

ACTIVIZENSHIP

CIVIC SPACE WATCH REPORT 2021 | STORIES OF HOPE IN DARK TIMES

DENMARK

Denmark is a democratically well-performing country with high scores across the most essential democratic variables, including an open civic space, with good funding possibilities, access to relevant actors and institutions, and access for citizens to be engaged and voice their opinions free from fear. But an increased political focus on security and safety in recent years is causing concern amongst civil society actors, who report increasing anti-democratic sentiments in the public debate and political initiatives challenging certain liberties and rights. What is most concerning is how this trend disproportionately targeting specific, racialised and marginalised groups. This is also the case of the 'Security for all Danes' law package and the legislative changes allowing for the transfer of asylum seekers to a third country outside the EU for the purposes of both asylum processing passed in summer 2021. Civil society mobilises to show the wide detrimental effect of discriminatory laws.

CIVIL SOCIETY IS CELEBRATED

But security policies raise worries

By Regitze Helene Rohlfing, doctorant, Université de Copenhague

Denmark is a democratically well-performing country with high scores across the most essential variables. According to the CIVICUS Monitor, Denmark has an OPEN civic space.¹ The think tank Varieties of Democracy likewise reports high scores on both the *core civil society index* and the *civil society participation index*, with an average score over the last ten years of 0.97 and 0.99 on a scale with 1 being the highest.² These

indicators show a well-functioning civic space, with good funding possibilities, access to relevant actors and institutions, and access for citizens to be engaged and voice their opinions free from fear. But political and discursive trends in recent years are causing concern amongst civil society actors who report increasing anti-democratic sentiments in the public debate and political initiatives challenging certain liberties and rights. This is also evident in the (albeit small) decrease of 3.29% regarding civil liberties in Denmark over the last ten years.³ What is most concerning is how

this trend is not strictly society-wide but appears to be disproportionately targeting specific, marginalised groups.

HISTORY AND ORGANISATION OF THE DANISH CIVIL SOCIETY

There is a long tradition for civic engagement in Denmark, the first instance dating back to the 18th century, though the modern form of civil society only emerged after the introduction of the Danish Constitution in 1849.⁴ It is estimated that there are more than 100,000 associations in Denmark, and since 2010, the number of Danes active in civil society accounts

¹ Civicus Monitor (2021). Denmark. <https://monitor.civicus.org/country/denmark/>.

² Coppedge, Michael, John Gerring, Carl Henrik Knutsen, Staffan I. Lindberg, Jan Teorell, Nazifa Alizada, David Altman, Michael Bernhard, Agnes Cornell, M. Steven Fish, Lisa Gastaldi, Haakon Gjerløw, Adam Glynn, Allen Hicken, Garry Hindle, Nina Ilchenko, Joshua Krusell, Anna Luhrmann, Seraphine F. Maerz, Kyle L. Marquardt, Kelly McMann, Valeriya Mechkova, Juraj Medzihorsky, Pamela Paxton, Daniel Pemstein, Josefine Pernes, Johannes von Römer, Brigitte Seim, Rachel Sigman, Svend-Erik Skaaning, Jeffrey Staton, Aksel Sundström, Ei-tan Tzelgov, Yi-ting Wang, Tore Wig, Steven Wilson and Daniel Ziblatt. (2021). "V-Dem [Country-Year/Country-Date] Dataset

v11.1" Varieties of Democracy Project. <https://doi.org/10.23696/vdemds21>

³ Coppedge, Michael, John Gerring, Carl Henrik Knutsen, Staffan I. Lindberg, Jan Teorell, Nazifa Alizada, David Altman, Michael Bernhard, Agnes Cornell, M. Steven Fish, Lisa Gastaldi, Haakon Gjerløw, Adam Glynn, Allen Hicken, Garry Hindle, Nina Ilchenko, Joshua Krusell, Anna Luhrmann, Seraphine F. Maerz, Kyle L. Marquardt, Kelly McMann, Valeriya Mechkova, Juraj Medzihorsky, Pamela Paxton, Daniel Pemstein, Josefine Pernes, Johannes von Römer, Brigitte Seim, Rachel

Sigman, Svend-Erik Skaaning, Jeffrey Staton, Aksel Sundström, Ei-tan Tzelgov, Yi-ting Wang, Tore Wig, Steven Wilson and Daniel Ziblatt. (2021).

