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Temasektion

Unveiling hatred

Delineating hate crime vulnerability of veiled women as a human rights issue

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Abstract: Although anti-Muslim hate crimes have been on the rise in most Western nations for decades, according to influential hate crime scholar, Barbara Perry, little attention has been given to the particular vulnerability of veiled Muslim females to such crimes (Perry 2013), thereby potentially disregarding a sustained source of human rights violations (Perry and Olsson 2009). This paper delves into Danish sociolegal reality to delineate the scope of such concern, attempting to ascertain any specific hate crime vulnerability among veiled Muslim women in Denmark. It identifies a number of preliminary empirical indications that resonate with Perry's claim, reasoning that the hate crime vulnerability of veiled women be more thoroughly scrutinized in a Danish context. However, it also argues that such hate crime vulnerability is most productively addressed, at least *prima facie*, as a tangible and principal human rights issue (Brudholm 2016) rather than in the terms of human rights violations.

A grey train passes by, tunnelling through the bleak cityscape, swiftly vanishing from sight. At a public train station somewhere near the Danish capital of Copenhagen, Hanan is waiting on the platform with a friend. The gust from the train rustles through the fabric of Hanan's niqab. As the two friends are talking, a woman suddenly approaches them. She starts insulting them, calling them "the kind of people we should just burn. Burn them, their clothes, and their families!" Hanan and her friend sternly demand that the woman leave them alone. Hanan now has her fingers wrapped tightly around the slick metallic surface of a pepper spray can concealed in her pocket. It is not the first time Hanan has been approached like this when out in

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public. Only a few months earlier, a stranger spat on her and physically assaulted her on a bus. Since that encounter, Hanan has carried the pepper spray. Back at the train station, the enraged woman grabs both Hanan and her friend by their throats. They shove her away, and she falls back for a moment. Before the woman gets to charge a new attack, Hanan brings out the pepper spray, points it at the woman, and sprays her directly in the face. Finally, the attacker yields, and they make their escape (see DIHR 2017, 48-50).

Hanan's story is one among several personal accounts of real-life encounters with hate crime in Denmark, presented in a 2017 report by the Danish Institute for Human Rights (DIHR).¹ Hanan never reported either of these two incidents to the police. Instead, she now thoroughly relies on her pepper spray, taking it with her everywhere she goes. She has also enrolled in self-defence classes, and has stopped taking public transportation altogether, getting herself a driver's license instead. But no matter what precautions she takes, Hanan says, being subjected to public abuse, even physical assaults, remains an inevitable part of being a veiled Muslim woman in Denmark: "That's why I carry the pepper spray. So, if something happens, people can get their frustrations out, and I get to go home"² (DIHR 2017, 48-50).

Delineating hate crime vulnerability

As disconcerting as Hanan's statement sounds, her perception of being at constant risk of having to endure public abuse may be symptomatic of a reality that extends beyond her individual experiences. Hence, hate crime scholar Barbara Perry argues that while most Western nations have observed significant increases in hate-motivated assaults on Muslim citizens over the past 20 years, little attention, both popularly and academically, has been paid to "the particular vulnerability of women and girls to anti-Muslim hate crime" (2013, 1). According to Perry, hate crime scholars should, therefore, further examine the potential presence of *gendered Islamophobia* whereby veiled women like Hanan, who are more readily identifiable as Muslims, "appear to be extremely vulnerable to violence motivated by their status as Muslims, but especially as Muslim women" (ibid.). And if veiled Muslim women are in fact particularly vulnerable

¹ This case is based on the anonymous account of "Hanan" in "Hadforbrydelser i Danmark – Ni Personlige Beretninger" (DIHR 2017, 48-50), adjusted to the particular format of this article.

² Author's translation.

to hate crime, it should cause concern for all who adhere to international human rights standards. Alongside co-author Olsson, Perry thus contends that hate crimes may be meaningfully regarded to constitute, in and of themselves, sustained and systematic human rights violations “motivated or intended to violate the basic rights of minority groups and individuals” (2009, 175-176).

In this paper, I review Perry’s claim of gendered Islamophobia, from both an empirical and principal angle,³ to examine whether it proves a legitimate concern in a Danish context. I depart from two points of inquiry: Do veiled women appear to be particularly vulnerable to hate crime in Denmark? And if so, to what extent may such vulnerability be considered to compromise the human rights of individual women? I investigate these questions triadically. Firstly, I consider the wider empirical and theoretical framework within hate crime scholarship that supports Perry’s first claim of an intersectional hate crime vulnerability of, respectively, Muslims, women, and veiled women (Crenshaw 1996). Secondly, I investigate which, if any, empirically observable indications of a particular vulnerability of veiled women may be found in the Danish context, examining existing available public data on both experienced, reported, and legally prosecuted hate crimes. Finally, I deliberate on the claim by Perry and Olsson that hate crimes, as a matter of principle, should be seen to constitute human rights violations, discussing the threat that hate crime vulnerability arguably presents, and how to best address this in human rights terms.

