

Denmark: Scrap the law on “improper treatment of objects with significant religious value”

ARTICLE 19 is gravely concerned by [a recent legislative proposal](#) of the Danish Government which seeks to criminalise conduct labelled as “improper treatment of objects with significant religious value”. While presented as a measure to promote religious tolerance, we find that the proposal represents an egregious attack on freedom of expression. In particular, we are concerned that if adopted, the law could be used to restrict various forms of artistic performances which challenge the tenets of religion or use religious objects to amplify their political message or artistic idea. We recall that international human rights standards do not provide protection to abstract notions such as religions or religious feelings. Since the proposal does not meet the requirements of international human rights standards, we call on the Danish Government to immediately withdraw it and refrain from introducing similar proposals in the future.

Put forward by the Ministry of Justice, the proposal is the Danish Government’s response to the series of Quran burning incidents by far-right activists that took place over the last few months. Significantly, the bill emerged in a highly secular country where the political establishment consistently defended satire and mockery of religious figures and symbols and where the most recent conviction on charges of blasphemy took place in 1946. The Ministry of Justice justifies the criminalisation by “foreign policy and security considerations” and attributes great importance to the standard of “inappropriateness” and the elements of “denigration” and “insult” to religious feelings.

The proposal envisages expanding Section 110 (e) of the Penal Code which already prohibits “publicly [insulting] a foreign nation, a foreign state, its flag or other recognised national mark or the flag of the United Nations or the European Council” under the penalty of a fine or imprisonment of up to 2 years. Under the proposal, these provisions would also prohibit treating “publicly or with the intention of dissemination in a wider circle [...] an object with significant religious value for a religious community or an object that appears as such in an improper manner.” The Government provided examples of actions that would be penalised: burning, soiling, trampling on, kicking, tearing, cutting, and stabbing an object with significant religious value. The latter would include such objects as sacred religious writings—the Bible, the Quran, the Torah and the Vedas. The government also admitted that other objects of significant sanctity could be covered, such as the crucifix or the mezuzah. It also noted that the prohibition will apply even if the “improper treatment” of the object is conducted for “artistic or political purposes”.

The proposal clarifies that the “public dissemination or dissemination in a wide circle” element of the offense is satisfied if the act occurs in a public place, e.g. in the street or a public meeting, or if its occurrence is transmitted via the Internet or other media, including closed social media pages or forums if they have a significant number of followers or connections.

ARTICLE 19's concerns about the proposed amendment

ARTICLE 19 finds that the proposal seeks to impose broad restrictions on freedom of expression which go beyond what is permitted under international human rights standards. Denmark is a party to the International Covenant of Civil and Political Rights (ICCPR) and the European Convention on Human Rights that guarantee the right to freedom of expression. Under these provisions, freedom of expression can be limited only under very narrow circumstances (the so-called "three-part test"). Namely:

1. The proposed restrictions do not meet the requirement of legality

First, both ICCPR and the European Convention require that restrictions on freedom of expression must be provided by law. This requirement goes beyond just having a written piece of legislation. The law must be clear and precise, enabling individuals to foresee the consequences of their conduct. Vaguely worded provisions open up the possibility of overbroad application and do not meet this requirement.

The current proposal intends to criminalise treatment of a religious object "in an improper manner." ARTICLE 19 finds that this term raises a multitude of interpretations, all of which are highly subjective in nature. The government enumerates a certain list of actions that would constitute improper treatment of religious objects, such as burning, tearing or cutting. However, these are provided in an explanatory note as examples of prohibited conduct rather than enumerated in an exhaustive manner in the law itself.

Likewise, the government admits that the definition of an "object of significant religious value" can go beyond sacred texts, such as the Koran and the Bible, but can also include symbolic objects, which can be numerous. This creates a dangerously wide criminal frame prone to the risk of overbroad and arbitrary application. The guidance or oversight provided by the Ministry of Justice is not sufficient to alleviate these risks.

2. The proposal does not pursue a "legitimate aim"

First, both the ICCPR and the European Convention exhaustively list grounds on which freedom of expression can be restricted: respect of the rights or reputations of others; or the protection of national security or of public order (*ordre public*), or of public health or morals. They do not allow restrictions to be placed on the exercise of the right to freedom of expression for the purposes of ensuring respect for religions, religious values or sanctity of religious objects. Only people have rights and reputations that benefit from protection. Abstract notions or religious objects do not enjoy this protection. Likewise, the right to freedom of religion does not in any way award protection from insult, mockery or "defamation".

