

Foreign Prisoners in European Penitentiary Institutions

National Report

Sweden

Agneta K. Johnson



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-VISION-

The work of the Swedish Prison and Probation Services for the next ten years must be considered to include the following: To continue to ensure that all prisoners are always treated with respect for their retained human rights; that prisons increasingly become a safe and secure place and that more effective ways of influencing offenders to become law-abiding citizens are developed.

A. *INTRODUCTION*

Methods

The information provided in this report has been gathered as follows. Relevant literature has been surveyed. Interviews were conducted with prison and remand prison staff at three prisons and one remand prison, all holding foreign prisoners. Discussions were also held with representatives of the Ministry of Foreign Affairs, the Justice Ombudsman's Office, the Migration Board, the central Prison and Probation Administration, three university departments and two non-governmental organisations working with foreign prisoners. In-depth interviews were conducted with three diplomatic missions. Three prisoners with expulsion orders in Hall and Kumla Prisons were interviewed and cursory discussions have been held with an additional number of foreign prisoners. Senior management staff and basic grade staff from Kumla, Hall and Mariefred Prison has been interviewed, along with senior management staff from Stockholm Remand Prison (Kronoberg) and basic grade coordinators at Migration Board detention centres.

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1. Overview of sanctions and measures²

Detention can be carried out as police detention in police detention centres, as remand in custody in remand prisons, as prison sentences in ordinary prisons and as the detention measures of the Migration Board in its detention centres³. The main sanctions provided for by the Swedish Penal Code are as follows.

Fines are imposed as day-fines or summary fines. Day-fines are imposed on a scale of from 30 to 150 days, the number of days corresponding to the seriousness of the offence. For each day a sum of money that takes account of the financial situation of the offender shall be paid. Summary fines may be imposed for the less serious offences by a prosecutor where guilt is admitted and a summary fine is accepted.

Imprisonment is imposed for a fixed term of from 14 days to ten years or for life. Under certain special circumstances a fixed term may be extended to up to 18 years. Currently, release from a life sentence is possible following commutation by the government of the indeterminate life sentence to one of specified duration, when the normal rules of conditional release apply. It is likely that in the near future a court and not the government will take the decision on commutation. A life sentence usually means 18 – 25 years in prison. Those sentenced to a fixed term are automatically subject to conditional release when two-thirds of the sentence, but at least one month, has been served. Conditional release may be postponed as a disciplinary punishment. Currently, those sentenced to up to three months' imprisonment may request that the sentence be served in the community under intensive supervision by the probation service and with electronic monitoring.

A **conditional sentence** may be imposed by a court when a fine is considered an inadequate sanction for the offence. A conditional sentence can be combined with day-fines or, if the offender consents, with community service. During a probationary period of two years the offender must abstain from further offences. A breach of this condition means that the court when sentencing may take account of the original and the new offence. A conditional sentence may be thought of as a serious penal warning.

The sanction of **probation** may be imposed by a court when a fine is considered an inadequate sanction for the offence. Probation may be combined with day-fines or, if the offender consents, with community service. Regular probation means that the offender is under supervision by the probation service, usually for one year. Probation may also be combined with special treatment, usually in cases where alcohol or drug misuse is related to the commission of crime. Probation combined with community service has existed since 1999. The offender undertakes unpaid work of use to the community for from 40 to 240 hours⁴.

If the offender is under 18 years of age, or is a substance abuser convicted of a petty offence, or is found to be in need of forensic psychiatric care, the court may decide to **surrender the offender to special care**. For the young offender such special care could involve being placed in closed juvenile care for a specified period of time. The substance abuser may be committed for care under the Act for the Care of Addicts, and the offender with psychiatric problem may be sentenced to compulsory psychiatric care in accordance with the Act on Forensic Psychiatric Care.

² Prison and Probation in Sweden 2005 (Kriminalvård i Sverige 2005) and The Swedish Judicial System-a brief introduction.

³ These Migration Board detention measures are described in **section C** of this study

⁴ A full account of Swedish probation is to be found in: Lindholm M. and Bishop N, (2000) Sweden, Probation and Probation Services, ed. Van Kalmthout, A. and Derks T.M.J., pp 523-542.