"V-Dem [Country-Year/Country-Date] Dataset v11.1" Varieties of Democracy Project. <https://doi.org/10.23696/vdemds21>

⁴ Mette Hjære, Helene Elisabeth Dam Jørgensen og Malthe Lindholm Sørensen. (2018). Tal om frivillighed i Danmark. Frivilligrapport 2016-2018. Center for Frivilligt Socialt Arbejde



THE AUTHOR

Regitze Helene Rohlfing, is a PhD Fellow at Centre for European Politics (Department of Political Science) and iCourts (Faculty of Law) at University of Copenhagen, researching civil society and law in times of democratic backsliding. She is furthermore a board member of the Danish NGO 'Nyt Europa' as well as founder and chairperson of 'Network for Young Women Scholars'.

84

for around 40 per cent.⁵ An association is understood as a voluntary grouping of persons who come together for a common purpose or to pursue a common interest. Any citizen may form an association as guaranteed by Article 78 of the Danish Constitutions, as long as the association's activities and purpose are lawful. There is no law on associations in Denmark, but some formal requirements must be met to receive grants or employ staff, for example. These requirements demand that associations have more than two members and must have been formally established in a documented founding meeting. The association must also draw up and adopt official statutes, but there is no rule on what such statutes should

⁵ Mette Hjære, Helene Elisabeth Dam Jørgensen og Malthe Lindholm Sørensen. (2018). Tal om frivillighed i Danmark. Frivilligrapport 2016-2018. Center for Frivilligt Socialt Arbejde. <https://frivillighed.dk/guides/fakta-og-tal-om-frivillige-organisationer-i-danmark>;

contain. It is further required that there is some sort of management committee that acts as the authority. Lastly, an association must have its own defined finances including its own budget and account keeping. An association must also be democratically structured, and members must pay membership fees in order to be entitled to public grants under the Act on Non-formal Education and Democratic Voluntary Activity. Though there has been a decrease in the number of registered members of organisations,⁶ there has been increased public and political focus on civil society over the last 30 years⁷. All Danish governments since the early 2000s have emphasised the important role of civil society in various policy initiatives,⁸ with the latest initiative from 2017 declaring that "...*Civil society and volunteering are of great importance to Danish society. Through voluntary action and commitment, individuals take on a personal responsibility that benefits society as a whole and creates active citizens*".⁹

CIVIL DIALOGUE AND PARTICIPATION: A WEAKENING OF THE POLITICAL INCLUSION OF CIVIL SOCIETY?

A key characteristic of civic space in Denmark is the relatively high degree of openness in the political system to input from civil society, where civil society

⁶ Hans-Peter Y Qvist, Lars Skov Henriksen, Torben Fridberg, The Consequences of Weakening Organizational Attachment for Volunteering in Denmark, 2004–2012, *European Sociological Review*, Volume 34, Issue 5, October 2018, Pages 589–601, <https://doi.org/10.1093/esr/jcy030>

⁷ Grubb, A., Henriksen, L.S. On the Changing Civic Landscape in Denmark and its Consequences for Civic Action. *Voluntas* 30, 62–73 (2019). <https://doi-org.ep.fjernadgang.kb.dk/10.1007/s11266-018-00054-8>

⁸ Espersen, Helle Hygum, Torben Fridberg, Asger Graa Andreasen & Niels Westermann Brændgaard (2021) Frivillighedsundersøgelsen 2020 En repræsentativ befolkningsundersøgelse af udviklingen i danskernes frivillige arbejde. VIVE – Det Nationale Forsknings – og Analysecenter for Velfærd

⁹ Regeringen (2017). Strategi for et stærkere civilsamfund. Børne – og Socialministeriet. *Authors own translation.*

tends to act as a channel for citizens to raise their concerns and negotiate solutions to problems.¹⁰ The framework for stakeholders' consultations is generally considered robust, but a new tendency of shortened consultation periods has been noticed. This limits the ability of civil society organisations, especially those with fewer resources at their disposal, to voice any concerns and offer guidance to government institutions. Additionally, formal structures for the involvement of civil society in policymaking were not used in the context of the preparation of the national plan for the EU recovery funds, which saw a lack of involvement of civic organisations.

