Marie Vejrup Nielsen and Lene Kühle

RELIGION AND STATE IN DENMARK: EXCEPTION AMONG EXCEPTIONS?

Abstract

A strong relationship remains between the Danish state and the Evangelical Lutheran Church (the Folkekirke) in Denmark. This is surprising, because the relationship between church and state is undergoing changes in the other Nordic countries. Drawing on legal texts, media and parliamentary debates, and material on administrative practices in the management of religious diversity, this article will argue that few actual changes have in fact taken place in the formal framework religion and state in the period 1988–2008. The article presents the state of affairs in relations between religion and state in Denmark in 2011 as characterised by two fundamental principles; the unequal treatment of different religions and the lack of autonomy of the Folkekirke. Focusing on cases from the last decade it is argued that changes of attitude within the Folkekirke, as well as in general public and political debates on religion, may be transforming the framework for religion-state relations in Denmark

Keywords: religion-state, Denmark, Folkekirke, constitution, legislation, religious minorities

Introduction

The Swedish sociologist Göran Gustafsson, director of a joint Nordic project on religious change from 1930 to 1980, concluded in his presentation of the project’s findings that, unlike in the other Nordic countries, little had changed in Denmark in regard to church-state relations in the course of the modernisation processes taking place in this period. The Folkekirke continued to be, or had perhaps even consolidated its position as a state church; occasional discussions had not addressed the basic ‘system’ questions of church-state relations (Gustafsson 1985: 240, 1987: 155). However, in recent years a number of significant developments in religion-state relations have changed the context for the discussion on the religion-state relation, even if these changes are not associated directly with a separation of church and state. The ban on veiling for judges in 2008–9, the establishment of diocesan councils (Stiftsråd) in 2008–9, and the changes in the law on registration of births and deaths in 2009–10 are examples of new legislation affecting the relationship between church and state. Furthermore, changes in the procedures relating to the recognition of religious communities, the inauguration
of a Muslim burial ground in 2006, and the widely debated clearing of the Brorson Church (Brorsonskirke) in Copenhagen in 2009 (where the police forcibly removed a group of Iraqi asylum-seekers from the church) reflect changes taking place without any concurrent change of legislation. These developments suggest a recent shift in relations between religion and state in Denmark, but one which cannot be captured from the study of legislation alone. The aim of this article is to present the situation in 2011 in religion-state relations in Denmark, and to argue that the development from the last two decades provide examples of how the two pillars of religion-state relations in Denmark – the unequal treatment of different religions and the Folkekirke’s lack of autonomy – have come under pressure. Furthermore, the article will emphasize the importance of looking outside the specific legal context in order to understand the changes taking place in the contemporary Danish setting. Even if fundamental changes in the legal domain, such as a change in the Folkekirke’s constitution, are not currently taking place, there are examples of changes in practice and in debates which may point in the direction of new developments in the relationship between religion and state.

This article will take a sociological perspective on religion-state relations in Denmark. While particular aspects of religion in Denmark have been studied from a sociological perspective (see for instance Fibiger 2004; Højsgaard and Iversen 2005; Gundelach, Iversen and Warburg 2008), few sociological studies of religion-state relations exist. In this context ‘sociological’ entails three perspectives. First, it means taking a bird’s eye view. Research on church and state in Denmark has mostly been conducted from a legal or theological perspective, typically with a normative focus. The legal situation of minority religions has tended to be a discrete subject area researched by scholars of religion, typically with an interest in specific religious groups. Second, it entails transcending the Danish context. Discussions on religion and state in Denmark have had an inherently ‘local’ feel. Little has been published in languages other than Danish (with the exception of Christoffersen 2006; Christoffersen et al 2010), and attempts to compare the Danish situation in more detail with the European or global situation are rare (with the exception of Christoffersen et al 2010). Third, a sociological perspective means looking beyond the formal content of constitutions and church laws.

