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SUMMARY RECORD OF THE 1533rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 22 October 1996, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

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GE.96-18664 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Third periodic report of Denmark (CCPR/C/64/Add.11; HRI/CORE/1/Add.58; CCPR/C/58/L/DEN/3)

1. At the invitation of the Chairman, Mr. Bruun, Ms. Holst Christensen, Ms. Cohn, Ms. Lone B. Christensen, Ms. Petersen, Mr. Bülow, Ms. Burkø and Ms. Pedersen (Denmark) took places at the Committee table.

2. The CHAIRMAN welcomed the Danish delegation on behalf of the Committee and said he was pleased by the high level of representation reflected by the delegation's members.

3. Mr. BRUUN (Denmark) thanked the Chairman for his words of welcome. He expressed regret that the Danish Government had been somewhat late in submitting its third periodic report (CCPR/C/64/Add.11) but assured the Committee that every effort had been made to ensure that the document was as complete and accurate as possible.

4. The CHAIRMAN invited the Danish delegation to reply to the questions in part I of the list of issues (CCPR/C/58/L/DEN/3).

5. Ms. BURKØ (Denmark), replying to the question raised in paragraph (a), said that the applicable procedure for investigating complaints against the police had been amended on 1 January 1996 and that, henceforth, no representative of the police could participate in their investigation. The new provisions in force were set forth in article 93, paragraphs (b), (c) and (d) of the Administration of Justice Act, which stipulated that complaints against the police must be filed with district prosecutors, who were responsible for carrying out the necessary investigation and, if appropriate, initiating criminal proceedings. For example, when a person had been seriously injured or killed as a result of police intervention or while in pre-trial custody, the district prosecutor could decide to place the matter before the courts, but any decision taken in that regard could be contested before the Public Prosecutor. Since the implementation of the new scheme, and as of 1 October 1996, there had been a total of 863 complaints against the police, of which 475 concerned only the conduct of police officers and 388 involved allegations of an offence. Moreover, since the number of complaints brought during the first six months of 1996 had exceeded the number anticipated before the implementation of the new scheme, the staff of the district prosecutors' and Public Prosecutor's offices had already been increased and the Ministry of Justice had already proposed that the number of employees of those services should be doubled before 1 November 1996.

6. With regard to paragraph (b) on freedom of assembly, she said that, under article 79 of the Constitution, Danish citizens were at liberty to assemble without previous permission. However, the police were entitled to be present at public meetings, and open-air meetings could be prohibited if it was feared that they might constitute a danger to the public peace. Furthermore, citizens planning to organize parades or demonstrations in public

places must so inform the police 24 hours in advance, indicating the planned route and venue, not only in order to ensure the safety of those present but also to allow the police to take the necessary steps to regulate traffic and implement protective measures when there was reason to fear a breach of the peace. Moreover, since the police were responsible for maintaining order during public gatherings, they could order demonstrators to disperse if violent incidents occurred, but only after having given the required three warnings. According to article 108 of the Administration of Justice Act, the police were empowered to take immediate measures in cases involving acts or omissions that posed a threat to public security, peace and public order. Generally speaking, the police used force in a given situation only in cases of absolute necessity and when other types of intervention had proved ineffective.

7. Ms. Holst CHRISTENSEN (Denmark), replying to the second part of paragraph (b), which dealt with a matter other than freedom of assembly in the strict sense, said that, on 10 October 1996, the Danish Parliament had adopted an act empowering the police to issue orders barring certain persons from certain premises. The purpose of the act had been to protect the population from the danger inherent in confrontations between two gangs of bikers, the Hell's Angels and the Bandidos. Under that act, therefore, the police could bar individuals from certain premises that were used as a meeting place by a group to which the person in question belonged, when the presence of that person on those premises posed a risk of violence with possible repercussions for persons in the vicinity. The police could also issue a general order banning meetings on certain premises, such as a restaurant, when a biker event was planned if there was a significant risk of violence because of the presence of that group of people. A ban could be imposed for a specific or indefinite period and, if the risk of violence ended, it had to be lifted. Furthermore, generally speaking, the act did not apply to meetings of individuals in private residences. Lastly, violation of a ban was punishable by up to two years' imprisonment. Since the adoption of the act, the police had imposed 196 bans, all but one of which had been respected.

8. Ms. BURKØ (Denmark), replying to the questions in paragraph (c) on the use of weapons by the police, explained that the applicable regulations were contained in articles 13 and 14 of the Danish Criminal Code. Under article 13 of that Code, the police were empowered by law to use force in cases of present or imminent danger, provided that the use of weapons did not exceed reasonable limits in relation to the importance of the interests endangered by the illegal act being, or about to be, committed. The same rules applied to the enforcement of lawful orders, such as those given to carry out arrests or to prevent prisoners from escaping. Furthermore, under section 14 of the Criminal Code, the police were authorized to use weapons, for example, in order to avert imminent damage to persons or property. In accordance with sections 13 and 14 of the Criminal Code, the National Police Commission had issued administrative regulations governing the use of firearms by the police, which stated that firearms could be used only within reasonable limits and in cases where other means of intervention were deemed insufficient. Furthermore, any use of a firearm must be reported to the National Police Commission, which prepared a written report and kept relevant statistics. Another administrative regulation governed the use of truncheons, which was also forbidden except in cases of necessity and where other methods had proved

ineffective. Administrative regulations also governed the use of police dogs, the limitations on which followed the same principles of lawful and justifiable recourse to force. However, no administrative regulation had been issued on the use of handcuffs, but a code of practice had been established for the use of teargas.