Involvement of civil society is also a matter of funding, and though public funding is overall high and well-regulated, there are concerns over a possible diminution in available financing following the COVID-19 epidemic but also a voiced need for better funding of democracy-related activities.¹¹

Another issue for the right to participation is the unprecedented emergency law passed in August 2021 to halt the nurses' strike. The strike is the longest running in Danish history, and the emergency law is an extraordinary measure given that labour rights issues are usually settled between social partners through collective bargaining.¹² This bears witness to what some civil society actors have also described as a burgeoning tendency to centralise the executive powers. Others also point to a slow but steady regression of the rule of law. Instances of illegal

¹⁰ Espersen, Helle Hygum, Torben Fridberg, Asger Graa Andreasen & Niels Westermann Brændgaard (2021) Frivillighedsundersøgelsen 2020 En repræsentativ befolkningsundersøgelse af udviklingen i danskernes frivillige arbejde. VIVE – Det Nationale Forsknings – og Analysecenter for Velfærd

¹¹ Ad hoc group on Fundamental Rights and the Rule of Law (2020). Fundamental rights and the rule of law. Denmark – Country visit report. European Economic and Social Committee.

¹² Civicus Monitor (2021). Government passes emergency law to halt the longest strike in danish history. <https://monitor.civicus.org/updates/2021/09/20/government-passes-emergency-law-halt-longest-strike-danish-history/>

CIVIL SOCIETY TENDS TO ACT AS A CHANNEL FOR CITIZENS TO RAISE THEIR CONCERNS AND NEGOTIATE SOLUTIONS

instructions ordered by the authorities, such as the massive culling of minks without legal basis in 2020 and the unlawful order to separate married and cohabiting couples at an asylum centre in 2016, are examples of this trend. Likewise, the closure of courts in March 2020 in the context of COVID-19 gave rise to concerns for the respect of judicial independence, as reported in the EU's Rule of Law Report.¹³ Though not a systematic attack on rule of law, like seen in other European member states, these tendencies should be closely observed.

LEGAL FRAMEWORK FOR CIVIC FREEDOMS: WHICH WILL WIN IN THE BATTLE BETWEEN SAFETY AND CIVIL LIBERTIES?

In recent years, an increased political focus on security and safety has introduced a line of changes, which are feared because they could jeopardise basic rights. These changes are not just an effect of the COVID-19 epidemic but follow a general trajectory in Denmark and globally. Even the EU's global strategy from 2016 talked about a need for a stronger Europe because "*We live in times of existential crisis, within and beyond the European Union. Our*

¹³ COMMISSION STAFF WORKING DOCUMENT (2021). Rule of Law Report Country Chapter on the rule of law situation in Denmark Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS 2021 Rule of Law Report The rule of law situation in the European Union

Union is under threat".¹⁴ In the Danish context, concerns center on safety-ensuring initiatives and the COVID-19 introduced measurements. Safety-ensuring initiatives like counter-terrorism legislation and the Police Act have for years been criticised for not attaching sufficient importance to fundamental rights. The think tank Justitia has previously noted that practices of the Danish police have interfered with basic freedoms as did the case concerning mass arrests during COP15 in 2009, the detention of people at the protests against the Chinese state visits in 2012 and 2013 and the relocation of several demonstrations.¹⁵ Issues of arbitrary surveillance, wider margin of interpretation for the police and lack of sufficient due process guarantees in relation to far-reaching provisions are some of the critical points of the counter-terrorism legislation which concern privacy rights, freedom of speech, and rights of assembly. It has been voiced that the law needs to be reassessed to ensure a better balance concerning the proportionality, efficiency, and necessity aspects of restrictions.¹⁶

The laws introduced for dealing with the COVID-19 epidemic were also heavily criticised for having potentially far-reaching infringements of citizens' rights. This included restrictions on freedom of assembly (with an exception for political or opinion-forming assemblies), personal freedom, respect for personal

¹⁴ European External Action Service (2016). Shared Vision, Common Action: A Stronger Europe A Global Strategy for the European Union's Foreign And Security Policy. https://eeas.europa.eu/topics/eu-global-strategy/49323/global-strategy-european-union_en

¹⁵ Justitia (2016). Politiets indgreb i ytrings- og forsamlingsfriheden [Police interference with freedom of expression and assembly]. http://justitia-int.org/wp-content/uploads/2016/01/Analyse_Politiets-indgreb-i-ytrings-og-forsamlingsfriheden_29-01-16.pdf