When choosing the sanction, the courts must consider imprisonment to be a more severe sanction than conditional sentence or probation. The Penal Code requires the court to pay special attention to any circumstances that argue for a less severe punishment than imprisonment. In consequence the courts tend to impose the least intrusive sentence possible. By far, the most commonly imposed sanctions are the least severe. Out of 58 600 sanctions imposed in 2004, 22 000 were fines (38%). In the same year the other sanctions used included 15 117 prison sentences (26%), 9000 conditional sentences (15%) and 6000 sentences of probation (10%).

2. Overview of the prison system and legislation

The Swedish Prison and Probation Administration, located in Norrköping, is responsible for the management of the prison and probation services throughout the country. Although it is organisationally subordinate to the Ministry of Justice, constitutional law gives it a high degree of independence for the day-to-day management of these services. Certain local decisions concerning prisoners, probationers and parolees – notably those involving special measures occasioned by breaches of conditions – are taken by local independent supervision boards. These boards consist of a chairman, deputy chairman and three ordinary members. The chairman is always a judge.

Administrative decisions concerning prisoners can be appealed first to the central Administration and thereafter, by leave, to an administrative court of appeal. Any offender can also present a complaint to the Parliamentary Justice Ombudsman who may also investigate prison and probation practice on his own initiative. Serious improper practice can lead to prosecution. The Equal Opportunities Ombudsman and the Discrimination Ombudsman⁵ can also exercise influence on prison and probation practice.

In addition to the central Prison and Probation Administration there are six regional offices with three divisions for **remand prisons**, **ordinary prisons** and **probation**. A separate transportation service transports prisoners within Sweden as well as abroad. In 2004, there were 29 remand prisons, 56 ordinary prisons and 39 probation offices in Sweden. The nominal number of available places in the prisons is 4619 prison places and 1931 in the remand prisons. Prisons are divided into different categories from A to F, where A represents maximum security and F open conditions. Male and female prisoners are housed in separate accommodation. The five prisons Sweden for female offenders (about 7% of the received prison population), hold approximately 250 prisoners.

In 2004, the total cost of the prison and probation services was SEK 5 214 million (approximately 560 million Euros⁶). In the same year, the daily average cost of a probationer or parolee was approximately SEK 155 (about 16 Euros)⁷, while the daily average cost for prisoners in varying security conditions was between SEK 1866 (about 200 Euros) and SEK 5784 (about 622 Euros).

Of the 9014 prison and probation services' employees, 28% were under the age of 35, and 77% under the age of 55. Approximately 43 % were women – a proportion that can be compared with that obtaining in the 1970's when only about 7% were female. In terms of education, 20% of the employees held university degrees. Of prison staff working directly

⁵ Höök, R. et.al. pp.59-60.

⁶ Prison and Probation Statistics (Kriminalvårdens Officiella Statistik) 2004, p. 9

⁷ Ibid. p.42

with prisoners, 5% had university degrees and 70% had at least two years of high school education⁸. There is a mandatory training programme for all employees. This training will be described in **section B** below in relation to the work undertaken with foreign citizen offenders.

Most prisoners' single rooms are approximately six square metres in size and equipped with a bed, desk, chair, TV and radio. Prisoners may post photographs or other personal items on a bulletin board. Prisoners in closed prisons are locked in their rooms between 20.00 and 08.00. There are communication devices that enable them to contact staff during these hours. Prisons vary in size, and are, in comparison with those in many European countries, relatively small, with some holding only about 40 prisoners. A prison that will hold 342 prisoners is currently under construction⁹ and on completion will be the largest prison in Sweden.

An estimated 60% of the prisoners received during 2004 had a documented drug addiction. The Prison and Probation Services have received special governmental funds to address the problem of drug addiction. This has led to the setting-up of special prison wings or units where emphasis is placed on treating drug misuse. Approximately 27% of available prison places are retained for treatment work with drug misusing prisoners. In 2004 approximately 46% of all drug misusing prisoners participated in some form of drug misuse treatment programme¹⁰.

3. Overview involvement of diplomatic missions, consulates, non-governmental organisations, etc.

The main objective for diplomatic missions in their work for foreign prisoners is to serve in a supporting capacity. This can include guiding the prisoner in the host country's legal system. However, the extent of contact between foreign prisoners and the diplomatic representatives of their countries varies between the countries involved and is also dependent on the wishes of the individual prisoner. This variation can mean that in addition to social support some diplomatic missions provide the prisoner with financial assistance, for example paying for telephone cards, while others have little or no contact with their prisoners. Variation in the nature of the contact with the prisoner means that some consular representatives may visit the prisoner while others stay in touch by telephone.