9. Between 1990 and 1995, four cases of failure to observe the rules concerning the use of weapons by the police had been reported and investigated; upon investigation, however, no case had been found to justify disciplinary action or criminal prosecution. However, three police officers had been prosecuted after riots that had taken place in a residential neighbourhood in central Copenhagen on 18 and 19 May 1993. In that case, the Ministry of Justice had decided, on 7 December 1995 that the proceedings should be dropped since it was unlikely that the accused would be convicted under the Administration of Justice Act. In the same case, one police officer had been prosecuted for an act of violence against a demonstrator and had been convicted at first instance but acquitted by the High Court. However, in accordance with a decision taken by Parliament on 22 May 1996, a new commission of inquiry had been ordered to examine in detail the circumstances surrounding the events of 18 and 19 May 1993 and to report any errors or omissions committed by individuals in the exercise of their official functions, which might give rise to other decisions concerning liability.

10. With regard to the use of truncheons, in one case a police officer had been convicted of violating article 147 of the Criminal Code and, in another case, a police officer had been convicted of a violation of article 244. The latter case had not yet been adjudicated, but it was probable that the accused officer would be dismissed.

11. Mr. BRUUN (Denmark) explained that, if the Committee had no objection, his delegation would combine its reply to the question in the first part of paragraph (d), which concerned the maximum length of pre-trial detention, and the question in paragraph (f), which concerned solitary confinement, before dealing separately with the second part of paragraph (d).

12. Ms. Holst CHRISTENSEN (Denmark), referring to the first part of paragraph (d) and paragraph (f), said that pre-trial detention could not be prolonged by more than four weeks at a time, and that the same rule applied to solitary confinement. Solitary confinement was authorized for a maximum of eight weeks, but that rule did not apply to serious offences, for which the Criminal Code prescribed imprisonment for six years or more. An investigation had been carried out in 1990 in order to establish a scientific basis for evaluating the effects of solitary confinement on mental health. The preliminary results of that investigation, published in May 1994, indicated that solitary confinement did not necessarily result in long-term psychiatric problems affecting, concentration and memory, but that the stress it caused could result in short-term psychological problems. However, the investigation had not been completed; a report would soon be published and its conclusions communicated to the Standing Committee on the Administration of Criminal Justice, which would take it into account in considering possible amendments to current regulations.

13. Ms. BURKØ (Denmark), replying to the question raised in the second part of paragraph (d), said that, according to articles 758 and 760 of the Administration of Justice Act, the court file constituted when a person was placed in pre-trial detention had to indicate the time and place of his arrest, the name of the arresting officer, the grounds for the arrest and the place where the arrested person was being held. Furthermore, under the new computerized information system, the court file had to indicate whether a doctor had been called to verify the medical condition of the arrested person and to state whether he had been injured, in which case he must be taken to the hospital. The file must also indicate the name of the duty officer in charge during the period of detention. There were no rules concerning the meals provided for persons held in pre-trial detention but, for example, if a detainee was found to be under the influence of alcohol, the administrative regulations authorized whatever treatment was required. Furthermore, a duty officer was responsible for inspecting the cells in which persons in pre-trial detention were held and, as far as possible, such inspections were held every half hour. Finally, the Ministry of Justice had prepared a draft circular specifying the information to be provided to the relatives or friends of detained persons, and explaining the right of detainees to see a lawyer or a doctor.

14. In reply to the question raised in paragraph (e) on alternatives to custodial sentences, she explained that the pilot youth contract system expired on 31 August 1993, and that the Ministry of Justice planned to make that system permanent. To that end, an informal working group, which included representatives of the police and the Office of the Public Prosecutor, had been instructed to consider possible amendments to the rules governing the inclusion in judicial records of convictions of young people between the ages of 15 and 17. The work of that group would soon be completed. The Ministry of Justice and the Ministry of Social Affairs would also consider ways of implementing a permanent system for the dropping of charges in conjunction with a youth contract, in so far as such a system was predicated on coordination and cooperation between the police and the local social services.

15. Ms. PETERSEN (Denmark), replying to the questions raised in paragraph (g) on the rights of persons belonging to minorities, said that, under the programme for the transfer of responsibility called for by the Home Rule Act the authorities of the Home Rule Government of Greenland had progressively asked to assume responsibility for the 17 sectors specified in the annex to the Act; generally speaking, they had done so when they felt able to do so and had set standards of competence as high as those that had prevailed in Greenland under Danish administration.

