



OPCAT Annual Report 2009

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1. The Parliamentary Ombudsman as National Preventive Mechanism (NPM)

This is the first report on the Danish Parliamentary Ombudsman's work as National Preventive Mechanism in overseeing the treatment of persons deprived of their liberty. The task was assigned to the Ombudsman in connection with Denmark's ratification of the optional protocol to the UN Convention against Torture, OPCAT (Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment). In 2007 the Danish government notified the UN that the Parliamentary Ombudsman would be the designated authority in Denmark to carry out special supervision of the conditions afforded persons deprived of their liberty. In 2009 the Ombudsman Act was amended, thus definitively clarifying the legal basis for the Ombudsman's function as an NPM. In all essentials, the first half of 2009 saw the completion of the work to organise and prepare the inspections in accordance with the conditions stipulated in the optional protocol and at the same time coordinate the NPM function with the supervisory activities already in place for the target group. In connection with the amendment of the Ombudsman Act it was presupposed that the Ombudsman would include expert assistance from the Rehabilitation and Research Centre for Victims of Torture (RCT) and the Danish Institute for Human Rights (IMR). The detailed planning of this cooperation was finalised during 2009. The practical work of carrying out inspections was begun in the autumn, and 9 inspections were carried out as a part of the new supervisory function.

The following details the content of the activities that have been carried out during 2009 as part of the special OPCAT mandate. The report deals with the following subjects:

- The legal basis for and structure of the Ombudsman's activities as NPM
- The basis of assessment used by the NPM
- Definition of areas especially relevant for inspections
- The means and methods which for the present will be used in connection with the work
- The results of the effected inspections
- Account of the Ombudsman's general inspection activities

2. Background, legal basis and structure

On 19 May 2004 the Danish Parliament, the Folketinget, voted to ratify the UN optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT), cf. parliamentary motion No. B 129 of 19 February 2004. OPCAT stipulates that the participating states establish a system of regular visits by independent bodies to places where people have been deprived of their liberty,

in order to prevent torture, etc. Each of the participating states is obligated to set up one or more national bodies for the prevention of torture, etc.: the national preventive mechanism – NPM.

In the autumn of 2007 the Danish government designated the Parliamentary Ombudsman as the Danish NPM.

The tasks of the NPM are detailed in article 19 in the protocol. The NPM's main task is the undertaking of regular visits to places where people are deprived of their liberty, in order to strengthen the protection against and the prevention of torture and other degrading or inhuman treatment. In addition, the NPM shall submit recommendations to the relevant authorities in order to improve the treatment of and the conditions for persons deprived of their liberty. Finally, the NPM shall submit proposals and comments concerning existing or draft legislation.

Both the inspection activities and the rest of the NPM's tasks are presupposed to be aimed especially at prevention. This includes a particular duty to be observant of general conditions which may in the long run have an impact on the risk of torture or other degrading or inhuman treatment being perpetrated.

Article 4 (1) of the OPCAT protocol states that the inspections shall be aimed at the treatment of persons in places where they are or may be deprived of their liberty. Article 4 (2) of the OPCAT protocol defines deprivation of liberty as "any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority."

In order, i.a., to ensure that the Parliamentary Ombudsman has the necessary authority to carry out inspections of private institutions in accordance with the mandate of the OPCAT protocol, the Ombudsman Act was amended in June 2009 (act No. 502 of 12 June 2009). This amendment means that section 7 (1) of the Ombudsman Act now also includes persons deprived of their liberty in private institutions, and that these institutions have a duty to pass on information, hand over documents and prepare written statements to the Ombudsman, cf. section 19 (1) and (2) of the Act. In addition, section 19 (5) of the Act stipulates the following: "If it is deemed necessary, and against due proof of identity, the Parliamentary Ombudsman has access at any time to inspect without warrant private institutions, etc. where persons are or may be deprived of their liberty, cf. section 7 (1)(ii). If necessary, the police will assist in the execution thereof."