Some countries require their embassies to report to a home administration if they learn that a national is suspected of an offence in the host country. This presumably means that the person in question is registered in the home country's criminal records. It is by no means certain that such a registration is annulled if the suspect is subsequently cleared of suspicion.

Several non-governmental organisations¹¹ are active within the prison setting with some providing volunteer prison visitors and some providing information to prisoners in their own language¹². Most of these organisations also visit foreign citizens held in Migration Board detention centres.

⁸ Prison and Probation Budget (Kriminalvårdens Budgetunderlag) 2006, p.18

⁹ Salberga Prison

¹⁰ Prison and Probation Statistics (Kriminalvårdens Officiella Statistik) 2004, pp.47-48

¹¹ The following organisations are cited in Prison and Probation Budget (Budgetunderlag) 2006. p.25: Red Cross, Criminals Return In Society (KRIS), National Association of Voluntary Supervisors (Riksförbundet för Frivilliga Samhällsarbetare), Swedish Muslims' Association (Sveriges Muslimers Riksförbund) , Forum for Voluntary Social Work (Forum för frivilligt socialt arbete), etc.

¹² An example is KRIS, an ex-prisoner organisation that seeks to help prisoners on release, which has information material available in Lithuanian.

4. Overview of Trends

General population

As of 31 December 2005, the national Swedish population was 9 047 752¹³. During 2005, 65 000 immigrants came to Sweden and joined the approximately half million other foreign citizens currently already there. It is estimated that 1, 8 million persons, that is 20% of the general Swedish population, are first or second generation immigrants. Although the number of asylum seekers doubled within two years - from 16 303 in 2000 to 33 016 in 2002 – it has since decreased, and is estimated to continue to decrease, so that in future years it will be stable at an average of 22 000 per year¹⁴.

The number of offenders within the prison and probation services is influenced to no small extent by the work practices of other sections of the criminal justice system. Thus, a number of changes in other parts of the criminal justice system can be expected to lead to an increase in the prison population. Such changes include the following. There is a proposal to increase the number of police officers from today's number of 16 700 to 18 400 in 2008. A change is likely in legislation that provides for the increased use of DNA evidence where serious crime is concerned. There is also a trend towards an increase in the lengths of prison sentences especially for violent crime, sexual offences and drug related crime. The daily average of incarcerated individuals (remand prisons and regular prisons) is expected to increase from 6870 in 2006 to 7600 in 2009¹⁵.

Prison population

In the year 2002 the daily average number of prisoners amounted to 73 per 100 000 persons in the national population. By 2004 this number had risen to 82 prisoners per 100 000 in the national population¹⁶.

In a study conducted by Prison and Probation Administration in 2001¹⁷, staff and prisoners from 22 remand and ordinary prisons were interviewed. Prison staff perceived foreign prisoners as being over-represented amongst prisoners less than 21 years of age. Prison statistics from November 2000 show that of all the places occupied by these youthful prisoners, 61% of these places held young prisoners with foreign backgrounds¹⁸. However, it should be noted that the term foreign background included second-generation immigrants. Staff at one of the visited prisons¹⁹ described their prisoners in these terms: "Many of our youthful prisoners are immigrants... it appears that social exclusion in the community is a problematic situation for many of these [youngsters]²⁰". Prisoners interviewed in this study spontaneously commented upon the general social welfare situation, saying, for example, "The outside world is significantly harsher than the inside of a prison" and "Many prisoners are scared of life outside [prison]²¹". It would seem, therefore, that securing the social integration of young persons of foreign origin is probably an urgent preventive measure and at least as important as securing the social integration of youthful prisoners on release from prison.

