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CALL FOR SUBMISSIONS: REPORT TO THE UNITED NATIONS GENERAL ASSEMBLY ON ELIMINATING INTOLERANCE AND DISCRIMINATION BASED ON RELIGION OR BELIEF AND THE ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT GOAL 16 (SDG 16)

The Danish Institute for Human Rights (DIHR) welcomes the call for submissions on discrimination perpetrated against religious or belief minorities as drivers of conflict and insecurity.

The Institute would like to draw attention to the following points:

DISCRIMINATION IN LAW AND PRACTICE

- **Laws and policies restricting the right to manifest freedom of religion or belief of minority religious communities, including blasphemy, national security and counter-terrorism laws; laws and policies with regard to the registration of faith-based organizations and associations; and those pertaining to religious property, religious educational institutions and places of worship and of burial**

In recent years, an increasing number of legal measures have been taken, which limit or potentially restrict the right to manifest freedom of religion or belief. The measures primarily affect individuals belonging to religious minorities, primarily non-Christian minorities. Amongst the most notable of these are the following¹:

¹ For an overview, see also Eva Maria Lassen, "Limitations to Freedom of Religion or Belief in Denmark", in Religion & Human Rights, Volume 15 (2020): Issue 1-2, p. 134-152, <https://brill.com/view/journals/rhrs/15/1-2/rhrs.15.issue-1-2.xml>.

- Prohibition against religious slaughter without prior numbing (a Jewish and Muslim practice) was introduced by an administrative order in 2014.²
- A law banning face covering was passed in 2018.³ Among the human rights concerns related to the ban – often named “the Burka ban” - is the risk of social exclusion of the women concerned.⁴
- A Bill concerning the acquisition of citizenship was passed in 2018⁵. Following the Bill, a ceremony will take place as part of the acquisition of citizenship, during which the to-be citizen is obliged to shake hands with the person authorised to grant citizenship. The precondition of the handshake to acquire citizenship bears the risk of being indirect discrimination on account of religion.⁶

Other limitations to freedom of religion or belief are regularly being debated without having resulted in legislation. Notably a ban on circumcision on boys for religious reasons⁷, prohibition of prayer rooms in hospitals and educational institutions, and prohibition of wearing the headscarf in public spaces and in the employment sphere⁸.

On 31 May 2016, the government (Denmark’s Liberal Party), the Social Democrats, the Danish People’s Party and the Conservatives entered into a political agreement on initiatives “aimed at religious preachers who seek

² Miljø- og Fødevarerministeriet, Bekendtgørelse om slagtning og aflivning af dyr, 14 February 2014, København, No. 135.

³ Justitsministeriet, Lov om ændring af straffeloven (Tildækningsforbud), 08 June 2018, København, No. 717. The ban will particularly affect women who wear the burqa and niqab. The so-called burka ban is based on the alleged need to protect the rights and freedoms of others [cf. ECHR, Article 9(2)].

⁴ See Høringssvar vedr. Udkast til forslag til lov om ændring af straffeloven (Tildækningsforbud), 3 March 2018, Danish Institute for Human Rights, legislative brief, https://menneskeret.dk/sites/menneskeret.dk/files/03_marts_18/hoeringssvar_til_udkast_til_forslag_til_lov_om_aendring_af_str._.pdf, 12 April 2019.

⁵ Udlændinge- og Integrationsministeriet (2018). Forslag til lov om ændring af lov om dansk indfødsret og lov om danskuddannelse til voksne udlændinge m.fl. (Henlæggelse til kommunalbestyrelserne af grundlovsceremonier, forhøjelse af gebyr for ansøgning om dansk indfødsret ved naturalisation og fastsættelse af nærmere regler om udlændinges fravær i undervisning i dansk m.v.), 27 December 2018. København, No. 1735.

⁶ Danish Institute for Human Rights, supra note 31, p. 2.

