

TREATY BODY MONITOR

International Service for Human Rights



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COMMITTEE AGAINST TORTURE 38TH SESSION, 2 - 3 MAY 2007, DENMARK, 5TH REPORT

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Information submitted to the committee

The State report

On 5 April 2005, the State party submitted the first part of their fifth periodic report covering Denmark, and on 6 May 2005, they submitted their second part of the report, covering Denmark – Greenland.¹ Denmark last came before the Committee against Torture (CAT or 'the Committee') in 2002, when it submitted its fourth periodic report for consideration. The primary report regarding Denmark proper addressed Article 3 - dealing with the negative obligation regarding the return ('*refoulement*') of a person to another State where there are substantial grounds for believing that he or she would be subjected to torture - and highlighted the provisions for compliance within the *Alien Act* under Danish law. They also gave details about various trainings for police and other officials under Article 10, disciplinary punishments under Article 11, and reiterated their position against incorporating the Convention into domestic law under Article 1.

¹ These reports are available at the Committee against Torture Treaty Body site, <http://www.ohchr.org/english/bodies/cat/>.

The list of issues

The country co-Rapporteurs (Mr Claudio Grossman and Mr Xuexian Wang) submitted a list of issues to the State prior to the session. The list focused mostly on issues relating to refugees, both as asylum seekers and temporary inhabitants of the State, and the status of individuals in the prison system, both inmates and staff. The State party provided a generous amount of information in their replies, producing a comprehensive document that ran to 48 pages.² They included statistics relating to the number of exclusion cases, or cases in which inmates are not allowed association with some (or all) of their environment, although they did not provide disaggregated statistics for young people. The list mentioned ongoing studies commissioned to report on their progress.

NGO Parallel Reports

Two parallel reports were submitted for the session. The first was from Amnesty International and focused on many of the controversial issues that the Committee brought to the State party's attention.³ These included the lack of a definition of torture in the Danish Criminal Code; the new 'protection status' of asylum seekers as not as positive as the earlier 'de facto' status; the need for a more thorough investigation of the Afghans taken from Kandahar and handed over to US custody via Danish airports; and pre-trial solitary confinement. The other report was submitted by the Rehabilitation and Research Centre for Torture Victims (RCT) in Copenhagen.⁴ The report took the form of replies to the list of issues, with 'responses' to the Committee's list of issues as the RCT believed would have been more complete or truthful. The RCT report included in its discussion: the 'de facto' status versus 'protection status' of asylum seekers; a specific case dealing with non-refoulement;⁵ a possible loophole in Danish criminal procedure resulting from using the Military Criminal Code instead of the civilian Danish Criminal Code; and criticism of the usage of solitary confinement.

Themes and issues

The delegation from Denmark was lead by Mr Kim Vinthen, the Danish Head of the Human Rights Unit. He was accompanied by other high level officials, including Mr Jens Faerkel, Minister Counsellor of the Ministry of Foreign Affairs, Mr Thomas Thordal-Mortensen, Head of Section in the Ministry of Justice, Ms Susanna Aaman, Head of Section of the Ministry of Defence, Mr Jakob Schioeler, of the Directorate of Prison and Probation services, and Mr Adam Frølund, Chief Advisor to the Ministry of Defence.

The delegation began their presentation with notes by the head of delegation, Mr Vinthen. He noted first how highly Denmark holds the Convention, and stated that the fight against torture was an area of high commitment and focus. He reiterated the State party's openness in accommodating the CAT.

Mr Vinthen also spoke about developments since the last report, specifically relating to prisons, refugees of torture, and the military. He focused more on issues of concern from previous reports, such as Denmark's

² CAT/C/DNK/Q/5/Rev.1/Add.1, available at <http://www.ohchr.org/english/bodies/cat/cats38.htm>.

³ Amnesty International, "Denmark: A briefing for the Committee against Torture". April 2007. Available at <http://www.ohchr.org/english/bodies/cat/cats38.htm>

⁴ Rehabilitation and Research Centre for Torture Victims, "Alternative Report to the list of issues (CAT/C/DNK/Q/5/rev.1)". April 2007. Accessible at <http://www.ohchr.org/english/bodies/cat/cats38.htm>.