16. Since Greenland was unable to cover its own expenses, the Home Rule Act called for an annual budgetary contribution from Denmark in the form of a lump sum which, in practice, was equivalent to Denmark's total expenditures in every area of responsibility that had been transferred, corrected for inflation. The Home Rule Government of Greenland had virtually total freedom to distribute the funds allocated by the Danish Government according to its own priorities. In practice, the Home Rule Government spent approximately the same amount in a given area as the Danish authorities had done when they had governed Greenland. In the field of health, the Home Rule Government had

developed an overall plan based on the guidelines drawn up by the World Health Organization (WHO) in its Global Strategy for Health for All by the Year 2000 and, in 1993, it had carried out a study of health and living conditions in Greenland in order to gather information that would be of great value in administering the health services.

17. Greenland's Home Rule Government, Parliament and Cabinet attached great importance to Greenland's international obligations. In 1995, therefore Parliament had decided that the Home Rule Government would participate in the preparation and presentation of the reports submitted by Denmark to the committees created under international human rights instruments. For example, in spring 1996, the Home Rule Government of Greenland had presented a report on the implementation of all the articles of the International Covenant on Economic, Social and Cultural Rights. With regard to the International Covenant on Civil and Political Rights, Greenland planned to attach detailed information on the articles of the Covenant that were of particular relevance to Greenland to the next periodic report of Denmark. In that regard, she noted that, in April 1996, the Home Rule Parliament of Greenland had established the post of ombudsman, a decision which had met with a very positive response from the population.

18. Ms. Holst CHRISTENSEN (Denmark) answered the same question with regard to the Faroe Islands, where the legal situation was almost identical to that described in connection with Greenland. The Faroe Islands had become self-governing in 1948 under an Act accompanied by a programme for the transfer of responsibility on matters specified therein. At the request of the Home Rule Government, the transfer of responsibility had been carried out progressively. At the judicial level, one of the consequences of that transfer was that, when the Home Rule Government of the Faroe Islands passed laws in certain areas, it was required to meet the international obligations contracted by Denmark, such as those under the Covenant.

19. Mr. BRUUN (Denmark) added an explanation of the measures taken with regard to linguistic and religious minorities. The Danish Ministry of Education defined minorities as groups of people who lived, traditionally or in large numbers, in certain specific regions of Denmark, a definition which applied, as it happened, only to the German minority. The right of a minority to its own cultural life implied the possibility of establishing its own schools. That fact was recognized by Act No. 561 of 20 June 1996 on private schools, under which such schools could be created as independent establishments benefiting from Government subsidies. There were currently 15 such German schools in Denmark. In order to receive Government subsidies, schools established under that Act must satisfy certain conditions with regard to the size of classes (12, 20 or 28 students, depending on the level). However, the Ministry of Education could make exceptions, and the schools of the German minority in Denmark, for example, had been authorized to have classes of only 10 students.

20. Under article 14 of the above-mentioned Act, the State granted additional subsidies to the schools of the German minority in the form of an annual budgetary grant; those funds were subsequently distributed to the schools by a special agency. The additional subsidy was intended to cover the extra expenses that had to be borne by such schools, namely, the cost of teaching in two mother tongues, operating expenses and other costs associated

with their specific situation. Furthermore, the German minority received State assistance to cover the cost of training programmes in Germany for elementary and secondary school teachers and other staff members from the pre-school level to the second cycle of secondary education. His delegation had made available to the Committee a brochure entitled "Forty Years of Cooperation in the Border Region" describing the general situation of the German minority in Denmark.

21. Denmark had enjoyed freedom of religion since the 1849 Constitution, article 67 of which stipulated that Danish citizens were at liberty to form congregations for the worship of God in the manner according to their convictions, provided that nothing contrary to good morals or public order was taught or practised. Freedom of religion was also protected by a provision of the Constitution which stated that no Danish citizen was required to contribute to any religion other than his own (art. 68), a provision which was also interpreted as guaranteeing the right to have no religious beliefs. According to article 70 of the Constitution, no one could be deprived of the full enjoyment of his civic and political rights, nor could anyone avoid compliance with any of his civic duties because of his religious beliefs or origin.

22. Freedom of religion meant that the Danish State did not exercise any control over the organization or religious practices of communities, with the exception of the Evangelical Lutheran Church, the national church of Denmark. Danish law allowed a community to be recognized by the State; a new provision of article 16 of Act No. 256 of 4 June 1969 on the celebration and dissolution of marriage stipulated that, with the exception of the Danish Evangelical Lutheran Church and other recognized communities, marriages could be celebrated by communities and have the status of civil marriages if one of the spouses belonged to the community in question and if that community had clergy who were authorized to celebrate marriages by the Ministry of Ecclesiastical Affairs. Consequently, the authorization granting the clergy of a particular religious community the right to perform marriages having the validity of civil marriages implied its recognition as a religious community by the Ministry of Ecclesiastical Affairs. The Ministry of Ecclesiastical Affairs had recognized many religious communities, including 12 different Muslim communities, since the entry into force of the above-mentioned Act on marriage.