What will become apparent from this preliminary examination is that, within the Danish context, some empirical indications that support Perry’s first claim of a particular hate crime vulnerability of veiled women can indeed be identified. However, the examination also reveals a vast need for more substantial and comprehensive public data to properly determine the level and nature of this vulnerability – as well as the extent and severity of its implications. In terms of the second and more principal claim, I argue that, whilst Perry and Olsson’s use of the term “human rights violation” is potentially counterproductive when considered in light of practical access to legal litigation and redress, hate crime vulnerability is still a tangible peril to be addressed in human rights terms. However, for the sake of legal clarity, the harm that ordinary hate crimes inflict, including on veiled women, may be most fruitfully addressed not as a *prima*

³ One may here consider “the principal approach” to the debate about the status of hate crimes as human rights violations as largely focused on the very conceptualization of hate crimes - both in a formal legal sense (*de jure*) but also in conjunction with wider legal philosophical and sociological arguments (*sensu lato*). In contrast, one may consider arguments related to the *de facto* realization of such principal stances when these are deployed in legal practice.

facie case of “human rights violations”, but certainly as a “human rights issue” (Brudholm 2016) in critical need of further scrutiny.

Before embarking upon this inquiry, it should be noted that when deploying the concept of *hate crime*, it entails, as Brudholm suggests, entering into “a conceptual swamp”, its pairing of hate and crime being a notoriously contested one (2016, 33). Similarly, Walters warns of the conceptual complexities that the endeavour of distinguishing hate crimes from other crimes inevitably probes (2011, 315). Hence, one must remain wary of the concept’s inherent ambiguities, owed not only to the absence of a universally accepted definition of hatred *imprimis*, but also an overabundance of different approaches to the role that “hate” actually plays in “hate crimes” (Brudholm 2016, 33; Walters 2011, 314-315). Consequently, some scholars have opted to abandon the notion of “hate crime” altogether, preferring instead terms like “bias crime” or “prejudice crime” (McDevitt 2002, 303-304). When I choose to retain “hate crime,” despite its intrinsic convolutions, it is because I tend to agree that substitutions for “hate” will only instigate new ambiguities, nor can the gist of hatred necessarily tantamount to that inhering in “bias” or “prejudice” (Walters 2011, 314-315; Brudholm 2016, 33). But primarily, I retain “hate crime” because it is, quite simply, the preferred term in Denmark across popular and institutional settings. Therefore, I deploy an open-ended notion of “the hate” in hate crime that permits the inclusion of incidents motivated by hatred, hostility, or prejudice towards perceived aspects of the victim’s identity (Zempi 2016, 111). This conceptualization also mostly, albeit not entirely, corresponds with the general thrust of the formal legal hate crime provision in Danish criminal law. Thus, it reflects what could be termed a silent “hate”, the hateful element constituting an aggravating circumstance that may be added to a wide array of criminal acts, from outright violence to more moderate instances of abuse and harassment. Specifically, the Danish Criminal Code’s § 81.6 allows for sentence enhancements when criminal offences “have a background in others’ ethnic origin, beliefs, sexual orientation, or similar”.⁴⁵

If “hate crime” possesses the intractable capacity to push one readily into what Appadurai might call unproductive definition mongering (2004, 59), critical points can also be made about the term *veiled women*. Hence, imaginaries of “the veiled woman” have been contested as an Orientalist trope: a sexualized and

4 The Danish Criminal Code (Straffeloven), § 81.6 (Author’s translation).

5 Notably, whereas § 81.6 explicates the criminality of hate crimes, the Danish Criminal Code’s § 266 b prohibits hate speech, criminalizing “statements, through which a group of persons is threatened, mocked, or demeaned due to their race, skin colour, national or ethnic origin, faith, or sexual orientation” (Author’s translation). While this paper focuses explicitly on crimes related to § 81.6, rather than crimes related to § 266 b, they overlap insofar as the explicated protected characteristics in § 266 b coincide with those that can claim protection by § 81.6. Additionally, some official data sources on hate crimes do not differentiate but count offences under both provisions, collectively, as “hate crimes”.

exoticized caricature concocted through a fundamentally “Western” gaze (Perry 2013, 8-9). Notably, my usage of “veiled” does not aim to reproduce such conceptions. In this paper, being “veiled” simply refers to the objective presence of a wide array of coverings (including, but not restricted to, hijabs, niqabs, and burkas) that are typically perceived by hate crime offenders as identity markers of the group that they target. The decisive factor of a hate crime analysis of “veiling” is then neither the factual nor actual reality of what the object means for its wearer – in fact, offenders regularly misconstrue their victims’ identities by, for example, mistaking Sikh turbans for Muslim headwear. Rather, what is essential in the context of hate crime vulnerability is the intention of the offender to target “a veiled woman” or “a Muslim woman”, as this is what constitutes the hateful element. As with my use of “hate crime,” my hope is thus to deploy the term of “veiled women” pragmatically yet without disregarding its substantive shortcomings.