This article is based not only on legal documents, but also on material from media and parliamentary discussions, as well as material on administrative practices in the management of religious diversity. We suggest that the study program offered by Zsolt Enyedi, a political scientist from the Hungarian Academy of Sciences, Budapest, is helpful. Enyedi proposes in an introductory article to a special issue of *West European Politics* that studies of religion-state relations should include seven main headings: (1) the privileges attached to state recognition; (2) the threshold for achieving such recognition; (3) financial subsidies from the state to religious communities; (4) discrimination; (5) general attitudes of the state towards religion; and (6) church autonomy (Enyedi 2003: 225). Enyedi’s headings provide a useful framework for discussion of the religion-state relationship in Denmark today. We may add that these concepts are used descriptively rather than normatively, so that the statement that Danish policies are discriminatory is therefore not evaluative. Gustafsson’s study asked if the Folkekirke is moving towards disestablishment. The argument presented in this article is that
it is necessary to move beyond this issue. The issue of disestablishment must be placed within a larger context of relations between religion and state. The strength of the church-state relationship clearly depends on the relation of the state to other religious bodies and the state’s general policies towards religion. Furthermore, the situation of complete disestablishment is not the norm (Madeley 2009).

The article will first present the current state of affairs of the Folkekirke and religious minorities on the basis of Enyedi’s categories, and then proceed to discuss recent changes. Before moving to a description of religion-state relations, however, a brief introduction is needed. Denmark has a population of 5.5 million. In January 2011 the Folkekirke – the Evangelical Lutheran Church – has an impressive but declining membership (at the rate of 0.5 per cent every year) of 80.1 per cent of the population. Immigration by guest workers and refugees is the main reason for the current position of Islam as the largest minority religion in Denmark. It is estimated that about 4 per cent of the population has a Muslim background. This reflects an increase from about 30,000 in 1980 to about 230,000 in 2010. There are also 20–25,000 Buddhists, about 16,000 Hindus, and 5–6,000 Jews in Denmark. The largest minority religious organisation in Denmark is the Catholic Church, with a membership of 37,000 (Center for Samtidsreligion 2011).

The story so far: the Folkekirke and the recognized religious minorities to date

Discrimination? Religious freedom and religious inequality in Denmark

Discrimination, category four in Enyedi’s framework of aspects of religion-state relations, is a central aspect of religion-state relations in Denmark. By ‘discrimination’, we do not mean deprivation of religious freedom. According to section 70 of the Constitutional Act:

No person shall by reason of his creed or descent be deprived of access to the full enjoyment of civic and political rights, nor shall he escape compliance with any common civic duty for such reasons.

And at section 71 (1):

Personal liberty shall be inviolable. No Danish subject shall, in any manner whatsoever, be deprived of his liberty because of his political or religious convictions or because of his descent (Folketinget 2011).

Yet discrimination in terms of ‘differential treatment’ of religions is a basic principle of the regulation of religion in Denmark. Differential treatment is legitimated by reference to section 4 of the Constitutional Act of Denmark, which, ever since its first version in 1849, states that the Folkekirke is eligible for support from the state. Section 6 of the Act furthermore states that «The King shall be a member of the Evangelical Lutheran Church» (Folketinget 2011). This principle is often referred to in the Danish
debates as the difference between freedom of religion(s) and equality of religion(s). Other religions are implicitly mentioned in the Constitutional Act in section 67, which states that:

Citizens shall be at liberty to form congregations for the worship of God in a manner according with their convictions, provided that nothing contrary to good morals or public order shall be taught or done (Folketinget 2011).

Religious communities may, but are in no way obliged to, apply for state recognition – either as denominations, or as congregations under a denomination. There are more than 700 recognised religious congregations; 377 Christian (and Christian-inspired) churches with over 500 congregations; 22 Muslim ‘mosque associations’ encompassing about 66 congregations; 11 Buddhist organisations (with 22 congregations); seven Hindu and two Sikh congregations; three Jewish congregations, and five ‘other’ religious communities (Center for SamtidsReligion 2011), including Baha’i and Forn Sidr, the community of Nordic pagans. Applications are often rejected, but almost always for technical reasons (Geertz 2007). Jehovah’s Witnesses have been recognised since the early 1970s. Scientology has applied, but has withdrawn their application. The recognition of Nordic pagans led a group of football supporters, the Copenhagen Lads, to apply for recognition in 2004, not because they believed that their worship of Football Club Copenhagen was religious in nature, but because they felt that recognition of the pagans made it all a laugh (BT 2005). Their application was rejected, as the existence of recorded religious beliefs and formal rituals are required for recognition. A minimum of 150 members is a further requirement, as is a solid organisation and a commitment to human rights, in particular the right of the individual to leave the organisation (Rådgivende Udvalg Vedr. Trossamfund 2010). This leads us to Enyedi’s first category, privileges attached to state recognition.

