





GICJ Alternative Report for the 105<sup>th</sup>  
Session of the Committee on the  
Elimination of All Forms Racial  
Discrimination (CERD)

The Review of  
**Denmark**

15 November – 3 December 2021

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# Geneva International Centre *for* Justice

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## **GICJ**

*GICJ is an independent, non-profit, non-governmental organization dedicated to promoting and reinforcing commitments to the principles and norms of human rights. GICJ is headquartered in Geneva, Switzerland, governed by the Swiss Civil Code and its statutes.*

*Basing its work on the rules and principles of International Law, International Humanitarian Law, and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for its victims through all legal means available.*

### ***Mission***

*GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring the rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.*

### ***Work in Denmark***

*GICJ has been tackling human rights issues in Denmark and other European countries since it was established. This report follows our commitment to combating discrimination in all its forms. It is hoped that our recommendations assist in guiding Denmark constructively and urgently addressing its dire situation where discrimination has become entrenched in its politics and the Government of its peoples.*



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# GICJ Alternative Report for the 105th Session of the Committee on the Elimination of All Forms Racial Discrimination

## The Review of Denmark

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### Introduction

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Geneva International Centre for Justice (**GICJ**) is committed to advancing human rights for all, firmly premised on the fundamental belief that all persons are born free and equal in dignity and rights. We view racial discrimination as a scourge on the enjoyment of human rights in its divisive effect to separate persons based on "the other." This creates unhealthy and volatile societies facing daily tensions, which can easily manifest in violence. GICJ considers the resurgence of racial discrimination in recent times as a serious threat to human rights that must be addressed urgently to match its severity.

This Alternative report follows our commitment to combating racial discrimination in all its forms and hopes to aid the Committee on the Elimination of All Formed of Racial Discrimination by providing essential information gathered through analytical researches.

It is essential today to address the rise in racial discrimination and increased social inequalities amid the pandemic. With various social responses in the wake of the health crisis, we can now observe large protests all over Western Europe questioning the Government's authority regarding the regulations imposed on its peoples. **Extremist groups** have widely used those manifestations as tools to spread unfounded theories and general hatred against specific ethnic or religious communities.

GICJ values the work of the Committee on the Elimination of Racial discrimination. We wish to contribute in every way possible and aid all human rights bodies to properly conduct their monitoring missions, despite all the obstacles faced by the ongoing worldwide crisis.

## 1. The Convention on the Elimination of Racial Discrimination

Under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 1 defines ‘**racial discrimination**’ as "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”<sup>1</sup>

Cotemporary forms of racial discrimination not only include biological differences as a reason for valuing oneself as superior. The scope of racial discrimination today needs to be widened, or else numerous forms of discriminative behaviors would not legally fall under the legal definition of the Convention. In the wake of the 2015 refugee crisis, a significant rise in racism has been felt across occidental Europe, primarily targeting Muslims of middle-eastern origins. The same pattern of resurgence is now happening with Covid-19.

Denmark has ratified the Convention on December 9<sup>th</sup>, 1971. It has since implemented countless anti-discriminatory laws per its international and European obligations and is often perceived as a model country for tolerance and democracy. Regardless, racial discrimination is still of common occurrence within its society. We welcome the country's strong consideration and acceptance of all recommendations. However, we believe that the Danish Government needs to take a more comprehensive and updated legal stand when drafting new anti-discriminatory legislation akin to many other European countries. Like technology, politics, and sciences, discrimination evolves and needs to be understood in its contemporary form. Hate speech and racial discrimination can spread like a virus and need to be given a great deal of attention before it deteriorates public opinion.

## 2. Muslims, Jews, and General Discrimination Against Religious and Ethnic Groups

### i. Muslims and Danish citizens of non-Western origins

In 2009, the ban on the wearing of face veils, such as *burqa* or *niqab*, was first raised by the Danish People’s Party (DF), a right-wing nationalist party, and was touted under the guise of promoting

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<sup>1</sup> “International Convention on the Elimination of All Forms of Racial Discrimination.” *Office of the High Commissioner for Human Rights*, n.d. Web. September 30th, 2021  
<<https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>>

integration and public safety, as well as promoting gender equality. In October 2017, the Danish Parliament proposed a “**masking ban**,” which aimed to ban all forms of face coverings in public places. The motion was later presented by the center-right governing coalition in 2018. With the majority vote in favor of the motion, the law passed, and the ban on wearing face veils in public places came into force on August 1st, 2018.