Framing “gendered Islamophobia”

According to Perry, the assaults encountered in Hanan’s case should scarcely be regarded as merely one-off incidents. Rather, Perry argues that Muslim women constitute a remarkably vulnerable group when it comes to being subjected to hate crimes and hateful abuse. Hence, Perry suggests that we may identify a broader tendency of *gendered Islamophobia* that renders Muslim women habitual victims of public harassment, even violence (2013, 1). Perry presents ample empirical evidence to support her claim. This includes a major Australian survey showing 50.4% of anti-Muslim assault victims to be female and only 44.4% to be male, a British study that establishes that women are more prone to experience religiously motivated hate crimes, and American data according to which 86.3% of Muslim women, in comparison to only 54.6% of Muslim men, have experienced hate crimes since 9/11 (ibid., 7). It is worth noting that, within hate crime scholarship, Perry is certainly not alone in implying an empirically increased hate crime vulnerability of Muslim women. For instance, Iganski and Levin refer to European data to accentuate a particular vulnerability of Muslim women (2015, XV, 4-5), just as Benier notes that we have adequate empirical proof of Muslim women’s heightened risk of being victimized by racism and public abuse (2016, 82).

While these data empirically appear to indicate a transnational presence of gendered Islamophobia, they do not immediately explain the underlying reasons for this particular hate crime vulnerability. Indeed, Perry provides her own explanation, contending that the identifiable threat against Muslim women may be ascribed to a very specific combination of animus targeting several aspects of the social identities that Muslim women are perceived to occupy by their offenders. To explain this, Perry mobilizes a term famously coined by Kimberlé Crenshaw (1996) – *intersectionality* – denoting the idea that women’s social identities may be targeted by numerous simultaneous animosities. Crenshaw originally argued that violence against women of colour should not be considered simply the sum of prevailing gender animus plus race animus but, rather, reviewed as intersecting patterns of racism and sexism that activate unique forms of oppression to be considered in their own right (1996, 363). Consequently, delineating any particular hate crime vulnerability of Muslim women must encompass both individually targeted identities as well as the ways in which these intersect and display unique compounding patterns of vulnerability.

The first vulnerability pattern emphasized by Perry is associated with being, or being perceived to be, Muslim; “being Muslim” is, according to Perry, highly socially marginalized in most non-Muslim countries. Anti-Muslim hate crimes are thus typically underpinned by “slanderous imagery and stereotypes”, framing Muslims as foreigners who should “go home” or painting them as terrorist or fundamentalist threats (Perry 2013, 1-4). In line with Perry, the prevalence of anti-Muslim hate crime remains a common subject matter within hate crime scholarship, often depicted as a systemic problem across the world. In itself, the hate crime vulnerability of Muslims appears to be intersectional. Thus, according to Zempi, rather than being targeted solely due to religious adherence, the hateful element of anti-Muslim hate crimes tends to intertwine racist and religious animosities, with offenders commonly associating victims with a broader cultural threat of “Muslimness” (2016, 111-114). Iganski and Levin agree, arguing that hate crime persecution of Muslims often entangles religious anti-Muslim sentiments with general xenophobic hostilities that paint Muslims as unwanted “outsiders” (2015, 6-8). Scholars also specifically highlight the pivotal role of publicized Islamic

terrorism to trigger retaliatory anti-Muslim hate crimes in the wake of terrorist events (Benier 2016; Deloughery et al. 2012). In these cases, racial, religious, and political anti-immigrant animosities are arguably interwoven to render Muslims “justified victims” in the eyes of their attackers (Benier 2016, 83, 91-92).

Insofar as hate crime scholarship portrays a general agreement that a particular hate crime vulnerability is associated with “being Muslim”, the gender aspect of gendered Islamophobia presents a more uneven picture. Hence, although “being female” is commonly perceived as an “obvious” victim category, it is worth noting that the role of female gender is largely under-explored within hate crime scholarship and often exempt from actual hate crime laws (Gunthel 2023; Mason-Bish 2014; Haynes and Schweppe 2020). Whilst cis-gendered females are identifiably vulnerable to certain types of crime, such as intimate partner violence, rape, and sexual assault (Gunthel 2023), Perry argues that females are also explicitly vulnerable to hate crimes (2013, 4). Iganski and Levin relatedly note that although males often numerically dominate the hate crime victim demography, just as they do offender groups, females are disproportionately affected inasmuch as they experience a more diverse range of crimes and will often suffer more substantial injuries than their male counterparts (2015, 39). Benier likewise argues that females are markedly vulnerable in that they are perceived as less likely to defend themselves or to retaliate (2016, 82). In most cases, scholars that propose a particular hate crime vulnerability of females relate it to asymmetrical gender hierarchies that force women into subordinated positions, misogynistic hate crimes here serving to maintain or reinstate females in positions of social subservience (Haynes and Schweppe 2020).