When Parliament authorised appropriations to the Ombudsman for his tasks as NPM, Parliament presupposed that the RCT and the IMR have the capability of placing at the Ombudsman's disposal persons with special expertise in medical and human rights matters. Parliament increased the Ombudsman's 2009 budget by about 2 million Danish Kroner, the equivalent of 2.5 man-years, so that the Ombudsman would be able to carry out the new task as NPM. The RCT and the IMR have not in 2009 received any grants from the State for making personnel with special medical and human rights expertise available for the OPCAT inspections.

The RCT and the IMR play an advisory role in the OPCAT cooperation. However, the

Ombudsman has indicated that he will consider the contributions he receives from the experts to be of decisive importance, and that in cases of divergent opinions he will let this difference be reflected in the reports if the organisations would so wish.

The management of the three institutions will meet a number of times a year to discuss and organise the general guidelines for the OPCAT work, the annual report from the NPM and joint press releases. This part of the cooperation is called *the OPCAT council*.

Each of the three institutions has appointed permanent staff who participates in the ongoing tasks involving the inspection activities proper and the preparation of reports and observations regarding new legislation. The Parliamentary Ombudsman's staff acts as secretariat for the work group's tasks and has the general responsibility for the planning of the work. This part of the cooperation is called *the OPCAT work group*.

The Ombudsman already carries out inspections in accordance with section 18 of the Ombudsman Act. These general inspections are carried out not only in places where persons are deprived of their liberty, and they include a broad range of matters of which some fall within but a considerable part falls outside those special focus areas which the NPM shall monitor according to the OPCAT protocol. These inspections are administered by another division at the Parliamentary Ombudsman's office and are not a direct part of the OPCAT supervision activities. In the course of the general inspections, attention is also directed towards those special issues with regard to the treatment of persons deprived of their liberty which are included in the Ombudsman's work as an NPM. The two divisions keep each other informed of their respective activities and the results thereof.

3. Basis for assessment

3.1 The International legal basis

According to article 19 of the protocol the NPM can make recommendations to the relevant authorities with the aim of improving the treatment of and conditions for persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations. The legal basis would i.a. be:

- Relevant UN conventions ("hard law") touching on torture and inhuman treatment, including in particular the UN Convention against Torture, the UN Convention on Civil and Political Rights, and the UN Convention on the Rights of the Child together with the European Convention on Human Rights and the practice of the European Court of Human Rights.
- Relevant UN declarations, resolutions and principles ("soft law"), including in particular "The Standard Minimum Rules for the Treatment of Prisoners", 1957, "The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment", 1988, "United Nations Rules for the Protection of Juveniles deprived of their Liberty", 1990, "Code of Conduct for Law Enforcement Officials", 1979, and "Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and inhuman and degrading Treatment or Punishment".

- Relevant practice of the human rights monitoring bodies, including especially the UN Human Rights Council, the UN Torture Committee, and the UN Sub-Committee for the Prevention of Torture (SPT).

In addition, national rules are included (e.g. the Danish Penal Code) and Danish case law hereon, just as the prison regulations of the Council of Europe from 2006 and the practice of the European Committee for the Prevention of Torture (CPT) are included.

Furthermore, a number of international human rights organisations have established guidelines and manuals for prison visits. Among them, the Association for the Prevention of Torture (the APT) has written a detailed manual for inspection activities, "Monitoring places of Detention", on the basis of the OPCAT protocol.

It follows naturally that the conventions and the practice of the international courts of law, particularly the European Court of Human Rights (ECHR), on the interpretation and completion of the conventions play a special role in the assessment of those conditions which are investigated by the Ombudsman in his capacity as NPM.

