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**PROMOTION ET PROTECTION DE TOUS LES DROITS DE L'HOMME,
CIVILS, POLITIQUES, ÉCONOMIQUES, SOCIAUX ET CULTURELS,
Y COMPRIS LE DROIT AU DÉVELOPPEMENT**

**Rapport du Rapporteur spécial sur la torture et autres peines ou traitements
cruels, inhumains ou dégradants, Manfred Nowak***

Additif

MISSION AU DANEMARK**

* Soumission tardive.

** Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué dans la langue originale et en anglais seulement. L'appendice est distribué tel quel.

Résumé

Dans le présent rapport figurent les conclusions et recommandations que le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants a formulées à l'issue de la mission qu'il a effectuée au Danemark, du 2 au 9 mai 2008.

Le Rapporteur spécial a salué le rôle dirigeant joué de longue date par le Danemark – notamment au sein du Conseil des droits de l'homme et de l'Assemblée générale, ainsi que de l'Union européenne – dans la lutte mondiale contre la torture. Il a noté en outre que le pays apportait depuis longtemps un appui généreux à la société civile, tant au niveau national qu'à l'étranger, en particulier dans le domaine de la réadaptation des victimes de torture. Au cours de sa mission, le Rapporteur s'est particulièrement attaché à visiter des lieux de privation de liberté (commissariats de police, prisons, établissements psychiatriques et centres de rétention pour demandeurs d'asile).

Le Rapporteur spécial indique qu'aucune allégation de torture et très peu de plaintes pour mauvais traitement ont été soumises par des détenus. Il a néanmoins mis en garde énergiquement contre toute complaisance et a encouragé le Gouvernement à veiller à ce que les allégations et présomptions de torture et de mauvais traitements fassent l'objet d'une enquête minutieuse et à ce que les auteurs de ces actes soient punis en conséquence. Tout en notant que des initiatives législatives récentes avaient abouti à faire de la torture une circonstance aggravante supplémentaire de diverses infractions pénales excluant les règles de la prescription, le Rapporteur spécial a regretté que le droit pénal danois n'incrimine toujours pas la torture en tant que telle.

Le système pénitentiaire danois se distingue par le «principe de normalité», en vertu duquel la vie carcérale doit autant que possible être le décalque de la vie à l'extérieur. Comme le personnel pénitentiaire est de surcroît attentif aux préoccupations des détenus, les conditions de détention dans les prisons danoises sont en général bonnes, tant du point de vue des infrastructures que du niveau de vie quotidien. À ce propos, le Rapporteur spécial a constaté qu'au Danemark et au Groenland une grande partie des prisons étaient des institutions ouvertes. Il a pris note des mesures prises pour tenir compte des besoins spéciaux des enfants dont les parents sont incarcérés, par exemple la création de salles de visites qui leur sont adaptées, ainsi que des initiatives visant à étudier l'impact sur les enfants de l'incarcération d'un parent. Le Rapporteur spécial a pris note aussi de la mixité des prisons. Même si les effets positifs de cette modalité sont depuis longtemps reconnus dans la société danoise, il convient, au vu des normes internationales préconisant la séparation des détenus selon leur sexe, d'appeler l'attention sur la nécessité de veiller rigoureusement à la mise en place de sauvegardes adaptées.

Le Rapporteur spécial a félicité le Gouvernement danois pour la réussite des campagnes de sensibilisation contre la violence familiale et la traite des femmes, qui avaient concouru à faire reculer la violence sexiste, notamment grâce à une succession de plans d'action. Au sujet de la traite, le Rapporteur spécial a estimé que les efforts déployés par le Gouvernement visaient moins à réadapter les victimes de la traite au Danemark qu'à les préparer à retourner dans leur pays d'origine. Il a constaté avec alarme qu'au Groenland, malgré la gravité du problème, la violence familiale ne recevait pas encore l'attention requise.

En dépit des efforts du Gouvernement tendant à limiter le recours à l'isolement cellulaire, cette pratique demeure très courante, en particulier à l'égard des détenus avant jugement. L'isolement cellulaire a des effets néfastes bien établis sur la santé mentale et ne devrait être imposé qu'à titre exceptionnel ou s'il est absolument indispensable aux fins de l'enquête criminelle. L'isolement cellulaire ne devrait en toutes circonstances être imposé que pour une période aussi brève que possible.

Le Rapporteur spécial se félicite de la constitution d'un groupe de travail interministériel chargé d'enquêter sur des vols de transfèrement opérés par la Central Intelligence Agency (CIA) qui auraient transité par le Danemark et le Groenland; il a vigoureusement appelé à y associer des experts indépendants et des représentants de la société civile dans le cadre d'une procédure pleinement transparente. Il a noté avec préoccupation que le recours aux assurances diplomatiques était envisagé depuis peu en vue de la remise de personnes soupçonnées de terrorisme à des pays pratiquant notoirement la torture.

Annexe

**REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER
CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,
MANFRED NOWAK, ON HIS MISSION TO DENMARK
(2 to 9 May 2008)**

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Introduction

1. The Special Rapporteur was invited by the Government of Denmark to undertake a visit to the country. He conducted his mission to Denmark, including the self-governing province of Greenland, from 2 to 9 May 2008.¹ Due to time constraints he did not pay a visit to the other self-governing province of the Faroe Islands. The purpose of the visit was to assess the situation of torture and ill-treatment, including conditions of detention; and intensify cooperation with the Government in the fight against torture.
2. The Special Rapporteur expresses deep appreciation to the Government, not only for its full cooperation, but also for the spirit in which it was extended. He is grateful for the detailed information provided in writing and the complete freedom of inquiry he enjoyed (i.e. unannounced and unimpeded access to any place of detention that he chose to visit, private interviews with detainees and staff, and access to documentation).
3. In Denmark, the Special Rapporteur held meetings with government officials, including the Minister of Foreign Affairs, the Minister of Justice, and senior representatives of the Ministries of Justice (including the Director-General of the Prison and Probation Service, the Deputy-Director of Public Prosecutions, the Deputy Assistant National Commissioner of Police), Integration, Health, Defence, Welfare and Gender Equality, as well as representatives from the Faroe Islands. Furthermore, the Special Rapporteur met with the Parliamentary Ombudsman, and members of parliament, the Danish Institute for Human Rights, the International Rehabilitation Council for Torture Victims (IRCT), a broad range of civil society organizations, and representatives of international organizations.
4. The Special Rapporteur visited Police Headquarters Prison, Copenhagen, Herstedvester Prison, Vridsløselille State Prison, Ellebaek Closed Detention Centre for Foreigners and Vestre Prison.
5. In Greenland, the Special Rapporteur met with the Permanent Secretary of the Home Rule Government, the Chief Constable, the Head of the Prison and Probation Directorate, and non-governmental organizations (NGOs) and visited Nuuk police station, Nuuk Prison, and the psychiatric ward in Queen Ingrid's Hospital.
6. At the outset, the Special Rapporteur must draw attention to Denmark's long-standing leadership in anti-torture efforts worldwide. At the international level, Denmark plays a central role in mobilizing the international community by proposing resolutions on combating torture at the Human Rights Council and the General Assembly every year. Within the European Union,

¹ Since 1979 Greenland has been a self-governing province of Denmark. According to the Greenland Home Rule Act, home rule authorities consist of a Landsting (Assembly) and an administration headed by a Landsstyre (Executive). The Greenlandic authorities are bound by obligations under international treaties of which Denmark is a State party. In practice, the Greenland Landsting administers almost all legislative matters. Greenland is a separate police district subordinate to the Danish National Commissioner of Police. The enforcement authority is the Prison and Probation Service in Greenland which reports to the Minister of Justice and to the Danish Department of Prisons and Probation. The Chief Constable being the Chief Prosecutor, prosecutions are under the Danish Director of Public Prosecutions (Rigsadvokaten).

Denmark leads the efforts to implement the European Union (EU) foreign policy guidelines on torture in third countries.

7. The Special Rapporteur shared his preliminary findings with the Government at the close of his mission, to which the Government responded with constructive comments and additional written information. On 1 October 2008, a preliminary version of this report was sent to the Government. On 8 December 2008, the Government provided detailed comments which have been included in this report.

8. The Special Rapporteur wishes to acknowledge with appreciation the support provided by the Director of the United Nations Development Programme (UNDP) Nordic Office and his staff in the United Nations Country Team; the Office of the United Nations High Commissioner for Human Rights (OHCHR); Dr. Jonathan Beynon, consultant medical expert; and Ms. Isabelle Tschan of the Ludwig Boltzmann Institute of Human Rights in Vienna.

I. LEGAL FRAMEWORK

A. International level

9. Denmark is party to all major United Nations human rights treaties including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture) and its Optional Protocol. Furthermore, Denmark has recognized the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction under article 22 of the Convention against Torture, and the competence of the Committee to receive inter-State complaints regarding Denmark under article 21 of the Convention against Torture.

B. Regional level

10. As a member of the Council of Europe, Denmark is party to all relevant regional conventions including the European Convention on Human Rights and all additional Protocols, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Council of Europe Convention on Action against Trafficking in Human Beings.

C. National level

1. Constitutional and legislative provisions criminalizing torture

11. The Constitution provides for a large set of human rights and fundamental freedoms. There is no specific provision concerning the prohibition of torture or other cruel, inhuman or degrading treatment and punishment.

12. The Criminal Code does not contain any express provision prohibiting torture, but acts amounting to torture are punishable under the Code's provisions on assault (sects. 244-246), on placing another person in a helpless position (sect. 250), on causing danger intentionally (sect. 252), on unlawful coercion/duress (sect. 260), on unlawful deprivation of liberty (sect. 261), on threats to commit an unlawful act (sect. 266) and on crimes committed on public duty (chap. 16) carrying maximum penalties of 10 years. Section 8 (5) of the Code provides for

universal jurisdiction over crimes covered by an international convention to which Denmark is a State party.²

13. Despite the absence of a specific provision, there have been moves by the Ministry of Justice and the legislature towards tightening the legal framework in relation to torture.³ However, instead of making torture a specific offence, as envisaged by article 4 of the Convention against Torture, the newly introduced section 157 A only refers to torture as aggravating circumstance in relation to existing crimes and increases the maximum penalties for such acts:

“(1) In the determination of a penalty for violation of this Act it shall be considered an aggravating circumstance that the violation has been committed by torture.

(2) A violation of this Act shall be considered to have been committed by torture if it was committed in the performance of Danish, foreign or international public service or duty by inflicting harm on the body or health of another or causing severe physical or mental pain or suffering to another

(1) For the purpose of obtaining information or a confession from another,

(2) For the purpose of punishing or frightening another or forcing another to do, suffer or omit an act or

(3) Due to the subject’s political belief, gender, race, skin colour, national or ethnic origin, religious belief or sexual inclination.”