The two (large) parties in Denmark, the Social Democrats and the anti-immigration Danish People's Party agreed. The Danish Government insists that the law prohibiting the face veil is not aimed at any religion; however, it is blatantly directed at Muslim women who wear the veil in public—**an explicit form of discrimination defying the primary purpose of the ICERD**. The face veil ban is among many steps towards stricter policies against Muslims and their guaranteed right to freedom of religion **as per Article 5(d)(vii) of the Convention**. There has been an increase in general discrimination against immigrants or Danish citizens of non-Western origins. Recently, an anti-Islam and anti-immigrant racist party, called 'Stram Kurs' (i.e., Hard-Line), has freely incited antagonism towards and propagated hate speech against Muslims. Rasmus Paludan, founder of the party, and his collaborators have sought to provoke Muslims through offensive gestures considered blasphemy in Islam, including the burning of the Noble Qur'an on several occasions. He has claimed a right to these lewd gestures based on **article 71** of the Danish Constitution relating to personal freedom and **article 77** on freedom of expression. The competent authorities in Denmark allowed this act without regard to **Article 67** of the Danish Constitution, which guarantees freedom of religion. In addition, these events have taken place in areas where the majority are of immigrant origins. In **violation of Article 4 ICERD**, these actions constitute a clear incitement against an ethnic and religious group. Such actions bear the real risk of creating violence and undermining peace. There is overwhelming evidence to demonstrate the danger in which propagated and open displays of hate can materialize into actual and widespread violence.

The Danish Government has the responsibility to **protect all those within its borders from such violence. It must address and de-escalate such incidents and displays of hate through urgent action, legal consequence, and outright clear public condemnation.**

ii. Antisemitism

The term antisemitism needs always to be used with great care concerning history and the protracted Israeli-Palestinian conflict. Today, we are speaking about **contemporary forms of antisemitism**. With the current surge in antisemitism across Europe, the European Commission against Racism and Intolerance (ECRI) recently revised the 2004 **General Policy Recommendation No. 9 on preventing and combating Antisemitism**, clearly explaining today's form, with different trends observed over the past decades. Under the Council of Europe's Recommendation, antisemitism includes:

- Discrimination and Hate Speech
- Denial and Distortion of the Holocaust
- Acts of Violence
- Desecration of Jewish cemeteries, monuments, and Synagogues
- Physical assaults
- Murder and deadly terrorist attacks

It depicts that contemporary forms of antisemitism include holding Jews collectively responsible for Israeli government actions, and using the Israeli-Palestinian conflict as a pretext for Anti-Semitic violence in Europe. It, however, entails that **criticism of Israel is not per se anti-Semitic**. Since Denmark's last review, the upsurge in anti-Semitic behaviors across the countries has been little addressed, if not, not at all. According to the European Union Agency for Fundamental Rights (FRA) second survey on discrimination and hate crime against Jews in the EU, research has shown that antisemitism has drastically increased in the past years, with various forms of harassment, whether online or in person. Several acts of vandalism by neo-Nazi groups have made the news over the past years; nevertheless, the small unreported acts of persecutions and judgments should be given a great deal of Government attention. European Commission General Recommendation No.9 (revised) abovementioned portrays what legal steps should be taken to properly educate all on contemporary forms of antisemitism and sanction individuals responsible for racial discrimination.

Education is critical on this matter for all people to comprehend that Pro-Palestinian ideas and condemnation of Israeli human rights violations are not anti-Semitic indeed. At the same time, not the whole Jewish population is responsible for the actions of the Israeli Forces. The recurrence in misinformation on the proper definition of such forms of racial discrimination can become a source of violence across the country.