⁷ Indførelse af 18 års mindstealder for omskæring af raske børn, <https://www.borgerforslag.dk/se-og-stoet-forslag/?id=FT-00124>, accessed 15 May 2019. Folketinget, B 9 Forslag til folketingsbeslutning om indførelse af 18-årsmindstealder for omskæring af raske børn (borgerforslag). The ensuing debate was extensive. In April, the government stated that it would not support a ban. Ritzau, ‘Regeringen siger nej til aldersgrænse for omskæring af drenge’, Kristeligt Dagblad, 20 April 2018. But see www.ft.dk/samling/20181/beslutningsforslag/b9/index.htm, accessed 15 May 2019.

⁸ Since 2009 judges are required not to appear in Danish courts in a way that indicates a political or religious attitude or affiliation; women wearing headscarf were the focus of the debates preceding the new regulation. Folketinget, Forslag til Lov om ændring af retsplejeloven (Dommeres fremtræden i retsmøder), 29 May 2009, København, No. 98.

to undermine Danish laws and values and who support parallel conceptions of law”.⁹

The agreement resulted in five bills that entered into force in 2016 and 2017, namely Bill for an Act to amend the Marriage and Dissolution of Marriage Act (Decorum requirement and mandatory course in Danish family law, freedom and democracy)¹⁰; Bill to amend the Criminal Code (Criminalisation of explicit approval of certain criminal acts in the context of religious training)¹¹; Bill to amend the Act on Non-formal Education and Democratic Voluntary Activity and the Tax Assessment Act (Measures against associations counteracting or undermining democracy or fundamental freedoms and human rights)¹²; Bill to amend the Aliens Act (Introduction of a public sanction list of foreign religious preachers, etc., who may be denied entry into Denmark)¹³; Bill to amend the Aliens Act (Mandatory course in Danish family law, freedom and democracy for religious preachers etc., and promissory declaration of compliance with Danish legislation)¹⁴.

The bills raise concern regarding limitations of freedom of expression and potentially freedom of religion or belief. Notably, the Criminal Code has been amended so that statements expressing views contrary to Danish law are criminalised regardless of whether they are expressed publicly or privately. Moreover, the statements targeted by the new acts are those expressed by religious preachers but not by other leaders with a comparable authority (for instance leaders of politically extreme movements). This involves a risk of disproportionate discrimination. In addition, the legislation has the potential to throw suspicion on all religious communities and their leaders, although the bills intend to target a specific group of presumably few religious leaders.¹⁵

⁹ See Lars Grassmé Binderup and Eva Maria Lassen, 'The Blasphemy Ban in Denmark', in J. Temperman and A. Koltay (eds.), *Blasphemy and Freedom of Expression: Comparative, Theoretical and Historical Reflections after the Charlie Hebdo Massacre* (Cambridge: Cambridge University Press, 2017), pp. 450-451.

¹⁰ Kirkeministeriet, Lov om ændring af lov om ægteskabs indgåelse og opløsning (Decorumkrav og obligatorisk kursus i dansk familieret, frihed og folkestyre), 27 December 2016, København, No. 1729.

¹¹ Justitsministeriet, (2016). Lov om ændring af straffeloven (Kriminalisering af udtrykkelig billigelse af visse strafbare handlinger som led i religiøs oplæring), 27 December 2016, København, No. 1723.

¹² Kulturministeriet, (2016). Lov om ændring af folkeoplysningsloven og ligningsloven (Indsats mod foreninger, som modarbejder eller underminerer demokrati eller grundlæggende friheds- og menneskerettigheder), 13 December 2016, København, No. 1553.

¹³ Udlændinge- og Integrationsministeriet, Lov om ændring af udlændingeloven (Indførelse af en offentlig sanktionsliste over udenlandske religiøse forkyndere m.fl., som kan udelukkes fra at indrejse), 27 December 2016, København, No. 1743.