⁵ In this case, a 15-year-old Iranian, Ashkan Panjeheighalehei, came to Denmark with his mother who was subsequently in danger to returning to Iran after news of her political activities in the country were brought to light. Directly after an attempted suicide attempt, he was handed back to Iranian authorities, who likely tortured him. The RCT claimed that Denmark had violated the European Convention on Human Rights, the UNCAT, and other international obligations, even though their actions were not deliberate. The RCT also used this case to highlight problems with the Danish asylum system.

higher inmate numbers, which he said the State was managing through electronic monitoring on some of the lower security inmates and shorter sentence times for special situations. He spoke of the new efforts made to help rehabilitate victims of torture who are seeking asylum, including expanded health care and counselling, special programmes for children, and language learning courses to help integrate into Danish society. He stated that the new Defence Command Directive against torture and other cruel and inhuman punishments was created for the armed forces, which, although it did not fill a vacuum, helped to make existing law more accessible.

Other members of the delegation presented parts of the report and list of issues that they wished to highlight. Mr Thordal-Mortensen discussed the special provision on torture in the Criminal Code, education of police officers, use of solitary confinement, use of complaints boards for police, and issues relating specifically to Greenland. Mr Schioeler described exclusion from association of prisoners, vulnerable prisoners, and treatment of prisoners under age 18. Ms Aaman clarified the delegations answers to the list of issues on 'tolerated stay' and the new protection status, as well as improved living conditions in asylum centres.

The Committee focused most on more sensitive issues, to which the delegation responded with firm positions but in a thorough and thoughtful manner. These sensitive issues included the incorporation of torture into national law; the Danish role in extraordinary rendition; and Danish soldiers accused and acquitted of torturing prisoners in Iraq.

Incorporation of definition of torture into domestic law

The country co-Rapporteur for the State party, Mr Claudio Grossman, expressed concern that the State party maintained the position on incorporating the definition of torture into Danish domestic law under Article 2, as well as criminalizing it under Article 4. Mr Grossman reiterated the Committee's counterpoint position on the matter, giving three reasons: although the current statutes in Danish law might indirectly cover torture, they might change and thus the word torture must be included; Denmark has an important leadership role and must encourage other States to take this role; and finally, including explicit reference to torture would raise consciousness of the obligations the State party faces. Mr Grossman concluded his point by stating that 'appearances matter,' and reminded the delegation that incorporation was symbolically important. The Chair, Mr Andreas Mavrommatis, also mentioned this, calling for the State party to include the definition of torture into national law.

Mr Thordal-Mortensen repeated the State's position during the second meeting, noting that the Convention not being incorporated does not mean it was not a relevant source of law. Additionally, he said that the Danish government believes that there is sufficient cover in the Danish Criminal Code, and that the Standing Committee on Criminal Matters said normal provisions on violence can be invoked for torture. However, in the list of issues, paragraphs 4, 28 and 30 mention that at the request of the Minister of Justice, the Danish Government's Standing Committee on Criminal Matters is in the process of considering a special provision on torture in the Criminal Code as well as the Military Criminal Code. Mr Grossman questioned the exclusivity of the military and civilian codes, noting that if the Standing Committee on Criminal Matters thought torture should only be mentioned in the military code, for example, this would leave an ideological gap. The delegation maintained their position that if the Standing Committee thought it prudent to change, they would, but regardless, they felt torture was covered in the current military and civilian codes. The Committee, through their concluding observations⁶, reaffirmed their call that the definition of torture should be included not only in the Military Criminal Code but also in the general Criminal Code.

Legal matters

⁶ CAT/C/DNK/CO/5, 16 May 2007. Available at <http://www.ohchr.org/english/bodies/cat/cats38.htm>.

In addition to urging the incorporation of the Convention into domestic law through an explicit definition of torture, the Committee urged other measures involving legal matters. These stemmed mostly from Article 4, which calls for the criminalisation of torture offences and delineates that appropriate penalties be attached to torture crimes.

