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on civil and
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SUMMARY RECORD OF THE 2570th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 13 October 2008, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT

Fifth periodic report of Denmark (CCPR/C/DNK/5; CCPR/C/DNK/Q/5 and Add.1)

1. At the invitation of the Chairperson, the delegation of Denmark took places at the Committee table.
2. Mr. JACOBSEN (Denmark), introducing the fifth periodic report of Denmark (CCPR/C/DNK/5), said that Denmark's international human rights policy focused on five areas: monitoring of compliance with international human rights standards; combating torture, promoting freedom of expression and supporting the rights of indigenous peoples; taking action against human rights violations wherever they occurred; actively strengthening democracy and democratic structures and respect for human rights in the context of cooperation and development activities; and enhancing cooperation with civil society. In that connection, he noted that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had visited Denmark in May 2008 and the Special Rapporteur on the right to education would be visiting Greenland later that year. The European Committee for the Prevention of Torture had also visited Denmark in February 2008, and the report of that visit was publicly available.
3. He wished to inform the Committee of two developments that had taken place subsequent to the submission of the fifth periodic report. First, in May 2008 the Greenland-Danish Self-Government Commission had submitted a bill on self-government for Greenland, which had been adopted by both the Greenland and Danish Parliaments. It was expected that self-government would take effect on 21 June 2009, Greenland's national holiday. Under the bill, the self-government authorities could assume legislative and executive powers in many areas except those involving the Constitution, foreign policy, defence and security policy, the Supreme Court, citizenship and monetary and exchange-rate policy. The subsidy provided by the Government would remain at the 2007 level, while Greenland would provide financing for any new areas for which it assumed responsibility in the future. Revenue from activities involving Greenland's mineral resources would accrue to the self-government authorities. Any decision regarding Greenland's independence would be taken by the people of Greenland.
4. The second development concerned the police and court reforms of June 2006. The Danish Parliament had sought to modernize and enhance the effectiveness of the police and courts. As part of the reform process, which had begun in January 2007 and would continue until 2011, the number of police districts would be reduced from 54 to 12 and the number of district courts from 82 to 24. The majority of cases would be tried by district courts of first instance, and even the most serious criminal cases would be tried before a jury.
5. The CHAIRPERSON invited the delegation to address the list of issues. (CCPR/C/DNK/Q/5)
6. Mr. EGHOLM (Denmark), referring to question 1 of the list of issues, said that the ad hoc parliamentary committee responsible for drafting a Constitution of the Faroes had been

established in May 2007, as noted in the written replies (CCPR/DNK/Q/5/Add.1). The committee's mandate had lapsed when the Faroese parliamentary session ended in July 2007. A new Government had been formed in February 2008, which had pledged to hold a referendum on the matter in 2010. Since the drafting of the written replies, another Government had been formed in September 2008, which had signalled its intention to continue the work of the ad hoc committee but had made no reference to the holding of a referendum.

7. Mr. HERTZ (Denmark), referring to question 2 of the list of issues, said that the Government's decision not to incorporate the Covenant into Danish law was not related to legal obstacles. As noted in the written replies, the Danish Government had considered incorporation of the Covenant to be unnecessary; the Covenant was in fact a relevant source of law that was already applied by the Danish courts and other authorities.

8. Referring to question 3, he said that the withdrawal of Denmark's reservations to the Covenant was not currently under discussion.

9. Turning to question 4, he described the composition of the Committee established to review and evaluate the current system for handling complaints against the police.

10. Ms. NIEGEL (Denmark), responding to question 5 of the list of issues, outlined the rights enjoyed by women in public life, which were enumerated in the written replies. The proportion of women in local politics had remained unchanged at 27 per cent since 2001; it was hoped that that figure would increase following the 2009 election. An awareness-raising campaign was being conducted by the Minister for Gender Equality with the aim of highlighting the low number of women in local politics. As the figures contained in the written replies made clear, the number of women in senior private-sector management positions was low, and only slightly higher in the State sector. In March 2008, a Charter for More Women in Management had been launched, which committed companies to setting goals to increase the number of women in management positions. Whereas the original goal had been to have 100 companies sign the Charter by 2010, there were 75 signatories already.