¹⁴ Udlændinge- og Integrationsministeriet, Lov om ændring af udlændingeloven (Obligatorisk kursus i dansk familieret, frihed og folkestyre for religiøse forkyndere m.fl. og løfteerklæring om overholdelse af dansk lovgivning), 20 March 2017, København, No. 249.

¹⁵ Lassen, *supra* note 1, p. 143.

As Heiner Bielefeldt, the UN Special Rapporteur on Freedom of Religion or Belief noted in connection to his country visit to Denmark, religious minorities may feel intimidated by such discourses.¹⁶

With regard to blasphemy legislation, Danish law included an article criminalising blasphemy until 2017. In his report on his country visit to Denmark, the Special Rapporteur on Freedom of religion or Belief recommended an abolition of the blasphemy law.¹⁷ The ban, which was largely dormant - the last conviction based on the blasphemy ban took place in 1946 - was abolished by Parliament in June 2017.¹⁸

- **Circumstances in which religious communities are prevented from administering their own affairs without State interference.**

Generally speaking, religious communities can freely administer their own affairs without State interference, except in specific circumstances (for instance “acknowledged” faith communities are requested to produce and submit annual accounts to the Ministry of Ecclesiastic Affairs).

- **Gender-based discrimination: the multiple and intersecting forms of discrimination faced by minority women and girls who are members of minority religions or belief-based communities.**

A recent study indicates that women who wear headscarves are strongly disadvantaged in getting employment.¹⁹

- **Examples of laws (constitutional and other legal provisions) and policies at the national and local levels, or public statements by political and religious leadership that impose a uniform understanding of national identity around one dominant religion.**

Denmark has a three-tiered organisation of religious and beliefs communities. First, the Danish National Evangelical Lutheran Church (“*Folkekirke*”) holds a constitutionally privileged position and is supported by the State, financially and otherwise. As a result, the State regulates religious denominations outside of the Folkekirke differently than its own national church, and in Denmark, there is “religious freedom but not religious equality”, as often phrased by, for instance, Danish politicians.²⁰

¹⁶ Heiner Bielefeldt, Report of the Special Rapporteur on freedom of religion and belief on his mission to Denmark, Human Rights Council Thirty-fourth session 27 February-24 March 2017 A/HRC/34/50/Add.1, para. 22-35.

¹⁷ Bielefeldt, supra note 14, para. 56.

¹⁸ Justitsministeriet, Forslag til lov om ændring af straffeloven (Ophævelse af straffelovens blasfemibestemmelse), 08 June 2017, København, No. 675.

¹⁹ Malte Dahl, Detecting Discrimination – How Group-based Biases Shape Economic and Political Interactions: Five Empirical Contributions, 2019, https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/malte_dahl_forskning.pdf.

²⁰ As for instance observed by the Special Rapporteur on Freedom of religion or Belief, supra note 14, para. 9.

Second, a religious community may acquire the status of “acknowledged faith community”. In 2017, the Danish Parliament adopted a new act, “Act regulating faith communities outside the Folkekirke” (“*Trossamfundsloven*”).²¹ The act provides a framework for the regulation of faith communities outside the Folkekirke wishing to be “acknowledged” by the State, and hereby obtain certain benefits, notably tax exemption and the possibility to perform marriages with civil validity.

Third, a great number of religious and belief communities exist without belonging to either of the above-mentioned categories. Religious communities are not obliged to request the status of acknowledged religious community. Belief (life-stance) associations cannot obtain the status of “acknowledged faith community” in Denmark.

It is debatable whether the exclusive bond between the Danish State and the Folkekirke creates problems related to both societal inclusion of all citizens and perceptions of what constitutes Danish identity. On the one hand, it supports the view that Denmark is a Christian country based on Christian values. On the other hand, in practice the Folkekirke, as the dominant religious denomination, is often engaged in promoting a society of religious dialogue, diversity and freedom of religion or belief (see below).