In the situations enumerated above the statute of limitations has been abrogated.⁴

14. The Government is of the opinion that section 157 (a) of the Criminal Code serves the purpose of a provision criminalizing torture since it reflects the seriousness of torture and allows for keeping a record of crimes of torture. According to the former Minister of Justice, even without an express provision prohibiting torture, acts of torture are effectively criminalized and appropriate penalties are prescribed commensurate with their gravity.⁵

15. However, the Special Rapporteur considers that the absence of a specific crime of torture and mere characterization of acts amounting to torture as aggravating circumstances of other offences do not afford torture - among the most fundamental violations of human rights which Denmark has globally championed to combat - the weight and gravity that it deserves. Moreover, since torture is not included as a specific crime in the Danish Criminal Code, but only as an

² See also the Military Penal Code, where military personnel suspected of having committed acts of torture and CIDT could be charged under section 27 for neglect of duties in military service, or under sect. 36 (2) for acts contrary to applicable international law.

³ *Justitsministeriet, Straffelovradets betaenkning om en torturbestemmelse i straffeloven.*

⁴ Act No. 316 of 30 April 2008, sect. 93 B. When a criminal offence is covered by sect. 157 A of this Act, it shall not be subjected to the rules of limitation.

⁵ See also CAT/C/81/Add.2, para. 155.

aggravated circumstance of a serious or repeated breach of duty or carelessness in public service, the application of the universal jurisdiction clause for acts of torture might be hampered.

16. In Greenland, the Criminal Code contains neither a definition nor an explicit prohibition of torture. A person can be sentenced to an indeterminate period of detention in case of aggravated offences such as homicide, robbery, aggravated violence, rape or other aggravated sexual offences.

2. Safeguards against torture and ill-treatment during arrest and detention

17. In general, the Special Rapporteur is highly satisfied with the legal framework providing for procedural safeguards against torture and ill-treatment during arrest and detention,⁶ above all the short maximum period of police custody of 24 hours after which a detainee must be brought before a judge.⁷

18. He notes that upon arrest a medical examination depends upon the request of the arrested person or the police deeming an examination to be necessary.⁸ However, it seems that little or no information on exercising this right is provided to the arrested persons, although, according to the Government, upon arrest detainees receive a form which explains their right to contact and to be examined by an independent doctor.⁹ The form also requests detainees to inform the police of any disease requiring treatment. A general medical screening is not required upon the prisoner's arrival at the prison. However, according to the Government, the executive order on health care

⁶ For example, provisions concerning arrest (Administration of Justice Act, sects. 730, 755 (4), 758, and 821); use of force by police (Police Act No. 444 of 09/06/2004); safeguards for remand prisoners (Administration of Justice Act, sects. 764 (1), 767 (1), and 768); safeguards for convicted prisoners (Execution of Sentences Consolidation Act No. 1337 of 03/12/2007, sects. 4, 24, 31 (1), 43, 51 (1)-(2), and 53 (1)); and coercive measures against prisoners, such as searches (Execution of Sentences Consolidation Act, sects. 60 and 61), and use of force (sect. 62 (1)). Prisoners who are fixated shall be under permanent supervision, and a doctor shall see to the fixated prisoner, unless the doctor deems this clearly unnecessary (sects. 65 and 66).

⁷ Constitutional Act, sect. 71 (3), and Administration of Justice Act, sect. 760.

⁸ Ministry of Justice circular of 20 January 1997 and revised circular of 20 June 2001. See also Executive Order No. 374 of 17 May 2001 on medical and health-related assistance in institutions under the Danish Prison and Probation Service, which provides that staff shall immediately comply with a request by a prisoner to see a doctor.

⁹ Available in Danish, English, German, Arabic, French, Spanish and Turkish.

for inmates in the institutions of the Prison and Probation Service prescribes that all new prisoners be offered (orally) a consultation with the nurse or doctor of the institution and consequently, in practice, prisoners might have a brief interview with medical staff.

19. The Administration of Justice Act of Greenland provides only a limited number of safeguards. Safeguards are also contained in Chief Constable of Greenland order No. 1 of 2 May 2008 on confinement in prison and detention cells, which lays down rules relating to order and security, to the tasks of staff and to the rights and duties of detainees. Further, the order regulates searches and the locking of cells, provides for measures to be taken in case of illness and prescribes that complaints regarding treatment in detention can be made in writing to the Chief Constable, or to the competent district judge. The regulation on institutional stay in Greenland (see section 48) also outlines rules regarding conditions for detainees in police detention.¹⁰

3. Complaints and investigations of acts of torture

20. The body of rules concerning complaints against the police is to be found in the Administration of Justice Act, sections 93b-93d.¹¹ Complaints against police conduct (e.g. violence and heavy-handed treatment in connection with arrest, etc.) or criminal offences (e.g. violations of provisions cited in paragraph 14 above) are filed with the regional public prosecutors, who examine the complaints, investigate them and decide on whether to proceed with prosecutions. Where a person has died or has been seriously injured as a consequence of police action, the prosecutor initiates the investigation ex officio. The regional public prosecutor notifies the complaint to the regional police complaints board (PCB), which is a panel comprised of a lawyer and two lay persons, appointed to monitor the regional public prosecutor's processing of the complaint. The PCB has no investigatory power, but may indicate to the regional public prosecutor its opinion on how to proceed with the complaint. Appeals against the decisions of the regional public prosecutors can be made to the Director of Public Prosecutions (Rigsadvokaten). Annual reports to parliament and the Ministry of Justice, which are publicly available, aim to increase the transparency of the activities, initiatives, challenges of the complaint system, as well as to highlight selected cases.

21. The Special Rapporteur notes that, according to information provided by the Government, in the period 2004 to 2007 criminal charges against police personnel in relation to assault (sects. 244-246), or causing danger intentionally (sect. 252) were brought by the regional public prosecutor in about one or two cases per year. In this period all such cases resulted either in the acquittal of the police personnel or in convictions without penalties.

22. In Denmark it is the Ministry of Justice which has authority over the police, the Prosecution Service and the Prison and Probation Service.¹² This has been one of the key grounds for criticism levelled at the current complaints system, in combination with the potential for conflict of interest. For example, concern has been expressed that the independence of

¹⁰ A new Administration of Justice Act and Criminal Law for Greenland containing more detailed safeguards has been adopted and will enter into force in January 2010.

¹¹ See Director of Public Prosecutions (Rigsadvokaten), *Police Complaints Board Cases in Denmark*, 2002. See also overview in CAT/C/34/Add.3, paras. 84-86.

¹² See <http://www.justitsministeriet.dk/english/>.

investigations of acts by police personnel might be compromised in light of the customary close collaboration between prosecutors and the police in fighting crime. Criticism has also been voiced as to the efficiency in handling cases in a timely manner. The Special Rapporteur notes that the Ministry of Justice established a committee to review the system of complaints in October 2006.

23. The Police Complaints Board for Greenland¹³ can receive complaints regarding police conduct and criminal proceedings brought against police officers and request and advise the Chief Constable to investigate the cases. In addition, the Chief Constable can initiate investigations *proprio motu* on the basis of a reasonable presumption that a police officer has committed a criminal act while on duty. He is obliged to carry out an investigation when a person has been seriously injured or has died as a result of police intervention. The PCB can take disputes which arise with the Chief Constable, including disputes over his decisions on complaints, to the Director of Public Prosecutions. According to the Government, out of 12 criminal indictments brought against police personnel in the period 2004-2007, 3 resulted in convictions in relation to ill-treatment and/or sexual abuse and 1 in relation to a lack of observation of a detainee who committed suicide. The corresponding penalties ranged from fines up to six months' imprisonment.

4. Parliamentary Ombudsman/national preventive mechanism

24. The parliamentary Ombudsman is inter alia mandated to inspect institutions where persons are deprived of their liberty and to handle prisoner complaints.¹⁴ However, in general, since there is an established complaints mechanism to deal with police conduct and criminal offences, the Ombudsman typically refers related complaints to this mechanism.

25. In October 2007, as required by the Optional Protocol to the Convention against Torture, the parliamentary Ombudsman was designated as the national body responsible for monitoring all places of deprivation of liberty in Denmark, the national preventive mechanism (NPM). Given that inspecting places where persons are deprived of their liberty is one of the core activities of the Ombudsman, this designation was not surprising. However, some observers pointed out that, although the institution of the Ombudsman carries out inspections regularly, it is presently unable to carry out visits systematically as envisaged by the Optional Protocol. Apart from the fact that a significant increase in resources, including staffing (e.g. health professionals), would be needed, it has been argued that the designation as NPM would transform the character and functioning of the current institution of parliamentary Ombudsman into a more inspection-focused body, which may require legislative amendments.

5. Rehabilitation of torture victims

26. The Special Rapporteur notes that Denmark is playing a leading role in the area of rehabilitation for victims of torture. In Copenhagen, it hosts the International Rehabilitation Council for Torture Victims (IRCT), which is a pioneering institution in this field. The

¹³ Act No. 905 of 16 December 1998 on consideration of complaints and criminal proceedings concerning police staff in Greenland entered into force on 1 January 2000.

¹⁴ The Ombudsman Act, Act No. 473 of 12 June 1996 available at http://www.ombudsmanden.dk/english_en/.

nationally-focused Rehabilitation and Research Centre for Torture Victims (RCT) was established in 1982. Up to 2005 the Danish Ministry of Foreign Affairs financed the rehabilitation of torture victims. Since 2006, the costs for the rehabilitation of torture victims by RCT in Denmark have been covered by the Danish health-care system. Denmark has a “free choice hospital act”, which allows patients to choose the hospital or institution at which they wish to receive their treatment. The act refers to RCT and several other Danish rehabilitation centres for torture victims. Thus, the rehabilitation of torture victims is integrated into the public health system, and torture victims receive treatment at specialized rehabilitation centres free of charge.

II. THE SITUATION OF TORTURE AND ILL-TREATMENT

27. The Special Rapporteur wishes to emphasize with satisfaction that he did not receive any allegations of torture prior to or during his visit to Denmark. Also, he received only very few complaints of ill-treatment of detainees during the visit (see paras. 7, 26 and 33 of the appendix).

28. In these cases, the Special Rapporteur appealed to the authorities to ensure that the allegations were effectively addressed and wishes to express his gratitude for the thorough responses he received (reflected in paras. 8, 27 and 34 of the appendix). The Special Rapporteur encourages the Government to continue to ensure that all allegations of torture and ill-treatment are meticulously investigated and perpetrators are appropriately punished, in a manner that ensures public confidence in the system.

