

POLITICO

Denmark sacrifices free speech in the name of fighting terror

Copenhagen's latest legislation shows a lack of confidence that free speech can counter terror.

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May 12, 2016

COPENHAGEN — Since 9/11 most European countries, Denmark among them, have passed one law after another to fight terrorism.

It's become easier to extradite foreign-born nationals convicted of a crime; to throw out asylum seekers and refugees; to stop people from entering if they are seen as a threat to national security.

The ability of law enforcement to fight money laundering has been enhanced, as has the police's right to search private premises. Surveillance and wiretapping have become government tools in the fight against terror.

Now the Danish government wants to establish a blacklist of foreign imams and other religious leaders. The government plans to deny entry to those who have promoted terrorism or expressed anti-democratic opinions, and criminalize vaguely defined "religious speech" that threatens morality and public order.

Promoting terror is already a criminal offense — nothing new or controversial there. What is worrying is the government's intention to criminalize anti-democratic speech and to ban foreigners from entering Denmark if they preach extremist ideas.

It goes without saying that countries have to take measures to protect their citizens and institutions against threats of violence. It is less obvious why free speech often becomes the first target for European governments who want to show the public they mean business — especially when those same governments shy away from taking the necessary steps to safeguard their external borders.

In Denmark, as in Europe more generally, there is a serious lack of confidence in the power of free speech to cope with ideological threats to a free and democratic society. According to an opinion poll in Jyllands-Posten, 55 percent of Danes are in favor of criminalizing religious speech that is seen as undermining Danish values.

Denmark's Prime Minister Lars Løkke Rasmussen made it clear that he plans to criminalize speech that goes against Danish law. This latest initiative breaks with 70 years of fighting extreme ideologies without curtailing civil liberties.

There were calls to ban Nazism after World War II, and the Danish government considered censoring a Communist daily paper and limiting the speech of Communists during the Cold War. In both cases, the government backed down and Denmark's strong democratic institutions and a vibrant civil society prevailed.

Of course, criminalizing religious hate preachers' anti-democratic speech and denying them access to the country will not turn Denmark into a repressive dictatorship. What it will do, however, is blur one of the crucial distinctions between a liberal democracy and a dictatorship.

Dictatorships use opinions that challenge the political and social order as a basis for persecution. Free societies don't — they make a distinction between words and tangible violence that is incompatible with a democratic society.

Denmark is in danger of obscuring that distinction, and removing an essential freedom: the "freedom for the thought that we hate," as former U.S. supreme court judge Oliver Wendell Holmes Jr. put it almost a century ago.

Inconsistent approach

Extremism is by definition a slippery concept. One man's freedom fighter is another man's terrorist. And what sounds like extremist hate speech to one ear may be poetry to another. Today, a law criminalizing extremist opinions may be used against Islamic radicals; tomorrow, that same law might target those who called for a ban on religious anti-democratic speech. It just takes a different political majority.

It is not particularly consistent to turn away at the border a preacher who advocates for Sharia law but to give free reign to a hardcore Nazi who praises Hitler and denies the Holocaust.

What is ironic about the present controversy is that the debate surrounding the Mohammad cartoons 10 years ago has been turned on its head.

Back then, those in favor of the freedom to mock and ridicule a religious figure stuck to their guns, and insisted there could be no limits to free expression. Meanwhile, members of the traditional left wanted to prosecute Jyllands-Posten and the responsible editors for blasphemy, and to pass tougher hate speech laws. They called the newspaper a tool used by the powerful to mock the weak and powerless.

Today, they have reversed their positions. Those self-professed defenders of free speech argue that freedom cannot be extended to supporters of the Caliphate. Essentially, they are defending the right to criticize Islam and Muslims, not free speech as such. The leftist groups that decried Jyllands-Posten for its cartoons now argue against the blacklist because those it targets represent a weak minority.

What's at stake in this controversy, and visible in similar developments across Europe, is the success of the Continent's struggle to manage cultural and religious diversity. Most politicians believe we need to promote a diversity of opinions and beliefs, but manage that diversity with more tightly-controlled speech. That is wrong. A more diverse society needs more free speech, not less. This will be the key challenge for Denmark and Europe in the years ahead. The prospects do not look bright.

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