One can thus unearth a body of hate crime scholarship in which “being Muslim” and “being female” are, to varying degrees, associated with a particular vulnerability to hate crime. Still, following Crenshaw, the vulnerability of Muslim women cannot simply be summarized as the accumulated sum of these. Rather, vulnerability will reflect “the multiple subject positions they occupy” (Perry 2013, 6; Zempi 2016, 115). According to Perry, Muslim women in non-Muslim societies are thus simultaneously *racialized*, targeted by xenophobic Islamophobia, and *gendered*, targeted by misogynistic animus, constructing them as “racialized, exotic Others who do not fit the Western ideal of womanhood” (Perry 2013, 6-7). In particular, hate crime

scholarship has been preoccupied with the Muslim veil as a generator of visibility and ambiguity, exposing unique intersections of Islamophobic and misogynistic animosities. In regard to visibility, Perry and numerous other scholars argue that veils make it easier for anti-Muslim hate crime offenders to locate and identify their victims, causing veiled Muslims to be more prominent targets than their non-veiled peers (Perry 2013; Stotzer and Sabagala 2020; Benier 2016; Zempi 2016); however, although the visibility factor is undoubtedly significant, the role of the veil apparently extends beyond mere distinguishability. Namely, Perry argues that veils, in themselves, often inspire ambiguous offender motivations that frequently permeate *unveiling*: incidents in which women's veils are either forcefully removed or attempts are made to do so. Hence, unveiling can constitute, concurrently, a defensive lashing-out at a perceived fundamentalist enemy and a potentially allure-driven attempt to assert sexual dominance (Perry 2013, 7-11). Zempi concurs, arguing that veiled women are frequently victimized by unveiling when offenders feel provoked by the sight of the concealed female body. In such cases, the offender may simultaneously perceive the veil as a tacit sign of Islamic aggression, with the veiled victim herself posing the aggressor, and, paradoxically, as a sign of submissive passivity, with the veiled woman posing a willing victim of oppression in need of correction (Zempi 2016, 116-117). Thereby, hate crimes against veiled women take a multitude of overlapping forms: from retaliatory or self-defensive aggression, through sexual harassment motivated by the desire to expose the female body, to forceful and corrective victim-blaming.

Examining hate crimes in Denmark

While Perry, alongside other scholars, presents an international trend of gendered Islamophobia, another question is whether this particular hate crime vulnerability of veiled Muslim women can be empirically corroborated in an explicitly Danish context. Relevant to this, hate crimes against veiled women have occasionally been the subject of public debate in Denmark in recent years. For example, in early 2021, two attacks on veiled women, occurring approximately a month apart, were highly publicized in Danish media. In the first case, a woman was assaulted in a

parking lot in the city of Søborg. Like Hanan, she was spat on and physically and verbally assaulted by her offenders who called her “*perker* whore”⁶ while punching her repeatedly. The victim sustained severe concussion and was hospitalized as a result of the incident (Syberg 2021). A month later, the media once again reported on a veiled woman being attacked. This time, the victim had been randomly assaulted in the streets of Copenhagen by a male bicyclist who had kicked and punched her, and attempted to unveil her, while telling her to “go home” and “take her veil with her” (Ekstra Bladet 2021). In the wake of these reports, several Danish politicians called for the then Minister of Justice to produce a political plan of action to address anti-Muslim hate crimes like that already initiated for antisemitism. The Minister eventually declined this demand, stating that he “would not speculate on what causes assaults on individuals that are, for instance, veiled”, though he did encourage police to be “more attentive” to reported hate crimes (Arbejderen 2021).

Despite the palpable gravity of these individual cases, the question is whether they are indications of a particular hate crime vulnerability of veiled women in Denmark. Arguably, an obvious place to start an empirical investigation of this question is by reviewing prosecuted crimes pertaining to the hate crime provision in the Criminal Code’s § 81.6. Although there is no collated public access to all Danish criminal convictions under the provision,⁷ the Danish Attorney General published a report in 2008 that allows for some overview of hate crime case law in Denmark. Here, the Attorney General observes that the number of hate crime proceedings is relatively limited, although this is admittedly more indicative of the substantial practical challenges in recording and prosecuting hate crimes than an absence of crimes committed. In the report, ten tried cases are presented, most of which involved violence, with eight resulting in sentence enhancements (The Attorney General 2008, 8-9).⁸ Noteworthy, four cases concerned racist and anti-immigrant motives, and three exhibited variants of the “*perker*” slur, similar to the Søborg case. Furthermore, one of the ten cases specifically involved an incident of unveiling. In this case, a male offender was convicted of attacking two women, initially commanding one of the victims to remove her veil. When she refused, the offender ripped it off and subsequently punched both women. An additional sixty days of prison time was added to his sentence (ibid., 10). Since the 2008 report, a number of additional hate

6 An amalgamation of the Danish words for “Persian” and “Turk”, “*perker*” is arguably a slur commonly used to target Middle Eastern appearance which will potentially coincide with perceived “Muslimness”.