Military Criminal Code

Mr Grossman expressed concern that under Section 36 of the Military Criminal Code, a Danish citizen was punished only if three conditions were met: a violation of international law has taken place; the act took place during armed conflict; and the crime was intentional. He asked the delegation what the rationale was behind using malice as a necessary condition of liability. Mr Frølund responded that while Section 36 only applies in the three above conditions, there are other sections of the code that cover other offences, such as Section 37 for crimes committed in public service, and Section 27, which covers gross dereliction of duty.

In several cases, the Danish authorities used the military code of discipline to process Danish soldiers in Iraq accused of alleged torture. One specific case mentioned was that of Annemette Hommel and four other military personnel who were accused of inhuman treatment in Camp Eden in Iraq.⁷ The delegation, through Mr Grossman and Mr Wang, both expressed concern that Denmark's treatment of the case—to try it as an infringement of the Military Criminal Code—was not the best approach for dealing with a possible torture case. Mr Grossman pointed out that for police and military cases, lesser charges are often pressed, which lowers accountability and invites impunity. The co-Rapporteurs urged that Denmark use such cases to help expand the case law against torture, instead of framing the issue as that of dereliction of duty. Mr Grossman insisted that perhaps including the word 'torture' in the Military Criminal Code would eliminate the need to try such cases as dereliction of duty. The delegation's response to this line of inquiry was to point out that the cases were taken to Denmark's High Court where the judges found a lack of evidence and acquitted the soldiers. Mr Frølund stressed that the acquittal was concrete and revealed no loophole in the law. The delegation also argued more generally that torture is already mentioned in the Danish Criminal Code, which applies to all Danes, and thus military law does not duplicate mention of crimes that could amount to torture, such as assault.

Statute of Limitations

Mr Grossman asked the delegation about their statute of limitations of torture crimes in their Criminal Code. He noted that of course limitations were standard legal concepts, but that some crimes are so egregious that they should not have limitations. He pointed to Article 4 (2) of the Convention, stating that torture must be 'punishable by appropriate penalties which take into account their grave nature,' as well as Article 16(2). He noted that their combined interpretation could provide the basis for arguing that because of the grave nature of torture, statutory limitations could create a violation of the Convention. Mr Thordal-Mortensen responded that the statute of limitations under 93 (a) of the Criminal Code does not apply when international law takes precedence, therefore Denmark's obligations under the Convention prohibit using a statute of limitations on torture crimes. Nevertheless, the Committee reaffirmed in their concluding observation number 11 that Denmark should review its rules and provisions regarding its statute of limitations to ensure that it is fully in line with the obligations outlined in the Convention.

Extraordinary rendition

The delegation expressed concern at Denmark's complicity in torture through allowing use of their airports to carry out renditions. Mr Grossman pointed to Article 16 (2) of the Convention, noting that Denmark's position could constitute violations against the prohibition of torture. The specific incident which led the discussion was the use of two Danish airports in the rendition of Afghans. Mr Grossman first raised this point, asking the

⁷ <http://www.whatnextjournal.co.uk/Pages/Politics/Denmark.html>.

delegation if they honoured the report and recommendations provided by the European Parliament on this matter. Mr Wang requested follow-up information, asking what the fate of the 34 Afghans was. In response, Mr Vinthen first generally discussed the Danish side of the story. He mentioned a documentary called 'Secret War' that claimed the Danish government did not fulfil its obligations under the Third Geneva Convention on the treatment of prisoners of war (POWs). Because of this, the Government investigated and found that the information existing at the time was that the US policy was to treat their prisoners humanely, regardless of the status of the prisoner. Since Article 12 of the Third Geneva Convention only asked that transfer of POWs be safe and Denmark had the information that they would be treated humanely, the State did not violate its obligations. The delegation also specified that no ill-treatment of the Afghans handled in Danish airspace was recorded. In response to Mr Wang's question regarding the fate of the prisoners, he said that 3 were flown to a US camp and released the same day. The other 31 were also 'handed back' after it was discovered that they were allies of the Afghan government. Mr Vinthen also ensured that when allegations of mistreatment were made, the Danish government called the US government and asked for confirmation that the Afghans had been released. The US government then confirmed that all prisoners had been released within 72 hours. In its concluding observation number 13, the Committee reminded that the State party should ensure that it complies with Article 3 of the Convention in all circumstances, and therefore should make itself aware of any real risk of torture that faces detainees under their responsibility.