¹⁶ Ad hoc group on Fundamental Rights and the Rule of Law (2020). Fundamental rights and the rule of law. Denmark - Country visit report. European Economic and Social Committee; Enhedslisten (2020): Enhedslisten vil oprette Frihedskommission. <https://enhedslisten.dk/2020/01/28/enhedslisten-vil-oprette-frihedskommission>

and private life but also a strong centralisation of power in the hands of the executive. Amnesty raised, for instance, concerns for the application of the special paragraph of the Criminal Code allowing double punishment for offences related to the epidemic. Especially, the need for clearer conditions on the applicability of the special paragraph was highlighted to ensure that the measures in place were not unnecessarily curtailing citizens' freedoms.¹⁷ To date the special paragraph is still part of the Danish legislation.¹⁸ Though the government was responsive to some of the critics raised by civil society organisations and the national human rights institute, and though the new epidemics law of February 2021 did reinforce oversight powers to the Parliament and repealed the temporary act of 2020, it shows a worrisome example of the government being willing to curb liberties for the sake of safety.¹⁹ Older examples include the ban on full-face covering on 2018 and the unconstitutional restrictions imposed on pro-Tibet demonstrators during an official visit from China back in 2012 where investigations about the conduct of the events are still ongoing.

MARGINALISED GROUPS UNDER FIRE

In June 2021, the Danish Parliament adopted a so-called Security Package, known as "Security for all Danes". When

¹⁷ Amnesty (2021). Amnesty: Folketinget bør se på lov om dobbeltstraf i forbindelse med corona-epidemien. <https://amnesty.dk/amnesty-mener-folketinget-boer-se-paa-lov-om-dobbeltstraf-i-forbindelse-med-epidemien/>

¹⁸ <https://danskellove.dk/straffeloven> (in Danish)

¹⁹ Amnesty (2021). Epidemilovforslag med vigtige ændringer. <https://amnesty.dk/epidemilovs-forslag-med-vigtige-aendringer/>; COMMISSION STAFF WORKING DOCUMENT (2021). Rule of Law Report Country Chapter on the rule of law situation in Denmark Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS 2021 Rule of Law Report The rule of law situation in the European Union; Danish Institut for Human Rights (2021). Denmark. European Network of National Human Rights Instituts

AN INCREASED POLITICAL FOCUS ON SECURITY AND SAFETY HAS INTRODUCED A LINE OF CHANGES

first introduced as a draft in October 2020, the package was heavily criticised for its “security-creating assembly ban”, which would allow the police to issue a general ban on staying in a geographical defined if a group of people exhibit insecurity-creating behaviour. The ban would be for 30 days, extendable for an additional 30 days and failure to abide by the ban would result in a fine of DKK 10,000 (over 1300 Euro) for a first offence and a prison sentence of up to 1 year for a second offense. The ban could restrict freedom of movement, judicial guarantees, the right to privacy, and the right to demonstrate peacefully. Such restrictions could result in a general chilling effect, but the law was especially feared for disproportionately affecting marginalised and racialised groups. In fact, the assembly ban would violate Section 79 of the Danish Constitution and Article 20 of the UN Universal Declaration of Human Rights and risk breaching the EU Race Equality Directive and the EU Charter for Fundamental Rights. The fear for disproportionality rises from progressively hardening public rhetoric about ethnic minorities and politically labelling specific groups as troublemakers. This was, for instance, the case when Prime Minister Mette Frederiksen announced the draft law, stating that “...every fifth young man with a non-Western background, born in 1997, had violated criminal law before the age of 21”.²⁰ This statement drew a

²⁰ Civic Space Watch (2021). DENMARK: New security package risks restricting the right to peaceful assembly and discriminating against minorities. <http://civicspacewatch.eu/old/>

clear link between ethnic minorities and security concerns. It is also important to understand that the security package follows a number of other measures with the same discriminating elements. These include the 2018 Ghetto Package, which was condemned by UN experts for its discriminatory nature and has made it possible to give harsher convictions to offenders from a “ghetto”-area,²¹ a neighbourhood identified as such based on the percentage of “non-Western” immigrants and descendants. The security package and its rhetoric may well contribute to the already increasing public stigmatisation experienced by these groups. Luckily, upon adopting the law, a majority outside the government rejected the assembly ban.²² This is a victory for the protection of freedoms and for marginalised groups. It is also the result of an active civil society standing up for democratic values.²³

THE DEVELOPMENTS IN CONTRAST TO THE DANISH INTERNATIONAL OUTLOOK

Democracy and human rights are core elements of the Danish international outlook, which is also visible in the funds

