

DENMARK

Summary of Concerns

In view of the examination of Denmark's Second periodic report by the United Nations (UN) Committee against Torture of measures taken by the government to give effect to their obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) on 14 November 1995, Amnesty International takes this opportunity to comment on some of its concerns in Denmark.

Over the years since the Committee's examination of Denmark's initial report in April 1989 there have been many significant developments. These developments include on one hand: reports of ill-treatment of detained and imprisoned persons by Danish authorities which have been raised with the Danish authorities by individuals, national non-governmental organizations and Amnesty International, as well as concerns raised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) following its visit to Copenhagen in 1990; and on the other hand, several steps taken by the Danish Government aimed at addressing some of the concerns which have been raised.

In a report published in June 1994 entitled *Denmark: Police Ill-Treatment* (AI Index: EUR 18/01/94), Amnesty International set out its concerns about ill-treatment by police and the failure of the authorities to adequately address complaints of ill-treatment. The present document summarizes some of the key concerns raised in 1994 and in prior years and refers to developments since that time. It refers to Amnesty International documents, which have been supplied to members of the Committee against Torture, and which set out issues and cases in fuller detail.

Cruel, Inhuman or Degrading Treatment or Punishment

a) Ill-Treatment by Police:

Notwithstanding Danish law, which requires that arrests be made in as gentle a manner as possible¹, and the existence of various police regulations or guidelines, including those relating to the use of handcuffs and truncheons, in recent years, Amnesty International has received a wide range of reports alleging that people have been ill-treated by police. Such reports have included complaints that people have been ill-treated by police during

¹ Section 758, paragraph 1 of the Danish Administration of Justice Act (*Retsplejeloven*)

demonstrations, particularly those which involved violent confrontations between the demonstrators and the police, and during a large-scale 15-month police operation in 1992 and 1993 against open hashish dealing in Christiania, a community in Copenhagen. The organization has also received complaints that individuals who have been detained on more routine matters have been ill-treated.

Allegations of ill-treatment received included that police have: kicked and beaten detainees; hit people on the head with truncheons; applied metal handcuffs very tightly around the wrists of detainees in such a way as to cause severe pain and sometimes long-lasting injury; carried people who had been placed in metal handcuffs behind the back in such a manner as to cause severe pain and sometimes injury to their wrists and shoulders; forced detainees to the ground, handcuffed them behind their backs and then exerted force by pushing their knees into detainees' backs.² In several cases reported to Amnesty International, police used a particularly excruciating, dangerous and degrading form of restraint called the "fixed leg-lock". This method involves laying the detainee on the stomach, handcuffing him or her behind the back, bending both legs at the knee, wedging one foot against the opposite knee and placing the other foot up under the handcuffs. (See photograph on cover of *Denmark: Police Ill-Treatment*.)

After discussing these concerns with Danish authorities, in June 1994 Amnesty International published a report, *Denmark: Police Ill-Treatment*. Citing cases which were illustrative of the reports it had received over recent years, this report outlined Amnesty International's concerns about ill-treatment and the failure of the authorities to adequately address ill-treatment complaints. The report also included recommendations for change. Supported by the opinions of police and forensic experts, Amnesty International concluded among other things, that the painful and potentially life-threatening fixed leg-lock constituted cruel, inhuman and degrading treatment or punishment and called on the Danish Government to immediately ban its use.

In the year following the publication of this report the Danish Government has taken significant steps to address some of the concerns noted by Amnesty International. Among other things, within a week of the publication of the report, the Minister of Justice announced a temporary suspension of the use of the fixed leg-lock. Following receipt of a report of the Danish Medical-Legal Council which examined the medical risks involved in the use of this form of restraint, the suspension of the use of the fixed leg-lock was made

² Benjamin Schou, a then-18 year-old youth who was restrained in this fashion and subsequently placed in a leg-lock, suffered cardiac arrest while in police custody on 1 January 1992. He now lies in a vegetative state in a nursing home, having sustained resultant severe brain damage. A civil case for damages, brought on his behalf, is currently pending (see *Denmark: Police Ill-Treatment*, at pp 20-21; *Amnesty International Reports 1994 and 1995*).

permanent in December 1994.³ In addition, the Minister of Justice initiated a wide-ranging review of self-defence methods used and taught in the police training school; to the best of the organization's knowledge, this review has not yet been completed (see *Amnesty International Report 1995* and *Concerns in Europe: January - June 1995*, AI Index: EUR 01/02/95).