Privileges attached to state recognition: the Folkekirke
The Folkekirke’s position vis-à-vis the state has been identified as somewhere «between state church and free church» (Lodberg 2005:18). The identification as a state church is due not only to the Folkekirke’s characteristic lack of autonomy, but also to its functions in relation to the state and the particular privileges that it enjoys. One function that the local church office of the Folkekirke performs for the Danish state, except in the areas of southern Denmark, which were German territory until 1920, is civil registration of all newborns, regardless of faith. Historically it was the Folkekirke that conducted civil registration of the population through its church records, but in the years after the first Danish constitution of 1849, the right and duty to register births, deaths and marriages given to the Folkekirke expanded to all recognised religious communities. In 1968, however, the duty to conduct civil registration of births was given exclusively to the Folkekirke in relation to the implementation of the Central Personal Register (CPR). This means that all newborns, regardless of the family’s religious affiliation, are entered into the central personal register through the church administration. The ‘old’ recognised religious communities retain their right to issue birth certificates.
In relation to registration of marriages, the recognised religious communities may perform weddings with civil validity if they are given authorisation by the authorities to do so (Christoffersen 1998).

Likewise, the Folkekirke is the general burial authority. Almost all burials take place in the over 2,100 graveyards of the Folkekirke, where non-members of the Folkekirke are also entitled to be buried. The municipal burial grounds in Copenhagen, Aarhus and Esbjerg are consecrated according to the Folkekirke’s rituals. A Muslim burial ground was inaugurated in 2006, whereas burial grounds owned by the Jewish community, the Reformed Church in Fredericia, the Moravian Church in Christiansfeld, and a few Free Churches have a longer history (Heinsen 2006). However, regardless of where the funeral takes place, the Folkekirke is the burial authority for all. The question whether the Folkekirke’s role in civil registration is to be considered a privilege or a burden remains, however, open. The Baptist Church and the Catholic grassroots movement Katolikker for Lighed (Catholics for Equality) have on several occasions questioned the reasonableness of this arrangement, while some voices within the Folkekirke find that it is the church serving the state rather than the reverse.

The right to conduct weddings with civil validity is historically the main privilege of the recognised religious communities, even being the defining characteristics a recognised religious group in the eyes of the state. Yet many recognised religious communities do not consider their right to perform weddings an important privilege (Kühle 2009). Following the 2004 mainstreaming and stricter temporary-residence-visa legislation for ministers and other preachers, the right to gain temporary visas for visiting foreign religious leaders has become one of the most prized privileges of recognition as a religious community in Denmark, Christian, Muslim and Buddhist alike.

Financial subsidies
The Folkekirke is funded by church taxes (€735 million, comprising 77.5 per cent of its budget in 2008) collected by the state, supplemented by a state contribution of €122 million (12.9 per cent) in 2008 (Kirkeministeriet 2010). The remaining 9.5 per cent, €90 million, consists of property revenues. Additionally, the Folkekirke benefits from a number of exemptions from general law: property tax and corporation tax, for instance.