11. Mr. EGHOLM (Denmark) added that efforts had been made by the Faroese Government to enhance the participation of women in public life, including the establishment of an independent committee, *Demokratia*, which sought to encourage greater participation by women in politics. One of *Demokratia*'s many initiatives had been a major awareness-raising campaign conducted from 2005 to 2008, as a result of which the proportion of women in the Faroese Parliament had increased considerably. There were currently three women occupying ministerial posts in the Faroese Government. Programmes were also being conducted to address the problem of women's underrepresentation in senior management in the private sector.

12. Mr. FÆRKEL (Denmark), referring to question 6 of the list of issues, said that following adoption of the Act on the Board of Equal Treatment in May 2008, the Board would become operational in January 2009. The Board would address discrimination in all areas covered by Danish anti-discrimination legislation.

13. Mr. PEROTTI (Denmark), referring to question 7 of the list of issues, said that religious communities other than the National Church continued to receive subsidies from the State. He noted that the rulings in the court cases described in the written replies had found that there was

no direct connection between regular taxes and the State's economic grant to the religious activities of the National Church, and that the National Church administered the registration of births as a State administrative authority pertaining to public law, so that such registration was of a non-religious nature.

14. Mr. HERTZ (Denmark), addressing question 8 of the list of issues, said that a special section on torture had been incorporated into the Criminal Code in July 2008. The new section contained a definition of torture, which would henceforth be considered as an aggravating circumstance for offences such as homicide, assault and rape.

15. Ms. HAUBERG (Denmark), referring to question 9 of the list of issues, said that refolement was prohibited under the Danish Aliens Act, which was discussed in the written replies. Denmark's obligation to respect the provisions of the Covenant, including article 7, was made clear by the explanatory comments to section 7 (2) of that Act.

16. Ms. NIEGEL (Denmark), addressing question 10 of the list of issues, drew attention to the Government's action plans to combat violence against women, which were described in detail in the written replies. As a result of the first action plan (2002-2004), the number of women victims of domestic violence had fallen by about one third. A second action plan had been launched in 2005, and its activities were being monitored by an inter-ministerial working group. The Government planned to launch a new four-year action plan in 2009.

17. Ms. THOMSEN (Denmark), addressing the same question, said that the Greenland police, with certain regionally determined exceptions, observed the principles outlined in official instructions for the investigation and prosecution of domestic violence cases. Shelters and crisis centres for women and children were jointly funded by the Greenland Home Rule Government and the municipalities. Under a planned reform, the 18 municipalities would be replaced by 4 regions, a move that was expected to increase access to shelters. She stressed the importance of the Greenland Home Rule Government's information campaign on domestic violence and its planned national strategy against violence, rape and sexual abuse.

18. Mr. FÆRKEL (Denmark), replying to question 11 of the list of issues, drew attention to the information given in the written replies concerning the alleged CIA flights through Danish and Greenlandic airspace and said that, unfortunately, the report of the task force that had been established to examine all existing information on the matter was not expected to be published until 23 October 2008. He was unable to discuss the content of the report.

19. No decision had been taken to rely on diplomatic assurances when transferring foreign nationals to other countries. The recently established working party on administrative deportation of foreign nationals had a broad mandate, which included the consideration of diplomatic assurances. Any steps taken in that regard would fully respect Denmark's international obligations, including those under article 7 of the Covenant.

20. Mr. HERTZ (Denmark), referring to questions 12 to 17 of the list of issues, said that cases of ill-treatment and abuse of prisoners were rare. Cases of deaths in custody were subject to a double review and compensation was awarded as appropriate. He drew attention to the information which had been provided in the written replies on procedures for dealing with violations of the Criminal Code or prison rules by staff and disciplinary sanctions in such cases.

21. Amendments had been introduced to the Administration of Justice Act limiting the maximum time a person could be held on charge or in pretrial detention, with reduced limits for minors. Under Danish law, a person could not be held without charge but must be released or brought before a judge within 24 hours; if an individual was held in remand, the judge must make a reasoned order within three days.