3.2 Citizens deprived of their liberty

The supervision is aimed at the treatment of persons who are deprived of their liberty by order of a public authority. As mentioned earlier, article 4.2 in the OPCAT protocol defines the term "deprivation of liberty" as "any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority". It has been the basis in planning the inspections that the term does not only include persons who are deprived of their liberty in the sense in which the expression is used in article 5 of the ECHR but also persons who are actually deprived of their freedom of movement. This means the inclusion of institutions such as prisons, detentions, police stations, psychiatric wards and hospitals and care homes for convicted mentally handicapped persons. But also other institutions, e.g. private care homes for children and mentally disabled persons, are included in the supervisory activities.

3.3 The definition of torture

According to the preamble of the optional protocol, prevention of torture, etc. requires "education and a combination of various legislative, administrative, judicial and other measures", and it is emphasized that the protection against torture "can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention." In the actual protocol text it says that prevention of torture must be effected by means of regular visits to places where persons are deprived of their liberty and that the visits are to be undertaken with a view to strengthening, if necessary, the protection of these persons against torture, etc. (article 1 and 4). According to the UN's Special Rapporteur on Torture, the convention must be understood to mean that the preventive visits must include a multidisciplinary approach which implies that each visiting team must include both legally trained personnel and personnel with medical training.

The aim of the inspections is to prevent torture and other cruel, inhuman, and degrading treatment. The attention during the visits is directed towards actions and conditions which may fall under this category.

In article 1 of the UN Convention against Torture, torture is defined as follows:

”For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.”

Section 157 a (2) of the Danish Penal Code has the following definition of torture:

”Torture is defined as the infliction on another person of injury to body or health or strong physical or mental pain or suffering with the aim of obtaining information or confessions from somebody, in order to punish, intimidate or coerce somebody to do, tolerate or omit something, or because of the individual’s political convictions, gender, race, colour, national or ethnic origins, religious beliefs or sexual orientation.”

It follows from this definition that attention must be especially focused on information about the health conditions, medical treatment, organisation of medical attention, use of force and on violence and other physical injuries of the persons deprived of liberty. As discrimination is included in the definition of torture, special attention must be focused on ascertaining whether groups particularly vulnerable to discrimination are or are at risk of being treated in contravention of the ban on torture, etc.

3.4 Cruel, inhuman and degrading treatment

The OPCAT protocol also includes the prevention of cruel, inhuman and degrading treatment. It must be expected that in a country such as Denmark it will be particularly this aspect of the assessment basis which will play a practical role.

In the practice of the European Court of Human Rights regarding the interpretation of the corresponding provision in article 3 of the European Human Rights Convention, these definitions cover a broad spectrum of conditions. The European Court of Human Rights has defined ”inhuman” treatment as ”intense physical or mental suffering”. The Court has especially endeavoured to define and specify degrading treatment. On the evaluation of whether an action is degrading, the Court has put emphasis on whether the action caused or could cause feelings of fear, anxiety, or inferiority in order to humiliate or break down the victim.

The public character of the action is relevant in the evaluation of whether the action is degrading but lack of publicity does not necessarily mean that the action is not degrading. It is sufficient that a person in his or her own opinion has been humiliated.

The issue has been the subject of quite a large number of judgments from the European Court of Human Rights. The decisions are to a large extent characterised by the individual circumstances of the cases, but some general trends may, however, be inferred from the Court's practice.

The Court takes as its basis that ill treatment of citizens must have a certain level of severity in order to constitute a violation of article 3. It must transcend that element of suffering and humiliation which may often be an inevitable result of legitimate treatment, coercion and punishment.

When assessing specifically whether the overall strain is disproportionate, special importance is attached to the intention behind the treatment and its physical and mental effect on the individual. Actions generally perceived to possibly inspire fear, anxiety or a feeling of inferiority in persons deprived of liberty are basically inadmissible, just as interventions with no other purpose than to inflict pain, suffering or degradation are unacceptable.

Lawful exercise of force is not inconsistent with article 3 but force is only to be used if absolutely necessary and the exercise of force is not to be exaggerated.