Notwithstanding these and other initiatives (including the launching of investigations into some of the individual illustrative cases highlighted in Amnesty International's report), the organization continues to receive reports of allegations of ill-treatment by police.

While Danish police are still authorized to use other forms of leg-lock (known as manual leg-locks) in the restraining of detainees, based on the report of the Medical-Legal Council, police were to be advised that they should carefully monitor the pulse and respiration of any detainee so restrained and that they should not leave a detainee so restrained unattended. Amnesty International remains concerned about whether such monitoring will take place given the demands and realities of police work and will continue to monitor measures taken to ensure adequate training of experienced and new police officers about the medical risks.

b) Greenlanders Imprisoned in Denmark:

In September 1993 Amnesty International expressed its concerns about imprisonment of Greenlanders in Denmark for prolonged and indefinite periods, after conviction for serious crimes in Greenland. The organization noted that, during its visit to Denmark in 1990, the ECPT had confirmed allegations that the alienation of these prisoners from their country and culture was so extreme that it could cause psychological disorders. Amnesty International stated that the possible serious effects on their mental health could amount to cruel, inhuman or degrading treatment or punishment and urged the government to take immediate measures to ease the deterioration of the physical and psychological health of those Greenlandic prisoners serving sentences in Denmark, thousands of miles away from their homes. The organization also urged the Danish authorities to work with the appropriate agencies in Greenland to resolve this problem. Subsequently, the Danish Government and the Greenland Home Rule Government set up a commission to review and make recommendations for revision of Greenland's legal and criminal justice systems. The work of the commission continues. (see *Amnesty International Reports 1994 and 1995*).

Failure to conduct Prompt and Impartial Investigations

³ Amnesty International has noted with concern that there seemed to be some confusion among the police and authorities as to whether or not police training in the past had included the use of the "fixed leg-lock" as a method of restraint.

Amnesty International also has expressed concerns about the failure of the Danish authorities to initiate prompt and impartial investigations of allegations of ill-treatment, as required by Articles 12 and 16 of the Convention against Torture. Amnesty International expressed its belief that the failure to conduct prompt and impartial investigations and to bring alleged perpetrators of ill-treatment to justice in the course of disciplinary and/or criminal proceedings has contributed to the development of a climate of fear and distrust of the police in some sectors of the society. Such failures may also be helping to create an impression among some police that they can act with impunity and that ill-treatment of criminal suspects and others is acceptable.

a) Promptness:

With respect to the failure to promptly initiate investigations, Amnesty International notes the government's failure to promptly initiate an investigation into allegations of ill-treatment which arose during the 15-month police operation aimed at reducing the open sale of hashish in Christiania in 1992-1993. This failure is particularly remarkable in view of the fact that reports of such allegations were covered in the media, questions about the operation were raised in Parliament and government authorities had received video-tapes which documented incidents of alleged ill-treatment by the police. Such ill-treatment included repeated use of the fixed leg-lock and widespread use of tear-gas (see *Denmark: Police Ill-Treatment*, at pp 14-19). Although the Minister of Justice took some measures, including personally engaging in discussions with the police and the residents of the area, it was not until after Amnesty International published its June 1994 report which contained illustrative examples of such ill-treatment, that an in-court investigation into 11 individual cases was initiated.⁴ While Amnesty International has welcomed the initiation of the investigation into the 11 individual cases, eight of which were raised in the organization's June 1994 report, the organization has stressed that these cases were illustrative only and urged the authorities to conduct a broader review and investigation of the police methods used during the entire 15-month police operation. The organization is also concerned that prior to the publication of Amnesty International's report, the government had not promptly taken measures to ensure that the fixed leg-lock was not used as a method of restraint in Denmark, in view of the fact that the dangers of less serious forms of "hog-tying" of detainees reportedly had been previously brought to the attention of the authorities.

b) Lack of Impartiality:

⁴ The report of this investigation has not, to date, been published.