The public-school curriculum includes non-promulgating teaching in Christianity (“*Kristendomskundskab*”), including Christianity in the historical and present context of Danish society, and role of Christianity in creating the value system of Danish culture. Only the oldest pupils are according to the curriculum obliged to study other world religions.²²

THE EFFECTS OF DISCRIMINATION

- **Instances of communal violence against religious minorities, and incitement to such violence, and the adequacy of state responses.**

In recent years, both Jewish and Muslim minorities – and Jehovah’s Witnesses - have experienced an increase in religiously motivated harassment and hate crimes. A report by the Danish Security and Intelligence Service (“*Politiets Efterretningstjeneste*”) reveals that these crimes and related incidences are primarily targeting religious symbols or localities.²³ There is an increased tendency of antisemitism in Denmark.²⁴ In December 2018, the EU Agency for Fundamental Rights, FRA, published a report entitled “Experiences and Perceptions of Antisemitism - Second Survey on Discrimination and Hate Crime against Jews in

²¹ Kirkeministeriet, Lov om trossamfund uden for folkekirken, 19 December 2017, No. 1533.

²² See <https://emu.dk/grundskole/kristendomskundskab>.

²³ See Danish Institute for Human Rights, supra note **Error! Bookmark not defined.**, pp. 22–24.

²⁴ European Union Agency for Fundamental Rights, Antisemitism – summary overview of the data available in the European union 2003-2013 (Vienna: Publications Office of the European Union, 2014).

the EU”²⁵, presenting the results of an extensive survey of 12 EU Member States, including Denmark.²⁶ A majority of the Danish respondents considers antisemitism to be a big or a very big problem and, in addition, a growing problem. For state responses, please see below (“good practices”). Please also note that Denmark has so far not adopted an Action Plan against Hate Crime.

GOOD PRACTICES

- **Examples of legislative, policy and institutional frameworks and measures protecting minority religious or belief communities against discrimination and violence.**

The above-mentioned “Act regulating faith communities outside the Folkekirke” (“*Trossamfundsløven*”) of 2017 may be expected to support a better functioning and a more transparent regulation of these communities in Denmark.

In addition, the State has taken steps to rectify some of the human rights challenges within the current constitutional framework. For instance, some of the issues related to registration of births and deaths of all citizens to the Folkekirke have been solved, at least partially, in recent years.²⁷

The Board of Equal Treatment deals with complaints related to discrimination on ground on freedom of religion or belief in the employment field and may award compensation.²⁸

The Danish police and Ministry of Justice have a longstanding commitment to protect Jewish Institutions and provide physical security, a commitment intensified after a terror attack on the synagogue in Copenhagen in 2015. After the anti-Semitic attacks on a Jewish burial place and the harassment of Jewish individuals in November 2019, the Parliament condemned these incidents and condemned antisemitism in every form, and requested that the government fight antisemitism with all democratic means. The Parliament moreover expressed its support of the government’s intention to create a national Action Plan against antisemitism.²⁹

- **Adequacy and effectiveness of law enforcement training in monitoring, combatting, reporting and responding to discrimination and hate crimes involving religion or belief.**

²⁵ European Union Agency for Fundamental Rights, Experiences and perceptions of antisemitism. Second survey on discrimination and hate crime against Jews in the EU (Luxembourg: Publications Office of the European Union, 2018).

²⁶ The Danish respondents amounted to 592 (of a population of approximately 7000 Jews). This was the largest percentage of Jewish populations in the entire survey.

²⁷ See here Lassen, supra note 1, p. 138.

²⁸ See [https://adsdatabase.ohchr.org/IssueLibrary/BOARD%20OF%20EQUAL%20TREATMENT%20\(Denmark\).pdf](https://adsdatabase.ohchr.org/IssueLibrary/BOARD%20OF%20EQUAL%20TREATMENT%20(Denmark).pdf).

²⁹ See <https://www.ft.dk/samling/20191/vedtagelse/V54/index.htm>.