III. CONDITIONS OF DETENTION

A. Principle of normalization

29. The Special Rapporteur was impressed with the conditions of detention in the eight facilities he visited in Denmark and Greenland. The hallmark of the prison system in Denmark is the “principle of normalization”,¹⁵ meaning that life behind bars shall reflect to as great an extent as possible life on the other side. Taken together with an attentive approach to the concerns of detainees by prison staff, the outcome is a prison system that stands apart from others. The result is generally a high standard of conditions of detention inside Danish prisons, both in terms of infrastructure and day-to-day living standards. Prisoners are accommodated in single cells which they can arrange as they like, thus granting each prisoner privacy and autonomy to the extent possible. The facilities are kept clean and decorated and prisons are equipped with libraries, computers and sports gear.

30. Furthermore, in accordance with the principle of exercising responsibility, a variety of activities in workshops are offered to prisoners, and most detainees are on self-cooking regime. Additionally, in line with the principle of openness, inmates have numerous opportunities to make and maintain contacts outside prisons, including through very liberal visiting policies.

31. One particularly impressive area which the Special Rapporteur wishes to highlight are the Government’s efforts, together with civil society, to aid and encourage contact between prisoners

¹⁵ www.kriminalforsorgen.dk: “A Programme and Principles for Prison and Probation Work in Denmark.”

and their children by establishing a child-friendly environment within detention facilities.¹⁶ He notes that children of convicted prisoners up to 3 may live with their mother or father in prison, provided that he or she is capable of taking care of the child (e.g. Horserød State Prison).¹⁷ Engelsborg Prison has a family house with five flats where inmates may stay together with their partner and children of up to 15 years of age.

32. With regard to child visitors, in 2004 the Department of Prisons and Probation set out minimum standards for visiting facilities: they must appear light and friendly, be nicely decorated, and have a suitable selection of toys to stimulate contact between prisoners and their children. Some prisons are equipped with play areas and family rooms where visiting families may stay overnight. East Jutland State Prison offers two visiting flats where inmates may receive family visits for up to 48 hours. In many prisons visiting children are allowed to move about in the entire prison area, so that prisoners may take them to sports facilities and play and cooking areas. In the opinion of the Special Rapporteur, the refurbishment of the children's visiting area of Vridsløselille State Prison stands out as an excellent example of how a child's meeting with their incarcerated parent can be positively transformed in an inexpensive manner through the joint efforts of prison staff, prisoners and civil society.

33. Furthermore, with reference to the principle of normalization, a significant proportion of prisons are open or semi-open institutions. In Greenland, there is no closed prison, which reflects the culture of Greenlandic society. Prisons are also characterized by the fact that male and female prisoners are not separated (see chapter IV below), and male and female staff can work together in male and female sections.

34. The Special Rapporteur commends the excellent conditions of detention and psychological treatment provided to detainees with special needs, including sexual offenders in Herstedvester Institution. He was also informed of the libido-suppressing treatment for sexual offenders ("medical castration"). He notes that such therapies allow sexual offenders to be released and lead a life outside prison. Whereas extensive consultation and preparation seems to be undertaken prior to such treatment and the principle of informed consent appears to be respected, the Special Rapporteur learned that often the detainee's consent is motivated by the fact that he otherwise cannot obtain permission for leave or release on parole/conditional discharge. The Special Rapporteur considers that such treatment should only be used as a last resort where other therapies have failed to help the detainee.¹⁸

35. Since no closed prisons presently exist in Greenland, Greenlanders convicted of serious offences or committed to psychiatric institutions must serve their sentence in Denmark, mostly in Herstedvester Institution. On the positive side, the Prison and Probation Service has taken steps to improve the conditions for Greenlanders in Herstedvester Institution by ensuring that staff from Greenland who speak the same language and understand the culture are rotated through the unit. In this context, the Special Rapporteur welcomes the decision by the Government and

¹⁶ Det Kriminalpræventive Rad, Faengsledes born - en udsat gruppe, February 2005.

¹⁷ Executive order No. 737 of 25/06/07, sects. 16 and 17.

¹⁸ According to the Government, the treatment is only offered as a last resort to persons who have committed very serious sexual offences and are at risk of relapsing into the same type of offences and only with the agreement of the Medico-Legal Council. Only two to four prisoners per year commence such treatment.

Greenlandic authorities to build a new closed prison in Greenland in order to avoid Greenlanders having to serve their sentence a long way from home and relatives. The Special Rapporteur encourages the Greenlandic authorities to ensure that Greenlandic detainees with special needs get equally professional treatment in the new prison in Greenland as they receive in Herstedvester Institution.

36. The Special Rapporteur notes that, as a matter of policy, gang members are strictly separated from other detainees, mostly in special prison wings. While he fully understands the Government's argument that placing gang members in special units is necessary to maintain reasonable conditions, including safety for other inmates, the Special Rapporteur is of the opinion that a total separation of convicted gang members as a rule might run against the principle of normalization.

B. Solitary confinement

37. The practice of solitary confinement has a long tradition in Denmark. Solitary confinement of remand prisoners on the basis of a court decision is used to isolate suspects during criminal investigations in pretrial detention, whereas administrative solitary confinement (reduced¹⁹ or total exclusion from association with other detainees) may be imposed on remand and convicted prisoners on the basis of an administrative decision by the prison authorities as a punishment for disciplinary infractions.

38. At the request of the police, under the Administration of Justice Act, the court can decide that a detainee be remanded in solitary confinement for investigative purposes for a maximum period of up to eight weeks. In exceptional circumstances, this period may be extended at the request of the prosecutor to six months or even longer.²⁰ In this regard, the Government

¹⁹ Reduced exclusion from association with other detainees means that the detainee is allowed association with one or a few other fellow detainees.

²⁰ See Act on the Administration of Justice, sects. 770 (b), (c), (d). Unless exceptional circumstances prevail, pretrial solitary confinement cannot: exceed two weeks, where the person is charged with a criminal offence punishable by less than four years' imprisonment; four weeks, where the person is charged with an offence punishable by more than four and less than six years' imprisonment; and eight weeks, where the person is charged with an offence punishable by six or more years' imprisonment. In exceptional circumstances, in cases where the person detained may, if convicted, be sentenced to more than two years of imprisonment, the period of solitary confinement may be extended at the request of the prosecutor, during the pretrial phases of the proceedings. In such cases, solitary confinement may not exceed six months, unless the person is charged with drug trafficking, homicide, a crime against the State or a terrorism offence under chapters 12 and 13 of the Criminal Code (sect. 770 (c) (4), Act on the Administration of Justice). Solitary confinement beyond eight weeks is subject to approval by the Director of Public Prosecution (sect. 770 (d) (3), Act on the Administration of Justice). Minors may only be held in solitary confinement if most exceptional circumstances make this necessary (sect. 770 (b) (2), Act on the Administration of Justice). The maximum length of solitary confinement without interruption is four weeks, unless the person is charged with an intentional violation of a provision of chapter 12 or 13 of the Criminal Code (crime against the State/terrorism). Solitary confinement of minors beyond four weeks is subject to approval by the Director of Public Prosecution (sect. 770 (d) (3), Act on the Administration of Justice).

emphasized that solitary confinement of remand prisoners based on a court decision is strictly restricted to situations where there are specific reasons to presume that the accused will impede the prosecution of the case, particularly by removing evidence or warning or influencing others. It further stated that the number of remand prisoners in solitary confinement on the basis of court decisions had dropped from 475 in 2006 to 273 in 2007. Also, the number of persons held for more than eight weeks in solitary confinement had dropped from 55 in 2006 to 19 in 2007.²¹ Since the Greenlandic Administration of Justice Act contains no provisions according to which solitary confinement can be imposed following a court decision, the decision to exclude a prisoner from association with others is to be made after having presented the case to the legal staff of the Chief Constable's office.²²

39. Prisoners may be held in administrative solitary confinement on the basis of an administrative decision *inter alia* to prevent escape, criminal activities or violent behaviour. It shall be carried out as leniently as possible and shall cease as soon as the conditions for applying this measure no longer exist and must be reconsidered at least once a week by the prison authorities.²³ In case of exclusion from association for more than four weeks, the prison must report the case to the Department of Prisons and Probation, and submit a report every four weeks. Administrative solitary confinement in a disciplinary cell may be imposed for a maximum of four weeks on a convicted prisoner²⁴ and for a maximum of two weeks on a remand prisoner²⁵ as a disciplinary punishment. Similarly, a prisoner suspected of having breached rules which *prima facie* result in disciplinary cell punishment may be placed in an interrogation cell for at most five days.²⁶

40. During the visit the Special Rapporteur came across a number of prisoners that were held in solitary confinement, i.e. obliged to spend 22-23 hours per day in their cell (see appendix, paras. 6, 9, 10 and 15). No communication with other prisoners is permitted. Prisoners are allowed 30 minutes of outdoor exercise on their own, twice a day. Three meals a day are served inside the cell.

41. Whereas the Government stressed that solitary confinement of pretrial detainees may not be used as a means of coercion to extort a confession or information, the Special Rapporteur noted instances where pretrial detainees reported that the police used the threat of extending solitary confinement to coerce detainees to cooperate in an investigation (see e.g. appendix,

²¹ Statistics for 2008 are not yet available.

²² The new Administration of Justice Act of Greenland which will enter into force in January 2010 regulates in detail (sect. 373-377) solitary confinement based on a preceding court decision.

²³ Enforcement of Sentences Act, sect. 63 (1) and (7).

²⁴ Enforcement of Sentences Act, sect. 70.

²⁵ Act on the Administration of Justice, section 775 (1).

²⁶ In 2007, 631 prisoners were held in administrative solitary confinement, of whom 306 were isolated for a maximum of 7 days; 159 for between 8 and 14 days; 127 for between 15 and 28 days; and 39 for more than 28 days. In the first six months of 2008, 300 prisoners were held in solitary confinement based on the orders of the prison authorities, of whom 152 up to 7 days; 74 between 8 and 14 days; 54 between 15 and 28 days; and 20 for more than 28 days.

paras. 8 and 9).²⁷ If prolonged solitary confinement is used for the purpose of extracting a confession, it may amount to torture.

42. In the face of significant evidence which points to the serious and adverse psychological effects of solitary confinement, especially on pretrial detainees, who are at increased risk of self-harm within the first two weeks of detention,²⁸ Denmark has come under sustained criticism for its extensive use of solitary confinement.