7 In January 2022, a public Danish database of judicial rulings was launched after approximately 40 years in the making. However, the content of the database is still currently limited. Therefore, a Danish case law overview has generally been obtainable only in the form of public access to rulings from the Danish Supreme Court or as additional limited access to rulings published by private providers, e.g. the Karnov Group.

8 Nine cases involved violence (cf. the Danish Criminal Code §§ 244-245), and one involved insult made against a police officer (cf. the Danish Criminal Code § 121).

crime cases have been tried in Danish courts, although there is, as mentioned, only limited public access to such case law. In tried cases since 2008, the “perker” slur is again a common recurrence,⁹ and some cases have specifically demonstrated antipathies against “Muslims”¹⁰ or “Middle-Easterners”.¹¹ However, in several of these cases, a hateful element was not sufficiently established.¹² One such example is the aforementioned case from Søborg that, to the dismay of many observers, resulted only in a conviction of violence, fueling general accusations that the Danish hate crime provision is largely inefficacious (Berlingske 2021).

Clearly, one prosecuted case of unveiling offers only limited grounds for deducing any particular hate crime vulnerability of veiled women in Denmark. Therefore, we may instead turn to data on reported crimes. Helpfully, the Danish National Police annually publish a public report on hate crimes in Denmark that may illuminate the prevalence of reported hate crimes against veiled women. The report encompasses both *hate speech* (§ 266 b) and *hate crimes* (§ 81.6) (The National Police 2021, 5), the latter being the primary focus of this analysis. In 2020, the police reported a total of 635 cases, resulting in 155 charges, most involving hate speech but also numerous pertaining to § 81.6, including 23 charges of hate-motivated violence and 18 charges of hate-motivated threats (ibid., 1, 9-12, 22). Of reported crimes, the vast majority were either “racially motivated” (360 cases or 57%) or “religiously motivated” (194 cases or 31%) (ibid., 13-15). Insofar as racial and religious motivations often intersect in hate crime targeting of Muslims, both categories could potentially prove of relevance. With regard to racially motivated hate crimes, the police refer to the “perker” slur as a common denominator (ibid., 15) but beyond this, provide few details. Conversely, in religiously motivated hate crimes, Muslims appear to be the most vulnerable religious group in Denmark. Thus, in the 2020 report, 79 of reported crimes involved Jewish victims, 25 involved Christian victims, and 87 involved Muslim victims. This increased vulnerability of Muslims is consistent with reports from previous years. In fact, throughout the police monitoring process, Muslims have been the most targeted group in relation to religiously motivated crimes (ibid., 2, 16)¹⁴. The Danish police, therefore, also conclude that Muslims are the most targeted religious minority in Denmark (ibid., 15-16)¹⁵.

Nevertheless, when it comes to the particular vulnerability

9 See e.g. Tfk 2008.866/2.

10 See e.g. Tfk 2019.549/1.

11 See e.g. Tfk 2021.69/2.

12 See e.g. Tfk 2017.859, Tfk 2008.866/2, and Tfk 2019.549/1.

13 This conviction has been appealed.

14 In cases of both racially and religiously motivated crimes, the majority of cases involve hate speech (19% for racially motivated crimes and 24% for religiously motivated crimes) (Danish National Police 2021, 12-13).

15 Police emphasize that the vulnerability of Muslims must be contextualized by the fact that this group is the largest religious minority in Denmark (Danish National Police 2021, 15-16).

of Muslim women, it is vastly more difficult to draw any empirical conclusions from the report.¹⁶ What can be deduced is solely a significant overrepresentation of female hate crime victims compared to female hate crime offenders: only 13 females were charged with hate crimes in 2020 (and 142 males), whereas 142 of reported victims were female (190 were males) (ibid., 22). Finally, the reports of previous years emphasize a number of specific hate crimes against veiled female victims as illustrative of anti-Muslim hate crime cases in Denmark. These include an incident in which a female victim was punched and choked by an offender who stated that he wanted to “kill everyone with a veil”¹⁷ (The Danish Police 2020, 20)¹⁷, and a case in which a victim was kicked and punched by an offender who demanded she “drop the veil! What are you doing here with that thing on?!” (ibid., 23).

When summing up the insights of reported hate crimes, they show a consistently increased vulnerability among Danish Muslims, but they remain fairly inconclusive when it comes to Muslim women specifically, and they do not tell us much about whether being veiled plays any definite role beyond the few highlighted cases. Furthermore, as the police note themselves, their reports capture only reported crimes, recognizing that many hate crimes are never reported in the first place (Danish National Police 2020, 8-9). Hence, a significant challenge of delineating hate crime vulnerability is that many hate crimes either never enter the system or drop out of it without being brought to conviction (Walters et al. 2018; Mason et al. 2017) – much as we witnessed in Hanan’s case. Therefore, one last place to look for the presence of a particular hate crime vulnerability of veiled women is in the available Danish data on experienced hate crimes which can capture incidents that are neither prosecuted nor reported to the police. Useful public data is here provided by the national victim surveys from the Danish Ministry of Justice. Markedly, in the most recent survey, individuals of non-Danish ethnic origin more frequently report victimization by crime in general (35.8% for respondents of non-Danish origin as opposed to 29.7% for respondents of Danish origin) and by hate crimes specifically (21.4% for respondents of non-Danish origin and 12.2% for respondents of Danish origin) (The Danish Ministry of Justice 2019, 38). The victim survey also distinctly outlines the role of gender as a victim characteristic, indicating that gender is in fact the identity aspect that most frequently