[denmark-new-security-package-risks-restricting-the-right-to-peaceful-assembly-and-discriminating-against-minorities/](https://www.nytimes.com/2018/07/01/world/europe/denmark-immigrant-ghettos.html)

²¹ New York Times (2018). In Denmark, Harsh New Laws for Immigrant ‘Ghettos’. <https://www.nytimes.com/2018/07/01/world/europe/denmark-immigrant-ghettos.html>

²² European Center for Non-Profit Law (2021). Comments on the Draft Act amending the Danish Penal Code, the Act on the Activities of the Police, and the Judicial Care Act (“Security for all Danes” Act). <https://ecnl.org/news/security-all-danes-serious-threat-freedom-assembly>; Civic Space Watch (2021). DENMARK: New security package risks restricting the right to peaceful assembly and discriminating against minorities. <https://civicspacewatch.eu/denmark-new-security-package-risks-restricting-the-right-to-peaceful-assembly-and-discriminating-against-minorities/>; Civicus (2021). Denmark: Reject discriminatory “Security for all Danes” Act and respect freedom of assembly. <https://www.civicus.org/index.php/media-resources/news/4999-denmark-reject-discriminatory-security-for-all-danes-act-and-respect-freedom-of-assembly>

²³ Mellem Folkeligt Samvirke, Nyt Europa, Amnesty International (2021). Fælles hørings svar til forslag til Lov om ændring af straffeloven, lov om politiets virksomhed og retsplejeloven.

THE SECURITY PACKAGE AND ITS RHETORIC MAY WELL CONTRIBUTE TO THE ALREADY INCREASING PUBLIC STIGMATISATION EXPERIENCED BY THESE GROUPS

allocated to such work, like the democratic fund with a budget of approximately € 6.7 million.²⁴ The current strategy for development policy states, “...People have the right to live in security, to be free to think, speak and believe, to be free from oppression and free to participate in the life of their communities”.²⁵ Promoting such efforts is important work, but it is equally important to cherish and uphold these values at home. There is a risk of sounding hollow if one promotes democracy and partnerships with civil society abroad while in the Danish context certain liberties are under stress and marginalised groups are excluded and targeted.

A FINAL WORD OF RECOMMENDATION

Denmark has high standards when it comes to democratic rights and people’s participation in public life, but there are nonetheless also challenges. The deterioration of the democratic tone with a more polarised and tensed public debate as well as outright attacks on critical voices are deeply concerning.²⁶ The

²⁴ Huusmann, K.E and L. G Hendriksen (2020). Legal environment and space of civil society organisations in supporting fundamental rights - Denmark. The Danish Institute for Human Right

²⁵ Udenrigsministeriet/Danida (2021). Fælles om verdenen - Danmarks udviklingspolitiske strategi. Juni 2021, ISBN 978-87-93760-66-0

²⁶ Daily newspaper, Politiken, “Justitsministeren anklager direktør for Institut for Menneskerettighederne for at agere politisk”

challenges are, though, not only discursive as introduced legislation holds the possibility to actively curtail certain freedoms and liberties, at times even disproportionately against marginalised groups. This must be actively combatted to ensure that everyone feels part of the society and that everyone can freely engage in (civil) society and enjoy their civil liberties, both locally and nationally.²⁷

■

(“The Minister of Justice accuses Executive Director of the Danish Institute for Human Rights for acting politically”), 16 may 2021, <https://politiken.dk/indland/art8201096/Justitsministeren-anklagerdirekt%C3%B8r-for-Institut-for-Menneskerettighederne-for-at-agere-politisk>; Daily newspaper Politiken, “Hård kritik: Regeringens kamp for tryghed truer vores frihed” (“Harsh criticism: The Government’s fight for safety threatens our freedom”), 18 April 2021, <https://politiken.dk/nyheder/art8170239/H%C3%A5rd-kritikRegeringens-kamp-for-tryghed-truer-vores-frihed>

²⁷ Ad hoc group on Fundamental Rights and the Rule of Law (2020). Fundamental rights and the rule of law. Denmark – Country visit report. European Economic and Social Committee.

In early 2021, the Danish government proposed a draft law to parliament granting police the power to issue a “security-creating assembly ban” if a group of people exhibit “insecurity-inciting behaviour”. In recognising the serious repercussions for freedom of peaceful assembly rights and minority groups, CSOs Amnesty International, Action Aid Denmark and Nyt Europa came together in defence of civic space. The decision to award their initiative celebrates their successful national and international mobilisation against limitations to civic space, which culminated in parliament voting down the «security-creating assembly ban». At the same time, this story highlights the struggles that are to come in responding to stigmatising and discriminatory policies in place against migrants.