For a number of years, the National Police (“*Rigspolitiet*”) has registered and categorized hate crimes in such a way that it is possible to identify and monitor hate crime involving religion or belief as well as the number of cases targeting individuals or groups belonging to specific religions in Denmark.³⁰

Understanding, identifying, registering and tackling hate crime are part of the curriculum of all students as basic training at the Police School. Additional training is also offered police staff. In addition, the National Police is in regular dialogue with relevant organisations with the aim of building experience, creating trust between the police and vulnerable groups, and increasing the willingness of victims to report incidents of hate crime.³¹

- **Specific measures to promote interfaith dialogue and religious pluralism in school curricula.**

Please see above for the public-school curriculum.³² Specific topics within the curriculum focus on the importance of interfaith dialogue and understanding, for instance the initiative of the Ministry of Education named “*Aldrig Mere*” (“*Never Again*”) on Holocaust and other genocides, offering teaching material for primary and secondary schools as well as high schools.³³

- **Examples of civil society organizations and other non-state actors protecting the right to freedom of religion or belief for religious minorities, in particular where State action has been inadequate.**

In Denmark, there are a variety of NGO’s which aim at fostering coexistence in a diverse society. Among examples are the online-newspaper “*Sameksistens*” (“*Coexistence*”) focusing on the coexistence between individuals of different ethnic, cultural and religious background as “*the new normal*”.³⁴

Brobyggerne (“*The Bridge-Builders*”) aims at promoting the constructive dialogue between different groups making up Danish society.³⁵

An example of NGOs representing minorities is “*Mino Danmark*”, which works to strengthen the possibilities of Danes with minority ethnic background to flourish in Danish society in areas where “*minority citizens are particularly unequal vis-a-vis the majority*”.³⁶

³⁰ For the latest annual reports of the National Police, see <https://politi.dk/statistik/hadforbrydelser>.

³¹ See <https://politi.dk/rigspolitiet/nyhedsliste/politiet-har-faaet-bedre-overblik-over-hadforbrydelser/2018/09/24>.

³² See also <https://emu.dk/sites/default/files/2019-08/GSK.%20Faelles%20Mål.%20Kristendomskundskab.pdf>.

³³ See <https://aldrigmere.dk/>.

³⁴ See <https://sameksistens.dk/om-os/>.

³⁵ See <https://brobyggerne.dk/>.

³⁶ See <https://mino.dk/>.

The above-mentioned NGOs do not have a particular focus on freedom of religion of minorities. Other NGOs have a religious focus, for instance “Tro i Harmoni” (“Faiths in Harmony”).³⁷

The Folkekirke has for a number of years been engaged in interreligious dialogue. The Committee for Church and Encounter with other Religions of the Evangelical Lutheran Church in Denmark (“Folkekirke og Religionsmøde”) is an institution of the Evangelical Lutheran Church in Denmark working specifically with interreligious encounter and dialogue.³⁸ Within the framework of the National Council of Churches of Denmark - an ecumenical and national council of churches and church related organisations in Denmark - leaders from the Folkekirke and a great range of minority Christian denominations engage in dialogue and co-operation.³⁹ The Council also engages in interreligious dialogue.

- **Examples of State efforts to protect against religious communities’ infringement of the human rights of women and girls.**

The government has made a number of efforts to protect women and girls from extreme social control, for instance in relation to marriage and divorce.

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Yours sincerely,

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ADVISER

³⁷ See <https://www.troiharmoni.dk/index.html>.

³⁸ See <https://religionsmoede.dk/>.

³⁹ See <https://www.danskekirkersraad.dk/english/>.

⁴⁰ Regeringen, “Regeringens strategi mod parallelle retsopfattelser – opgør med tvang og undertrykkelse ifm. religiøse vielser”, 2012, <https://www.ft.dk/samling/20121/almDEL/BYB/bilag/30/1195386/index.htm>.