### 3. Discrimination in the Labour Market

Regarding employment, discrimination is also highly reflected not in law but recurring patterns among businesses. Danes with "Middle Eastern" names have a much lower rate of obtaining employment and need to send about 52% more applications to be considered for a second stage interview. The numbers increase even drastically for women in the same situation.<sup>2</sup>

Discrimination in the hiring process is a clear violation of **Article 5(d)(i)** of the Convention and **EU Directive 2000/43/EC on the principle of equal treatment between persons irrespective of racial or ethnic origin**<sup>3</sup>.

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<sup>2</sup> <https://www.ceda.nu/post/blogindl%C3%A6g-i-arbejderen-diskrimination-finde-i-flere-dele-af-det-danske-samfund>

<sup>3</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:DA:HTML>

The Government has abode by its international obligation. According to **Article 2(2) of the Act on the Prohibition of Discrimination in the Labor Market, etc. (2008)**<sup>4</sup> it is "prohibited to discriminate applicants directly or indirectly on the ground of age, disability, race, color, sexual orientation, religious belief, political orientation or national, social or ethnic origin." Sanctions resulting from such discriminatory behaviors by an employer may result in compensations and fines as per **Chapter 4 of the Act**. An issue arises regarding both parties' shreds of evidence when a violation occurs, readily justifiable by employers.

There is also a substantial lack of monitoring on the matter, given most applications are initially digital and defensible on the grounds of incompetence. Better auditing mechanisms need to be put in place, and updated legislations, with tougher sanctions to raise incentives and ease complaints processes for victims as recommended under **CERD/C/DNK/Q/22-24 para 24**.

Additionally, the Government has recently passed a new law that requires some migrants to work at least 37 hours a week to receive welfare benefits. The minister himself has stated that the law targets women from "non-Western origins." A need for assimilation governmentally justifies the enactment of this law into Danish society, while it does not consider most social and economic challenges faced by such groups. Making employment mandatory while unable to access proper job opportunities and not inconsiderate of familial responsibilities reflects the Government's aim to tighten its immigration policies as it has done over the past years.<sup>5</sup>

#### 4. Strict conditions for citizenship based on race and origins

Laws enacted as a result of significant migration fluxes are firmly entwined with racial discrimination in Western Europe. The majority of such migrants are of either African Descent or Middle Eastern Origins. This way, laws target specific races, religious groups, and ethnicities. In tandem with the refugee crisis in 2015, the criteria to apply for citizenship became more restrictive. The level of the language requirement was raised, and the length and required percentage of correct answers on the citizenship test were increased. In addition, the penalty periods for committing criminal offenses were extended, and the making of a dispensation due to mental illness became more challenging to obtain. The changes affected all pending applications at the time. Since 2018, stateless persons continue to face additional obstacles in Denmark as many do not have a passport or the necessary documents to apply for naturalization. Although there is no legal requirement for persons to have their identity proven, applicants must provide a copy of their passport and a copy

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<sup>4</sup> <https://www.retsinformation.dk/eli/lta/2017/1001>

<sup>5</sup> <https://www.bbc.com/news/world-europe-58484953>

of a permanent residence permit. This raises specific concerns for refugees who do not have these documents due to humanitarian circumstances. The situation remains worrying because of inadequate law and policy to identify statelessness and facilitate stateless persons and refugees' access to naturalization. Furthermore, family reunification with a spouse, partner, or other family members is difficult in Denmark. Even Danish origin individuals face obstacles in reuniting with their spouse from another country, as they are classified as a migrant.

## 5. Non- Refoulement

As per **para 116 – CERD/C/DNK/22-24** (State's Party Report), Denmark has implemented "*the principle of non-refoulement directly in the Aliens Act section 31 to ensure that non-citizens of are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment. The principle is also found in the Danish Aliens Act section 7, which determines that an alien will be granted asylum if they are at risk of being subject to torture or cruel, inhuman, or degrading treatment or punishment if returned to the country of origin.*" The Government's recent actions in revoking residence permits renewals of more than 200 Syrian refugees seem completely contradictory with this measure. The Government justifies removing the "temporary protection" by considering the city of Damascus 'safe'. While the country does not recognize Bashar Al-Assad's regime, it classifies the city as safe for return since no hostilities occurred in May 2018.<sup>6</sup> Additionally, the recently signed agreement with the Rwandan Government on enhanced cooperation on migration and asylum raises concerns about what the authorities genuinely plan to do to refugees in the coming years.

