

Denmark

Socio-Economic Rights

Constitution of the Kingdom of Denmark

Section 75 [Work]

1) In order to advance the public weal efforts should be made to afford work to every able-bodied citizen on terms that will secure his existence. 2) Any person unable to support himself or his dependants shall, where no other person is responsible for his or their maintenance, be entitled to receive public assistance, provided that he shall comply with the obligations imposed by Statute in such respect.

Section 76 [Education]

All children of school age shall be entitled to free instruction in the elementary schools. Parents or guardians who themselves arrange for their children or wards receiving instruction equal to the general elementary school standard, shall not be obliged to have their children or wards taught in elementary school.

Questions

- 1 Apart from the entitlement to 'free instruction in the elementary schools' are there any other justiciable socio-economic rights available to citizens in Denmark?
- 2 What is the general attitude within the legislature regarding the provision of justiciable socio-economic rights to Danish citizens?
- 3 There is a growing demand in Ireland from interest groups representing people with disabilities that the government should embrace a rights-based approach when making legislative provision for the needs of people with disabilities. The issue is a sharply political one in Ireland. Are there instances of similar concerns within the Danish political system?

Denmark

Freedom of Expression

Constitution of the Kingdom of Denmark

Section 77 [Freedom of Speech]

Any person shall be entitled to publish his thoughts in printing, in writing, and in speech, provided that he may be held answerable in a court of justice. Censorship and other preventive measures shall never again be introduced.

Bunreacht na hÉireann Constitution of Ireland

Article 40.6

1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

- i The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.

Questions

- 1 a) Have there been significant cases in Danish courts which have restricted, clarified, tested or expanded the constitutional provision relating to freedom of expression? Have there been many instances of people being 'held answerable in a court of justice'?
- 1 b) What are the principal restrictions on the right to free speech in Danish law?
- 2 In general terms what is the position in Danish law in relation to
 - i. Libel and slander
 - ii. Blasphemy
 - iii. The publication of seditious matter
 - iv. The publication of 'indecent' matter.

- 3 Is there a perception in Denmark that media interests have a disproportionate influence on opinion formation?
- 4 Is there a system of licensing of electronic media enterprises in Denmark (radio, television, cinema)?

Freedom of Assembly

Constitution of the Kingdom of Denmark

Section 79

The citizens shall without previous permission be entitled to assemble unarmed. The police shall be entitled to be present at public meetings. Open-air meetings may be prohibited when it is feared that they may constitute a danger to the public peace.

Bunreacht na hÉireann Constitution of Ireland Article 40.6

1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

- ii The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of the peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

2° Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

Questions

- 1 Is the right of freedom of assembly (and freedom of association) confined to citizens of Denmark?
- 2 Does the right of assembly extend to holding a stationary meeting or demonstration on a public highway, thereby restricting the right of free passage?

- 3 Are there particular legal provisions relating to public meetings, marches or demonstrations in the vicinity of the Folketinget?
- 4 Have there been any significant developments in regard to freedom of assembly in Danish case-law?

Freedom of Association

Constitution of the Kingdom of Denmark

Section 78

1) The citizens shall be entitled without previous permission to form associations for any lawful purpose. 2) Associations employing violence, or aiming at attaining their object by violence, by instigation to violence, or by similar punishable influence on people of other views, shall be dissolved by judgment. 3) No association shall be dissolved by any government measure. However, an association may be temporarily prohibited, provided that proceedings be immediately taken against it for its dissolution. 4) Cases relating to the dissolution of political associations may without special permission be brought before the highest court of justice of the Realm. 5) The legal effects of the dissolution shall be determined by Statute.

Bunreacht na hÉireann Constitution of Ireland

Article 40.6

1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

- iii. The right of citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

2° Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

Questions

- 1 Have particular associations ever been dissolved by the Danish courts? For what reasons?
- 2 How are trade unions broadly regulated in Denmark – for example are there laws regulating the number of trade unions in society, inter-union disputes, the right to disassociate, the ‘closed shop’ (where an employer requires of all prospective employees that they join a particular trade union)?
- 3 Under Danish law is an employer obliged to negotiate with a trade union or organisation of the employees’ choice in relation to terms and conditions of employment?

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