However, many exemptions cover recognised religious communities. Religious minorities belonging to the category of recognised religious communities may, like benevolent and charitable organisations, also deduct contributions to the community – either one-off or on-going – (Ligningsloven § 8A and 12). For many religious communities in Denmark, these contributions constitute the economic foundation of their activities. Some organisations such as the Seventh-Day Adventists find this arrangement very advantageous due to the compatibility with their use of tithe donations. Others, in particular the Baptist Church and the Roman Catholic Church, have advocated introducing some kind of church tax for religious minorities, in line with the system in (for instance) Sweden. While almost all ‘traditional’ religious minorities in Denmark receive their largest contributions through tax-deductible membership contributions,
few recently established communities take advantage of this system. Of the approximately 50 recognised Muslim congregations, only three have registered to receive tax-deductible donations from their members, probably because they do not know they can (Kühle 2009). The economic foundations of religious minorities in Denmark are not publicly known, but many religious communities appear to be in a difficult economic situation.

The Folkekirke does very well from its members’ church taxes (0.44 to 1.50 per cent of a member’s income). The members (80.1 per cent of the population in January 2011) ensure that the Folkekirke is generally well-off, and media stories about expensive churches and parish buildings are a recurring theme. The problem for the Folkekirke is therefore not lack of funding, but lack of clarity about who decides how the money is to be spent (Christoffersen 2001). A proposal to clarify the economic relationship between church and state and give the church a higher level of self-determination through a federal block-grant model was part of the 2007 government agenda. However, following a committee report on the consequences of federal block grants and an invitation to turn in statements to a public hearing, the minister of ecclesiastical affairs argued that neither the church nor the governmental political parties really wanted to change. The minister of finances was informed accordingly, thereby terminating the process. This episode was in rather stark contrast to the status of other religious organisations in Denmark, which are exempt from further examination in regard to financial matters and tax issues. As Lisbet Christoffersen (2010:582) remarks, the Danish state has shown a rather high degree of trust in this respect.

Autonomy

This discussion finally brings us to the topic of autonomy. The Folkekirke’s lack of autonomy (and its almost absolute presence for recognised minority religions) is a key for understanding religion-state relations in Denmark. Church autonomy means «the right of self-determination of religious bodies. They decide freely their teachings and offices, the range of their activities and the shape of their structures» (Robbers 2001:5). The Folkekirke has no independent representational structure. The legislative body of the church is parliament, not (for instance) a synod. And though this is nowhere stated in legislation, the Queen is regarded as the head of the Folkekirke (Folkekirken 2011). Church governance is complex; taking place both at state level and at various internal levels (see Heinsen 2006 and Iversen 2010 for details). On a legislative and organisational level, the Folkekirke has very little autonomy from the state. The Folkekirke is basically without legal personality as such, and though parts of the individual congregation, for example, have personality from a legal perspective, «autonomy simply does not cover the situation» (Christoffersen 2006:115).

On a practical level, however, it is often said that «the fact of the matter is that the Folk Church enjoys a relative broad range of freedom» (Mortensen 2001:398). Internally there is a high degree of institutional flexibility in the form of, for example, voluntary (or elective) congregations (valgmenigheder), that is, congregations with a high level of self-government within the Folkekirke, and local church councils. The
Folkekirke is often described as «tolerant» (rummelig) in its encompassing of a wide range of theological opinions, from conservative to liberal positions, as well as a wide range of member types, from very high levels to very low levels of involvement. It is difficult, if not completely impossible, to exclude a member from the Folkekirke, and even though it is stated in legislation that one cannot be a member of other religious groups while maintaining membership of the Folkekirke (Lov om medlemskab af folkekirken 1991/2009), there is no process of checking. In comparison, pastors have far less freedom: they can be submitted to a court trial of their position if they are deemed to have stepped outside the confessional foundations of the church, as was the case with pastor Bent Feldbæk Nielsen. Feldbæk Nielsen was dismissed as a pastor due to the verdict of the court that his baptismal practice was not compatible with the church (Rasmussen 2010).

A perhaps surprising aspect of church-state relations in Denmark is the fact that since 1922 bishops have been elected by members of parochial church councils (Lov om menighedsråd 1922/2010). Until 1994 the minister of ecclesiastical affairs could in principle disregard the elected candidate, but this in fact never happened, a fine example of the prudence exercised by the Danish state in not interfering with church internal matters. Though church autonomy is limited under the law, its autonomy in practice is greater.