“[The] last thirty years has seen a certain response from the Danish authorities, and, compared to the original situation in the 1970s, a significant decline in the use of pretrial solitary confinement. But the Danish State has always been very reluctant to acknowledge any problems officially, and solitary confinement is still not used just in exceptional circumstances as recommended by the CPT (European Committee for the Prevention of Torture). Altogether one must conclude that Denmark’s willingness to uphold a practice which doctors and psychologists recommend abolishing and its reluctance to meet international recommendations reveal qualities which run counter to the Danish (and Scandinavian) self-image of humanitarian leniency and decency in all areas of State and society.”²⁹

43. According to rule 43.2 of the European Prison Rules, “the medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff”.³⁰ It is noteworthy to recall that when the European Prison Rules were adopted, “the Representative of Denmark reserved the right of his Government to comply or not with rule 43, paragraph 2 ... because it is of the opinion that the requirement that prisoners held under solitary confinement be visited by medical staff on a daily basis raises serious ethical

²⁷ See also Report on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 4 February 2002, CPT/Inf (2002) 18, para. 39: “many prisoners perceived solitary confinement and restrictions on contacts with the outside world as a means of pressure to make them confess; some prisoners alleged that the police had plainly stated that those measures would be eased or lifted if they cooperated. It would appear that it was not uncommon for confessions to be immediately followed by the discontinuation of such measures”.

²⁸ See P. Scharff Smith, “The effects of solitary confinement on prison inmates: a brief history and review of the literature”, *Crime and Justice*, Vol. 34, Crime and Justice: A Review of Research, M. Tonry, ed. (Chicago University Press, 2006), pp. 441-528; and P. Scharff Smith, “Solitary confinement: an introduction to the Istanbul Statement on the use and effects of solitary confinement”, *Journal on Rehabilitation of Torture Victims and Prevention of Torture*, vol. 18, No. 1, pp. 56-62.

²⁹ P. Scharff Smith, “Prisons and human rights: the case of solitary confinement in Denmark and the US from the 1820s until today”, *Human Rights in Turmoil*, S. Lagoutte, H-O. Sano, P. Scharff Smith, eds. (Netherlands, Brill, 2006), pp. 221-248.

³⁰ Council of Europe Committee of Ministers, recommendation Rec (2006) 2 of the Committee of Ministers to member States on the European Prison Rules, 11 January 2006.

concerns regarding the possible role of such staff in effectively pronouncing prisoners fit for further solitary confinement”.³¹

44. The Special Rapporteur, in a recent report (A/63/175, paras. 77-85), pointed out that he shares the concern of the Human Rights Committee, the Committee against Torture and the Committee on the Rights of the Child, which have recommended that the use of solitary confinement be minimized. Regarding Denmark, the Committee against Torture called on the Government to reduce the use of solitary confinement under strict supervision and with a possibility of judicial review, and recommended that Denmark should aim to abolish the practice, particularly during pretrial detention.³²

45. The Special Rapporteur, echoing the findings of the Council of Europe’s Committee on the Prevention of Torture,³³ considers that the use of solitary confinement should be kept to a minimum; used in very exceptional cases, for as short a time as possible and only as a measure of last resort. Whereas solitary confinement for a maximum limit of just a few days may be necessary as a last resort for grievous breaches of prison discipline, its use in pretrial cases may amount to a form of coercion, and as such could constitute ill-treatment or torture. Furthermore, prisoners with known mental disorders are at increased risk of harm from solitary confinement and should never be held in these conditions.

46. Regardless of the specific circumstances of the use of solitary confinement, effort is required to raise the level of social contacts for prisoners: prisoner contact with prison staff, allowing access to social activities with other prisoners, allowing more visits, and providing access to mental health services.

C. Detention of foreigners and asylum-seekers

47. The Special Rapporteur visited the Ellebaek closed detention centre for foreigners, a high-security facility for rejected or incoming asylum-seekers. He was encouraged by the low number of asylum-seekers held in detention,³⁴ and found the conditions to be satisfactory, but well below the high standards found in the Danish prison system in general.³⁵ The primary concern of the Special Rapporteur related to the detainees’ perception of uncertainty as to how long they would remain in detention, since Danish legislation does not provide for a maximum period of deprivation of liberty. He was informed of cases where persons had been detained for 18 months. In the opinion of the Special Rapporteur, deprivation of liberty for administrative reasons for a prolonged period without knowing the length of the detention may amount to inhuman and degrading treatment.

³¹ Ibid., footnote 1.

³² CAT/C/DNK/CO/5, para. 14.

³³ Report to the Government of Denmark on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT/Inf (2008) 26, para. 42.

³⁴ Fifty-eight persons on the day of the visit of the Special Rapporteur. According to the Government, on 1 November 2008, 41 asylum-seekers were held there, which indicates a further decrease.

³⁵ See footnote 33 above, para. 85.

48. The Special Rapporteur notes that an alien must be brought before a court for it to rule on the lawfulness of deprivation of liberty (section 37 (1) of the Aliens Act). The court must fix a time limit for the detention, which it may extend repeatedly by four weeks each time. The Special Rapporteur welcomes the fact that such a mandatory habeas corpus procedure exists and that free legal aid is provided to all aliens in detention. However, according to information received, in the past five years, on only two occasions did the court not confirm the prolongation of detention when requested by the police. Furthermore the Special Rapporteur was informed that about 50 per cent of the inmates of Ellebaek accept an automatic prolongation of their detention by signing a document to that effect in advance.³⁶ To the Special Rapporteur, these are signs that de facto the procedure of legal challenge of deprivation of liberty under article 37 of the Aliens Act is not as effective as one might expect.

IV. WOMEN

A. Domestic violence against women

49. In light of the Special Rapporteur's report to the Human Rights Council on using the anti-torture framework to strengthen the global campaign to end violence against women,³⁷ he is pleased to note that the attention to domestic violence by the Government of Denmark has begun to show positive effects as the number of cases reported seems to have decreased.³⁸

50. A number of provisions in the Criminal Code are relevant in this regard: rape is criminalized under sections 216 and 217 of chapter 24 on sexual offences; section 237, on homicide; section 244, on less severe violence; section 245, on more severe violence; and section 246, on severe violence, generally with permanent injury of the victim. Under section 265 the police can issue a warning, prohibiting a person to intrude on, pursue in writing or otherwise molest a specific person, and often used in cases concerning harassment of a former partner or spouse. Disregarding such a warning, the person shall be liable to a fine of up to two years of imprisonment. Act No. 449 of 9 June 2004 (Act on Expulsion) establishes that the police under specific circumstances can expel a person from the home. The police can also prohibit the person in question to intrude on, pursue in writing or otherwise molest a member of the household, and likewise the person subject to the expulsion can be prohibited from staying within a determined distance from the home, workplace or educational institution of a member of the household. Further the police can lend assault alarms to women at risk of assault.

51. Denmark has made female genital mutilation a separate crime under section 245a of the Criminal Code, which is subject to a maximum penalty of a six-year prison term.³⁹ In the first case under the provision, the Special Rapporteur notes that in June 2008, a Danish couple of

³⁶ According to the Government, in cases where a person has accepted and signed the prolongation of the detention, this prolongation must always be approved by the court.

³⁷ A/HRC/7/3.

³⁸ See *Men's Violence Against Women, Extent, Characteristics - and the Measures Against Violence - 2007* (National Institute of Public Health, Syddansk University and the Minister for Gender Equality, Copenhagen, 2008). See also Department of Gender Equality, "Report on initiatives to combat domestic violence against women", 23 April 2008.

³⁹ In combination with section 7 (3) of the Code, acts abroad by nationals or residents, may be covered even if excision is not punishable under the law of the foreign State.

Sudanese origin were arrested on suspicion of having taken their two daughters to Sudan in 2003 for circumcision.⁴⁰

52. The Special Rapporteur notes that a nationwide network consisting of free local and independent counselling services for victims has been established pursuant to Act No. 349 of 23 May 1997 concerning the strengthening of the legal status of crime victims. The legal status of victims of crimes has also been strengthened as a result of Act No. 558 of 24 June 2005 and Act No. 517 of 6 June 2007. In 2000, the Director of Public Prosecutions issued a special directive concerning investigation in relationship matters to the effect that the police should carry out an ex officio criminal investigation, when it is obvious that one of the parties has been the victim of an assault. In 2008, the directive was replaced by a new one containing further instructions for investigations, as well as for the support given to victims. On 30 June 2006, the Director of Public Prosecutions issued a circular note entitled “Honour killing and other punishable offences related to culturally or religiously conditioned norms or conceptions of honour” and, on 22 January 2007, a “Strategy for the police effort in honour-related crimes”. Another strategy on, among other things, cooperation in the area of domestic violence cases, and establishment of special units within the police districts was developed by the National Police, together with the Prosecution Service, in 2007.

53. The Special Rapporteur commends the Government’s efforts in carrying out successful awareness-raising campaigns on domestic violence, which have contributed to the reduction of gender-specific violence, including through successive plans of action. For example, the “Action plan to stop men’s domestic violence against women and children 2005-2008” aims to provide support to victims, treatment facilities for perpetrators, strengthen cooperation between government agencies and increase knowledge about the phenomenon of domestic violence.

54. In Greenland, the Special Rapporteur expressed serious concern in relation to the high incidence of assault and sexual offences against women. A study by the National Institute for Public Health showed that 60 per cent of women in Greenland aged 18 to 24 were victims of assaults or threats; a third of whom were victims of aggravated assaults.⁴¹ Thirty-four per cent of these women were victims of sexual assaults; 12.5 per cent already when they were children. Among female victims, 58 per cent claimed that the offender was their husband or live-in partner. The Special Rapporteur regrets that action against domestic violence has so far not received adequate attention in Greenland despite the severity of the problem. In this regard, he welcomes information that the Home Rule Government has committed to elaborating a “National strategy for prevention of rape, sexual harassment and assaults”. Cooperation with authorities, such as the Department for Gender Equality and relevant organizations in Denmark, is encouraged.

B. Trafficking

55. The Special Rapporteur welcomes the Government’s holistic approach towards addressing the problem of human trafficking, which includes coordination and cross-sectoral collaboration

⁴⁰ Politiken.dk, “Forældre anholdt for omskæring af døtre”, 12 June 2008, <http://politiken.dk/indland/article523017.ece>.