22. There were currently no deliberations aimed at limiting the duration of solitary confinement imposed upon persons detained under chapters 12 or 13 of the Criminal Code. Solitary confinement was imposed to avoid prejudicing investigation of the most serious crimes, and prisoners in such cases enjoyed a number of compensatory rights. Special provisions were made for minors in such circumstances. Moreover, there were no current deliberations to introduce further reviews of decisions to impose solitary confinement on convicted prisoners; the *travaux préparatoires* of the Act on Enforcement of Sentences made it clear that, under that Act, a decision to impose solitary confinement did not entail the right to immediate judicial review of the decision.

23. Turning to question 16, he explained that although one young offender was currently serving his sentence in an adult open prison to avoid the inconveniences associated with young offender units, a special open prison unit with five places for 15- to 17-year olds would open in 2009. The planned facility would offer a broad range of socio-educational support.

24. The term “foot shackle” mentioned in paragraph 278 of the report was an informal term used to describe an arrangement whereby offenders could be electronically tagged and serve their sentences at home. Since July 2008, all persons sentenced to up to three months’ imprisonment could apply for inclusion in the programme.

25. Statistics on inter-prisoner violence indicated that 199 prisoners had been subjected to violence or threats from fellow prisoners in 2007. The Prison and Probation Service sought to ensure safe conditions for prisoners that mirrored everyday life outside the prisons to the greatest extent possible. Such conditions were ensured through dynamic security and continuous close contact with prisoners. Special units had also been established for particularly vulnerable prisoners and for violent prisoners.

26. Mr. O’FLAHERTY, Country Rapporteur, commended the State party for its informative and self-critical report. He asked whether more could have been done to promote the interest of non-governmental organizations (NGOs) in the work of the Committee and requested further information on the application of the Covenant in Greenland and the Faroe Islands as well as on human rights and civil society culture in those territories. He asked how the State party was ensuring that human rights concerns were central to the debate on autonomy and would be guaranteed under any new arrangement in those territories.

27. He observed that the withdrawal of reservations to the Covenant would strengthen the country’s human rights architecture, and he invited the State party to reflect on the extent to which it was maintaining an ongoing review of its reservations, in view of its reply to question 3 on the list of issues. Referring to question 16, he wished to know the age of the young offender held in an adult open prison and sought a more detailed explanation of the rationale for holding

him there. He also sought confirmation that no child would be held with adults once the new young offender unit was opened. He wondered whether young offenders from Greenland or the Faroe Islands would be transported to that unit in future, since doing so might raise concerns under article 24 of the Covenant.

28. Although the State party had robustly defended its support for the Established Church, he invited the delegation to consider the possibility that such support raised an issue under article 18 of the Covenant. He suggested that some functions currently performed by the Church and cited as justification for State support, such as birth registration, burials and buildings maintenance, might be transferred to other offices.

29. He wished to know whether article 18 had been invoked in the Koza and Toft cases, mentioned in the State party's written replies to question 7, as that would indicate the extent to which non-incorporation of the Covenant in Danish law impeded its application.

30. Ms. CHANET observed that a recent study on happiness, the parameters of which had included human rights protection, had found the Danish to be the happiest people in Europe. The Committee would therefore be all the more demanding in terms of the State party's efforts to ensure the enjoyment of human rights by all of its citizens.

31. She observed that although the Committee on Incorporation of Human Rights Conventions into Danish Law had recommended that the Covenant should be incorporated into national law, the State party had claimed that political obstacles and disadvantages prevented it from doing so. However, it was insufficient to invoke the Covenant before the courts, since merely doing so did not give the Covenant prevalence over domestic legislation. She therefore wished the delegation to explain what the obstacles and disadvantages to incorporation were.