Acceptance of rough action is closely connected with the fact that the citizens in question have been deprived of their liberty as part of a lawful exercise of force. If a concrete assessment deems a detention to be unlawful, this is unlikely to affect the assessment of the way the detainees are treated. On the other hand, the assessment must be presumed to change character if the detention is obviously or flagrantly unlawful, for instance if individuals have been deprived of their liberty at an institution where this is not allowed at all, or if people have been deprived of their liberty arbitrarily or as a private act of revenge.

In addition, the length of the detention is deemed to be of great importance; the longer it is, the better the detainees should be treated. Conversely, it is accepted that in the case of very short detentions the detainees are exposed to even very unpleasant conditions. Violations are established in very few cases involving short-term detention. The space accorded to the detainees may very well be very cramped, even in cases where the detention runs for long periods of time. Regardless of the duration of the detention, care must always be taken if the detainee is especially vulnerable due to a serious somatic or mental illness, deteriorated health or extreme youth or old age. To a certain degree, it must also be taken into respect whether the detainee is a man or a woman.

3.5 The rights of persons deprived of their liberty

Persons deprived of their liberty have the same rights as any other citizen in society with the exception that their personal freedom is limited. Thus, this group of persons

keep all rights they are not legally deprived of due to the decisions causing their deprivation of liberty.

The leading principle in human legal rights that a human being must be treated with respect for his or her integrity and dignity also applies to those deprived of their liberty. In practice, this means that the detainee has to have access to reasonable accommodation, sleep, food, drink, personal hygiene, and a lavatory. Furthermore, the detainee has to be allowed to keep in contact with the outside world including regular contact with relatives and other persons by letter, telephone, and visits. Persons deprived of their liberty also have the right to external legal representation and to medical and other health oriented assistance in order to treat sickness and injury.

When force is exercised, a medical inspection must be carried out if there is any suspicion of sickness or injury or if the detainee himself asks for medical help. Bruises and wounds incurred after the detention/arrest put the burden of proof on the authorities that no mistreatment has taken place. The staff responsible for arrest and surveillance has a duty to show the detainees respect, both in speech and action. The detainee must be spoken to and referred to without abuse, but at the same time the detainee must accept that, dependent on the situation, the tone may be brusque, commanding and rougher than common courtesy dictates.

When depriving vulnerable groups of their liberty, including women, children, and aliens/immigrants, the authorities must pay attention to the special physical, psychological, social, and other needs these groups may have.

4. Focus areas

As NPM, the Ombudsman has chosen to focus on a number of areas which are considered particularly relevant for the conduct of this special supervisory task. The choice of focus areas for the inspections are partly based on the experiences about Denmark from the reports of The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and The Committee Against Torture (CAT) and on the knowledge already acquired by the Parliamentary Ombudsman, the RCT and the IMR on the conditions in Denmark for persons deprived of their liberty.

4.1 Relationship between staff and persons deprived of their liberty

These experiences show that the relationship between the staff treating and guarding detained citizens and the detainees themselves is of crucial importance. This is true whether the persons deprived of liberty are inmates in prisons, patients in psychiatric treatment centres, children and juveniles in secure institutions, and detained individuals at social care homes. This is the reason why this particular relation is an important focus area for the inspections. Attention will therefore be directed towards information about the way in which the staff and the detainees communicate, staff ratios, staff training background, management guidance and supervision of the staff to ensure that the staff conduct their work in the right spirit, etc.

4.2 Medical conditions

The provision of proper and efficient medical care is a special aspect of ensuring that persons deprived of their liberty are treated with dignity, humanity and without torture. Basically, persons deprived of their liberty should have the same access to medical care as persons who are not deprived of their liberty. In addition, the loss of liberty may, according to circumstance, cause special health problems which can only be solved through specialist medical expertise. Furthermore, a recurrent problem is that incarceration is often used vis-à-vis persons who already suffer from health issues and for whom the right medical assessment is absolutely essential.