In response to Mr Grossman's question about the European Parliament's recommendations, Mr Vinthen responded that Denmark has always been against violating the rights of detained persons. He reminded the Committee that Denmark had not been mentioned by the Council of Europe's report as a country where such activities took place. He ensured that Denmark takes all recommendations from the Council of Europe seriously.

Solitary Confinement

A prominent concern in the periodic report, list of issues, oral presentation of the report and Committee questions was the use of solitary confinement or 'exclusion' in prisons. The periodic report mentions exclusion, or 'solitary confinement of convicted offenders' in paragraphs 91-93, and provided statistics about the numbers of cases, but not on the degree of association allowed. The report stated in paragraph 93 that "it is possible to be excluded from association and still have the opportunity to associate with one or more inmates in the same situation." The delegation maintained that it took the matter seriously and was undertaking reviews of their practices to ensure compliance with their treaty obligations. The Committee had asked for statistics about cases where inmates might associate with other inmates during solitary confinement (Question 10) and specifically juveniles (Question 11), and Denmark provided them in paragraphs 38-47 and 48-61 respectively. For adults, the percentage of inmates in solitary confinement that were allowed association went from 10% in 2004 to 11% in 2005, but for long-term solitary confinement of more than 28 days, 25% of inmates were allowed association. However, the Committee was concerned that 75% of inmates given long term confinements did not enjoy privileges of association. Mr Schioeler reminded that 'some association would be contrary to the point of exclusion,' and reiterated the Denmark believes that solitary confinement is part of a responsible corrections programme. Other more specific categories of confinement are detailed below.

Juvenile solitary confinement

Ms Sveaass noted that the limited number of juveniles subjected to solitary confinement was a positive development, but reminded the Committee that in point (d) of their Question 11, the State party sought the eventual abolition of solitary confinement for juveniles. She referred to the applicability of the Convention on the Rights of the Child on this matter, and asked if there were plans to abolish the practice completely for children. To this specific concern, the delegation replied that they understand the vulnerability of children, but maintained that they establish strict criteria for use of confinement on juveniles, and noted that five or less

such inmates were placed in solitary confinement each year since 2002.⁸ The replies to the list of issues also mentions the review of juvenile solitary confinement undertaken by the Standing Committee on Administration of Criminal Justice, who shortened the maximum confinement for juvenile detainees from 8 weeks to 4 weeks, and amended the reasons for confinement only when ‘exceptional circumstances make it necessary’.⁹ In the second meeting, Mr Schioeler expanded upon the special considerations juveniles were given, referring to mandatory hours of ‘activation’ each day. He explained that this includes regular and long visits with medical staff, clergy, and other professionals. Once a week, the director of the prison must meet with the juvenile and prepare the week’s ‘activations’ together with him or her. Mr Vinthen confirmed that the government is aware of the vulnerability of juveniles, but reminded that control mechanisms have been added where higher officials must confirm a request for confining a juvenile. The Committee, in its concluding observation number 14, stated that the solitary confinement of juveniles should be restricted to the most exceptional cases, and eventually should be eliminated.