Currently, people may lodge complaints of ill-treatment by police with regional local police complaints boards (*lokalinævni*).⁵ These boards are only empowered to dismiss the complaint or to order that an investigation be carried out. The investigations are almost always carried out by police, and in most cases this involves officers from the same district police force against which the allegation has been made. When satisfied that the investigation is complete, the police complaints boards may send the case to the regional Chief Constable. The boards have no power to recommend that criminal or disciplinary proceedings be initiated or to make binding recommendations that a victim be paid compensation. In the first instance it is the Chief Constable of the region who decides whether disciplinary proceedings should be initiated against a police officer or that a victim should be paid compensation. Complaints which allege serious injury or indicate that a police officer has engaged in criminal conduct are referred to the regional public prosecutor.⁶ It has been reported that, in several cases, due to a conflict of evidence between the police and the complainant, a decision not to institute proceedings has been made. It has been reported that some people who have filed complaints against the police have been later prosecuted for statements made during the examination of the complaint. Many people have reportedly declined to file complaints with these boards because they lack confidence in the independence and integrity of this system. Some lawyers also share this lack of confidence.

Responding to wide criticism of this system, particularly police involvement in such investigations, and following the report of a commission on the subject, the Parliament passed a law, which will come into effect on 1 January 1996, creating a new system for handling complaints against police conduct. According to this system, the task of handling complaints against police conduct will be the responsibility of the regional state prosecutors. Although the intent of the drafters is that the investigations of complaints will be conducted by these prosecutors and their staff, the legislation provides that the prosecutors may request the assistance of the national police in these investigations. Police Complaints Boards (*Politiklagenævni*) in each region, consisting of one lawyer and two lay-persons, will: be able to request that the regional prosecutor initiate an investigation; be informed of complaints and the results of investigations; have authority to request that specific additional investigations be undertaken; be able to make recommendations concerning the outcome; and be able to appeal the regional prosecutors' decisions to the Director of Public Prosecution.

Critics of this new system point to the close links between the police and the prosecution authorities, which in Denmark both fall under the Ministry of Justice. As an

⁵ Members of these boards include: the Chief (police) Constable of the region, members of the police force, local elected officials and, when working on complaints against the police, a lawyer from the area.

⁶ See the Danish Government's Core Document, HRI/CORE/1/Add.58, at paragraph 69 and *Denmark: Police Ill-Treatment*, at pp 1-2.

example of their mistrust of a system in which the police are involved in investigations led by prosecutors, critics have cited the controversial investigations of the events of the 18-19 May 1993.

i.) Investigations into the events of 18-19 May 1993

In what has been described as the most violent incident in Denmark since the Second World War, police in riot gear and plain clothes fired 113 shots (in three episodes) during a violent demonstration in the Nørrebro district of Copenhagen on the night of 18-19 May 1993, following the "yes" vote on the second referendum on the Maastricht Treaty. Before the demonstration was quelled several police officers were injured and at least 11 people, most of whom were reportedly bystanders, were injured by police bullets which hit them in the stomach, neck, back, arms and legs.