23. Ms. Holst CHRISTENSEN (Denmark) provided information on the Criminal Law for Greenland, as requested in paragraph (h) of the list of issues. The criminal code that applied to Greenland was, to a large extent, identical to the Danish Criminal Code with regard to the definition of offences. The principal difference between the two codes lay in the provisions relating to sanctions: whereas the Danish Code stipulated a maximum and, sometimes, minimum sentence for each offence, the Greenland code did not set such limits but provided a general list of applicable penalties. That was because the Greenland code placed less emphasis on the nature of the offence and more on the offender and on measures to prevent subsequent offences.

24. To the Danish Government's knowledge, nothing in the Criminal Law for Greenland rendered it incompatible with the provisions of the Covenant. The Greenland judicial system, including its legislation, organization of jurisdictions, police and prison system, were currently being studied by a Law

Reform Commission. That Commission had been appointed in 1994 and was to submit its report in 1998. It was composed of representatives of the various institutions of the Greenland judicial system, the Danish Ministry of Justice and the Home Rule Government of Greenland. It was presided over by a Supreme Court Judge, and its mandate expressly stated that it was to examine the question whether the Greenland judicial system met internationally contracted obligations, particularly in the field of human rights.

25. Ms. PETERSEN (Denmark), speaking in her capacity as representative of the Home Rule Government of Greenland, explained the Greenland concept of criminal sanctions, which was based on the traditional belief that the offender had the capacity for moral, social and personal improvement and that the offence was the result of a momentary aberration. Consequently, the goal of sanctions was resocialization with a view to reintegrating the offender into the life of the community. Young offenders, in particular, were placed by the courts in the families of hunters or fishermen in small communities where they would be surrounded by the affection and guidance of a family and acquire the strength and capacity to build a new future.

26. Moreover, Greenland had no closed prisons, but only correctional institutions where the "detainees" were locked in during the night but authorized to go to work or school during the day and thus to pursue their professional and other activities while serving their sentences. Correctional institutes could also provide general medical treatment, treatment for alcoholics and any other medical treatment required. Unfortunately, the rapid modernization of Greenland since the introduction of the Criminal Law had led to a rise in the crime rate. The people of Greenland had therefore felt it necessary to amend the current Criminal Law. Everyone was awaiting the results of the work, as well as the recommendations of the above-mentioned Reform Commission. However, Greenland would ensure that the new legislation did not endanger the principle on which its Criminal Law was based with regard to sanctions.

27. Ms. Lone B. CHRISTENSEN (Denmark) replied to the questions raised in paragraph (i) with regard to the Aliens Act. The transfer of competence with regard to the Act from the Ministry of the Interior had not led to any difference in the implementation of the Act.

28. The reply to the second question called for a fuller explanation. Amendments to the Aliens Act in 1992 had led to important changes with regard to requests by permanent residents of Denmark for reunion with a foreign spouse or unmarried partner. The minimum age for the exercise of that right was set at 18 for the two spouses or partners. Under section 9, subsection 2 of the Aliens Act, a residence permit could be issued in exceptional circumstances, for example, if the applicant did not meet the age requirement but the wife was pregnant and the person residing in Denmark had firm ties to Danish society.

29. A second restriction was that, when two spouses or partners wished to be reunited, the one who had immigrated to Denmark must be able to ensure the other's maintenance. That new rule had been added to the Aliens Act in 1992 and applied to everyone except nationals of Denmark, the Nordic countries the European Union, persons with refugee status and persons who had emigrated to Denmark more than 5 years previously and who wished to be joined by a spouse

or partner. That requirement had previously applied only to reunion with fathers or mothers. The law stipulated that each request must be considered on an individual basis, taking into account all the available information, and that the question whether the assumption of financial responsibility for the person arriving would be required depended on the ties that the person living in Denmark had established with Danish society. If the person living in Denmark had refugee status, the requirement of assumption of financial responsibility for relatives requesting residence in Denmark was not applied if the refugee had married or had had children prior to arrival in Denmark. The same was true of refugees who married or had children with a person of their own country after arriving in Denmark.

30. The Aliens Act had been amended in 1992 with regard to reunification with parents, and since that time an immigrant wishing to be joined by his parents must not only agree to support them, but also prove that he had the means to do so. That condition had not been indispensable prior to 1992. In the case of nationals of Denmark or the Nordic countries or of persons with refugee status, that condition might be imposed but was not indispensable. Those new rules associated with the Aliens Act had been considered at length in 1992 by Parliament, particularly with regard to the question whether they conformed to Denmark's international obligations. It had been decided that the amendments to the Aliens Act did conform to those obligations, one of which was article 23 of the International Covenant on Civil and Political Rights.

31. Family reunification was not possible for holders of temporary residence permits. However, derogations to that rule were possible under section 9, subsection 2, of the Aliens Act, which authorized the issue of a residence permit in exceptional circumstances.