¹³ Bureau of Statistics, SCB, 2005

¹⁴ Prison and Probation Budget (Kriminalvårdens Budgetunderlag), 2006, pp.14-15

¹⁵ Prison and Probation Budget (Kriminalvårdens Budgetunderlag) 2007, p.9-10

¹⁶ Prison and Probation Budget (Kriminalvårdens Budgetunderlag) 2006, p.9

¹⁷ Young men in prison and remand prisons (Unga Män i Anstalt och Häkte Slutrapport) February 2001

¹⁸ Ibid. p.33

¹⁹ Täby Prison

²⁰ Young men in prison and remand prisons (Unga Män i Anstalt och Häkte Slutrapport) February 2001, p.21

²¹ Prisoners, Prisons and Society (Fångarna, Fängelset och Samhället), p.14

So far as lengths of prison sentences are concerned there has been a 25% increase in the number of those sentenced to more than one year and less than four years, from 1431 in the year 2000 to 1801 in 2004. Similarly, the number of those sentenced to prison for four years or more increased by 36%²². In 2003 the average length of sentence among those received into prison was 318 days as compared with 278 days in 1988, an increase in average time of 40 days. It is estimated that an average increase of one week in sentence length occurring in the future would necessitate the provision of an additional 200 prison places²³.

Throughout 2004 the daily average number of cases under supervision by the probation services was 12 722. Of this number 5 160 were on regular probation, just over 1 236 were probationers with a condition of undergoing treatment and 1 230 were probationers performing community service. A further 291 cases concerned offenders sentenced to up to three months' imprisonment who served their sentence in the community under intensive supervision combined with electronic monitoring. Intensive supervision with electronic monitoring was also provided for a small number of prisoners with sentences of more than two years – 47 on average – released for up to four months before the formal date for conditional release. In addition to the foregoing, the probation services also supervised a daily average of 4 758 conditionally released prisoners.

The number and citizenship of foreign offenders coming to Sweden cannot legitimately be inferred from the statistics on the *average* numbers under supervision. For this question *annual input* statistics are required. Thus, in 2004, a total of 6 664 offenders *began* supervision under one or other of the forms of probation described in the preceding paragraph. Of this number, 5 887 had Swedish nationality, 269 were citizens of one of the other Nordic countries and the remaining 508 foreigners came from over 70 different countries. In the same year, 5 705 persons *began* supervision as conditionally released prisoners. Of this number 4 699 had Swedish nationality, 311 were citizens of one of the other Nordic countries and the remaining 695 came from over 70 different countries²⁴.

Statistics show that the number of clients within probation offices have increased only marginally during the past 10 years (from 12 632 in 1995 to 12 722 in 2004).

During 2004 11 343 sentenced prisoners were received into Swedish prisons, 24% higher than 2000. The average number of sentenced prisoners received in 2004 was 4 712. The number of prisoners in prison on October 1st 2004 was 34% greater than on the same date in 2000. This increase is due partly to an increase in the number of prison sentences but also to an increase in the length of sentences.

Of the 11 343 prisoners received into prison during 2004, the main offence of 18% was some form of theft, for 17% it was an offence against the narcotic drugs laws, for 16% it was some form of violent crime and for 13% it was drunken driving.

²² Prison and Probation Statistics (Kriminalvårdens Officiella Statistik) 2004, pp.44-63

²³ Prison and Probation Budget (Kriminalvårdens Budgetunderlag) 2006, p.9

²⁴ Prison and Probation Statistics (Kriminalvårdens Officiella Statistik) 2004

Foreign citizens in prison

Of the 11 343 prisoners received into prison during 2004, 8 340 (74%) were Swedish citizens, 710 (6%) were other Nordic citizens leaving 2 293 prisoners (20%) with citizenship distributed among 66 other countries²⁵. There are no routine statistics or special studies that describe the nature and extent of linguistic handicap among foreign prisoners. Nevertheless, it is not unreasonable to suppose that such a handicap exists to a considerable extent and is a contributory factor to social exclusion.

Individual allocation assessments are made on all prisoners prior to prison placement. This assessment, which is more in-depth with prison sentences of over four years, evaluates *inter alia* the risk of escape. Two prisons have special units with a capacity of 96 places for those with expulsion orders in their sentence. Some foreign citizens with expulsion orders may be placed in more open settings (security class E). The prison units housing those with expulsion orders are similar to the kitchen, sports, library facilities, etc. of other ordinary prison units.

The number of those with expulsion orders has increased—from 447 in 2000 to 760 in 2004, that is by almost 74 %²⁶. The number of foreign citizens with expulsion orders in the prison population has been about 600 over recent years.

Statistics from 2004 show that Finnish citizens are expelled in approximately 2 % of the cases (8 out of 472 convicted) whereas Polish citizens are expelled in 33% of cases (81 out of 246) and Lithuanian citizens in 51% (85 out of 168)²⁷.