32. The delegation should also provide information on how arrested persons were notified of their rights, including whether they had access to a lawyer or doctor and were given an opportunity to contact a family member within 24 hours. She welcomed the entry into force of the Danish Administration of Justice Act, which placed limits on the length of pretrial detention. She asked what the longest period during which a person could be held in pretrial detention was. Although she welcomed the idea of using an electronic tagging scheme instead of a three-month period of pretrial detention, she wondered whether it had proved feasible to apply that scheme in practice.

33. With regard to the issue of solitary confinement, she wished to know whether exclusion from association with other detainees was the only aspect that differentiated detainees in solitary confinement from those in ordinary cells. She requested an explanation as to why solitary confinement was used as a security measure in some cases, while in others it was used as a sanction. It was difficult to imagine what might justify imposing indefinite solitary confinement on prisoners; given that a detainee's situation did not remain static, a time limit should be established. The decision to hold a prisoner in solitary confinement should not be left exclusively to the discretion of prison authorities; it was in fact questionable whether the practice of excluding judges from prison decisions was compatible with Denmark's obligations under international law. Indeed, the current international trend was to increase external judicial involvement so as to ensure oversight of the enforcement of sentences and to allow for the possibility of appeal against penalties or even very restrictive measures.

34. Ms. PALM asked when the report of the committee that had been established to review and evaluate the current system for handling complaints against the police would be issued. She wished to know what procedures and timetable that committee had in mind for implementing any reforms it might propose. She enquired whether the Government had any immediate plans to address concerns about the lengthy period of time it took to process complaints against the police and the general public's lack of confidence in the current system. She would appreciate a detailed explanation of the criticism levelled at certain decisions handed down in cases concerning police conduct in 2005.

35. In spite of the laudable efforts of the Government to eliminate violence against women through the adoption of two action plans, additional efforts were needed to address the estimated 28,000 cases of violence reported each year in Denmark. She would appreciate more information on the kinds of support given to women who reported acts of violence to the police. She wondered whether police officers were given special training in handling such cases and whether special procedures had been established for that purpose. She wished to know whether the provision of shelters for battered women was the responsibility of the State, municipalities or NGOs, and what resources were allocated for such shelters. She enquired what action had been taken to help immigrant women who had been subjected to ill-treatment, given that violence against immigrant women often went unreported, owing to those women's economic dependency and fear of deportation.

36. Ms. MOTO asked what steps the Government was taking to reconcile the traditional role assigned to indigenous women in the Faroe Islands, particularly with regard to their participation in public life, with women's rights. One means of preventing discrimination against women in the private sector and ensuring greater levels of female participation in high-level private sector jobs was to set up public/private partnerships to raise awareness of women's rights.

37. She requested additional information about incidents of ill-treatment in Danish prisons, including in the Faroe Islands. In general, she wished to know what place human rights, and the Covenant in particular, occupied in Danish civil society.

38. Mr. IWASAWA welcomed the Danish Government's firm commitment to combating torture. However, the delegation should provide the Committee with the text of sections 31 and 32 of the Aliens Act. He asked whether those sections of the Act incorporated the principle of non-refoulement and guaranteed that a person would not be returned to a country where he or she might be subjected to torture, in violation of article 7 of the Covenant. He also wished to know whether non-refoulement was respected in the case of persons who risked being subjected to torture or other inhumane treatment even if they had not been granted asylum under the Convention relating to the Status of Refugees. Lastly, he wished to know whether the explanatory memorandum to section 7 (2) of the Aliens Act specifically stated that Denmark had an obligation to respect article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the International Covenant on Civil and Political Rights.

39. He requested the delegation to comment on the more than 100 alleged cases of aircraft flights through Danish airspace and 45 flight stopovers in Danish airports for the purposes of rendition. He also sought additional information on the compatibility with article 7 of the Covenant of Denmark's plans to rely on diplomatic assurances when returning suspected

terrorists to countries in which the practice of torture was alleged to exist. Perhaps the delegation could tell how the Danish Government intended to verify the diplomatic assurances provided by destination countries.