CSOS DEFEAT ASSEMBLY BAN

Challenges for racialised groups persist

Interview with Lisa Blinkenberg, senior advisor, Amnesty International, Danish Section for coalition on security package

Could you tell us about the security package and the coalition of organisations that opposed it?

We were part of a working group on civic space under the organisations called Globalt Fokus. Throughout our conversations we realised that there was a need to create a coalition to further work on civic space issues, therefore, New Europe (Nyt Europa), Globalt Fokus, ActionAid Denmark and Amnesty International united.

THEY MOVED FROM BEING CONVINCED TO QUESTIONING THE TEXT AND ULTIMATELY REJECTING IT

In October 2020, at the opening of the Parliament, the Prime minister gave her usual speech in which she mentioned the need for restrictive legislation addressing young male criminals with a non-western background. We had also heard of a briefing paper called “security for all Danes”. With these elements in mind and the general context in the country, we were expecting that there would be some type of legislation related to security and targeting young males with a non-western background.

We had a first discussion already in late Autumn, during which we agreed on the first steps of the coalition. When the legislation was published, we met again to discuss and design how we would fight it. When the legislation was then introduced on 14 January, we discussed our methodology and our analysis of the bill. We also

invited other organisations, including the Danish Institute for human rights.

Could you tell us about the restriction on assemblies proposed in the legislative package on “Security for all Danes” and the main concerns?

It was part of a broad range of restrictions and amendments under the “Security for all Danes” package. From the beginning, we decided to exclusively focus on the legislation which introduced a ban on assembling in an open access area. To illustrate the situation, it would have meant that if you are living in a small apartment and want to organise a birthday party for your children, there are chances that you could get in trouble if you select a play yard located in a forbidden area. It also raised concerns regarding the right





IT IS PARAMOUNT TO HAVE AN ACTIVE AND CRITICAL CIVIL SOCIETY IN THESE TIMES

the parliament legal affairs' committee. During that meeting, we raised our concerns and introduced our recommendations. We especially stressed the clear conflict with human rights and existing European case-law. We stressed that the UK had introduced similar amendments years ago, which were deemed to be against human rights law by the European Court of Human Rights.

To build up international pressure, we had many international organisations as well as five of the UN special rapporteurs writing a letter in which they criticised the legislation. We also had the Universal Periodic Review examination raise concerns on this legislation. Parliamentarians felt this. It was clear that parliamentarians listened as there was a clear evolution of their position from the first to the third discussion and finally, the vote. They moved from being convinced to questioning the text and ultimately rejecting it.

Could you tell us which strategies helped you achieve the impact you aimed for: the rejection of the “Security for all Danes” package?

One of the most important things that we did was start the work very early. The second is that we made sure to analyse the strategies to use for each step of our work: media, advocacy, and case-law. We also had an important joint effort and emphasised the collaboration across organisations, which cemented our efforts. The use of concrete examples was very helpful to illustrate and reach people. Additionally, the face-to-face meeting with

to privacy, freedom of movement, and the right to demonstrate. For instance, this legislation would have limited the choice of areas to hold protests regardless of its meaning or symbolic value. The law referred to “groups of whom the behaviour would threaten the feeling of security” which is very difficult to measure. This vague formulation questioned whether the law met the legality requirements as it exposes citizens to a risk of arbitrariness in the decisions of the police and to a risk of disproportionate impact on gatherings and assemblies which ultimately amounts to legal uncertainty. Additionally, it raised concerns regarding indirect discrimination against particular groups of persons, especially due to their gender, race and ethnicity.

What types of actions did you take together? To what extent did the international and European pressure contribute to the positive results?

We acted on an early stage because we were aware of the Prime Minister’s intention to draft legislation on security targeting men with a non-western appearance. To start the work, we reached out to the Danish Institute of Human Rights

and other international partners. We discussed, gathered inputs and adopted statements highlighting the issues of the legislations both in Danish and English. Then, we proceeded to the legal and political assessment of the legislation and produced a written analysis. We also received a lot of input from the European Law Centre for Non-Profit Law both on the bill itself and helpful case-law for our analysis.