5. Overview of National Legislation

This section provides a brief overview of legislation applicable to prisoners. Specific applications to foreign prisoners will be found later in the relevant sections of this report.

The Swedish Penal Code regulates the sanctions available, the choice of sanctions and, to some extent, the way in which these sanctions are implemented.

The Swedish Code of Judicial Procedure regulates *inter alia* decisions on the provisional detention of suspects and court trial procedures.

The Prison Treatment Act and relevant Ordinances provide a basic ethical statement on showing respect for prisoners, on the principles for their allocation to various kinds of prisons, the conditions under which the imprisonment is to be enforced and the possibilities of appeal against administrative decisions.

The Law on Arrested and Remanded Persons and relevant Ordinances provides for the imposition of these measures and the juridical safeguards that are to be employed.

The Law on the Obligation to Transmit Information on Detained Foreigners regulates, and in certain cases limits, the obligation to inform a diplomatic mission when a national is detained.

²⁵ See annexed chart

²⁶ Prison and Probation Statistics (Kriminalvårdens Officiella Statistik) 2004 pp. 57-62

²⁷ Prison and Probation Budget (Kriminalvårdens Budgetunderlag), 2006, p.14

The Aliens Act and relevant Ordinances, *inter alia*, govern immigration and citizenship questions, and, in particular, the conditions under which administrative detention can be used.

Sweden has ratified the European Convention on the International Validity of Criminal Judgements²⁸ and the European Convention on the Transfer of Sentenced Persons including the additional protocol²⁹ that regulates the compulsory transfer of foreign prisoners with expulsion orders. The latter convention has showed itself to be the most useful in practise.

The European Convention on the Transfer of Sentenced Persons is primarily based on the notion that a transfer can take place if both the countries concerned and the individual prisoner agree to the transfer. Prisoners are to be informed of their right to apply for transfer when the verdict is final. Processing time³⁰ for such transfers according to data from 2005³¹, was 13 months. They should have at least six months remaining to serve when applying and they must be domiciled in a country party to the Convention. As mentioned above, the additional Protocol states the conditions under which compulsory transfer can take place.

If a prisoner wishes to apply for transfer to a country not having signed a transfer Convention, such application is sent to the Ministry of Justice for processing. Bilateral agreements have been made with Thailand and Cuba.

The compulsory transfer of prisoners in accordance with the additional Protocol mentioned above took on average 14½ months to process³².

Transfers between the Nordic countries can take place if the offender is domiciled or is a citizen of a Nordic country and at least three months remains to be served of the sentence.

B. TREATMENT OF FOREIGN PRISONERS

The interview subjects³³ have not expressed feelings of discrimination based upon race, skin colour or the like. However, a sense of social exclusion can be experienced by prisoners because of not understanding the Swedish language. This appears to be the most prominent difficulty of foreign prisoners.

Treating all prisoners alike regardless of nationality, or more precisely regardless of the language they speak, poses great difficulties in some areas which will be described below.

After local prison authorities initially had denied an expelled prisoner to participate in an educational activity, the Justice Ombudsman issued a statement on 26 September 1995³⁴ clarifying that such practices [not allowing expelled prisoners to participate in the same activities others enjoy] are not in agreement with The Prison Treatment Act³⁵ and that general

²⁸ SÖ 1973:55, 2000:45

²⁹ SÖ 1985:1 and 2000:53

³⁰ From time of application to the actual time of transfer

³¹ Annual results report to the government (Kriminalvården, Återrapportering enligt Regleringsbrevet) 2005

³² Between initiating and completing transfer

³³ The number of subjects interviewed was limited to three foreign prisoners and 12 staff (three with foreign backgrounds).

³⁴ Justice Ombudsman statement (JO beslut, no. diarienummer 4588-1994)

³⁵ Prison Treatment Act, Section 10 (Lagen 1974:203 om Kriminalvård i anstalt)

practices limiting a certain subgroup of prisoners from educational activities shall not be made.