Initially the government refused to initiate an independent investigation. However, calls for an investigation increased after television broadcasts, which featured videos taken by professional camera operators who were present on the scene, called into question the official explanations and the initial report of the Director of Copenhagen Police was found wanting in several respects. On 26 May 1993 the then-Minister of Justice appointed the then-Director of Public Prosecution (DPP) to lead an investigation into the events. According to the mandate of the investigation, the DPP was to be assisted by a branch of the national police. Following the release of the DPP's initial report in August 1994⁷, it was revealed that the DPP had initially ordered the national police not to interview the members of the Copenhagen police about the shooting incidents. Instead, such information was to be gathered by the Director of the Copenhagen Police. The then-DPP has subsequently stated that he understood from the mandate and discussions within the Ministry of Justice that this was how the investigation was to be conducted. The then-DPP, who was appointed as a Supreme Court Justice in January 1995, conducted a supplementary investigation after it was revealed that he had overlooked a portion of a video-tape which cast doubt on his conclusion that no direct orders to shoot had been given.⁸ Wide criticism continued following the release of the report of the supplementary investigation in May 1995. The criticism focused on the methods of investigation and the conclusions reached. After receiving several

⁷ This report, which was substantially based on police investigations, concluded, among other things that: faced with violent bombardments of stone-throwing demonstrators, diminution of their numbers due to injuries, believing that retreat of the police chain would place injured officers in further jeopardy, and having run out of tear-gas, there were no grounds to criticize the police judgment that it was necessary to draw their weapons, fire "warning shots" and, in some instances, aimed shots.

⁸ For further details of the events of 18-19 May 1993 and the subsequent investigations, see: *Denmark: Police Ill-Treatment*, at pp 3-11; *Amnesty International Reports 1994 and 1995*; *Concerns in Europe: January-June 1995*, (AI Index EUR 01/02/95).

requests, the Parliamentary Ombudsman is currently investigating the investigations. Amnesty International is not only concerned that more than two years following the incident, the exact circumstances in which the police fired their guns and wounded people during the demonstration have not been made public, but also that due in large part to the lack of independence, the credibility of such an important series of investigations has been called into question.

Amnesty International has repeatedly recommended that all bodies responsible for the handling (including investigation) of complaints against the police be impartial and independent. To that end the organization recommended that no members of the police should sit on the bodies handling police complaints. It is relevant to the situation in Denmark to note that the Human Rights Committee comments on the consideration of the United Kingdom's fourth periodic report in July 1995 also expressed concern that mechanisms for investigations of police or military misconduct supervised externally yet still carried out by the police "lack sufficient credibility".⁹

Training and Review of Regulations:

As is customary when it addresses governments on cases of ill-treatment of detained or imprisoned persons, and in accordance with Articles 10 and 11 of the Convention against Torture, Amnesty International has urged the Danish Government to review, and where appropriate, to revise regulations and training of law enforcement officials on the use of force and custody practices.

Following the completion of the judicial investigation of the treatment of foreigners in Copenhagen prisons and investigations into some of the cases and issues highlighted in Amnesty International's report, *Denmark: Police Ill-Treatment*, the government announced review, clarification and revision of certain relevant regulations. Among others, in 1994 the Ministry of Justice announced the initiation of a wide-ranging review of self-defence methods used by and taught to police; in the context of the Nørrebro investigations, the regulation on the use of firearms was revised; a review of the role of plainclothes police during demonstrations was initiated; and following a review of crowd control methods, the police have decided that they will not add either water cannons or rubber bullets to their equipment. In addition, following the investigation into the allegations of ill-treatment of a 50-year old woman who was held overnight at a police station on a non-criminal matter¹⁰, the Ministry of Justice informed Amnesty International that it was preparing revised guidelines

⁹ Comments of the Human Rights Committee CCPR/C/79/Add.55, at paragraph 13 (27 July 1995).