16 Although police monitoring includes “gender identity” among subcategories of sexually motivated crimes, the vulnerability of victims according to gender is yet to be discernible from existing reports (Danish National Police 2021, 7, 17). Future reports will likely entail monitoring of the newly added categories of “gender identity”, “gender characteristics”, and “gender expression”. However, it remains to be seen how the police will specifically interpret these categories, and if biological genders will be encompassed by the categories (see Gunthel 2023).

17 Author’s translation.

causes respondents to feel vulnerable (12.4% feel most vulnerable because of their gender. In comparison, 8.5% feel most vulnerable due to their ethnic origin or skin-colour). Females feel significantly more vulnerable than males (36.5% of females feel vulnerable as opposed to 23.7% of males), and they more often take precautions to avoid becoming victims of crime (58.8% for females, 41.2% for males) (*ibid.*, 32-33). Similar patterns of experienced vulnerability among females are indicated in a 2015 hate crime report by COWI, according to which 75% of self-reported, gender-motivated hate crime victims are female, while only 25% are male (COWI 2015, 53). In the COWI report, female respondents also more often report experiences of violence, whereas male respondents report non-violent experiences such as vandalism and theft (*ibid.*, 59, 62-63).

What neither of these quantitative sources reveal, however, is whether being veiled plays any particular role in actual hate crime experiences. To help elucidate this, at least qualitatively, we may return to the forementioned DIHR report on personal accounts of everyday experiences with hate crimes (DIHR 2017). Among the nine accounts in the report, four involve veiled victims, one of which was Hanan. Another story is told by Sheila, a veiled woman who was called a “terrorist” and accused of being one of “so many black immigrants... that do not know how to act in society” by an elderly Danish couple on a train. The couple eventually tossed beer at Sheila before leaving the train. Since the incident, Sheila has struggled with the persistent feeling of being judged and devalued because of her veil and skin color (*ibid.*, 32-34). A third veiled woman, Asrin, recalls her experiences of being harassed on the subway by two men who jokingly pulled and yanked at her veil. When Asrin told the two men to stop, they responded by telling her not to veil then. Asrin left the train, feeling deeply intimidated (*ibid.*, 38-39). A final case concerns Fatima, a hijab-wearing law student, who had a bucket of ice-cold water poured over her by a man in an overlooking apartment when gathering with friends in the street below. The man yelled at Fatima to “get out of here, you nigger!”, apparently targeting her and none of her non-veiled friends: “It was only me. So, I just really felt different”, Fatima recalls. She also reports a previous experience of being violently struck in the abdomen by a stranger when waiting in line at a convenience store. In this case, Fatima, like Sheila, was called a “terrorist” by her attacker (*ibid.*, 58-60).

Having now reviewed these various public data on hate crimes in Denmark, should we be concerned about a particular hate crime vulnerability of veiled women? What this preliminary investigation reveals is, arguably, at least some noteworthy indications that extend the relevance of Perry's claim beyond the bounds of hate crime theory and into Danish empirical reality. First, we can observe that "being Muslim" in Denmark is associated with consistently higher risks of being victimized by hate crime than other religious groups. Second, "being female" is associated with an increased likelihood of feeling vulnerable to hate crime, and of more often reporting experiences of the most severe forms of crime, such as violent attacks. Females are also far more likely to be the victim of a hate crime than to be the offender of one. Finally, when it comes to "being veiled", we have encountered numerous, albeit sporadic, personal accounts, media reports, court cases, and police reports of unveiling. And yet, what the data only imply rather vaguely is the importance of the veil as a motivating factor, the potentially compounding effects of being Muslim, female, and veiled, and, finally, the potentially compounding effects of religious and racist animosities in light, for example, of the common occurrence of the "perker" slur. The currently available public records on hate crimes in Denmark are simply inadequate to appreciate such intersectional aspects. Inasmuch as Perry's claim of gendered Islamophobia can, therefore, neither be conclusively confirmed nor denounced, it is blatantly clear that the hate crime vulnerability of veiled women is far too uncharted and obfuscated a phenomenon in a Danish context.¹⁸ In this sense, Perry's call for attention certainly remains warranted.