We reached out to almost all parliamentarians and engaged with organisations that collaborate with parliamentarians that we could not reach. We succeeded in meeting with crucial ones who seemed very interested and willing to listen to us. They helped us arrange a hearing at

THERE HAS BEEN A HARDENING OF POLICIES ON ASYLUM SEEKERS, REFUGEES, AND IMMIGRANTS AND A RESTRICTION OF SOME OF THEIR RIGHTS

parliamentarians was very impactful as it provided interesting insiders' views. We were able to hear their recommendations and adjust ours to theirs. One example of adjustments we made in our arguments to better address parliamentarians' concerns relates to the heart of our argumentation which we changed from the discriminatory aspect of the legislation to a stronger focus on the right to demonstrate, the right to assembly and freedom of movement. This was to take into account the Danish political landscape and history.

In this case, it was important to have a solid analysis to rely on and take the time to think of the most strategic way to approach the issues. We decided to focus our efforts on building a strong judicial and legal analysis, prioritising a written

IN RECENT YEARS, WE HAVE SEEN POLICIES AND LEGISLATION ESPECIALLY TARGETING OR IMPACTING PEOPLE FROM NON-WESTERN BACKGROUND

format and engaging international actors and parliamentarians. In other cases, it might have been really helpful to engage the right holders.

Have you witnessed a securitization of the narrative in Denmark?

There have been some worrying developments and narratives circulating in Denmark. At the highest levels, the Minister of Justice made comments stating that our freedoms depend on security, against which our organisations issued a statement and organised a joint debate. The Covid 19 pandemic reinforced

the shrinking of civic space. We have seen the government using the populist us/them discourse. Moreover, there has been a hardening of policies on asylum seekers, refugees, and immigrants. Unfortunately, that is one of the reasons we shifted our focus by working mainly on the right to freedom of assembly, the right to privacy, and the arbitrary aspect of the "Security for all Danes" package. We thought about the negative consequences of less democratic countries copying the Danish developments. It is paramount to have an active and critical civil society in these times.

Could you tell us more about the legislative and political framework around civic space in Denmark?

Denmark is a democratic country with a relatively open-minded government when it comes to civil society. This is also the image conveyed by Denmark through its work abroad. The ministry of Foreign Affairs' website showcases the ways Denmark supports civil society in other countries and how they fight against shrinking civic space abroad. However, we also have a social Democrats government driven by populist narratives. On internal policies, this government has restricted certain rights for refugees, asylum seekers, and immigrants in the past years.

There can be a paradox between what Denmark is doing internally and its external policies. Denmark strongly condemned the situation for civil society in Belarus, Russia, Hungary and Poland. Even though the situations are difficult to compare to the Danish context where NGOs do not feel threatened and where there are a lot of possibilities for democratic consultations, there are contradictions.

We have seen restrictions due to the COVID-19 emergency laws, limiting people's right to assemble in larger groups. Additionally, some of the amendments that were introduced in the criminal code increased the sanctions for offences if they

IN THE ERA OF THE FIGHT AGAINST TERRORISM, RIGHTS STARTED TO GET RESTRICTED AND THE USE OF US/THEM RHETORIC HAS BEEN GROWING OVER THE PAST 20 YEARS.

were committed in connection with the COVID-19 epidemic and these provisions are still in place. For example, In March 2021, a woman received a 2-year prison sentence as she urged other protesters to "trash the city in a non-violent way" during a demonstration in January. Her sentence was doubled due to an amendment in the Danish penal code, saying that the sentence could be doubled if the action was linked to the COVID-19 pandemic. Later, the court reversed its sentencing, reducing the sentence to 60 days.¹ This remains a worrying use of the legislation and similar situations may arise. There has been a lot of criticism against these sentences. We are concerned that acts are punished twice simply because they are broadly related to the corona epidemic.² Amnesty International has opposed many of the issues introduced in the legislation due to COVID-19, especially in relation to these double standards. Our coalition wrote to the relevant parliamentarians stressing that they should look into the penal code and the restrictions due to the COVID-19 pandemic.

How were COVID 19 restrictions implemented in Denmark? Are

¹ <https://nyheder.tv2.dk/samfund/2021-06-09-to-coronasager-omgjort-i-landsretten-og-der-er-flere-paa-vej>
² <https://amnesty.dk/amnesty-mener-folketinget-bor-se-paa-lov-om-dobbeltstraf-i-forbindelse-med-epidemien/>

there groups that are more vulnerable or more affected by this legislation?