⁴¹ Quoted in the 2007 Activity Report of the Greenland Police.

of various ministries and other partners.⁴² The establishment of the Centre for Human Trafficking to coordinate action is one concrete example of the Government's commitment in this regard. Moreover, the Special Rapporteur notes that the "Action Plan to Combat Trafficking in Human Beings 2007-2010"⁴³ builds upon the experience of earlier plans of action. He notes that the latter focuses on strengthening investigation efforts in order to identify and have the men responsible for trafficking brought to justice; supporting the victims by strengthening the social services in Denmark; prevention by limiting demand and enhancing the population's awareness of trafficking; and improving international cooperation.

56. In addition to section 262a of the Criminal Code, which criminalizes trafficking in human beings, pursuant to the 2007-2010 plan of action, on 1 August 2007, an amendment to the Danish Aliens Act came into force to put into effect the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. It provided for the so-called "assisted voluntary return programme", which entails three key improvements over the existing regime on trafficking: an extended "reflexion period" lasting up to 100 days, up from 30 days, where victims can stay in Denmark provided they agree to be repatriated and cooperate in investigations; victims are offered a prepared repatriation, which includes legal and psychological assistance, health treatment and social-pedagogical support, and reception by a social organization or NGO in the country of origin; and victims will no longer be punished by expulsion.

57. The Special Rapporteur acknowledges that the efforts of the Government in relation to the phenomenon of trafficking in persons are a significant improvement on what existed previously. However, despite greater attention to victims, in the opinion of the Special Rapporteur the efforts are not sufficiently victim-centred; the efforts appear to be aimed less at the rehabilitation of victims of trafficking in Denmark than at repatriating them to their countries of origin.

C. Non-separation of men and women in prisons

58. During his visits to detention facilities, the Special Rapporteur observed the practice of accommodating male and female detainees in the same premises, based on the principle of normalization. While in most places such arrangements were voluntary, this was not the case in Nuuk Prison in Greenland. As regards non-separation of men and women in places of detention, the Special Rapporteur recalls that international standards call for the segregation of men and women. In the Standard Minimum Rules for the Treatment of Prisoners, rule 8 (a) provides: "The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus, men and women shall so far as possible be detained in separate institutions."⁴⁴ Similarly, the European Prison Rules provide in rule 18.8 (b): "In

⁴² Department of Gender Equality, "Report on initiatives to combat human trafficking", 23 April 2008.

⁴³ Available at http://ligeuk.itide.dk/files/PDF/Handel/Menneskehandel_4K.pdf.

⁴⁴ See also rule 53, paras. 1-3.

deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain male prisoners separately from females.”⁴⁵

59. In accordance with these rules, on previous country visits he has called on States to rigorously observe them where he has found evidence of non-separation.⁴⁶ The Special Rapporteur notes that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has previously commented on the practice of non-separation in Denmark.⁴⁷ In more general terms, the CPT stated:

“The duty of care which is owed by a State to persons deprived of their liberty includes the duty to protect them from others who may wish to cause them harm. The CPT has occasionally encountered allegations of woman upon woman abuse. However, allegations of ill-treatment of women in custody by men (and, more particularly, of sexual harassment, including verbal abuse with sexual connotations) arise more frequently, in particular when a State fails to provide separate accommodation for women deprived of their liberty with a preponderance of female staff supervising such accommodation. As a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men being held at the same establishment.”⁴⁸

60. During his visit to Denmark, the Special Rapporteur discussed the practice of non-separation with a broad array of actors, including government officials, women’s associations, the parliamentary Ombudsman, and female detainees themselves. The Special Rapporteur notes that the positive effects of such arrangements have long been accepted in Danish and Greenlandic society (e.g. free association eliminates the climate of institutionalization by allowing, to the extent possible, exercise of the kind of social contacts which exist outside institutions; it reduces aggression and other negative effects of deprivation of liberty; and the co-mingling of sexes tends to reduce the power dynamics at play amongst otherwise single-sex prisoner populations, either female or male), as reflected in the principle of normalization.⁴⁹

61. On the other hand, while most female detainees appeared to be in favour of communal living, it became apparent that they commonly formed relationships with male inmates for purposes of protection, from either female detainees or from other males. Thus, while

⁴⁵ See footnote 30 above.

⁴⁶ See for example A/HRC/7/3/Add.4, para. 75 (s) and para. 52 of the appendix.

⁴⁷ See footnote 33 above, para. 45.

⁴⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *The CPT Standards*, CPT/Inf/E (2002) 1-Rev.2006, p. 77.

⁴⁹ According to the Government, since in Greenland most institutions are small and not divided into smaller units, it is impossible to offer women the opportunity to serve their sentences in units without men. Therefore, women, like men, serve their sentence close to their homes with the possibility of staying in their local area. With regard to pretrial detainees in Denmark, the Government confirmed that situations may occur in which there is only one female prisoner in a local prison who cannot be separated from male detainees. If the woman wishes to be segregated from men, it is possible to arrange a transfer to another prison which has a female unit for pretrial detainees.

non-separation of sexes may diffuse female-female or male-male prisoner population conflicts, in some cases it acts to reinforce male-female hierarchical relationships and carries the risk of violence against women and sexual abuse. These arrangements were confirmed by female detainees that the Special Rapporteur spoke with in the institutions in Nuuk, Herstedvester and Vestre (see appendix paragraphs 17 and 18). In fact, it is believed that the rate of marriage within prisons, which is on average higher than outside, is explained primarily by this.

62. The Special Rapporteur fully appreciates the reasons provided by the Government and prison officials for allowing male and female detainees to be accommodated in the same premises and recognizes that it is a widely accepted practice based on the openness of Danish society, the principle of normalization and the progressive situation prevailing in the prison system in Denmark and Greenland. However, given the risks of reinforcing hierarchical relationships and violence against women inherent in this practice, the international prison standards rightly call for a strict segregation of sexes. In light of the latter, he urges the Government to ensure that communal living arrangements are always voluntary: placing a woman together with male prisoners must be based on her completely free and informed decision. The decision of a woman not to be together with men must have no negative consequences and should not unduly restrict her access to education, work and recreational programmes.⁵⁰ Furthermore, he urges the Government to ensure that appropriate safeguards protecting women from violence and abuse are put in place and continuously monitored.

63. The Special Rapporteur wishes to stress that the Danish policy is unique and can only be justified in light of the special circumstances prevailing in Danish prisons in accordance with the principle of normalization. It cannot serve as a model for other countries where these particular conditions do not exist.

V. COUNTER-TERRORISM

64. The Special Rapporteur expressed his concerns about recent developments or practices in Denmark which may undermine the absolute prohibition of torture through the use of certain counter-terrorism strategies. Beyond any doubt, cooperation between various intelligence services is a necessary feature of the global fight against terrorism. However, where such cooperation involves the use of diplomatic assurances and cooperation in extraordinary renditions, it carries the risk of leading to complicity in human rights violations.

A. Extraordinary renditions

65. A Danish documentary broadcast on 30 January 2008 alleged that Danish and Greenlandic airports (e.g. Narsarsuaq) were used by the United States of America Central Intelligence

⁵⁰ See M. Bastick and L. Townhead, *Women in Prison: A Commentary on the UN Standard Minimum Rules for the Treatment of Prisoners* (Quaker United Nations Office), June 2008, p. 31.

Agency (CIA) to transport prisoners as part of its renditions programme.⁵¹ The Special Rapporteur is encouraged by the establishment of an inter-ministerial working group to investigate these allegations. The Special Rapporteur strongly encourages the inclusion of independent experts and civil society to ensure a fully transparent process.

B. Diplomatic assurances

66. In accordance with section 45 (b) (1), Aliens (Consolidation) Act No. 945 of 1 September 2006, non-nationals considered a threat to national security can be expelled upon the decision of the Minister of Integration (after recommendation by the Minister of Justice and the Civil Security Service, PET). However, section 31 (1) of the Aliens Act, in accordance with article 3 of the Convention against Torture and articles 6 and 7 of the International Covenant on Civil and Political Rights, provides that an alien may not be returned to a country where he or she will be at risk of facing the death penalty or of being subjected to torture or inhuman or degrading treatment or punishment, or where the alien will not be protected from being sent on to such country.

67. The Special Rapporteur is alarmed about consideration being given by the Government to employ diplomatic assurances to return suspected terrorists to countries known for their practice of torture.⁵² The Special Rapporteur also refers to the Memorandum of Understanding between the Ministry of Defence of Afghanistan and the Ministry of Defence of Denmark of 8 June 2005 concerning the transfer of persons between the Danish contingent of the International Security Assistance Force and the Afghan authorities. According to the Committee against Torture, the principle of non-refoulement in article 3 of the Convention against Torture applies to transfers of detainees within a State party's custody to the custody whether de facto or de jure of any other State.⁵³

⁵¹ International Herald Tribune, "Denmark to investigate reports of secret CIA prisoner flights landing on Greenland", 31 January 2008; and DR, "Dokumentar: CIA-fly mellemlandede i Grønland", 30 January 2008, available at <http://www.dr.dk/Nyheder/Indland/2008/01/30/050608.htm>. See also European Parliament, Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, "Report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners", A6-0020/2007, 30 January 2007, and working document No. 8 (PE 380984).

⁵² Berlingske Tidende, "Lene Espersen: Vi skal ikke være en magnet for terrorister", 20 April 2008, and Politiken.dk, "Denmark unable to return terror suspects to nations unwilling to sign agreements", 28 April 2008, and "Tunisian suspect in cartoonist murder plot leaves Denmark", 22 August 2008. The Government stated that a working party was established to consider the procedural rules related to administrative expulsion of foreign nationals, who are deemed to be a danger to national security, without risking the death penalty, torture or cruel, inhuman or degrading treatment or punishment. The mandate includes, inter alia, the consideration of diplomatic assurances.

⁵³ CAT/C/CR/33/3, 5 (e); see also M. Nowak, and E. McArthur, *The United Nations Convention against Torture - A Commentary*, Oxford Commentaries on International Law (Oxford University Press, 2008), pp. 198-199.

68. As he has pointed out on numerous occasions, diplomatic assurances with regard to torture are nothing but attempts to circumvent the absolute prohibition of torture and non-refoulement.⁵⁴ Further, diplomatic assurances are unreliable and ineffective in protection against torture and ill-treatment. The Special Rapporteur is therefore of the opinion that States cannot resort to diplomatic assurances as a safeguard against torture and ill-treatment where there are substantial grounds for believing that a person would be in danger of being subjected to torture or ill-treatment upon return.

69. As the country is leading diplomacy for anti-torture efforts worldwide, the Special Rapporteur calls upon Denmark to also lead by example and refrain from using diplomatic assurances. Rather than pursuing efforts at the EU level aimed at introducing the practice of diplomatic assurances, he encourages the Government to consider taking the lead in efforts to develop a common European policy or approach aimed at the improvement of conditions of detention and the situation of torture and ill-treatment in the potential countries of return.