Addressing the harms of hatred

Inevitably, delineating hate crime vulnerability as a human rights concern does not only entail considering its empirical prevalence among specific groups. It must also encompass its individual impacts and how to address them – both in principle and in practice. In this regard, an initial question would be whether we should even put particular emphasis on hate crime vulnerability as opposed to other types of vulnerability to crime. Conferring this question to Iganski and Levin, we unequivocally should. They argue that a primary reason for disting-

¹⁸ See also The National Police 2021, 24; The Danish Ministry of Justice 2020, 8-10.

uishing hate crimes from other crimes is the uniquely pervasive *harms* that they inflict, discernible not only in the physical injuries but also in the comprehensive implications that tend to follow: hate violence outright “hurts more than other types of violence” (Iganski and Levin 2015, 40-42, 35). Iganski and Levin thereby contribute to a more general body of research that claims that the harms of hate crime are more severe than similar types of crime. In particular, hate crime victims appear more likely to relocate their home, avoid public places, and experience anger, anxiety, alertness, depression, social withdrawal, and sleep loss (Zempi 2016, 117; Iganski and Levin 2015, 14-15, 40-41; Walters 2018, 59-60). According to Walters, the harmful nature of hate crimes must be traced to their direct and indirect targeting of victims “because of who they are” (2018, 56), leaving the immediate victim feeling othered, alienated, and unjustly treated, but also impacting entire communities that are perceived or perceive themselves to share the targeted identity with the victim, causing them to consider their mistreatment “the norm” (ibid., 58-60).

In the case of veiled women, it would be reasonable to assume that vulnerability can have a particularly devastating impact. Perry thus argues that the omnipresent fear of hateful abuse hurts veiled women both from within and without; exacerbating the simultaneously marginalizing effects of structural gender-based discrimination as well as patterns of anti-Muslim sentiments within society at large (2013, 12-13). Zempi echoes this, arguing that the frequent threat of hate crime victimization can motivate veiled women to segregate and effectively withdraw from the public sphere. She notes that her veiled informants not only reported feelings of humiliation, shame, and unwantedness in the wake of experiencing public abuse, but often radically changed their behaviour and routines, even to the point of establishing “no-go areas” (2016, 112, 117-121). We catch a glimpse of similar implications in the experiences of Hanan, Asrin, Sheila, and Fatima; they all report feeling unwanted, singled out, and afraid after the incidents, and, as noted by Hanan, have come to consider abuse a “normal” risk. Several of them have also changed their routines, abstaining from taking public transportation, or even limiting contact with non-Muslims altogether (DIHR 2017, 10-11).

To Perry and Olsson, simply recognizing these inflicted harms is, however, not far-reaching enough. Hence, they argue

that the very phenomenon of hate crime is of such an egregious nature that it must be principally addressed as a human rights violation (2009, 180-181). According to Perry and Olsson, hate crimes are thus, inherently, motivated or intended to violate people's fundamental rights, especially those of minority citizens, and they are, thereby, meaningfully placed on the same continuum as grosser human rights violations: as "targeted", "sustained", and "systematic" violations of the victims' rights (ibid., 175-176). Essential to Perry and Olsson's argument is an emphasis on human *dignity* as a cardinal principle of the United Nations' Universal Declaration of Human Rights (UDHR), which foregrounds human beings' intrinsic and inalienable right to dignity irrespective of group membership. Conversely, persistent fears or experiences of hate crime victimization pose a constant peril that "terrorize and disempower", restricting the liberty of victims and rendering the threat against them normative, particularly when endemic in the broader culture that maligns them (ibid., 180-186). Therefore, Perry and Olsson call for "a tacit recognition of hate crime as itself a human rights violation" – a recognition that has too often been neglected by hate crime scholars in their singular focus on harms (ibid., 175-180). Insofar as veiled women are particularly vulnerable to hate crime, it will then not only "hurt" them but also compromise their fundamental rights to dignity, equality, and freedom (ibid., 182-185).

And yet, although it is straightforward to agree with Perry and Olsson that hate crimes are indeed "worthy of examination through a human rights lens" (2009: 178), there may also be grounds for not equating the harms of hate crime with those of human rights violations too readily. Thus, Brudholm (2016) remains more cautious. Specifically, Perry and Olsson seem to rely on what Brudholm terms a *dignitarian* conception of human rights according to which the claim to dignity, as pre-institutional and universal, applies to all aspects of human existence. This conception allows all "ordinary hate crimes"¹⁹ to be considered human rights violations in principle, regardless of whether or not they are committed under the aegis of the state (Brudholm 2016, 39-41; Perry and Olsson 2009, 180-181). On the other hand, one may prefer what Brudholm terms a *power-regulative* conception according to which ordinary hate crimes cannot be considered human rights violations unless they involve a discernible liability of the State or state-like actors. In this

19 In opposition to "ordinary hate crimes", certain hate crimes can be categorized as the grosser human rights violations of genocide or crimes against humanity. These may be subject to individual criminal liability in the International Criminal Court (ICC) or of state responsibility in the International Court of Justice (ICJ) cf. *Bosnia and Herzegovina v. Serbia and Montenegro* (1996, 2007).

conception, human rights serve as a practical protective tool for citizens vis-à-vis the State or similar wielders of power (Brudholm 2016, 37-39).