¹⁰ See *Denmark: Police Ill-Treatment*, at pp 22-23 and *Concerns in Europe: January - June 1995*, (AI Index: EUR 01/02/95) at pp 19-20. Among other things, the investigation of this case highlighted that regulations about the access of a detainee to a doctor were not applicable to those detainees held in police custody.

relating to arrested persons' rights to examination by a doctor, to medical treatment when required, to access to a lawyer, to have their families informed about their arrest and to be given food and drink and access to toilets.¹¹

While Amnesty International has welcomed the fact that such reviews, clarifications and revisions are taking place, it underscores the importance of keeping regulations relating to the use of force and custody procedures under regular review, as required by Article 11 of the Convention against Torture. The organization also believes that in order to be truly effective, law enforcement officials and people working in prisons must benefit from regular refresher courses and training.

Torture, Cruel, Inhuman or Degrading Treatment or Punishment: Interpretation of the Scope

Amnesty International is concerned that Danish authorities and at least one member of the judiciary have interpreted torture and cruel, inhuman and degrading treatment too narrowly and in a manner inconsistent with the Convention against Torture. This concern arose in the context of the conclusions of a judicial investigation into two allegations of ill-treatment in 1990.

In 1990, Amnesty International raised its concerns with the government that two African tourists, Himid Hassan Juma, a Tanzanian national, and Babading Fatty, a Gambian national, had been arrested and reportedly ill-treated while detained in Copenhagen prisons in two separate incidents in the autumn of 1990. The organization called on the authorities to conduct investigations into the cases.

In a response to Amnesty International's letters about these cases, the Minister of Justice informed the organization in February 1991 of his decision to extend the mandate of a judicial inquiry into the treatment of foreigners in Copenhagen's prisons (which was initiated in September 1990 following reports by Danish nurses about ill-treatment of foreigners in Copenhagen prisons) to include an investigation of the cases of Babading Fatty and Himid Hassan Juma¹².

¹¹ It should be noted that in 1991 the ECPT had recommended that the authorities make arrangements for providing food and drink and expressly guarantee the right immediately to inform one's family of the arrest and the right of access to doctors for people held in police stations (see *Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee For the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, CPT/Inf (91) 12 at paras. 142-143 and Appendix I (B)(a)). In 1994 Amnesty International expressed concern that, as evidenced by the case of "Mrs Andersen" it appeared that these recommendations of the ECPT had not yet been taken up by the Danish authorities.

¹² Complaints about both of these cases had been made to the authorities by Danish lawyers.

In both cases it was found that the authorities failed to explain promptly and fully the reasons for the detention, their rights and the procedures which would be followed. Babading Fatty and Himid Hassan Juma both alleged that during their detention they were beaten, placed in special security cells, their clothing was removed and they were restrained by force to beds with straps on their arms and legs and waist belts. Details of the case of Babading Fatty are set out in the attached **Appendix 1**.

The investigating judge was critical of aspects of the detention and treatment of these two men. With respect to Babading Fatty, the investigating judge concluded that the course of events as a whole caused him severe physical and mental suffering. However, the judge stated:

"...[as] there are no grounds for assuming that he should have been caused this suffering with the object of procuring information or confessions, to punish, frighten or compel him, or that it was even an expression of discrimination...it is my opinion that the conditions for using the expression torture as it is understood in the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment have not been fulfilled. Nor do I find that the treatment of Babading Fatty, despite the criticism I have levelled against certain points, according to its character and purpose, implementation of a legal deprivation of liberty, arrest and imprisonment on remand, can be characterised as cruel, inhuman or degrading treatment in the meaning of the Convention."¹³

Following the release of the report of the judicial investigation, Amnesty International expressed its concern to the Minister of Justice that the judge had not considered the treatment of Babading Fatty to constitute cruel, inhuman or degrading treatment. The organization also expressed concern that the judge had too narrowly interpreted the definitions of torture and cruel, inhuman and degrading treatment or punishment. The Ministry of Justice published a follow-up to the judicial investigation which mentioned initiatives aimed at preventing repetition of the incidents. While this document characterized the treatment of Babading Fatty and Himid Hassan Juma as unsatisfactory and "regrettable", the authorities did not expressly state that they considered that the treatment suffered by either Babading Fatty or Himid Hassan Juma amounted to cruel, inhuman or degrading treatment or punishment. Further, at no time did the authorities publicly seek to correct the mistaken interpretation of the Convention against Torture's definition of torture which had been published in the report of the judicial investigation.