32. Generally speaking, a residence permit could be issued to refugee children below 15 years of age under section 9, subsection 2 of the above-mentioned Act. If their parents were later identified, family reunification would take place in the children's country of birth. Therefore, children would not receive residence permits in Denmark unless their parents requested asylum in that country.

33. In reply to the question on asylum seekers raised in paragraph (j), she explained that Denmark was a party to the 1951 Convention relating to the status of refugees and its Additional Protocol of 1967. The Danish Aliens Act included a definition of de facto refugees. Both categories of refugees could claim the right to asylum unless another State was considered the country of first asylum. Every year, the Office of the United Nations High Commissioner for Refugees received an offer from Denmark to accept a group of refugees for resettlement.

34. Requests for asylum were examined by the Danish Immigration Office. Asylum seekers who did not meet the criteria for refugee status were automatically considered to have filed an appeal with the Refugee Appeals Board unless they declined to do so. The Appeals Board was made up of five members, namely, a judge, who presided over it, an official from the Ministry of Foreign Affairs, an official from the Ministry of the Interior, a member of the bar association and a member of the Danish Refugee Council. The Board took decisions by majority vote.

35. Refugees who were granted asylum in Denmark were not required to have a work permit and had the same rights as Danish nationals: they could either accept employment or work independently. They were also protected against expulsion. If a refugee had committed a crime, expulsion must be decided by a court; it could be ordered only on the grounds of national security or for repeat offenders and only if the refugee had been sentenced to a minimum of six years' imprisonment without parole and if the court considered that, in view of the nature of the offence, his presence in Denmark was unacceptable. Refugees enjoyed special protection in that regard since the provisions of the Danish Aliens Act concerning non-refoulement went beyond the provisions of article 33 of the Geneva Convention of 1954 in that they did not include the reservation formulated in article 33, paragraph 2, of that Convention.

36. Mr. BRUUN (Denmark) said he would attempt to provide the information requested in paragraph (k) on medical experiments, even though the Danish delegation had been informed of that question at the last minute. When patients or volunteers in good health participated in medical research, regulations required them to have given their informed consent on the basis of information provided verbally and in writing (see para. 4O of the report). That rule was set forth in the Act on a scientific ethnical committee system and treatment of biomedical research projects, Act No. 503 of 24 June 1992 (para. 38 of the report). That Act had been amended on 12 June 1996 to permit substitute consent in certain circumstances. The amendment implemented a provision of the draft Bioethics Convention of the Council of Europe. In Denmark, research could be carried out on a person who was unable to give personal consent, but only under certain conditions, which were more stringent than those stipulated in the above-mentioned draft Bioethics Convention. His delegation could provide an English text of those specific conditions if the Committee so desired.

37. Lord COLVILLE thanked the Danish delegation for its extremely instructive replies and for the frankness with which it had initiated dialogue with the Committee. However, there were two points on which he would appreciate further information. With regard to police action, the Danish delegation had explained that, whenever a police officer used force, a report must be filed with the Chief of Police. He wondered what follow-up was given to that report and whether it was brought to the attention of the population. He also wondered whether police officers were given any particular training in order to help them to recognize mentally disturbed persons who committed offences under the influence of their illness so that such persons could be referred to a doctor or the social services. The Danish delegation had referred to a circular that contained instructions for the police with a view to facilitating access to lawyers and doctors. It would be useful to know whether that circular stated that people in pre-trial custody who claimed to suffer from an ailment of any kind could see a doctor immediately. Moreover, if the circular had been in use long enough to make evaluation possible, it would be useful to know to what extent it was applied and with what results.

38. Mr. MAVROMMATIS welcomed the Danish delegation and noted that a majority of its members were women who occupied very important posts in their country. The report (CCPR/C/64/Add.11) was also of very high calibre and reflected a healthy situation with regard to human rights. However, it was difficult to explain the considerable delay in the submission of the report by a developed country with, in addition, a human rights centre.

39. With regard to the new provisions for alternative sentences, which were encouraging, he noted the existence of the Youth Contract System, which involved an agreement between the child and his parents, on the one hand, and the social services and the police on the other (para. 46 of the report) and asked what were the consequences for parents of participating in that agreement.

40. With regard to arrest and detention, he did not understand the statement in section 758 (2) of the Administration of Justice Act that the police must inform arrested persons of the time of the arrest "as soon as possible" (para. 53 of the report). It would seem logical to assume that any arrested person knew, at the time of his interrogation, that he was under arrest. A new provision had been introduced with regard to commitment to psychiatric institutions in that the commitment decision could now be directly reconsidered at the request of a patient or his counsellor (see para. 59 of the report). He did not wish to express any opinion on the merits of that new method, but simply to know its practical implications.

41. While it was legitimate for a State party to seek to maintain public order, he questioned the use of dogs to disperse unauthorized demonstrations; a dog, by its nature, did not have judgement and the authorities must therefore take the strictest measures to prevent them from claiming victims. The Committee had also been informed that one method of arrest involved dragging arrested persons along the ground after handcuffing them behind their backs. If that information was confirmed, he wondered what the authorities were doing to set limits on that practice.