Consequently, medical care is another important focus area. The particular conditions of relevance in this context depend on the type of institution and care home which is being inspected. It is obvious that the medical conditions included in an inspection of a prison must of necessity be different from a psychiatric centre. Check lists which may be used for the different types of institutions have been established as part of our efforts within this focus area.

4.3 Solitary confinement

Many studies show that persons who are not only deprived of their liberty to move around freely but are also isolated from contact with other people are particularly vulnerable. Experience also shows that the degree of susceptibility to the effects of solitary confinement varies widely from person to person. However, most people are usually very badly affected mentally from solitary confinement, even for brief periods of time. This circumstance, combined with the fact that international agencies time and again have pointed out that solitary confinement, particularly in prisons, is used more in Denmark than in other countries, has meant that solitary confinement has also been singled out as a target for special attention. During the inspection attention will be focused on the number of persons isolated, the extent of and conditions for the isolation from others for the individual and on any harmful effects of too long or rigidly effected solitary confinement.

4.4 Use of force

An often unavoidable consequence of having to deprive a person of his or her liberty is the use of force in the apprehension of that person. The use of force may be necessary in order to detain the person but it may also be difficult to avoid completely as a part in maintaining the detention or in connection with the handling of the person in question. Large differences between when and how force may be used can also be seen in the various types of institution. Put simply, in prisons, etc. force is used to carry out and maintain detention while force in hospitals and treatment centres is used in protection of the individuals against themselves or others. Regardless of the reason, there is always a risk that the use of force turns into a violation of the ban on torture, etc. This is why the use of force has been designated as a special focus area for the inspections.

4.5 Physical conditions

The physical conditions (cell/room size, furnishing of rooms, condition of buildings, maintenance, diet, open spaces, leisure activities) provided for inmates/detainees have seldom been cause for comment in Denmark. In addition, these conditions are monitored through the Ombudsman's general inspections in accordance with section 18 of the Ombudsman Act, and not separately in connection with the OPCAT inspections. The Ombudsman will investigate matters of this nature as NPM only if there are concrete indications of deficiencies (e.g. complaints from inmates/detainees) and on a random sample basis. This order of priority has not been decided because these matters are not considered relevant to the OPCAT task but, as demonstrated, because this question is already supervised and because experience has shown an overall good standard for this part of conditions for persons deprived of their liberty.

5. Work method

The optional protocol mentions inspections as the central agent in connection with the NPM's work. Accordingly, the work of the supervisory body is based on visits to places where persons are deprived of their liberty. When planning the task it was decided that other methods of investigating and preventing torture, etc. may also be used. It is, for example, expected that the Ombudsman will make use of his authority to investigate on his own initiative cases involving public authorities responsible for persons deprived of their liberty. During the inspection process information is gathered through interviews with staff and persons deprived of their liberty, by requests for statistical information, by possible examination of case files, loan of case documents, etc. The work will also involve various reports, including the annual report, performance contract or service contract, and information on the institution's website.

As an example may be mentioned that the county gaols, prior to the inspections, were asked to provide the following information:

- Number of employees in the institution
- Present register of detainees containing information of those with special needs including mental illness
- Number of times in 2009 when use of force has been exercised towards the detainees and information about the type of force
- Information regarding incidents in 2009 of acts of violence and threats towards the detainees
- Number of suicide attempts amongst the detainees in 2009.

During the actual inspections the focus areas in the county gaols were reviewed using:

- Interviews with the county gaol detention superintendent, the detention deputy, the county gaol keeper, and the chief warden.

- Interview with the county gaols' medical staff
- Interview with the detainees and their spokesmen
- Observations when walking around the county gaol
- Information regarding cases of complaints from the detainees of the county gaol to the Department of Prison Service
- Information regarding the county gaol's reports for 2009 on use of force.