VI. CONCLUSIONS AND RECOMMENDATIONS

70. The Special Rapporteur reiterates his appreciation to the Government of Denmark for extending him an invitation to visit the country, and looks forward to continued cooperation in combating torture and ill-treatment.

71. Denmark has a long-standing commitment to and leadership in combating torture worldwide. At the Human Rights Council and the General Assembly, it is the central player in mobilizing the international community by proposing resolutions on combating torture every year. In Europe, Denmark leads efforts on the implementation of the European Union's foreign policy guidelines on torture in third countries. Moreover, it has a long history of generous support to civil society both at home and abroad, particularly in the area of rehabilitation for victims of torture. But apart from its role in international diplomacy, the Special Rapporteur witnessed over the course of his visit Denmark's genuine commitment to eradicating torture and ill-treatment first and foremost within the country. In fact, he did not receive any allegation of torture and only very few allegations of ill-treatment. Without question, the international community has much to learn from Denmark's example.

72. Based on his visits to prisons in Denmark and Greenland and his interviews with prison inmates, as well as discussion with staff from the Prison and Probation Service, the Special Rapporteur concludes that in most institutions the conditions of detention are of a very high standard. The principle of normalization which serves as a backbone of Denmark's prison system not only implies that many prisons in Denmark, including Greenland, are open prisons, but also brings about very good day-to-day living standards for detainees who benefit from an excellent infrastructure and a variety of activities. Particularly noteworthy are the very liberal visiting policies, which allow detainees to maintain good contacts with the outside world, and Denmark's efforts to establish a child-friendly environment within detention facilities. Furthermore, the Special Rapporteur was impressed by the excellent conditions of detention and psychological treatment provided to detainees with special needs in Herstedvester Institution.

⁵⁴ See for example, E/CN.4/2006/6, para. 32; and A/60/316, para. 51.

73. The Special Rapporteur acknowledges that Denmark's particular practice of allowing male and female detainees to associate freely, based on the principle of normalization, is widely accepted in Danish society, including by female detainees. However, in light of international standards which advocate a segregation of the sexes and the risks of the practice of non-separation of men and women, he points to the need to rigorously ensure that appropriate safeguards are in place and that female detainees can freely decide whether or not they want to mix with men.

74. Notwithstanding the Government's efforts to reduce the use of solitary confinement, the Special Rapporteur, in line with the opinions expressed by the Committee against Torture and the European Committee for the Prevention of Torture, is concerned by the extensive recourse to this practice during criminal investigations in pretrial detention, in order to manage certain categories of convicted prisoners or as a form of punishment for disciplinary infractions. Whereas solitary confinement may be used in very exceptional cases and for as short a time as possible, its prolonged use may lead to severe mental suffering, which in particular circumstances may be qualified as inhuman treatment. If prolonged pretrial detention is used as a means of coercion to extort information or a confession, it may amount to torture.

75. With regard to detention of foreigners and asylum-seekers the Special Rapporteur, while being encouraged by the low number of asylum-seekers in detention as compared with some other European countries, is concerned by the fact that there is no maximum period for such administrative detention. Prolonged deprivation of liberty for administrative reasons without knowing the length of the detention may amount to inhuman and degrading treatment. Furthermore, although mandatory habeas corpus proceedings exist, the Special Rapporteur received information indicating that legal challenges to administrative deprivation of liberty of foreigners are not effective in practice.

76. The Special Rapporteur commends Denmark's efforts in addressing domestic violence against women and the trafficking of women, inter alia by amending its domestic legislation and carrying out successful awareness-raising campaigns, including through successive plans of action. However, in his opinion the efforts of the Government are aimed less at the rehabilitation of victims of trafficking in Denmark than preparing their return to their countries of origin. While regretting that in Greenland domestic violence has so far not been adequately addressed, despite the particular severity of the problem in this self-governing province, the Special Rapporteur is encouraged by the plans of the Home Rule Government to elaborate a national strategy for action with regard to this issue.

77. The Special Rapporteur is encouraged by the establishment of an inter-ministerial working group to investigate the alleged CIA rendition flights operating through Denmark and Greenland. Nevertheless, he is alarmed about the consideration recently being given by the Government to employ diplomatic assurances to return suspected terrorists to countries known for practising torture. Such practice would constitute an attempt to circumvent the absolute prohibition of torture.

78. The Special Rapporteur recommends that the Government:

- (a) Incorporate a specific crime of torture in the criminal law;**
- (b) Further reduce the use of solitary confinement, based on the unequivocal evidence of its negative mental health effects upon detainees;**
- (c) Set an absolute limit to the length of detention of foreigners pending deportation, and review the practice of habeas corpus proceedings under section 37 of the Aliens Act;**
- (d) Give greater attention to the rehabilitation of victims of human trafficking in Denmark;**
- (e) Ensure that, where arrangements exist for male and female detainees to be accommodated in the same premises, the decision of a woman to be placed together with men is based on her completely free and informed decision, and scrupulously monitor appropriate safeguards to prevent abuse;**
- (f) Refrain from the use of diplomatic assurances as a means of returning suspected terrorists to countries known for practising torture;**
- (g) Ensure that investigations into alleged CIA rendition flights using Danish and Greenlandic airports are carried out in an inclusive and transparent manner;**
- (h) Continue to promote and support international and national efforts relating to rehabilitation for victims of torture.**

79. Finally, the Special Rapporteur recommends, as a priority for the Greenland Home Rule Government, that it develop and implement an adequately resourced plan of action against domestic violence in Greenland in cooperation with actors with relevant experience, such as the Ministry of Welfare and Gender Equality.

Appendix - cases

Introduction

1. **General information:** The following are selected accounts of interviews of detainees who consented to be interviewed by the Special Rapporteur and to be included in the report. The Special Rapporteur conducted visits to detention facilities unannounced and was able to hold private interviews with detainees in all facilities he visited. If detainees did not wish that their interviews are recorded, the information provided is only reflected in the general findings of the report. Some detainees only agreed to an anonymous publication of their interviews.

NUUK POLICE STATION (Visited on 2 and 3 May 2008)

2. **General information:** The police station had four cells, each equipped with a mattress, a blanket and a chair. The cells were used for police custody, but also for persons in pretrial detention because of lack of space in Nuuk Prison.⁵⁵ There was a small room equipped with a fridge, a table, chairs, a sofa and a TV which could be used by detainees who are not held in solitary confinement. All cells and rooms were under continuous video surveillance and illuminated 24 hours per day. On the evenings of the Special Rapporteur's visit one person was detained in the facilities. The officer in charge receiving the Special Rapporteur was Johan Westen.

3. **Mads Strom Hansen**, aged 50, was arrested on 18 April 2008 at his apartment in Nuuk and taken to the police station. After 24 hours he was brought before a court, which remanded him to pretrial solitary confinement. He was allowed to receive a visitor once for 10 minutes in the presence of three police officers. Mr. Hansen sought and received medical treatment for back pain, for which a doctor prescribed pain killers. Mr. Hansen reported that he had difficulties sleeping since the light in his cell was switched on 24 hours per day because of the video surveillance system. He further complained that the under-floor heating in the cell was set too high, and that he sometimes had to wait up to 90 minutes until a police officer was available to escort him to the toilet outside his cell.

4. With regard to the light switched on for 24 hours in the cell of the detainee, the Government stressed that there have been many suicide attempts in police detention facilities in Greenland. Video surveillance has contributed to preventing and reducing the possibility of detainees to commit suicide or in other ways injure themselves. However, upon the Ombudsman's request, revised Order No. 1 of 2 May 2008 now contains rules allowing for the light in police detentions to be switched off between 11 p.m. and 7 a.m., on the basis of a concrete estimate and following elaborate guidelines.

⁵⁵ The Government informed the Special Rapporteur that in case a police cell is used for pretrial detention, it is possible to equip the cell with one chair, one table and one bed.

NUUK PRISON
(Visited on 3 May 2008)

5. **General information:** The prison has a total capacity of 64 inmates. On the day of the visit the total number of detainees was 62, of whom seven were women. Seventeen detainees were held in pretrial detention, and 45 were convicted. The institution is a “semi-open prison”. The majority of the convicted prisoners were allowed to go to work outside the prison during the day. Men and women were detained together. The 24 prison officers were Danish and Greenlanders and included eight women. The prison was divided into a section for remand prisoners with eight cells, as well as two additional sections (section A of 13 cells and section B of 14 cells). There were also two annexes for convicted prisoners with 10 and 14 beds, respectively. Prisoners working outside the prison had furnished their rooms with items, including wide-screen televisions, stereos, etc., purchased with their wages. The prison has two observation cells, and one security cell equipped with a bed with a five-point restraint system. The Special Rapporteur was received by the officer in charge, Poul Hard.

6. **Female detainee,** aged 30, was arrested on 6 April 2008 and has since been held in pretrial solitary confinement. The cell was equipped with a TV, sink and cupboard. After her arrest by two male police officers she was taken to the police station in Nuuk, where she stayed for some hours before being transferred to Nuuk Prison. Although she had the right to spend 30 minutes twice per day outside in the fresh air, she almost never made use of this right. She reported that she was not allowed to receive visitors, although had seen her boyfriend three times since her arrest. She was in contact with her lawyer over the phone. On 2 May, the court reportedly decided to prolong her solitary confinement for another three months. During that period she was to undergo a psychological examination pursuant to her criminal case. It was obvious from the interview that she suffered severely from the one month she had spent in solitary confinement.

7. **Angunnguaq G. Fly,** aged 19, was arrested in January 2008. After one week of detention in pretrial solitary confinement at Nuuk Police Station he was transferred to Nuuk Prison. He was convicted in March 2008 and was detained in the semi-open wing for convicted prisoners. He had been held in solitary confinement for two months, during which he had been allowed to receive visits from his mother. He reported that in January, in response to his playing loud music in his cell, two prison officers entered his cell and punched him in the face. He was dragged out of his cell and was punched again in the corridor, which resulted in his mouth bleeding. He did not officially report the incident, though he informed his lawyer and was examined by a doctor.

8. **According** to the Government, the Department of Prisons and Probation requested the Nuuk institution manager to make a statement. The institution manager stated that no notes appeared to have been taken in connection with the incident mentioned. Nor had any information surfaced elsewhere, and no actual complaint had been lodged by the inmate. However, based on the information in the Special Rapporteur’s report, the institution management interviewed the relevant inmate who maintained having been hit. The matter had therefore been reported to the police, which initiated an investigation. In this regard, the person in question, his defence attorney, as well as the doctor who carried out the treatment would be contacted. Furthermore, the Government informed the Special Rapporteur that, by letter dated 13 October 2008, the institution in which the convicted person was placed maintained that he had not been kept in

solitary confinement in the institution. He had, however, been repeatedly placed in a single cell for different periods ranging from 24 hours up to seven days in connection with a number of disciplinary offences.