Other religious communities have historically possessed a very large degree of autonomy. They can more or less do what they want as long as they stay within the bounds of the law and morality (Christoffersen 2010:583). Some religious communities feel, however, that this high degree of autonomy primarily reflects a lack of interest by the state (Kühle 2004). It is perhaps telling that the promise made in the Constitutional Act (section 69) – that «Rules for religious bodies dissenting from the Established Church shall be laid down by statute» (Folketinget 2011) – has not been fulfilled (initially due to controversy and subsequently to loss of public interest), so that regulations were made administratively (Christoffersen 1998). Few laws therefore relate to religious minorities, and state relations to ‘other religions’ have generally been ad hoc and inconsistent (Kühle 2006).

The concepts of discrimination and autonomy are central for understanding the general attitude of the Danish state towards religion. The Folkekirke and minority religious organisations tend to be regulated very differently. The Folkekirke is for instance protected by the Holiday Act, which prohibits disturbance of the service in the Folkekirke (Hellidagsloven). Inconsistently perhaps, on the other hand all religions are in principle protected by the Blasphemy Act, §140 of the Danish penal code, which however has not led to any conviction since 1938. In general, state and political interest in both Folkekirke and other religions has been low. This is however something which is in the process of changing.
Changes in religion-state relations in Denmark

The general relations between religion and state, as presented above, have not changed in recent years. A quick overview will yield a picture similar to the one given by Gustafsson (1985): Relations between religion and state in Denmark are unchanged and unchanging. Yet change is taking place constantly in all areas of religion-state relations, and we will argue that if attention is paid to these small, often seemingly insignificant changes, a different picture may emerge.

Case 1: Civil registration

The fact that the Folkekirke conducts civil registration for all, regardless of religious adherence, is being called increasingly into question. Roman Catholics and Baptists in particular have raised critical voices. In 2004 Katolikker for Lighed (Catholics for Equality) pressed charges against the Danish state for discrimination on these grounds. The Supreme Court acquitted the state in 2007, on the grounds that civil registration is a purely non-religious administrative task undertaken by the church and therefore does not fall under the regulations of the European Convention on Human Rights concerning religious discrimination (Olsen 2008). However, this argument highlights an issue captured only with difficulty by frameworks like Eneydi’s, namely a church performing civil, administrative functions for the state, and thus actually functioning as a part of the state. Civil registration traditionally implied personal contact with the church office, but today this is often done electronically (since 2004) or by e-mail (since 2005, to an e-mail address not recognisable as the Folkekirke). From 2010 it is no longer the responsibility of parents to report a birth (L68 2009–10).4 Reporting had long been the responsibility of both hospital and parents, but double reporting was now considered redundant. From another point of view, it is clear that the change in legislation could be seen as a way to deal with criticism of the role of the Folkekirke in civil registration of non-members. Up to a point, technological development has hidden the fact that information is sent to the church office, which still functions as controller. Other new laws, such as the 2005 change (L27 2004–5II) to the law regulating name changes, clearly see the church office as an integrated part of state authority. This civil registration model has several interesting features. First, it is a continuation of a historical connection between state and church in the field of administration. As evidenced by the legislation of recent decades, neither state nor church is consistently working to diminish this connection. Secondly, the administrative function is related to the particular church structure, the parish. Civil registration thus maintains ties with a parish structure which in many other respects has lost significance, as evidenced by the redrawing of school and parish districts.

The issue of civil registration is a key indicator of the level of change in the relationship between state and church. A preliminary conclusion might again be that, on the one hand, the state has taken no official steps to change the situation. On the other hand, debates and conflicts concerning this issue, voiced primarily by the religious minorities, do seem to have influenced the process of church involvement becoming invisible behind new forms of communication. The elimination of personal contact
between individual and church office is only a change in the form of communication, not in the fact that the Folkekirke is responsible for the registration process e.g. Unsurprisingly, this strategy has not satisfied the demands of the other religious communities.