In the spring of 2010, the RCT, the IMR and the Parliamentary Ombudsman convened at an all day conference in order to discuss and establish the reaction level in regard to the authorities. It was agreed that the reaction level is to be determined in the light of a concrete assessment of how strengthened a condition can be considered to be, and how serious the condition in question is.

6. The year's activities

6.1 OPCAT inspections

As National Preventive Mechanism (during the period of 1 October–31 December 2009) the Parliamentary Ombudsman has carried out 9 inspections, comprising of 2 detention units, 2 county gaols, 4 psychiatric wards and the so-called "Climate Prison" in Valby, Copenhagen. In this context, the Parliamentary Ombudsman has as NPM carried out an investigation of the course of events relating to the large number of detentions made by the police during the climate summit meeting in Copenhagen, the COP 15.

All the inspections have been carried out with medical assistance from the RCT while the IMR has participated in 7 of the 9 inspections.

The inspections of the 2 detention units, 2 county gaols and 4 psychiatric wards did not give cause for written recommendations to the management of the inspected institutions. There were a number of concerns which were not within the mandate of the OPCAT protocol and these were communicated verbally to the management of the institutions at the meeting that concludes the individual inspections.

The inspections also produced information which will be used in future, both with regard to inspections and with a view to implementing other initiatives for the prevention of torture, inhuman and degrading treatment. The information concerned i.a. matters such as whether complaints are met with suppression or retaliatory measures; whether the administration of community exclusion in detention units and prisons is well-founded; whether there are structural problems in transferring to suitable institutions remand prisoners and convicts who are or become unfit for incarceration in a prison due to mental illness or other mental handicaps; whether the inmates' requests for, e.g., extra visits by family or other requests are treated with the required respect and speed; whether there is a post-incident interview with the patients in psychiatric

hospitals following the use of coercive measures; and whether the incidence of long-term restraint is medically well-founded.

The 8 inspections have been concluded with letters sent without recommendations to the relevant authorities.

The fact that these 8 inspections did not give cause for written recommendations within the special focus areas solely expresses that in the institutions visited there were not found conditions that were sufficiently serious and strengthened in order for the authorities to be notified in writing for the time being. For instance, at the time of the inspections there was no one in solitary confinement at the institutions visited, hence there was no basis for a further assessment of the institutions' way of handling persons in solitary confinement. Thus, the lack of written recommendations is not to be understood so as if the conditions within the special focus areas are not the most relevant, and the Parliamentary Ombudsman, the RCT, and the IMR are as National Preventive Mechanism continually going to pay attention to the problems within the focus areas when carrying out inspections.

The so-called Climate Prison was inspected on 15 December 2009, that is during the COP 15 conference in Copenhagen. In continuation hereof, the Parliamentary Ombudsman initiated an investigation of the procedures in connection to the police arresting/detaining people participating in demonstrations during COP 15. At the demonstration on 12 December 2009, the police detained app. 900 persons.

The 900 persons detained were placed in lines with everybody facing the same way on the street of Amagerbrogade, Copenhagen. The temperature was at freezing point, and the persons detained were sitting on the ground for up to four and a half hours because police transportation did not show up. Only a very few of the persons detained were allowed to go to the lavatory during the four and a half hours, and there were no seat covers and no food or water. Also, the police had not arranged for medical supervision. During this time, the police only released a very few people.

After the Ombudsman's reviewing the conditions of the mass arrests on 12 December 2009, it was his view that the police ought to consider the general procedures in regard to mass arrests. In order to prevent violation of the rules of prohibition of inhuman or degrading treatment, it was the Ombudsman's view that the police ought to organise the procedures so that in the future it is at least:

- avoided that persons detained are not allowed to go to the lavatory
- standard procedure to bring water and seat covers to actions where mass arrests may be made
- ensured that medical expertise is present at similar actions in order to minimize the risk of the persons detained suffering any harm in regard to their health
- ensured that the police carry out the necessary interviews as soon as possible at similar actions in order to make the detainment as brief as possible.