9. **Detainee** aged 30, reported that he was being held in pretrial detention, pending a criminal investigation. He was confined to his cell for 23 hours per day with two half hour periods alone in the exercise yard. He was unable to speak with others except his lawyer. He was remanded for an additional 14 days at the request of the police. His co-accused was released on bail for cooperating with the police.

10. **According** to the Government, the person was held in solitary confinement from 11 April to 24 July 2008 for investigation purpose as part of a case, involving other persons. One person was released by the police as he had made an elaborate confession in relation to the charges raised against him before the District Court so that a continued detention could not be justified.

**QUEEN INGRID'S HOSPITAL (PSYCHIATRIC WARD A), NUUK, GREENLAND
(Visited on 3 May 2008)**

11. **General information:** An overview of the facility was given by Dr. Jonna Jacobsen. The psychiatric ward had 12 beds plus a capacity for seven outpatients. On the day of the visit, there were 10 in-patients, including three under compulsory treatment orders, and one under the Court for psychiatric supervision. The Special Rapporteur spoke to a few patients who did not complain about their treatment.

**POLICE HEADQUARTERS PRISON, COPENHAGEN
(Visited on 6 May 2008)**

12. **General information:** Located in the headquarters of Copenhagen Police, the Police Headquarters Prison is part of "Copenhagen Prisons", which include the Police Headquarters Prison, Vestre Prison and Nytorv Prison. Built in 1924, this high security prison is a remand prison for so-called "negatively strong prisoners", i.e. prisoners seen to be exerting a highly negative influence on other prisoners. Prisoners detained in Police Headquarters Prison are divided into five categories: Copenhagen-area convicted prisoners who are gang members; Copenhagen-area gang members in pretrial detention; gang members from outside the Copenhagen area in pretrial detention; convicted gang members with a sentence of less than 4 months; and persons in need of witness protection or voluntary protection. All inmates were held in single cells and were allowed to have so called "community time" of between two and four hours per day in their cells with another inmate, as decided by the prison management, as well as one hour of open air exercise on the roof per day. The inmates had the right to receive one visit of 90 minutes per week. The prison had a total capacity of 25 inmates and 24 cells were occupied on the day of the visit. Eight of the detainees were convicted and 16 were held in pretrial detention, two of whom were in solitary confinement pursuant to a court decision, and one was prevented from association with others as an administrative measure. The Special Rapporteur was received by Morten Gudman-Høyer, Deputy Governor of Copenhagen Prisons.

13. **Velimir Mujovic**, aged 39, had been detained in solitary confinement since 17 March 2008. He had been transferred to Police Headquarters Prison on 5 May. He reported that he could not inform his family in Montenegro of his detention, although he did

have contact with his lawyer. Mr. Mujovic had no complaint regarding his treatment in Police HQ Prison, but complained about the treatment in the prison in which he had been detained previously.

14. **Jørn Jønke Nielsen**, aged 48, leader of a motorcycle gang, had been in pretrial detention since 2 January 2008. He was arrested on 27 December 2007. Before his transfer to the Police Headquarters Prison he was treated in the hospital for injuries sustained at the time of his arrest. Mr. Nielsen appointed himself as spokesperson of detainees, and the other detainees could see him privately (once per week). He was writing a report about his 19 years of experience in Danish jails and claimed that he was instrumental in bringing about certain achievements in the treatment of prisoners through his complaints. He had no complaints about the prison staff.⁵⁶

15. **Detainee**, aged 25, gang member, had been detained for over one week in solitary confinement at the Police Headquarters Prison with three months remaining of his sentence. His cell was approximately 4m x 2m with a bed, chair, television, and wash basin. Because of his aggressiveness, he chose to be brought to Police Headquarters in order to be segregated from other prisoners and reduce the potential for violent conflict. But after having spent just over one week there he expressed his wish to go back. He described how difficult he found the regime, confined alone in his cell for 23 hours per day with one hour of open air alone on the roof. In the first days of his detention he crushed a light bulb, and cut his arms with the broken glass, threatening to kill himself if he was not able to see his family, and was subsequently taken overnight to the observation cell. He spent much of his day watching television, trying to exercise in his cell, or packaging wall plugs as assigned work. For long periods he found himself staring at the walls, rocking his body and trying to suppress aggressive thoughts. He had requested to see a psychologist.

**HERSTEDVESTER INSTITUTION, ALBERTSLUND
(Visited on 7 May 2008)**

16. **General information:** Herstedvester was built in the early 1930s, and serves as the treatment institution of the Prison and Probation Service for inmates in need of psychiatric or psychological treatment, particularly sexual offenders, or for inmates who cannot be housed in other prisons because of their behaviour. The institution has a total capacity of 153 places out of which 15 are open places and 138 are in the closed section. The closed section for women can accommodate 10 female detainees. All female inmates stay in this separate section, but can mix with male inmates during the day if they choose to do so. On the day of the visit the prison population was 152 inmates, including eight women. All except one were convicted. The closed institution is for convicts only, however, on occasion the institution receives remand prisoners who are detained under section 777 of the Administration of Justice Act. The prison has a special section for Greenlandic inmates (21 on the day of the visit) who were supervised by two Greenlandic prison officers, two social workers, and Greenlandic interpreters. The prison has four observation cells and one security cell. It also has two single cells (equipped with a TV and fridge) which are mostly used for persons who voluntarily want to be separated from other inmates; are persons with deviant behaviours; or are suicidal. The institution includes a sexual offender's assessment centre that can accommodate 18 persons. The prisoners usually spend

⁵⁶ The Government informed the Special Rapporteur that the detainee had been formally appointed as spokesman.

5-7 weeks in the assessment centre, and are then transferred to another prison for treatment. The institution had 250 full-time staff members, including 167 prison officers, 20 workshop masters, a librarian, teachers, six psychiatrists, nine psychologists, a medical doctor, nine social workers and eight nurses. Eighty-seven per cent of the inmates were serving a sentence of more than eight years, eight were serving a life sentence and 32 were serving an “indeterminate” sentence, according to Danish legislation. The conditions of detention were excellent. The prison was equipped with workshops, a library and computers for the use of prisoners. The institution was surrounded by a large green garden. All inmates were detained in single cells which they could decorate according to their will, and they were allowed to keep pets (e.g. one prisoner kept an Australian parrot) in their cells. In one case, the Special Rapporteur received allegations of ill-treatment by the police. However, according to the forensic expert accompanying the Special Rapporteur, the pattern was suggestive of self-inflicted wounds. The Special Rapporteur was received by the Deputy Governor, Ms. Hanne Høegh Rassmussen and the Clinical Director, Ms. Birgit Jessen-Petersen.

17. **Female detainee**, aged 23, was arrested in September 2003 and was detained in Esbjoerg Arrest House and Ringkøbine until May 2005. In Ringkøbine she formed a relationship with a male inmate and became pregnant. After her conviction she was transferred to Herstedvester Institution (and was separated from her boyfriend). She was later transferred to Ringe Prison, where she gave birth. Following a psychological assessment it was decided that she was unable to care for her baby. She was separated from her baby four days after the birth and given medicine to stop the production of breast milk. After eight months at Ringe Prison, she was transferred back to Herstedvester where she was held in isolation for some time as a protective measure from excessive attention she was receiving from the male prison population. In Herstedvester, she married an inmate but later separated. At the time of the interview, she was engaged with another inmate who protected her. She cut herself twice but received appropriate treatment for this. She was eligible for release in mid-May but preferred to stay at Herstedvester, because she was afraid of life outside the prison and wished to be with her boyfriend. Despite her traumatic experiences, she was in favour of the system of mixing men and women in prison.

18. **Female detainee**, aged 39. Before her transfer to Herstedvester Institution she had been held for almost two years in pretrial detention in Vestre Prison, the first 16 days of which she spent in solitary confinement. On the second day of solitary confinement she tried to commit suicide by hanging and was subsequently transferred to another cell where she was able to look out of a window. She asked to see a psychologist or psychiatrist but was treated only some week later. As a consequence of her experience in isolation she feels claustrophobic when entering small rooms. She reported that in Herstedvester Institution she received very good treatment to overcome these fears. Further, she reported that in Vestre Prison she witnessed an incident where violence against an inmate was used. She allegedly was told by the respective guard “you have not seen anything”. She prefers to be separated from men despite the fact that this leads to a loss of certain educational or recreational opportunities but reported that she is in favour of the system in which female detainees can choose whether to be or not with men.

19. **With** regard to this case, the Government informed the Special Rapporteur that Copenhagen Prisons have a special scheme under which a nurse carries out a health check within 24 hours after imprisonment. This may be brought forward if the prison staff is worried about the inmate’s condition and requests such a check. If the nurse finds it necessary, medical attendance may be provided on the same day, as doctors are present on all workdays. Outside

normal working hours and on Sundays/public holidays, a doctor can be called from home. If an inmate requests a consultation with a psychologist or psychiatrist, he/she will first have to see a prison doctor, who will assess the need for referral to a psychologist/psychiatrist. The consultation with the doctor will typically take place the day after the inmate has made the request, unless in case of an emergency.

20. **Male detainee**, aged 63, Greenland. Since 1975 he has - with some short interruptions - repeatedly been in prison in Greenland and Denmark for rape. From 1994 to 1997 he was detained in solitary confinement in Asiat and Nuuk in Greenland and then transferred to Herstedvester. He reported that for two years he refused medical castration, but eventually agreed to this treatment since the only alternative was a life in prison. He had been undergoing this treatment for three years and was allowed to go out of prison every two or three weeks for three days at a time. For these occasions, the prison authorities and social workers worked together with him to develop a visit plan. He learned Danish during his imprisonment in Denmark and he wished to stay in Denmark after his release. In his opinion imprisonment of Greenlanders in Denmark was difficult since it resulted in separation from family, friends and Greenlandic cultural life.

21. **Abdulay Anderson**, aged 34. At the time of his arrest, two years earlier, his arms were forced behind his back and the wrists tied with flexi-cuffs. A hood was placed on his head. He remained handcuffed for three hours, the cuffs cutting into his wrists and leaving his hands numb. The numbness persists two years later. Some hours later, when detained in Randers Police Station, he was stripped naked by an officer who performed a rectal examination using a finger. No medical examination was conducted. He alleged that, while in the cell he was not handcuffed, police officers entered and hit him on the body with truncheons, particularly on the upper arms and thighs. He sustained bruises.