Transferring asylum-seekers entering Denmark to a third-party country is likely unlawful and unethical.<sup>7</sup> Such issues falling under the legal sphere of refugee law should alarm all stakeholders in the fight against racial discrimination. It targets a specific ethnic community, whether of African Descent or Middle Eastern origins.

## 6. Discrimination and Collective Punishment of Migrants

In the so-called "ghetto deal," several policies have been adopted targeting immigrants living in specific areas defined as "ghetto areas," including forcing immigrant parents to put their children (after attaining one year of age) into daycare for 25 hours a week, while at the same time ensuring that kindergartens have no more than 30% of their children from an immigrant background. In

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<sup>6</sup> <https://www.bbc.com/news/world-europe-57156835>

<sup>7</sup> <https://reliefweb.int/report/denmark/denmark-plans-send-asylum-seekers-rwanda-unconscionable-and-potentially-unlawful>.

addition, sentences for crimes committed in the "ghettos" will be doubled. Penalties must correspond with the crime committed, not be excessive or discriminatory. The doubling of sentences for the same crime committed in a specific area is entrenched in discrimination in the Danish legal system. Moreover, a whole family from the "ghettos" can be punished and evicted from their homes if a single member commits a crime. Therefore, Denmark has adopted a policy of collective punishment that violates the fundamental principle of law that innocent people must not be punished for the wrongdoings of others.

The Danish Government has implemented a strategy called "abolish ghettos by 2030" to put an end to the segregation in "ghetto areas" where the majority have a "non-western background," a frequently used term to describe primarily Muslim immigrants. Many words with negative connotations are being used to target Muslim immigrants and refugees, including "violent," "criminal," and "backward." In this regard, instead of integrating the migrants coming to Denmark, or those who have already lived there for years, the authorities are contributing to the increased segregation by using such discriminatory terms and adopting suppressive and regressive policies.

# Recommendations

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GICJ makes the following recommendation to the Government of Denmark:

- ❖ Abolish laws and policies perpetuating discrimination, including the law against veils which inter-sectionally discriminates against Muslim women and violates their freedom of religion;
- ❖ Abolish all laws and policies enabling collective punishment of persons for crimes committed by a family member, including forced evictions;
- ❖ Ensure coherent and consistent application of sentences for crimes and abolish laws and policies which would result in disproportionate or excessive punishment for crimes committed by specific groups of persons, including in areas where immigrants make up the majority of inhabitants;
- ❖ Ensure the protection of the civil rights of ethnic and religious minorities, and prohibit all acts of incitement;
- ❖ Enact a law that differentiates between hate speech and freedom of speech, and prohibit hate speech in all its forms, including against immigrants and minorities;
- ❖ Danish Government considers and updates its definition of antisemitism to its contemporary form for its citizens to better understand this form of racial discrimination.
- ❖ Suppress the status of a 'safe' city when referring to Damascus to refuse residency permits to Syrian asylum-seekers, and consider the human rights implications of returning to Syria.
- ❖ Implement laws to better monitor racial discrimination in the labor market and consider all economic and social factors before suppressing welfare benefits for targeted individuals
- ❖ Amend immigration laws to recognize the humanitarian situations which render it difficult or impossible for refugees to provide immigration authorities with passports and other documentation regarding their origins or identity;
- ❖ Implement coherent immigration policies and strategies to facilitate the naturalization of stateless persons and refugees;
- ❖ Cease and prohibit the use of discriminatory terms and rhetoric, especially by Politicians.;
- ❖ Respect and adhere to all ratified human rights treaties, particularly the International Convention on the Elimination of All Forms of Racial Discrimination.