Case 2: Recognising religious minority communities

The presence of religious minorities dates back at least 400 years to when Jews, Roman Catholics and persons belonging to the Reformed Faith began to settle in Denmark. Yet only in recent years have the religious communities and their legal position really caught the attention of scholars and the public (Christoffersen 1998, 2006, 2010; Kühle 2004, 2009; Warburg 1998; Geertz 2007; Jensen 2007). The last ten years have seen a number of parliamentary debates and bills on religious issues, often initiated by the opposition and often concerning the presence of Muslims in Denmark, for example a bill about putting a ban on minarets up for referendum (B104 2009–10). Except for the 2009 ban on veiling of judges, none of these bills has received support in parliament. However, in relation to the specific status of religious minority communities, a process has taken place to renegotiate a more solid ground for the minority religious communities’ relationship to the state.

This process is twofold. The first step was a movement to weaken the Folkekirke’s traditional role as intermediary between religious minorities and the state. In 1998 an advisory board of academics was appointed to make recommendations on the recognition of religious communities. This may be seen as «a break with the tradition since 1683 (the Danish Law of Christian IV), which gave the Lutheran bishop of Copenhagen the status of adviser to the minister» (Lodberg 2000:49). The same applies to the 2007 transfer of the administration of the recognition of religious communities from the ministry of ecclesiastical affairs to the ministry of justice’s Department of Family Affairs. This transfer was in fact Birthe Rønn Hornbech’s condition for agreeing to become minister of ecclesiastical affairs: she wanted to become minister of the Church, not of other religious communities.

The second step of the process concerned the rights and duties of recognised religious communities. In 2008 the Danish People’s Party and Liberal Alliance presented a bill suggesting that the recognised religious communities should be loyal to Denmark in word and deed and should work towards integration. The background for the proposal was action taken by one of the largest religious organisations, Islamisk Trossamfund (Islamic Faith Community) (Kühle 2009). The Danish state has shown little interest in its religious minorities, but recent discussions in Denmark on the rights and duties of religious minorities indicate that the status of religious minorities can no longer be considered irrelevant, or delegated to the Folkekirke.

Case 3: Ecumenical work – church representation on a national level

Gustafsson (1987:164) noted that the Folkekirke’s lack of national representation has made ecumenical involvement more difficult. The lack of a synod or archbishop who can sign ecumenical documents has been a barrier to full ecumenical involvement. For
an ecumenical statement to be fully ratified, all members of the Folkekirke may have to be heard, a quite laborious process. Individuals within the Folkekirke have been and continue to be heavily engaged in ecumenical work, and have been involved in the founding of large ecumenical bodies such as the Conference of European Churches. The Folkekirke’s official point of contact with these organisations is the Inter-Church Council, an institution whose current form dates from 1989 with representation from all dioceses.

However, the position of the Inter-Church Council has been weak, something clearly shown by how in 1995, after a complex process of hearings at all levels of church democracy, the Folkekirken failed to adopt the Porvoo Agreement, an ecumenical statement on recognition and cooperation between Anglican and Lutheran churches in Northern Europe. In 2010, however, the Inter-Church Council overturned this decision and, in cooperation with the bishops, decided that the time had come to sign the document without repeating the process of 1995 (Folkekirkens Mellemkirkelige Råd 2010). The ratification of the Porvoo Agreement was a break with previous practice, but it was not the result of new laws or new mandates. Rather, it resulted from the new application of systems already established within the church. With the ratification of the Porvoo Agreement on 3 October 2010, the debate concerning the government of the church and increased church autonomy blossomed again, since there was disagreement over the legitimacy of the process. In acting as joint national representatives of the church, some saw the bishops’ and the council’s action as a real innovation in Danish church politics, while others saw the ratification as not legal on precisely those grounds.5

This change may be consolidated by the introduction in 2009 of diocesan councils, replacing the 1986 diocesan committee for finances. The diocesan councils give the Folkekirke a more complete hierarchy, and ecumenical work is enrolled in a steadier institutional framework. Though this in no way constitutes a formal hierarchical structure for the Folkekirke, it may be a first step in that direction.