In the quest of delineating hate crime vulnerability of veiled women in human rights terms, the next pivotal question to pose could be what Hanan and others would ultimately stand to gain from a principal recognition of the crimes committed against them as human rights violations? While Perry and Olsson are definitely correct in suggesting that a recognition of all hate crimes as human rights violations, as a matter of principle, would constitute a symbolically and ideologically strong message to victims, a pitfall of such an all-encompassing dignitarian approach, according to Brudholm, is that human rights can lose their utility and efficacy as legal tools if invoked too broadly (2016, 37-39). In line with this argument, one could claim that Perry and Olsson conflate the moral-symbolic capacity of *human rights ideals* with the pragmatic legal capacity of *human rights law*, overlooking the often-difficult reconciliation between abstract conceptions of dignity and the real-world proficiency of human rights provisions to be deployable in legal practice (Meckled-Garcia and Çali 2006, 2-5, 31-33). With hate crime law in particular, as Heinze (2018) observes, a predominantly dignitarian approach can then be a sympathetic principal stance to take, but in practice it will often fail to sufficiently accommodate the empirical demands required to produce results within the realm of actual hate crime litigation (Heinze 2018, 100-101).

In my opinion, the accounts of Hanan epitomize such concerns in two key respects, justifying my hesitancy to assume the approach suggested by Perry and Olsson in the context of hate crime vulnerability of veiled women. First, Hanan never reported the crimes against her. Thus, what often appears to hamper the productive addressing of hate crimes against veiled women and other vulnerable groups is seemingly not a lack of formal de-legalization of the acts themselves: legislation is often in place. Rather, the most critical obstacle is that individual crimes are not captured at all, being grossly under-reported. In effect, a principal recognition of all ordinary hate crimes as human rights violations might inflate the existing practical challenges of efficiently embedding abstract human rights ideals into local realities of recording, policing, and prosecuting hate crimes – a rift that could further exacerbate existing trust deficits

between minority individuals and “the system” (Mason et al. 2017; Perry and Samuels-Wortley 2021). Second, even if Hanan had reported the incidents, it is far from certain that they could also be litigated as human rights violations. Explicitly, although the UDHR, from which Perry and Olsson derive their claim, plays a pivotal symbolic role in international human rights, it provides victims of ordinary hate crimes with limited means of obtaining actual legal redress. In practice, human rights-based litigation of ordinary hate crimes will often be restricted to cases in which states fail to observe due diligence obligations to implement preventive legislation or fail to investigate and prosecute, violating the right to an effective remedy. The European Court of Human Rights (ECtHR) has established in this context that European state responsibility extends to a duty to address and investigate discriminatory, hate-driven motives adequately, but that states are not, *prima facie*, liable for individual cases of ordinary hate crimes amongst private citizens.²⁰ By implication, although Hanan and others like her might gain a sense of principal recognition if her experiences were acknowledged as human rights violations, this recognition could lack the necessary practical justiciability to prevent it from becoming *lex imperfecta*. Or, to borrow the words of Arendt, it might only provide “naked rights” that, *de jure*, pertain to all but, *de facto*, are “empty” to many of those seeking concrete protection by their virtue (Arendt 1951, 292-301).

Insomuch as it would be counterproductive to address all ordinary hate crimes against veiled women in the formal-legal terms of “human rights violations”, this is not to say that exposure to hate crime victimization, including sustained fears thereof, will not profoundly encroach upon the ability to live freely and, ultimately, to flourish. As evidenced by the personal stories of Hanan and others, experiencing oneself as vulnerable to hate crimes is a life condition that creates tangible fears and palpable pain. Correspondingly, considerations about patterns of hate crime vulnerability unambiguously have a rightful place within the human rights discourse: hate crimes are, as Brudholm terms it, an emergent “human rights issue” (2016, 32), and one that is, to reiterate Perry’s original call, often grossly under-illuminated. There is, therefore, more than ample reason for thoroughly scrutinizing suspected hate crime vulnerability, particularly when it encompasses those already-minoritized, as is often the scope of hate crime legislation *sui generis*. As this paper has

²⁰ See *Menson and Others v. UK* (2003), *Nachova and Others v. Bulgaria* (2005), and *Šečić v. Croatia* (2007); See also FRA 2018.

implied, veiled women are certainly worth including in this regard insofar as they are potentially impacted by intersectional yet opaque patterns of hate crime vulnerability that can produce specific threats, for instance that of unveiling.

Notably, although I have identified some very preliminary indications of a particular hate crime vulnerability of veiled women in Denmark in this paper, it has merely delineated an issue; further investigation is evidently required in order to clarify the nature and comprehensiveness of the problem in a Danish context. And the need is unequivocally urgent. The harm encountered by women like Hanan alone should motivate us to strive to further unveil hatred in Denmark and beyond; to shed light upon the implications that ensue from hate crimes in order to find more efficient and productive ways of addressing what is, unquestionably, an imperative human rights issue.

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