Based on the statements from The National Police and Copenhagen Police, The Ministry of Justice joined the Ombudsman's recommendations for organising and con-

ducting police actions of the aforementioned type, including that is ensured that the police carry out the necessary interviews as soon as possible at similar actions in order to make the detainment as brief as possible.

The final report can be found on <http://www.ombudsmanden.dk/nytt/ og presse/alle/ny politipraksis/endelig redegørelse/>

6.2 Inspections pursuant to section 18 of the Ombudsman Act

In 2009 the Parliamentary Ombudsman carried out 23 general inspections pursuant to the provisions in section 18 of the Ombudsman Act. Of these 23 inspections, 16 have been of institutions where persons are deprived of their liberty or otherwise placed there against their will.

The reports following the inspections show the findings of the Parliamentary Ombudsman's inspections. Final reports from the inspections carried out in 2009 in institutions with persons deprived of their liberty are not available yet.

In 2009, 13 reports were submitted regarding inspections previously carried out (typically in 2008) in institutions where persons are deprived of their liberty. These reports have been published, in Danish, on the Parliamentary Ombudsman's website (www.ombudsmanden.dk) under "Sager og inspektioner". A description of the basis for the Parliamentary Ombudsman's general inspection activities may also be found, in English, on the website.

The majority of the approximately 350 inspections carried out by the Parliamentary Ombudsman since 1 January 1997 has been of places where persons are deprived of their liberty.

The inspections look at the institutions' buildings, standard of maintenance, etc. In addition, the inspections examine a number of conditions for the persons deprived of their liberty. These may include occupational possibilities, leisure time activities, and educational opportunities. Also e.g. diet, visiting facilities, medical care, telephone access, drugs, spokesperson agreement and violence may be looked into. In connection with the inspection the relevant institution is asked to provide reports for a specified period of time on one or more selected subjects, e.g. the use of force, the use of handcuffs, the use of disciplinary cells and observation cells. These reports are given to the inspection team during the inspection and later studied by the Parliamentary Ombudsman and included in the inspection report.

On the basis of the inspections the Parliamentary Ombudsman may criticise a number of conditions and recommend that some conditions be changed. The Parliamentary Ombudsman has a follow-up system in place which ensures that the criticism and recommendations are adhered to. The basis of assessment is the provisions in the Ombudsman Act, including a recently codified provision in section 18 of the Act which allows added weight on universal and humanitarian aspects.

Based on the special OPCAT assessment principles regarding torture, inhuman or degrading treatment, there is no expectation that criticism or recommendations will be

uttered in *any* of the 2009 inspections of institutions for persons deprived of their liberty.

In *none* of the 9 inspection reports in 2009 concerning institutions with persons deprived of their liberty have criticism or recommendations been given on the basis of the OPCAT assessment principles.

In a case mentioned in the Parliamentary Ombudsman's 2003 Annual Report (in Danish), page 963, 2005 Annual Report (in Danish), page 925, and 2008 Annual Report (in Danish), page 719, the assessment principle of "torture, inhuman or degrading treatment" might have been taken into consideration.

This is a general case dealing with the conditions for drunks, detainees and convicted persons in county gaols/detention units in Greenland. In connection with the processing of this general case and with an inspection of an open prison in Greenland, the Danish Parliament found that a detainee had spent 74 consecutive days in a detention unit in a Greenland town. The only "furnishings" in the cell was a mattress on the floor. During his stay, the individual in question had only had very limited access to fresh air, the lights were on the whole time he was in the cell, and he was under constant TV surveillance.

With no distinct reference to the special OPCAT assessment principle, the Parliamentary Ombudsman expressed his "severest criticism" with regard to the duration and other conditions of this detention.

The Ombudsman ensured through various measures that something similar cannot occur again.