As said, there have been double standards in the implementation of the COVID 19 measures. For instance, in April 2020, a prohibition to sit in certain areas was adopted for a certain period of time. One story got media attention: a woman with a 4-year-old child was playing in a yard, she was sitting down close to him, and she received a fine because of the mentioned regulation even though there were no people in this area.³

The most vulnerable people are from non-western background. We were very much alert, particularly organisations such as ActionAid and Amnesty International, on the risk of discriminatory aspects of the legislation. In recent years, we have seen policies and legislation especially targeting or impacting people from non-western background. That is the case of the Act on social housing, the so-called ghetto package in 2018 on the basis of which residents might face double criminal proceedings and in which a ghetto is defined as a place where the proportion of immigrants and descendants from non-western countries exceeds 50%. We have also seen new policies on externalising asylum procedures, which fits in this pattern of targeting immigrants and refugees. Indeed, also with regards to

³ <https://www.dr.dk/nyheder/politik/efter-boede-til-mor-med-boern-paa-legeplads-partier-bakker-politiets-linje-op>

IT WOULD BE IMPORTANT TO HAVE DIFFERENT INTERNATIONAL ACTORS AND INSTITUTIONS WORK TOGETHER TO FOCUS ON THE ISSUES FACED BY CIVIL SOCIETY

the new security law, in her speech the Prime Minister said that this legislation was focusing primarily on a young man with a non-western background.

How is the general public reacting to this situation?

We have not done research on that aspect, so it is difficult to tell. We have a far-right party called Nye Borgerlige, which stands against refugees and asylum seekers. This party was introduced only two years ago but gained seats in Parliament very quickly, which resulted in two parties with anti-immigrants and anti-refugees' views present in the house. Therefore, there are Danes who think that refugees and asylum seekers should not be protected in Denmark but there is also a strong part of the society fighting against this trend. It remains difficult to say because there are also other issues and themes such as gender, the climate change that mobilise people.

Do organisations experience backlash from far-right groups while working on certain issues?

We have not done a lot of research on that, but I think there is a lot of hate speech on social media. On the other hand, according to my experience, there are no aggressions against organisations. It is different from the situation in Hungary and Poland or other countries where there is a strong mobilisation against people working on these themes. For instance, our organisations have worked a lot on Syria. Denmark has said that all the Syrian refugees' cases should be renewed or reopened, and we have seen strong support and mobilisation of people supporting Syrian refugees. In May, we have had demonstrations gathering 15.000 to 20.000 people in 20 cities despite Covid-19. That makes me think that there is a large group of supporters for these causes. On social media, when organisations like Amnesty International post on refugees or asylum-seekers, you

THE WELFARE STATE AND THE SENSE OF EQUALITY IN SOCIETY HAVE SUFFERED THE PAST YEARS AS THE GAP BETWEEN THE RICHEST AND THE POOREST HAS DRASTICALLY INCREASED

can be sure that there will be supporters and opposition using hate speech.

What do you think about this conflict between the open and democratic aspect of Danish civic space and, on the other side, this wave of restrictions and populist sentiment that has been growing these past few years?

We have not analysed the shrinking civic space in Denmark; however, I think it has been on its way for many years. In the era of the fight against terrorism, rights started to get restricted and the use of *us/them* rhetoric has been growing over the past 20 years. Additionally, I think there might have been a shift after the economic crisis in Denmark in 2008. The welfare state and the sense of equality in society have suffered the past years as the gap between the richest and the poorest has drastically increased, which contributed to this wave of restrictions. To respond, European governments introduced measures that participated to the shrinking of political and civic space, which is especially visible in countries such as Hungary and Poland. This had a domino effect on other countries, like

Denmark. I think all these aspects played a role in the current situation.

Could you think of practices or processes at the institutional level that could potentially be helpful in Europe?

There is more that can be done at a European and international level. The EU is a strong ally, but there are also strong actors such as the UN and the Council of Europe that could be helpful for civil society's work. As there seems to be an agreement at an institutional level about the shrinking of civic space, it would be important to have different international actors and institutions work together to focus on the issues faced by civil society. The diversity of international institutional actors is a strength, but it is underused. Another factor is providing organisations the necessary means to do their work such as a general institutional support, including with funding based on operating grants additionally to project-based ones. Indeed, it is important that all civil society organisations are supported in Europe to avoid situations, like the Hungarian one, where it is very difficult for organisations to work. ■

The interview was carried out on 12 August 2021.