¹³ *Judicial Inquiry into the Treatment of Refugees in Copenhagen Prisons: Report on public administration treatment of the Tanzanian national Himid Hassan Juma and the Gambian national Babading Fatty in the autumn of 1990*, at pp 145-6.

Notwithstanding the judge's conclusions, it would appear in this case that a number of the acts carried out by law enforcement officials caused such pain and suffering as to amount to cruel, inhuman or degrading treatment or punishment within the meaning of the Convention against Torture. Furthermore, Amnesty International is concerned that the judge's conclusion in this case interprets the meaning of "torture" in Article 1 of the Convention against Torture too narrowly. One of the elements of an act of torture is that the act is inflicted "for such purposes as" those listed in Article 1. The inclusion of the phrase "for such purposes as" indicates that acts carried out for different, but related, purposes than those listed in Article 1 could amount to torture. The failure of the judicial or other authorities subsequently to clarify the correct scope of the definition of "torture" which Denmark is bound to implement, could in the future lead to judicial or other authorities wrongly deciding that certain acts do not amount to torture.

ATTACHMENTS

Entries on Denmark from:

- Attachment 1: *Amnesty International Report 1991*
Attachment 2: *Amnesty International Report 1992*
Attachment 3: *Amnesty International Report 1993*
Attachment 4: *Amnesty International Report 1994*
Attachment 5: *Amnesty International Report 1995*

Entries on Denmark from:

- Attachment 6: *Concerns in Europe: November 1990-April 1991* AI Index: EUR 01/01/91
Attachment 7: *Concerns in Europe: May-December 1994* AI Index: EUR 01/01/95
Attachment 8: *Concerns in Europe: January-June 1995* AI Index: EUR 01/02/95
Attachment 9 : *Denmark: Police Ill-treatment* AI Index: EUR 18/01/94

APPENDIX 1: The Case of Babading Fatty

It has been alleged that:

Babading Fatty, who travelled to Denmark from Gambia for a visit, was detained at the airport upon his arrival in Copenhagen on the afternoon of 19 October 1990 on the grounds that he had insufficient funds. (It was reported that after checking with the bank at the airport which did not exchange the currency which Babading Fatty possessed, the authorities mistakenly believed that it would not be possible for him to exchange this currency into Danish Kroner.) He spoke only two Gambian languages (which he could neither read nor write) and could not speak, read nor write Danish, English or French.

He was not promptly informed of either the reasons for his detention or his rights in a language he could understand. The judge who investigated his case concluded that "he hardly understood the background for his being detained until his appearance in court on 21 October 1990".¹⁴

Around midnight he was transferred from the airport to Copenhagen Police Headquarters. Shortly after his arrival there, he was taken to a bathroom, where he was ordered (by gestures) to undress and reportedly lie down on the floor. Not understanding what was happening or why and becoming scared by prison officers donning rubber gloves, he tried to leave the room. He was restrained by force by five prison officers, reportedly beaten, and taken to a special security cell where he was undressed and forcibly strapped to the bed by straps on both his hands and feet and a belt around his waist. A blanket was placed over his face after he allegedly bit a senior prison officer.

After more than six hours he was briefly released from the restraints. After being allowed to put on his trousers, he apparently struck out at an officer and thereafter Babading Fatty was beaten with truncheons by at least three prison officers. He was struck by at least 20 blows on the arms, shoulders and back, including over the kidneys and on the middle of his spine. He was handcuffed, placed in a leg-lock and then back into restraints in the special security cell. A folded blanket was placed over his face once again after he reportedly tried to bite a prison officer.