Pre-trial solitary confinement

Initial concerns regarding pre-trial confinement included detaining asylum seekers during their processing, and whether terror suspects might be subjected to such confinement, which had no clear limit of duration. Mr Wang voiced this second concern, and added that although investigation into terrorist activities should not be compromised, suspects must still enjoy respect. Mr Wang reiterated his concern in the second meeting, clarifying that he would like to know if a limit existed with regard to Chapters 12 and 13 of the Danish Criminal Code relating to solitary confinement. Mr Thordal-Mortensen responded that there was no limit of duration, but the very high hurdles necessary to prescribe solitary confinement acted as a protective measure. Regarding the detention of asylum seekers, the delegation wrote in their replies to the list of issues that there exists two separate systems of rules for detaining asylum seekers: remand of an alien into custody, and deprivation of liberty of an alien by administrative decision.¹⁰ The replies to the list of issues state, and the Ms Aaman reiterated, that the longest stays occur when a rejected asylum seeker returns to Denmark. Shorter periods of detention occur mostly during the pre-trial phase. Despite rationales, the Committee remained concerned about the practice of solitary confinement, especially in pre-trial cases, and stated in its concluding observation 14 that it should be used only in extreme circumstances and as a last resort. Additionally, the concluding observation specified that the use of solitary confinement should ensure respect for the principle of proportionality.

Non-citizens, refugees and asylum seekers

This was an area of concern in the periodic report, replies to the list of issues, and also in the dialogue of the session. The consideration focused primarily on the conditions of the asylum seekers during their stay; the length of their stay; the due consideration of reasons for asylum in humanitarian concerns, for example fleeing political persecution; and children of asylum seekers.

Citizenship for victims of torture

The Committee inquired as to whether it was possible to grant citizenship to victims of torture. Mr Wang introduced the topic and referred to the parallel report of Amnesty International, which called for a reintroduction of the ability to exempt those with post-traumatic stress syndrome (PTSD) from certain standard citizenship requirements, as the syndrome can affect an individual’s ability to learn new languages and increases the chances that they will freeze under the pressure of a language and cultural test, necessary for citizenship. Denmark used to grant such exemptions, but no longer does. The delegation, through Ms Aaman, responded that they felt it was a high priority for new citizens to be comfortable in the Danish language, and

⁸ CAT/C/DNK/Q/5/Rev.1/Add.1. Paragraph 48

⁹ Ibid, paragraph 51.

¹⁰ CAT/C/DNK/Q/5/Rev.1/Add.1. Paragraph 134.

that it was up to the Parliament to adjust the laws. She said that it was still possible to ask for exemption from the requirements, but that it would be executed on a case-by-case basis.

Legal status of non-citizens

The Danish delegation had informed the Committee about new or updated legal statuses for aliens, for which the Committee needed clarification. First of all, instead of the previous ‘de facto’ status of aliens, Denmark's revised *Aliens Act* described a ‘protection status’, which they stated was in line with the relevant international conventions, such as the *Refugee Convention*, the *UN Convention against Torture*, and the *European Convention on Human Rights*. While the old ‘de facto’ status went beyond the obligations in the *Convention regarding the Status of Refugees* by granting residence permits for a broad list of reasons,¹¹ the new ‘protection status’ removes such generosity from the wording under section 7 (2) of the *Aliens Act*, stating only that a residence permit is issued to a non-citizen if he or she risks the death penalty or being subjected to torture or inhuman or degrading treatment upon return to their home country. To comply with international agreements to which Denmark is a party, the *Aliens Act* states that protection will comply with the relevant decisions on Article 3 of the European Court of Human Rights (regarding ‘*non-refoulement*’).¹²

However, the parallel report provided by Rehabilitation and Research Centre for Torture Victims (RCT) claimed that the old status actually allowed asylum status to be extended to a much broader group of persons, including those victims of rape who felt they might be subjected to persecution in their home country but when this fear was ‘no longer objectively founded.’¹³ Mr Grossman made a vague reference to this in his first set of comments. He asked Denmark if they attached significance to the Council of Europe recommendations the State had signed regarding persons fleeing their country due to armed conflict. The Committee, however, did not question the delegation further after they said their new measure was in compliance with international standards. The RCT report claimed that the fact that the new Section 7(2) required the Danish authorities to observe the jurisprudence of the European Court of Human Rights would be difficult to carry out in practice, since the Court has passed only a limited number of judgements concerning Article 3.¹⁴ The RCT report cites that this new ‘protection status’ has had the desired effect of limiting refugees, and that the most adversely affected are those fleeing from armed conflicts, but where the case is not ‘crystal clear’ whether a refusal would amount to a violation of ECHR Article 3.