42. He had listened carefully to the delegation's explanations concerning minorities and the treatment of the German minority. He strongly recommended a study of general comment 23 on article 27, which clearly showed that minority status was not dependent on residence in a limited region. Lastly, he asked whether the victims of the Thulé incidents had been compensated and whether the Danish authorities had taken steps to facilitate their access to the courts.

43. Ms. MEDINA QUIROGA warmly thanked the Danish delegation for having provided such specific information. However, she requested further details on several matters that seemed important, not the least of which was the use of dogs by the police for crowd dispersal. Personally, she did not see any justification for such a dangerous practice and refused to accept the idea that there were not other, less dangerous, alternatives.

44. It appeared that the only criterion for determining the duration of solitary confinement was the risk of impairment of the prisoner's mental health - a fact which was disturbing. Determination of whether treatment was inhuman must be based on absolute criteria and not on criteria dependent on the personality of the individual; everyone knew that certain persons were more resistant than others. She was pleased to learn that imprisonment was not practised in Greenland and hoped that the rise in the crime rate in that region, as in other parts of the world, would not lead to any change in its general philosophy on criminal matters.

45. With regard to the principle of equality in the exercise of rights, she was surprised to note that there was a significant difference between life expectancy in Denmark and in Greenland and, since the Danish delegation had mentioned health problems in Greenland, she asked for more information on the matter.

46. She was concerned by the way that the inhabitants of the Thulé region had been dealt with after the establishment of the airbase there and asked whether steps had been taken to improve their situation and, in particular, to help them to move away.

47. While she welcomed the statement in paragraph 107 that aliens were entitled to a family life, the definition of the family (para. 111), which varied according to the context, seemed restrictive. For example, the aliens legislation defined the family "on the basis of the duty of maintenance"; however, a family implied emotional ties which went well beyond a simple relationship of dependance and the duty of maintenance. She also requested further explanations of cases where a distinction was made between refugees and foreigners granted residence in Denmark for humanitarian reasons. Finally, given the existence throughout Europe of an undeniable tendency towards xenophobia, she asked whether the Danish authorities were making an effort to educate the population in that regard.

48. Mr. BUERGENTHAL said he was impressed by the breadth and scope of the measures adopted in Denmark to ensure the protection of human rights. He requested details on the length of pre-trial detention since he was not certain that it was limited by law. He also asked whether pre-trial detention could be contested in the courts and whether detainees were held in the same areas as convicted prisoners. In view of the fact that imprisonment did not exist in Greenland, he wondered what happened to persons who had committed serious crimes. He presumed that they were transferred to some place in Denmark; if so, what measures were taken to facilitate visits and travel of family members?

49. It would be interesting to know whether the Covenant had been translated into the languages spoken in Greenland and the Faroe Islands. Finally, details of the conditions for acquisition of nationality by foreigners would be welcome in order to determine whether there were differences in treatment according to the applicant's country of origin.

50. Ms. EVATT joined the other members of the Committee in expressing her deep appreciation to the Danish delegation for the information it had provided. She asked the delegation to explain further the steps involved in implementing the new system for handling complaints against the police. She wondered whether the investigation procedure was totally independent of the police and how impartiality was ensured - unless the district prosecutors had means of investigation that were totally distinct from those of the police.

51. She had listened with interest to the information given on the Norreboro incidents and was anxious to know whether the persons who had been injured during those incidents had already been able to exercise their right to compensation, or whether they would have to wait for the case to be closed.

52. She noted that the reasons justifying pre-trial detention included "a strong suspicion" of guilt, which was hardly compatible with the principle of the presumption of innocence.

53. With regard to minorities, there was clearly a difference in treatment in favour of the German minority, and it would be interesting to know why the Danish Government did not consider that to be discrimination. As for non-nationals, she had listened with interest to the information provided on the new law aimed at combating racial hatred; she wondered whether xenophobia affected Denmark as it did many other western States and, if so, whether educational measures had been tried. Lastly, since a distinction could be made between permanent residents and other foreigners with regard to expulsion for serious crimes, she asked what the practical consequences of that distinction were.

54. Mrs. CHANET said she was impressed by the composition of the Danish delegation, which demonstrated the importance that the authorities of the State party attached to the consideration of their periodic report. However, she could only regret that more than 10 years had elapsed since submission of the second periodic report. The delegation had provided many replies; the amendment of Act No. 38, which had been of concern to the Committee during its consideration of the second periodic report, and the extension of alternative sentences to adults, were among the positive steps that had been taken.

55. In its statement, the delegation had mentioned an act that had been adopted quite recently, in early October, authorizing the police to ban certain people with a propensity for violence from certain premises. That Act was too recent to be evaluated but, at first glance, it seemed extremely harsh and violated a number of rights. If it was to be compatible with the Covenant, it would need to be proportionate to the risk and must be applied only when there was no alternative; she therefore wondered whether intermediate measures had been attempted and had failed.

