustrated in the judgment of the European Court of Human Rights *SAS v. France* (2014), concerning France's burqa prohibition law. The prohibition has paved the way for other European states' similar laws, including the burqa ban that Denmark introduced in 2018. The dissenting judges in the case, chose to underline the law as discriminatory and a violation, and stated in this regard; that abstract and vague principles such as "living in community / the cohesion of

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<sup>19</sup> The Council of Europe's Committee for the Prevention of Torture (CPT) in January 2020 released a report with severe criticism of the two detention centres Ellebæk and Nykøbing Falster used to detain asylum seekers whom the police suspect might go underground. "It is not compatible with human rights to keep people under such bad conditions in immigration detention centres," Wolff said.

<sup>20</sup> CEDAR et al: Alternative report on Denmark 2020 to the committee on the elimination of racial discrimination. P. 51

<sup>21</sup> <https://www.tv2east.dk/sjaelland-og-oeerne/s-fortsætter-tilskud-til-muslimske-friskoler-ny-model-paa-vej>

<sup>22</sup> Amani Hassani: *Islamophobia in Denmark: National Report 2019*, in: Enes Bayraklı & Farid Hafez, *European Islamophobia Report 2019*, Istanbul, SETA, 2020. P. 235.

society” are not a purpose that can be reconciled with the European Human Rights Convention's restrictive catalog of grounds that allow infringement of fundamental human rights.<sup>23</sup>

In the rhetoric of a number of prominent government and MP politicians, it is apparent that there is a desire among them to restrict Muslims' rights to practice their religious identity and thereby limit their access to the same rights and freedoms as the rest of the population because of their religious beliefs.

We sincerely hope and urge the UN Special Rapporteur on Religious Freedom, to examine already adopted and proposed bans and injunctions that violate the fundamental human rights of Muslim individuals in Denmark, and to express a sharp criticism of the Danish state and call for the abolition of discriminatory measures against the Muslim population.

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<sup>23</sup> S.A.S v. France p. 67, pr. 25.