40. It would be useful to know the extent to which the Covenant had been incorporated into domestic law. The fact that Denmark had a dualist system under which international agreements were not automatically incorporated into domestic law did not seem to square with the fact that international legal instruments, including conventions, were considered a relevant source of law, and that provisions of human rights conventions were applicable before the Danish courts. He wished to know the number of cases in which Danish courts had found that the Covenant had been violated and whether the Covenant was cited less frequently owing to the fact that it remained unincorporated in domestic law.

41. Mr. AMOR wished to know the religious affiliation of the 17 per cent of the Danish population who did not belong to the Established Church of Denmark. He would appreciate clarification of the status of the Established Church, as well as of the privileges accorded to its members, and he wondered what types of identification documents specified the bearer's religious affiliation. He was concerned about potential sources of discrimination against non-members of the Established Church. He asked whether and to what extent religious extremism existed in Denmark and, if it did, what its sources might be. The delegation should also explain how the Government interpreted article 19, paragraph 3, and article 20, paragraph 2, of the Covenant.

42. Mr. PÉREZ SÁNCHEZ-CERRO said that the deportation of persons suspected of posing a security threat to Denmark to countries where they might be subjected to torture violated article 7 of the Covenant and the principle of non-refoulement. The delegation should comment on the need to strengthen protection for such persons. He asked why Denmark did not use domestic judicial means to prosecute the individuals in question, instead of deporting them without assurances of their protection. He wished to know what measures Denmark planned to take to align its domestic legislation with the soon-to-be-adopted European directive that would limit the detention of illegal immigrants to 180 days.

43. Mr. LALLAH asked for information about Denmark's approach to the fight against terrorism and the kinds of legislation and practical measures that had been adopted to implement Security Council resolution 1373 (2001). The delegation should specify how many persons, if any, had been detained on suspicion of terrorism, how long they had been detained, and whether any had been prosecuted. A letter addressed by the Permanent Representative of Denmark to the United Nations to the Counter-Terrorism Committee of the Security Council in 2004 had mentioned that a Danish citizen had been taken into custody by United States forces in Afghanistan in 2001 or 2002. He wished to know how Denmark had followed up that arrest, what had happened to the person in question and whether the Danish Government had taken any steps to ensure his physical integrity as guaranteed under the Covenant.

44. Mr. SHEARER said that Denmark had apparently entered reservations where the need for them was unclear, perhaps out of a concern to be excessively scrupulous. For example, there was no clear need to maintain the reservation to article 14, paragraph 7, of the Covenant. The Government should consider lifting its reservations or, if it maintained them, explaining the reasons for them more fully.

45. Sir Nigel RODLEY asked about the incorporation of the specific crime of torture in Danish legislation. Unlike the Committee against Torture, the Human Rights Committee did not take the view that it was necessary to enact a law specifically prohibiting the act of torture in order for a State to be in conformity with its corresponding treaty. However, the Committee had found that the assertion by States that their laws as they stood covered the issue of torture did not always withstand thorough examination. Specifically, it was sometimes quite difficult to identify the provisions in national law that effectively banned mental, as opposed to physical, torture, such as prolonged incommunicado detention, threats or intimidation. The delegation should inform the Committee whether there were any gaps in Danish domestic law that would make mental torture possible and, even if there were no such gaps, whether there were ways to circumvent the law in practice.

The meeting was suspended at 5.15 p.m. and resumed at 5.35 p.m.

46. Mr. FÆRKEL (Denmark) said that, generally speaking, when the Danish Government submitted reports to treaty bodies, civil society organizations also submitted two or three alternative reports, and his delegation had therefore been somewhat surprised to find that no such report had been submitted to the Committee in connection with Denmark's fifth periodic report. That might be explained, at least in part, by the fact that the scope of most Conventions covered by the treaty bodies was much more focused than that of the Covenant, and the mandates of most NGOs dealt with very specific rights. While the Danish Institute for Human Rights might have been able to submit a report, the Government had not requested it to do so. Nevertheless, NGOs did pay a great deal of attention to the implementation of the Covenant: they often invoked its provisions and referred extensively to the Committee's concluding observations whenever a relevant issue came up.

47. Mr. JACOBSEN (Denmark) added that Danish human rights NGOs tended to pay more attention to European human rights instruments and cases handled by the European Court of Human Rights, as they often appeared more relevant to situations arising in Denmark.