56. The conditions in which pre-trial detention was authorized led her to wonder about respect for the principle of the presumption of innocence, since the facts taken into consideration included the length of the sentence called for by the crime committed and, what was worse, the existence of aggravating circumstances, which obviously could not be revealed until the trial.

57. Last, she requested details on the situation of the Lutheran Church, since article 68 of the Constitution stated that no one was required to contribute to a religion other than his own and article 4 indicated that the Lutheran Church was supported by the State. She therefore wondered whether, in fact, all citizens were not expected to make a financial contribution.

58. Mr. KLEIN said he was pleased to welcome the Danish delegation, which had already provided a great deal of useful information. He associated himself with the remarks made by other members of the Committee and had only a few additional comments to make. In the first place, it was stated in the report (para. 79) that the percentage of recidivists was very high, namely, 45 per cent. The Danish delegation had said that, although the Law Reform Committee had had the matter placed before it and a recommendation was anticipated, the Government did not plan to go back on the general principle

of normalization since it did not consider that there had been a failure in that regard. However, he wondered whether the Government was taking due account of its obligation under the Covenant to protect individuals against violations of their rights by others.

59. He noted that paragraph 90 of the report included a reference to section 26 of the Aliens' Act, the text of which appeared in the second periodic report (CCPR/C/37/Add.5). That article stated that, in cases of expulsion, due account would be taken of the alien's ties to the Danish community; he wondered what the practical results of that decision, which was intended to weigh the interests of the State against those of individuals, had been. He asked whether persons with very strong ties to Denmark were nevertheless expelled on occasion. He also requested details of the conditions under which aliens who could not prove their identity were placed in detention: were they incarcerated in specific establishments, and was there a maximum period of detention?

60. With regard to medical experiments, he asked whether the mentally ill could be subjected to experimental treatment only in their own interests, or whether they could also be subjected to it in the interests of the research in general.

61. Last, he emphasized the way in which the German minority was treated in Denmark. The cooperation that had been set up between the Danish and German Governments in the border region was so fruitful that it might serve as an example.

62. Mr. LALLAH said he welcomed the constructive dialogue with the Danish delegation but regretted that such a long time had elapsed since the submission of the second periodic report (CCPR/C/37/Add.5); that delay was, moreover, surprising on the part of a State as organized as Denmark.

63. He associated himself with the questions raised about the possible financial repercussions of being an Atheist or a member of a church other than the national Lutheran Church. Furthermore, he welcomed the reforms concerning the police but requested additional information about the actual activities of the body mentioned in paragraph 69 of the core document (HRI/CORE/1/Add.58). He was grateful for the information provided on the situation in Danish prisons, which appeared in paragraph 36 of the third periodic report (CCPR/C/64/Add.11), and requested further details of the “spokesman system”. He also welcomed the measures taken by the Danish authorities in the cases mentioned in paragraph 37 of the report. In that regard, he wondered whether the police had not demonstrated a certain degree of racism. If such was the case, perhaps police training in human rights should be improved.

64. Mr. EL SHAFEI welcomed the report submitted by the Danish delegation, which showed that progress had been made in many areas covered by the Covenant.

65. Paragraph 38 of the core document (HRI/CORE/1/Add.58) stated that the administration of justice lay outside the sovereignty of the Faroe Islands and Greenland. Were the central authorities of the realm wholly, or only partly, responsible for the administration of justice? He would welcome further information on that matter, particularly in view of the provisions of

article 1 of the Covenant. He was of the firm opinion that the administration of justice in Greenland and the Faroe Islands should be fully transferred to the authorities in those two territories.

66. In the past, Amnesty International had condemned the situation of persons from Greenland who were imprisoned elsewhere in Denmark and, consequently, were isolated from their environment and culture and experienced serious psychological problems. Was that practice still in force?

67. Did the Government plan to eliminate the practice of handcuffing, which had replaced leg irons as a means of controlling individuals who were disturbing the peace?

68. Mr. BÁN said he was pleased by the mention in paragraph 34 of the periodic report (CCPR/C/64/Add.11) of a right under article 6 of the Covenant which was rarely mentioned in the reports of States parties, namely, the voluntary interruption of pregnancy. It was encouraging that there had been a sharp decline in the number of abortions performed in Denmark over the previous 20 years. He wondered what the situation was with regard to euthanasia: was it legal, and under what conditions?

69. He considered the Youth Contract System to be an important measure. However, he did not understand paragraph 46 of the report (CCPR/C/64/Add.11) and, in particular, requested further information about the Criminal Register.

70. He noted that a new act which governed restraints in psychiatry included several encouraging measures. However, he wondered whether the seven executive orders and new circular mentioned in paragraph 55 of the report were compatible with the provisions of article 9 (1) of the Covenant. He also asked whether the provisions on commitment and enforced detention mentioned in paragraph 59 of the report fully conformed to the provisions of article 9 (4) of the Covenant. He hoped that the Danish delegation would clarify those matters.