22. **Detainee**, sentenced to indefinite imprisonment, had been detained since the 7 March 2006 at Herstedvester Institution. He reported that, whereas the treatment at the Institution was satisfactory, he personally would prefer to go back to a psychiatric institution or receive a limited prison sentence. He reported that the prison guards overall were doing a good job, but he wished that some of them were more active. Further, he said that it was difficult to lodge a complaint, but he welcomed the existence of a spokesperson representing the detainees. During the time he had spent in detention, no violence was used against him. Once he was taken to the observation cell at Vridsløselille State Prison for 24 hours, but no force was used against him. The cells were locked at night, but prison staff reportedly opened the cells within a reasonable period of time if a detainee had to go to toilet at night.

VRIDSLØSELILLE STATE PRISON, ALBERTSLUND
(Visited on 7 May 2008)

23. **General information:** Dating from 1859, the prison was a model of a “Philadelphia prison”, where inmates were held in isolation during work and in their leisure time. The prison was star-shaped with four three-storied wings emanating from the centre point. The prison had a capacity of 250 inmates. On the day of the visit, the total prison population amounted to 240 (all males), out of whom 215 were convicted and 25 in pretrial detention. The prison had a high security unit for 15 persons (convicted and remand prisoners) which was occupied by eight inmates (four pretrial and four convicted). One of the remand prisoners was in solitary

confinement pursuant to a court decision; two of the convicted prisoners were in isolation based on a disciplinary sanction and two other convicted prisoners were in voluntary isolation. The different sections were very well kept. The whole prison was very clean and decorated with plants. There were various sport activities for inmates. Apart from the inmates in the high security unit, all were on a self-cooking regime. All inmates were detained in single cells. The prison had newly renovated visiting rooms with colourful paintings and child-friendly furniture. The Special Rapporteur was received by the Governor Mrs. Marianne Secher.

24. **Gazmen Mustafaj**, aged 40, ethnic-Albanian from Montenegro, was arrested on 17 March 2008. Until his transfer from Vestre Prison on 6 May, he had been held in pretrial solitary confinement. He reported that during his solitary confinement he did not make use of his right to spend one hour per day in the yard outside since he felt like an animal in a cage. He was not allowed to talk to his family, although his wife was informed about his detention.⁵⁷ He reported that he was suffering from stress symptoms.

ELLEBAEK - CLOSED DETENTION CENTRE FOR FOREIGNERS (Visited on 8 May 2008)

25. **General information:** Ellebaek was a detention centre for incoming or rejected asylum-seekers. Adjacent to the detention centre was the “Sandholm Red Cross Centre” which is an open centre for asylum seekers. Detention orders were requested by the police and sanctioned by a court, and the centre was run by the Danish Prison and Probation Service. The centre had a capacity of 118, which could be increased through the addition of another 19 beds. On the day of the visit, 58 persons, including four women and one juvenile were detained at the centre. Female detainees were detained in a separate building, but were allowed to mix with male detainees during the day. The centre used the same disciplinary system as prisons, however it did not have a security cell. Medical screening of a detainee was performed by a nurse within 24-48 hours upon arrival at the centre. A doctor visited the centre twice per week. The medical staff used interpreters for examinations. The inmates were allowed to do very basic work for which they earned between 500 and 1000 DKK (approx. US\$ 100 to 200) per week. The Special Rapporteur was received by the Head Constable, Niels Etldard, and the Prison Governor, Hendrik Boe Pedersen.

26. **Yuri Nikolaev**, aged 36, a Russian national. He was arrested and taken to Kastrup Airport Police Station on 2 May 2008 upon arrival in Denmark by train from Sweden. On 3 May, he was transferred to Ellebaek detention centre. He reported that a few days prior to the Special Rapporteur’s visit, in the observation cell, he was recently forcibly grabbed on the left arm by a guard and pushed onto the bed. The following day, an officer kicked him with the sole of his shoes on the right side of the chest, when the detainee went to note the guard’s name. The prison doctor’s medical report indicated allegations of assault by the guard and noted bruising on the

⁵⁷ According to Vridsløselille State Prison, the above person was subject to supervised visits and checks of his letters.

right side of the chest. A forensic examination a few days later found that the bruising on his arm was consistent with a grab mark, and those on his chest consistent with a blow from a blunt object, such as a shoe, and were compatible with the allegations described.

27. The **Government** informed the Special Rapporteur that, on 8 May 2008, the Prison and Probation Service reported the matter to the police on behalf of the detainee. However, the person left Denmark before the police could interview him. Subsequently, it was found that he had moved to Sweden. The public prosecutor therefore requested that he be interviewed by the Swedish police. The Danish police are currently awaiting a response from Sweden.

**VESTRE PRISON
(Visited on 8 May 2008)**

28. **General information:** Vestre was built in 1895, in the form of a cross-shaped panoptic cell prison with a total capacity of 545. On the day of the visit there were 514 inmates: 477 remand prisoners (out of which seven were in solitary confinement); 30 women (remand and convicted prisoners); Women were detained in a separate wing (30 cells on two floors) but were allowed to mix with male prisoners during the day. When the wing was not fully occupied by women, some men were placed in the female wing and it was found that this improved the atmosphere. The 15 “negatively-strong” convicted prisoners, i.e. prisoners seen to be exerting a highly negative influence on other prisoners (e.g. members of motorcycle gangs) were detained in a special wing with a capacity of 18, completely separated from the rest of the inmates. The prisoners in this section were allowed to cook their own food, while remand prisoners were served prison food. The staff at Vestre Prison comprise of 620 persons. The prison was very clean and many sport and work facilities were offered to inmates. All inmates were detained in single cells. The courtyard, which was used for outdoor visits of detainees in solitary confinement, was divided into several triangular shaped cages. This space was fairly small and there were no chairs and benches. The Special Rapporteur recommends rebuilding the courtyard, increasing the space available for detainees.⁵⁸ Each newly registered prisoner was examined by a nurse usually within the first 12 hours in the Arrival Section. According to one prisoner the “examination” was more of an interview about illnesses and prescribed medications. The prison had a hospital wing, which included 36 cells/beds divided between two floors. One floor was mainly used for psychiatric cases. A drug program was available in the prison. On the day of the visit, 65 prisoners were enrolled in individual drug counselling programmes. Methadone maintenance therapy (substitution therapy) was available to prisoners and often this treatment started after arrival at the prison. In 2007, three inmates committed suicide. In the first four months of 2008, there have been three suicides, all men between the age of 30 and 40 years who died by hanging. None of the suicides took place in the isolation regimes. The Special Rapporteur was received by Peter Vesterheden, Prison Governor of Copenhagen Prisons.

29. **Andres Bering Bryld**, aged 38, was arrested on 4 April 2008 at his home and taken to Vestebod City Police Station. In the evening of the same day he was transferred to Vestre Prison. On 5 April 2008, he was taken to court and was remanded to two weeks of pretrial detention in solitary confinement in order to prevent collaboration with others involved in his case. The

⁵⁸ See also Report on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 11 to 20 February 2008, CPT/Inf (2008) 26, para. 55.

solitary confinement was subsequently prolonged by the court. He was due to return to the court again on 14 May. He stated that he missed interacting with others, but from previous isolation experience in 2003, he was able to cope. He was permitted one hour of exercise in the yard. The toilet was outside his cell and he needed to signal an officer to escort him whenever he needed to use it. He had access to books, magazines and a television in the cell. He asked to do some work and was placed on a waiting list in this regard. He received three meals a day, breakfast, a hot meal for lunch and a cold meal in the evening and had no complaints about the quality or quantity. He was allowed one hour of family visits per week, but a police officer from his case was normally present in the room. He reported that most of the prison staff treated the inmates well.

30. **Female detainee**, aged 25, Hungarian national, was arrested on 25 April 2008 at her boyfriend's apartment in Copenhagen and taken to Belahøj Police Station. The same day she was transferred to Vestre Prison where she was held for 12 days in solitary confinement. She was not allowed to call her boyfriend or family but could correspond in writing. She reported that the prison staff treated the inmates in a correct and respectful manner and welcomed that there were also male prison officers working in the women's section. Furthermore, she liked being able to mix with male detainees during the day. She did not feel harassed.

31. **Ji An Shi Zy**, Chinese national, was arrested at his home on 17 April 2008. He was examined at the hospital and was shortly held at a police station before being remanded to Vestre Prison, in solitary confinement. He reported that the police and his lawyer tried to inform his wife about his detention. He had no complaints and was satisfied with the treatment by the guards.

32. **Niels Poulsen**, aged 35, leader of a motorcycle gang, serving a life sentence. He was detained in the wing for "negatively-strong" prisoners, i.e. prisoners seen to be exerting a highly negative influence on other prisoners, together with other convicted gang members. He complained about this separation and preferred to be part of the normal prison population. He complained also about an earlier solitary confinement of about one year during which he was afraid he would go insane.

33. **Christine Kristianson**, aged 33, a spokesperson of female detainees. She was arrested on 8 August 2006 taken to a police station where she was held for 12 hours, and later transferred to Vestre Prison. In Vestre Prison she was held in isolation for one day for investigative reasons. She was also held in administrative solitary confinement for three weeks. She reported to the Special Rapporteur that one day the prison warden suspected that she had swallowed drugs. When she refused to follow the special protocol in such circumstances (i.e. wear special underwear), six guards came in her cell, stripped her naked and escorted her naked to the security cell, where she was restrained to the bed naked until she passed the drugs. She further reported that in Ringe Prison (where she was previously detained) the conditions of detention were better because detainees were allowed to go to the garden and more activities were offered. However, she thought that more separation was needed between male and female detainees at Ringe Prison. In Vestre prison she was allowed to go to the courtyard for 30 minutes per day.

34. The **Government** informed the Special Rapporteur that the Department of Prisons and Probation requested the prison to make a statement, which indicates that the detainee's statement according to which she was placed in a security cell and even stripped naked must be rebutted. According to Copenhagen Prisons, she was admitted to the prison on 17 July 2006. It appears from the observation cell report that there was a suspicion of possession of drugs in the abdomen. She was asked whether she wanted to undergo a recto-vaginal examination, or whether she wanted to put on a body packer suit. She chose the body packer suit and was placed in an observation cell. No force was applied in connection with the suspicion/confinement. Half an hour later, she allowed the doctor to perform a recto-vaginal examination. The examination was performed, and no drugs were found. Immediately thereafter she returned to her own cell. The Government assumes that this must be the incident referred to by the inmate as no other incidents during incarcerations since 2001 have been reported.