A second area of concern regarding legal status was that of the ‘tolerated stay’. This status is reserved for persons not granted a residence permit, but who cannot be sent back to their home country for fear of persecution. This status then suggests a temporary placement, where Denmark is hesitant to accept the person into Danish society but has a positive obligation to not allow them to be subjected to *refoulement*, or sent where they would be subjected to torture. While the Danish delegation maintained their legal case for having a separated status for those persons rejected asylum but remaining in the country, the Committee remained concerned about this category. Mr Mariño Martínez asked about the legal status of persons on ‘tolerated’ stays. He wondered about their basic human rights, specifically those of children in this category. Ms Aaman responded that aliens who live on ‘tolerated stay’ have the same rights as rejected asylum seekers. Although they stay at ‘detention centres’, they still have the same rights, including for example the right to education for children. They do not need residence permits according to Ms Aaman, and despite being ‘undesired’ in Denmark,¹⁵ they are allowed to live in settings that ensure their basic rights are protected.

Quality of life

¹¹ CAT/C/55/Add.2, 21 September 2000, paragraphs 5 and 6.

¹² CAT/C/81/Add.2, paragraphs 9 and 10.

¹³ Rehabilitation and Research Centre for Torture Victims Report, p 5.

¹⁴ Ibid.

¹⁵ Ibid, Paragraph 5. Denmark reasoned that some of these persons are violent criminals, but due to Denmark's international obligations, they cannot be sent back, so they are kept in Denmark under these specified terms.

A related issue was the conditions for various categories of non-citizens during their processing time in Denmark. The Committee expressed concern regarding several aspects of temporary places for asylum seekers and rejected persons, whether asylum or detention centres. A central concern surrounded the living conditions in asylum centres. The Committee had formulated a question on the list of issues regarding living conditions, but no written answer was provided.¹⁶ Ms Aaman responded to this on the first day, discussing the ‘accommodation centres’ as having access to voluntary work, health services, educational services, and improved physical surroundings. She also mentioned social activities provided for those who are rejected. For children, she outlined mother tongue schooling, excursions, and medical treatment. Despite the measures being taken to improve the living conditions and activities, the Committee remained concerned about unduly long waits in asylum centres. The Committee urged in its concluding observation 17 that the State party consider these long waiting periods when providing services to asylum seekers.

Disappearances of children

Another issue dealing with life for aliens was the phenomenon of disappearances of unaccompanied children from asylum centres. The Committee included this as a question in the list of issues.¹⁷ Although the delegation wrote that the centre welcoming unaccompanied minor asylum seekers (centre Gribskov) was well run by competent staff, they conceded that 62 children had disappeared in 2006. The delegation outlined their procedures for notifying police after 12-24 hours, unless there was more reason for concern. They also discussed two cases in which trafficking had been found for groups of Chinese children, which led to convictions for smuggling human beings. Ms Aaman ensured that Denmark was taking measures to improve the situation, for example taking finger prints and photos upon arrival to facilitate searches, and monitoring children who are suspected to attempt flight.

Nyborg Prison riot

Another issue discussed in session was a riot that had taken place at the Danish prison of Nyborg on 15 December 2004.¹⁸ Mr Wang asked about various statistics, including how long involved persons were detained, how many arrests were made, and whether any complaints were made against the security staff. Mr Thordal-Mortensen replied that 850 persons were arrested, 200 were remanded in custody, of which 25 are still in custody and 3 were convicted and sentenced to 6 months prison. He stated that he could not give statistics about the number of complaints received because they are still in the process of being received and it is a ‘sensitive’ subject in the media. He did say that most complaints had to do with noise and areas closed-off to traffic on account of the incident. Mr Wang asked a follow-up question about the impartiality of investigations, to which Mr Thordal-Mortensen replied that although the police complaints boards are independent, due to complaints about independence, the current system is under review.