Case 4: The clearing of the Brorsonskirke

The clearing of the Brorsonskirke (the Brorson Church) may be seen as marking a change in state attitudes towards religion. In March 2009, a group of 60 Iraqi asylum seekers who had been denied asylum sought refuge in Vor Frue Kirke (Copenhagen Cathedral) and later in the Brorsonkirke, a Folkekirke parish church in Copenhagen’s Nørrebro district, in order to demand re-examination of their cases. On the night of 13 August, the police entered the church and arrested 19 people, who were imprisoned; on 2 September some of these were repatriated to Iraq. The incident caused tremendous debate and received full media coverage. It transcended the initial debate involving mainly politicians and people representing the church, and developed into a conflict with radical left-wing groups, the so-called Autonomists, confronting the police in the streets.

The legal dimension was quite clear. There are no laws or regulations which make it possible to seek refuge from the laws of the state inside a church. Debates among the-
ologists also made clear that few believed the church to be a sanctuary from the state, mainly through the argument that in the Lutheran tradition, church space does not constitute sacred space. However, as argued by the pastors of the Brorsonskirke and those involved in a support initiative for the Iraqis, this did not mean that the church could not provide refuge in another sense, based on other arguments. There have been similar previous cases, such as Palestinians seeking refuge in a church in 1991, a case which ended with the passing of a law allowing stateless Palestinians who had been in Denmark for more than 12 months to apply for a humanitarian residence permit.

A key dimension to this debate was the discourse on the separation of religion and politics, which in the Danish context is often used to criticize pastors seen as crossing this boundary (Christensen 2010). It was no surprise that this was one of the points levelled against the pastor of the Brorsonskirke: pastors should not use the church for political purposes, and should not use arguments about love of one’s neighbour in a political context. But the argument was also raised in the context of church autonomy. Could local parish councils be exempted from the laws of the state? What if a specific parish council backed the decision to hide refugees in a church? Can church democracy overrule the decisions of the state? As the case was played out in 2010, the answer was No. The Folkekirke does not have any form of autonomy in such matters, whether at national or local level. It is not a specific domain with separate rules. The Brorsonskirke case nevertheless indicated that there are groups within the church who find it legitimate to speak out against actions taken by the state that they deem wrong, and who are willing to come forward with, for example, petitions. This might indicate that some representatives of the church are increasingly tending to act as an independent voice over against the state, and as such as an independent part of civil society rather than a part of the state system.

There has also been a change in the way in which the state responds. In contrast to the events of 1991, in 2010 the police were sent in at night, in a tense situation, providing spectacular footage for the media and fuelling unrest in the neighbourhood. While legal, this was a break with tradition, and it was taken by some as an indication that the state was in this case treating the Folkekirke as an opposing party, rather than a partner for dialogue.6

In conclusion, the Brorsonskirke incident did not bring about change at the legal level. However, a large proportion of pastors and others affiliated with the church openly argued for the church to take an independent position – a view not often heard in Danish debates. The incident contributed to discussion of the relationship between church and state, with concerns being raised on the church side about tight connections with the state – even though the situation might not have been so different even if church and state were separate.

Case 5: Same-sex marriage

In 1989 Denmark was the world’s first country to introduce legally valid same-sex unions through the establishment of registered partnership, which bestows almost the same rights on same-sex couples as marriage does on heterosexual couples. Some
pastors in the Folkekirke felt that the church should make its own gesture to mirror this move, and since 2005 it has been official practice in six of the ten dioceses to give pastors the option of bestowing a blessing on same-sex couples in registered partnerships. Following increased public interest in 2010, the ministry of ecclesiastical affairs instructed a working group consisting of various representatives from the church to make recommendations on further legitimation of the ritual. Half of the working group endorsed a full ritual for registered partnership in the church. The report was then opened up to a hearing process, but the minister of ecclesiastical affairs, who had appointed the group, did not finalise the process before her dismissal as minister in March 2011.