Examinations by a doctor at the prison following each of these two incidents on 20 October reveal that he had congealed blood on his teeth and a skinned nose, a 1x10 mm haematoma on his back, scrapes on his left shoulder and lesions on his wrists and feet and that he was trembling and in a state of desperate fear and deep crisis. The doctor later testified to the

¹⁴ *Judicial Inquiry into the Treatment of Refugees in Copenhagen Prisons: Report on public administration treatment of the Tanzanian national Himid Hassan Juma and the Gambian national Babading Fatty in the autumn of 1990*, at p 138.

investigating judge that he believed that Babading Fatty was undergoing "such a state of crisis and in danger of committing suicide that admission to a psychiatric ward would have been expedient".¹⁵

Around 11 am on 20 October, the leather strap restraints on his arms and legs were removed, his arms and legs were handcuffed and Babading Fatty was carried to and placed on the floor of a van. A blanket was reportedly placed over his head twice - once while officers removed the restraints and replaced them with the handcuffs and again as he was being carried to the van. He was transported, so restrained, on the floor of a van to the Western Prison in Copenhagen.

Upon arrival at the prison, Babading Fatty was carried from the van to a security cell in the infirmary. In the security cell, he was restrained by the hands and feet and a belt around his waist. During the transfer from handcuffs to restraints, once again, a folded blanket was put over his face. He remained detained in a security cell for approximately 22 hours; the restraints were reportedly removed from his hands after three hours and the remainder removed after about eight hours.

On the morning of 21 October 1990, he was released from the security cell and was taken to court. Before the court, wearing only his underpants - apparently due to a misunderstanding between him and the authorities, he was charged with violence against a prison officer and remanded in custody. In custody, among other things, he was held in solitary confinement until 25 October (his integration into the prison population was made on the recommendation of a psychiatric consultant on 24 October who found Babading Fatty to be suffering from an acute crisis reaction) and a blood sample was taken for the purposes of HIV testing without his permission, in violation of Danish law.

On 1 November 1990 the High Court ordered that Babading Fatty be released on the charge of violence against the prison officer, but this decision was not communicated to him and he continued to be detained on the initial allegation of having insufficient funds. On 2 November, without notice, he was transferred to the prison at the airport after plans had been made to put him on a plane leaving Denmark. In the afternoon, he was, however, granted admission to Denmark after his lawyer gave a written financial guarantee, in accordance with Danish law.

A medical examination, conducted on 6 November 1990 by Dr Olav Vedel of Physicians for Human Rights, assisted by an interpreter, revealed among other things: open wounds on both of Babading Fatty's wrists and ankles which were deemed characteristic of lesions associated with fixation of straps and handcuffs; open wounds on his upper left shoulder; and marks on his back, which were deemed to be consistent in appearance with those seen after blunt blows from truncheons. As to the injuries on his back, the doctor concluded that "considerable force

¹⁵ *Ibid.*, at p 96.

had been applied to [Babading Fatty's] back". On a diagram entitled "drawing of the localization of scarred skin on Babading Fatty's back", the doctor noted marks which indicated that blows to his kidney region and over the middle of his spine pose "considerable risk of causing serious bodily harm". The doctor also found him to be in a "psychologically unstable state of fear and anxiety" and opined that due to the unavailability of required special rehabilitation treatment in Gambia, there was reason to fear that the psychological effects would last for a very long time.¹⁶ Danish doctors who examined him a year after the incident concluded that Babading Fatty was in a depressive/post-traumatic condition of stress which they believed resulted from the above-described incident. They also feared that, due to the lack of required special rehabilitation treatment available in the Gambia, this condition could last for the rest of Babading Fatty's life.

¹⁶ In June 1995 the Ministry of Justice paid Babading Fatty the sum of 60,000 Danish Kroner (approximately £7,000) as initial compensation for the physical and mental injuries he suffered as a result of his detention and ill-treatment. This sum was paid without prejudice to any additional compensation he may receive for permanent injury in his pending civil case.