

**DIGNITY's appearance before the Danish Parliament's Committee
on Legal Affairs on 27 April 2017
Use of punishment cells**

DIGNITY – the Danish Institute Against Torture thanks the Danish Parliament's Committee on Legal Affairs for the opportunity briefly to discuss the issue of the use of punishment cells in Danish prisons and detention centres, i.e. the placement of prisoners in solitary confinement as a sanction for a range of minor offences, cf. Section 68, sub-section 2 of the Danish Corrections Act. We wish to present:

- (A) trends in the use of punishment cells in Denmark
- (B) conclusions of DIGNITY's conference on punishment cells
- (C) proposals for new initiatives which could pave the way for improved solutions to the behavioural problems experienced in Danish prisons and detention centres.

A: Use of punishment cells in Denmark

In Denmark, disciplinary action is taken to punish prisoners who commit a range of minor offences, cf. Sections 67-70 of the Danish Corrections Act. The placement of prisoners in solitary confinement (punishment cells) is the most serious sanction that is used for prisoners (including children and the mentally ill) for 22-23 hours a day for up to four weeks at a time, cf. Section 70 of the Danish Corrections Act. ¹

The use of solitary confinement as a disciplinary punishment pursuant to the Danish Corrections Act has more than doubled over the past 15 years from 1,289 instances in 2001 to 2,579 instances in 2015 and 2,995 in 2016.² The number of cases of long-term solitary confinement (15 days or more) has increased significantly since the amendment to the law in 2016 pertaining to mobile telephones: 222 cases in 2016 (of which 219 cases pertained to illegal communication) compared with seven cases in 2015.³ Solitary confinement is, however, used less to punish minors (decrease from 25 cases in 2014 to 14 in 2016).

B: Conclusions of DIGNITY's international conference on the use of punishment cells

¹ See also DIGNITY's fact sheet (Appendix 2).

² The Danish Prison and Probation Service figure for 2016 is a preliminary figure. The occupancy rate was 3,236 in 2001 and 3,421 in 2015.

³ The Danish Prison and Probation Service presentation at the conference and the press release are available on the Danish Prison and Probation Service website at www.kriminalforsorgen.dk

As a culmination of several years' research and practice and in the light of legal developments internationally, on 3 April 2017 DIGNITY organised an international conference on the use of punishment cells both inside and outside Denmark. 100 national and international experts participated in the conference, including representatives of the UN and the European Committee on the Prevention of Torture, the Danish Prison and Probation Service, prison governors from our neighbouring countries, the Ombudsman, the Danish Institute for Human Rights, researchers, physicians, psychologists etc.

Healthcare experts concluded that solitary confinement often has serious negative consequences for human health. It has been documented that solitary confinement may lead to anxiety, depression and an increased risk of self-harm and suicide. Harmful effects may appear after only a few days and increase for each day spent in solitary confinement. Research has shown that after a period in solitary confinement prisoners experience serious physical, mental and social problems.

Legal experts concluded that international regulations now establish that solitary confinement should be abolished in the case of minors, the mentally ill and other vulnerable groups and that long-term solitary confinement (15 days or more) should be abolished altogether. Solitary confinement of up to 14 days may only be used in exceptional cases and only for as brief a period as possible. A clear trend exists among international human rights organisations towards the abolition of solitary confinement as a means of punishment which was expressed in the recommendations by the UN Committee against Torture issued for Denmark in December 2015.

Prison governors concluded that solitary confinement as a means of punishment does not work! It does not prevent violence or the smuggling into prisons of drugs or mobile telephones. Prisoners who have been in solitary confinement gradually deteriorate mentally. They find it more difficult to interact socially with fellow prisoners and solitary confinement counteracts prisoners' reintegration into society when their prison term is over. Prison staff do not want more solitary confinement – on the contrary! But management tools are still required. Several other countries – such as Sweden, Norway and Canada – have abolished solitary confinement as a form of punishment and found alternative solutions to the underlying problems. They work in motivating and therapeutic ways to affect prisoners positively in order to prevent undesirable behaviour. Experiences in these countries have been positive and security in prisons has increased due to fewer assaults by prisoners. Suicide rates have also decreased.

C: New initiatives – new solutions

In general, insufficient knowledge about the effect of punishment cells – on prisoners, staff and society – is currently available. Does it make prisons safer? Does it prevent violence and the smuggling of items into prisons? Information is especially required on whether the intention underlying the law on the introduction of punishment cells for the possession of mobile telephones has succeeded in its aim of preventing the planning

of new crimes. DIGNITY recommends that the Committee on Legal Affairs launch a detailed mapping or survey of the 222 cases from 2016 where punishment cells were used for 15 days or more and of a suitable number of cases relating to shorter terms of solitary confinement. A mapping that should provide answers to whether e.g. the 219 cases relating to illegal communication involved possession of mobile telephones with the intention of planning new crimes such as terrorism or whether prisoners simply wanted to speak to their children, spouses and families. The survey should further propose alternative solutions to the underlying behavioural problems. DIGNITY will readily make available its expertise on prison issues and the prevention of violence to such a survey.

DIGNITY further proposes that legislators should take the following steps:

- 1) In the short term, that legislation should be amended to abolish the use of punishment cells for minors, the mentally ill and vulnerable groups and that the upper limit for solitary confinement be reduced from four to two weeks which is in compliance with internationally recommended standards.
- 2) In the longer term, that the use of punishment cells should be abolished altogether. The efficacy of the method is doubtful and effects harmful to human health have been documented. To the extent that a need exists to punish prisoners, this should take place in the ordinary criminal justice system. The purpose of a punishment cell can be achieved using far less invasive methods as experiences from Sweden and Norway show. Prisons should not be so harsh as to make prisoners ill and unable to re-enter society in a normal way after the end of their prison term.

Appendices:

- 1 DIGNITY's discussion paper from its international conference.
- 2 DIGNITY's fact sheet on the use of solitary confinement as punishment.