71. He had noted the legislative provisions allowing two people of the same sex to enter into a “registered partnership” having the same legal effects as marriage, but requested more information on any differentiation made between unregistered and registered partners of the same sex.

72. He asked the Danish delegation to provide further details on the question of the fingerprints of persons charged. Paragraph 100 of the report (CCPR/C/64/Add.11) stated that fingerprints could be legally stored whether or not the person was later acquitted. That situation was all the more surprising in the light of the statement in paragraph 105 that the police were not allowed to store photographs with a view to later identification of persons who had not been charged. He asked the Danish delegation to provide more information on all those points.

73. Mr. ANDO associated himself with the questions asked by other members of the Committee, particularly with regard to the use of dogs to curb demonstrations, the legal limits on pre-trial detention, the Youth Contract System and solitary confinement. He also had two questions: were there any practices among the indigenous populations, particularly in Greenland, which were contrary to the provisions of the Covenant? If so, he would appreciate

further information on the subject. Furthermore, responsibility for a number of important matters, particularly environmental protection, had been transferred to the Greenland Home Rule Government. In view of the fact that the Danish Government was responsible for national defence among other things, what means did the authorities have to settle any conflict between the interests of the army and those of indigenous populations? Were the rights of those populations taken into account in such cases?

74. Mr. BHAGWATI said he associated himself with the requests for further information made by other members of the Committee with regard to certain matters, and particularly the use of dogs to control demonstrations, a practice which was apparently quite rare in the world in general.

75. With regard to pre-trial detention, was it true that the trial of accused persons began, in principle, within four weeks of their arrest? It was very encouraging if such was the case.

76. Furthermore, he drew the attention of the members of the Danish delegation to the fact that solitary confinement - which was, apparently, authorized for up to eight weeks - had dreadful consequences for the physical and mental health of those subjected to it. The Supreme Court of India, of which he had been a member, had, moreover, declared that measure unconstitutional. He also asked whether pre-trial detention took place in police holding cells or in prisons and whether the detention order was issued on a single occasion, or whether it must be renewed by a criminal investigation officer.

77. With regard to the question of minorities, did Denmark have any minorities other than the German one? What were the criteria for minority status?

78. He asked what physical restraint devices could be used during the arrest of an individual and how often they were used (handcuffs, leg irons, etc.).

79. It appeared that temporary residence permits did not carry the right to family reunification. He asked how long, on average, foreigners with such permits remained in Denmark. Was family reunification possible in the case of a relatively long stay? Did the situation in that regard conform to the provisions of article 23 of the Covenant?

80. He also wondered what compensation the Danish Government had granted to the indigenous people of Greenland who had been displaced in the 1950s to permit the construction of a United States airbase in the Thulé area. The question of compensating the persons concerned had been raised as early as the 1960s, but apparently without effect. What was the situation at the moment? Lastly, he asked what was the position of the Danish Government on the exercise of the rights of indigenous women in the Thulé area.

81. Mr. PRADO VALLEJO was of the view that the Danish judicial system lent itself to the full implementation of the provisions of the Covenant. There were, of course, problems with regard to the full realization of human rights in Denmark, but it could certainly not be said that there was any systematic

violation of those rights; moreover, it must be emphasized that the Danish authorities had demonstrated their willingness to comply with their international obligations.

82. However, he failed to understand why the Covenant had not been translated into the language of Greenland. How could indigenous peoples claim their rights if they were unaware of the provisions of that instrument?

83. He emphasized the question of solitary confinement in prisons, which, if carried to excess, could become inhuman treatment under article 7 of the Covenant; the authorities must consider that problem carefully. With regard to the length of pre-trial detention, the four-week limit, which could be extended to eight weeks, was clearly too long.

84. Lastly, with regard to the right to asylum, he asked whether a foreigner who was accused of a crime in another country and had obtained asylum in Denmark could be entitled to family reunification.

85. Mr. KRETZMER said he associated himself with the questions raised by other members of the Committee and would limit his own to two matters. First, why was the infant mortality rate three times higher in Greenland than in the rest of Denmark? Second, with regard to freedom of expression, he asked what the situation was in Denmark with regard to the publication of racist statements intended exclusively for distribution abroad? Did Danish law provide for any sanctions in such cases and, if so, what steps were the authorities taking?

86. Mr. POCAR said he, too, thought it was important to have further details about the situation with regard to pre-trial detention in Denmark. What was the maximum legal length of such detention and was it true that, in the case of a serious offence involving a sentence of over six years' imprisonment, pre-trial detention could be prolonged indefinitely? If so, the situation did not conform to the provisions of the Covenant. While prolongation of pre-trial detention could be justified for purposes of an investigation, to prevent the destruction of evidence or for other reasons, it could not be a function of the seriousness of the offence committed. Last, he associated himself with the question raised by another member of the Committee regarding the type of remedy available to individuals in pre-trial detention. He asked the Danish delegation to explain those matters.

87. The CHAIRMAN invited members of the Committee to continue consideration of the report of Denmark at a subsequent meeting.

The meeting rose at 12.55 p.m.