Greenland

The State produced a separate periodic report dealing only with Greenland, as Denmark continues to control Greenland’s foreign affairs despite the home rule that has been in practice since 1980. The only issues generating debate included the use of solitary confinement, detention for indefinite periods, and the general status of Danish law and regulation in Greenland. Ms Belmir asked about detentions, particularly solitary confinements, in Greenland, since it appears that there is no legal text officially governing such actions there. She asked if Greenland would be covered by laws about due process that are in place in the Danish system. Mr Thordal-Mortensen responded that there are laws governing detention and confinement. Danish rules were used as models for the new *Greenlandic Administration of Justice Act*, which is currently being drafted. The Committee urged in its concluding observation 18 that Denmark should expedite the ongoing drafting and

¹⁶ CAT/C/DNK/Q/5/Rev.1/Add.1 Question 28.

¹⁷ Ibid, Question 30.

¹⁸ Ibid, Question 13, Paragraphs 72-85.

adoption of the *Act*, as well as a Special Criminal Code. They also asked that the provisions of these new acts be in full conformity with the Convention and other international standards. The decision to order solitary confinement comes from Greenlandic police, but must meet with restrictions. For example, the detainees must be judged to be stable through a mental examination beforehand. Mr Thordal-Mortensen also stated that solitary confinement was mostly used in cases of narcotics, but did not explain further. Ms Belmir clarified that in the *Greenlandic Administration of Justice Act*, there was no provision for solitary confinement and stressed that such gaps of 'non-law' concerned her. Mr Thordal-Mortensen clarified that he spoke to a member of Greenland's home rule government who said that there would be new provisions covering solitary confinement in Greenland based on Denmark's rules. He also noted that Criminal Code does meet the requirements of the Committee, and thus the delegation does not see any void in the legislation.

Other issues

Other concerns the Committee expressed were over treatment of detainees and the impartiality of investigations. In particular, one case was discussed regarding the death in police custody of Jens Arne Ørskov in June 2002. The Committee had asked about the case and investigation in the list of issues (Question 22), but the replies were not in-depth, stating only that the Director of Public Prosecution had dealt with a complaint about the handling of Ørskov's case and had determined that there were no grounds for further action on the matter. When asked for more details about the investigation during the session, Mr. Vinthen responded that he could not comment as the case was pending before the High Court. In its concluding observation number 15, the Committee asked that the State party expedite the ongoing review process and provide the Committee with detailed information on the results.

Conclusion

While initially the tone of the Committee was rather harsh, as led by Mr Grossman's comments about the lack of a definition of torture in domestic law, as well as the value the State party gave to the Council of Europe's recommendations regarding rendition, the dialogue was open and constructive. The Committee made sure that their opinion that solitary confinement should be made completely illegal was voiced, but did not push the delegation after they noted their position, although they did restate their concerns in the concluding observations. The Committee made sure to credit Denmark for their leadership position against torture, mostly because of their efforts in bringing about the OPCAT.

In other treaty bodies, committees have made recommendations in their concluding observations on matters relevant to Denmark's session with the Committee Against Torture. The Committee on the Elimination of All Forms of Racial Discrimination discussed the matter of asylum seeker appeals to the Refugee Board.¹⁹ In the Human Rights Committee, asylum seekers were also the topic of a recommendation that such persons received legal representation for free if needed.²⁰ Another area of concern for other committees was asylum-seeking children. The Committee on the Rights of the Child expressed concern over the disappearances of children from reception centres, recommending that the State party undertake a study about unaccompanied children who disappear from reception centres, and the outcome of the study should guide the State party in respecting the rights of these children.²¹ Finally, the CRC recommended that unaccompanied children be afforded legal representation.²²

¹⁹ CERD/C/DEN/CO/17, 19 October 2006; paragraph 13.

²⁰ CCPR/CO/70/DNK, 15 November 2000, paragraph 17.

²¹ CRC: CRC/C/DNK/CO/3, 23 November 2005, paragraphs 52 and 53.

²² *Ibid*, para 4.

The session ended with the President of the Committee thanking the State party for their ‘very good report...and even better replies’, adding that the session had paved the way for even more improvements for people in Denmark. The State party is invited to submit its seventh periodic report by 30 June 2011.

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