48. Mr. EGHOLM (Denmark) noted that the Parliament of the Faroe Islands had ratified practically all the international human rights instruments to which Denmark had acceded; it was therefore very likely that if the Faroe Islands became independent, the new State would respect the human rights commitments undertaken by Denmark. There were a number of NGOs active in the Faroe Islands.

49. Ms. THOMSEN (Denmark) said that the main NGO in Greenland was affiliated with the Inuit Circumpolar Conference and actively defended the rights of the Inuit, the majority group in Greenland, by representing them nationally and internationally, most recently at the Expert Mechanism on the Rights of Indigenous Peoples of the Human Rights Council. Amnesty International, too, was active in Greenland. Civil society had shown a great deal of interest in defending the rights of indigenous peoples at the international level through such mechanisms as the United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007. Many United Nations international days were celebrated in Greenland, and all the major human rights treaties had been translated into Greenlandic.

50. Mr. JACOBSEN (Denmark), responding to questions raised concerning Denmark's reservations to the Covenant, said that there were currently no official deliberations under way with a view to the lifting of those reservations.

51. Mr. HERTZ (Denmark) said that, having understood the Committee's view that Denmark's reservations should be withdrawn immediately, the delegation would advise the Government to review those reservations and to consider rephrasing them if they were maintained.

52. Juvenile offenders were by definition between the ages of 15 and 17 inclusive and were generally assigned to social welfare institutions. Only the very few who were exceedingly violent or dangerous were held in prisons, and they were assigned to serve their sentences by court order. While they were held in the same units as adult prisoners, they did not sleep in the same cells and thus only intermingled during the day. There were currently fewer than 20 juveniles in prison throughout the country. The fact that there were so few made it unfeasible to establish a special unit for juveniles, as doing so would require that they should be concentrated at a single facility, which would mean that some would be separated by long distances from their families. There were plans to establish specific units for juveniles by mid-2009, but because those units would be able to accommodate only five inmates, it was conceivable that in certain circumstances juveniles might still be held in the same prison unit as adults.

53. Mr. JACOBSEN (Denmark) said that for historical reasons the Danish National Church had a special position in Denmark, and that in order to facilitate the registration of births, the State had delegated its authority for such services to the National Church. Registration could be done at a facility of the National Church, by e-mail or through the post. The State subsidy given to the Church for the maintenance of its premises was lower than the actual cost of upkeep, and was also proportionally less than the indirect grant given by the State to other religious communities in Denmark.

54. Mr. HERTZ (Denmark) said that detainees were entitled to have access to an attorney within 24 hours of their arrest. In rare cases that period had been exceeded, for example when there had been a large number of detainees and not enough attorneys available. In any event, detainees were always allowed to see an attorney before attending their hearing before a judge. A detainee's right to see a doctor was contingent upon an evaluation carried out by the staff at the police facility where the detainee was held.

55. The most recent information on the length of pretrial detention dated from 2006: at that time, the longest period of pretrial detention had been nearly two years. However, that period had been calculated under an outdated system which counted the period of "detention without judgement" instead of "pretrial detention", meaning that the period of the trial itself had been included. The case, which had been particularly complex, had involved 28 defendants accused of taking part in a drug-dealing operation, and had entailed an unusually long trial.

56. Denmark had the necessary resources to apply sentences using an electronic bracelet, formerly known as a foot shackle. The use of such technology, while somewhat costly, was less

expensive than incarceration. However, not all prisoners qualified for release while wearing an electronic bracelet, and there were also some who qualified but preferred to serve their sentences in prison. Recourse to solitary confinement was sometimes based on security considerations, where the safety of the inmate or of others was in danger, but it was also used as a disciplinary measure. In the former case, the inmate was able to appeal against the decision to the Parliamentary Ombudsman or to a judge; if the measure was disciplinary, the inmate could lodge a protest against the decision, in which case the prison authorities were obliged to refer the case to a court.

The meeting rose at 6 p.m.