The issue of same-sex marriage has many elements. One issue relating to the church-state relationship is the question whether parliament’s legislative power over the Folkekirke could compel pastors to perform a ritual for same-sex registered partnerships, in the event of such a law being passed. The custom in this complex area of church-state relations is for the church to be left to examine and determine most questions for itself. This time, however, ‘business as usual’ arguments were not accepted without debate, as evidenced by for example the SF’s Kamal Qureshi’s remark that:

The Minister continues to delay the decision. And we cannot keep waiting. It does not make sense to send the report through a hearing process, as the working group consisted of representatives from the church. The church has been heard. That is why we will re-submit our proposal to end the ban that keeps pastors from performing a wedding ceremony for homosexuals. We will submit this, as soon as Parliament is in session the first Tuesday in October (Kristeligt Dagblad 2010).

Traditionally, politicians have respected internal church policies, which attempt to satisfy a broad theological spectrum of the various groups. By contrast, the process described points to growing political pressure on the Folkekirke. This, along with the discussions on ecumenical participation and the clearing of the Brorsonkirke, is for some pastors and members of the Folkekirke exposing the problematic aspects of the lack of church autonomy.

Conclusion

Using Enyedi’s categories, it has been argued that the two concepts of discrimination and autonomy are key to understanding religion-state relations in Denmark. To date the Folkekirke has been governed though parliament and the ministry of ecclesiastical affairs. Owing to the church’s involvement with, for instance, civil registration, it has often been difficult to tell church and state apart. This has, however, been seen as uncontroversial. Utilising the concept of James G. March, Gleerup in 1999 described the Folkekirke as «a protected discourse», an area of society which may be debated but whose basic existence is taken for granted (Gleerup 1999: 21). Minority religions have had the possibility of achieving recognition by the Danish state, gaining indirect financial subsidies though tax exemptions. The threshold for achieving such recognition has
been relatively low. The general attitude of the state towards religion in this period may be described as lack of interest (Enyedi 2003:225).

The last decade, however, has witnessed signs, albeit small and somewhat ambiguous, of a move towards increasing autonomy for the Folkekirke. Changes are taking place towards more independent representation of the Folkekirke at the national level, not only through new administrative structures but primarily through different applications of current structures such as the Inter-Church Council and informal bishops’ meetings. If the Folkekirke does move in the direction of becoming an autonomous religious community, clearly separated and independent from the state, this will entail a fulfilment of the promise of a constitution for the Folkekirke stated in section 66 of the Constitutional Act. Simultaneously, a movement is taking place in the direction of shaping a coherent state policy towards religious minorities.

Most evident, however, is the change in the political debate. When Birthe Rønn Hornbech was appointed minister of ecclesiastical affairs in 2007, she stated clearly that she saw her role as a servant of the church, and that her mission was to «uphold and take care of the delicate balance between state and church» (Kristeligt Dagblad 2007). When Per Stig Møller took over the ministry from Rønn Hornbech in spring 2011, he stated, to the surprise of many, that the time might have come to draft a constitution for the church, stressing, however, that the content must come from the church itself (Kristeligt Dagblad 2011). Though Møller insisted that he was not talking about changing the Constitutional Act, not everyone was equally happy about this suggestion, which would give the Folkekirke a larger measure of autonomy. A change in the Constitutional Act might entail making conditions equal for all religions in Denmark.

And few politicians in Denmark are prepared to go that far.

Notes

1 The English translation of Folkekirke is controversial, and has both political and theological implications (Christoffersen 2010:145–6). We have therefore chosen to retain the Danish word Folkekirke.

2 Enyedi includes a seventh category, influence of religion on education, which is not included in this article.

3 A distinction is sometimes made between the eleven congregations which received recognition by royal degree in the years 1849–1969 (‘anerkendte trossamfund’), religious communities which since 1970 have received the right to perform marriages of civil validity (‘godkendte trossamfund’), and religious communities, considered by tax authorities as eligible for tax exemption for donations from members. As Danish authorities have in recent years emphasised that no distinction should be made between these different categories of religious communities, this article will employ the concept of recognised religious communities to cover all groups with these kinds of relations to the Danish state.

4 The law similarly removes the responsibility of relatives to report deaths, which now only is to be done by the responsible doctor.

5 See the thematic issue of Fønix, September 2010 for the different positions in this debate.

References

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