ARTICLE 19 also points out that the proposed restrictions are not justified on the grounds of prohibiting incitement to violence, discrimination, and hostility (as per Article 20 para 2 of the ICCPR). In certain cases, criminal sanctions can be applied to instances of incitements of particularly severe gravity. However, this applies only to hatred directed against people based on their religion, not against religions or their sacred objects. We note that in [General](#)

[Comment No. 34](#), the Human Rights Committee, a body which authoritatively interprets the ICCPR, unequivocally stated that the prohibition of displays of lack of respect for a religion or other belief system, including blasphemy laws, would be in violation of the ICCPR, except in the specific circumstances envisaged in Article 20(2) (which prohibits incitement to discrimination, hostility and violence). Similarly, landmark [Resolution 16/18](#) on “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief”, adopted by the UN Human Rights Council in 2011, signalled a strong international consensus on the abandonment of free-speech restrictions motivated by “defamation of religions” and the focus on the protection of the believers and positive measures to foster religious tolerance.

The government, in its justification of the proposal, alluded to national security. However, we note that restrictions on the basis of national security are only justifiable if they address a threat to the “existence of the nation or its territorial integrity or political independence,” as distinct from localised violence and ordinary criminal activities. The proposed amendment has no direct link with national security considerations. We believe it is a stretch to suggest that a demonstration where religious objects are destroyed or “degraded” can create an imminent threat to the national security of Denmark.

The enforcement of the law would lead to paradoxical situations, especially given that the government intends to prosecute artistic and political expressions. For example, the proposal would allow for the prosecution of a pop star for using a crucifix and treating it “improperly” in a live performance. Such prosecution would pursue no legitimate aim: there would be no imminent threat to national security and protection of the crucifix would in no way protect the “rights of others”.

3. The proposed restriction is unnecessary and disproportionate

Although ARTICLE 19’s primary argument is that the amendment does not pursue any legitimate aim and is vague and overbroad to begin with, we also submit that, in any event, the proposed measures fails the criterion of necessity mandated by the three-part test. Under this requirement, the restrictions must impair the right to freedom of expression as little as possible and, in particular, must not restrict speech in a broad or untargeted way. The impact of restrictions must also be proportionate, meaning that the harm to freedom of expression caused by a restriction must not outweigh its benefits to the interest to which it is directed.

The amendment envisages to punish “improper treatment” of religious objects by excessively harsh sanctions: criminal fines or even imprisonment for up to two years. The amendment would provide the Danish law enforcement and criminal justice system the power to effectively control legitimate expressions, such as artistic performances or political demonstrations, which challenge the tenets of religion or use religious objects to amplify their political message or artistic idea. Expressions that offend, disturb, or shock parts of the general population firmly belong in the realm of protected speech. In fact, it is exactly the element of provocation that allows an artist or a political activist to attract attention to an issue of public interest. As such, interference with these expressions is not necessary in a democratic society. On the contrary, these artistic and political expressions, which may

involve actions perceived by members of certain religions as blasphemous, must be firmly protected by the state. Once a state starts banning provocative and offensive speech, it lays the ground for further attacks on the exercise of the freedom of expression.

The risk of criminal prosecution will certainly produce a chilling effect on the eagerness of individuals to exercise their right to freedom of expression. Activists planning a protest against a theocratic regime or artists whose work involves the use of religious objects will essentially have to self-censor to avoid criminal sanctions. The proposed measure is disproportionate to the objectives of promoting inter-religious tolerance, not least because other, less intrusive, methods are available and, in fact, would be more effective to that end. Instead, we recommend that the Government prioritise positive policy steps to promote tolerance towards believers of different faiths. This includes education, awareness-raising activities, and speaking out against instances of religious hatred directed against individuals and not abstract religious values or physical objects.

Last but not least, we observe that the amendment runs contrary to the growing global consensus that prohibitions of defamation of religions and protection of symbols and beliefs are not only contrary to guarantees of freedom of expression, but are also counterproductive and prone to being abused against the religious minorities that they purport to protect. The Danish proposal represents an egregious step back in progressive approaches to promoting religious tolerance which avoid imposing restrictions on free speech.

ARTICLE 19's recommendations

ARTICLE 19 cautions that the proposal, if introduced in the Danish criminal law, will have an adverse effect on the exercise of the right to freedom of expression. We urge the Government to withdraw the amendment with immediate effect.

We thus call on the Danish Government to recall their proposal and on the Parliament to dismiss it in its entirety should it go to a vote in the legislature.