Language difficulties do however limit the foreign prisoners' opportunities to participate in regular education programmes and programmes aimed to reduce drug addiction or criminal behaviour since these are usually held in Swedish. These linguistic deficiencies are often at the root of social exclusion for foreign prisoners³⁶. The Prison Treatment Act, Section 10, states: "During working hours a prisoner shall be given the opportunity for work, study, vocational training or other specially arranged form of activity in order to counteract criminality or drug misuse or otherwise facilitate adjustment in society after release³⁷". Here, it appears, Swedish Prisons fail to meet own standards in ensuring that prisoners, regardless of linguistic ability, are treated equal. Educational courses in prisons are held in Swedish and participation in them can therefore only be offered to those speaking the language. Prisons offer courses in "Swedish for Immigrants" for those unable to speak Swedish, but these courses do not compare well with the general educational courses available to Swedish speaking prisoners. If the Swedish system aims to base treatment on making fair distinctions without discrimination, there should also be more and better courses to assist non-Swedish speakers, which is not the case. The Swedish Prison and Probation Services fail to provide equal education opportunities to foreign speaking prisoners as they do native language speakers. This may be an understandable failure due to limited resources, but it is nevertheless a failure.

In an explorative study conducted in 1996³⁸ foreign prisoners are described as being isolated as a result of being incarcerated in a foreign country with no visits from home and perhaps not even in surroundings that allow the use of their native language. Another study³⁹ states that foreign prisoners may be more scrutinized by other prisoners. This may lead to a perception of breach of codes of conduct from their fellow prisoners' point of view. On the other hand foreign prisoners may be able to communicate with each other without either other prisoners or staff being able to understand them. And this may in fact strengthen the prisoners' identification with their ethnic origins and thus, to some extent lessen their social exclusion.

The Prison and Probation Services provide 19 – 27 weeks of training which include, unless the employee has studied at university level prior to being hired, 10 college credits in subjects relevant to prison and probation. This training, besides helping employees to further their skills in working within the prison and probation system, also helps the employer to identify any individuals who demonstrate undesirable attributes or attitudes that conflict with the value system of treating all persons in a humanitarian and non-discriminatory manner. Such persons will not be allowed to continue working within the Prison and Probation Services.

Some employees working with foreign prisoners have in the past received special training by participating in a university level course in "intercultural understanding". Other prisons have held training opportunities in Diversity and Dialogue (*Mångfald och dialog*⁴⁰),

³⁶ "If you talk to a man in a language he understands, that goes to his head. If you talk to a man in his language, that goes to his heart". -Nelson Mandela-

³⁷ Prison Treatment Act, Section 10 (Lagen (1974:203) om Kriminalvård i anstalt)

³⁸ Prison staff on foreigners; an explorative study (Anstaltspersonal om utlänningar, en explorativ intervjustudie) pp.73-76.

³⁹ Prison, Probation and Ethnicity (Kriminalvård och etnicitet) pp.78-80.

⁴⁰ Ibid p.37.

Prison and probation training includes questions of relevance for dealing with foreign prisoners such as human rights, anti-discrimination, ethnic diversity and hate crimes. More practical issues are also considered, such as when an interpreter should be used. Ethical issues are an important part of training and apart from being incorporated in most other subjects taught is also a discussion topic in its own right once a week for all training weeks⁴¹.

The Prison and Probation Services seek to employ staff with diverse ethnic and cultural origins. This can enhance the opportunities to be able to communicate with prisoners in daily activities. However, as noted in one study⁴², being able to speak the same language does not necessarily imply that a sharing of cultural, religious or other experiences. Thus, it should not be assumed that just because two individuals come from the same country they necessarily share the same cultural values. Sometimes staff speaking the prisoners' language may arouse suspicions amongst other staff since the latter are unable to be sure that the former is not being manipulated by the prisoner. Thus, a staff member communicating with a prisoner in a language his or her colleagues do not comprehend can cause a sense of insecurity within the work force. It is crucial that senior management remains alert to such difficulties, as it is of great importance for both foreign and non-foreign language staff that such uncertainty can be lessened through open discussion of staff-prisoner communications. Should management fail to create forums for such discussions a critical situation may emerge in that staff loses confidence in each other. This provides prisoners with opportunities to try to exploit or manipulate staff.

Then too, prisoners sharing the same cultural or ethnic background as a staff member sometimes erroneously assume that this staff member should be or will be especially compliant because of a common background. Such misconceptions may lead to the foreign language speaking staff having to clarify their role and position *vis-à-vis* the foreign prisoner in a way that is not necessary for other staff. Immediate clarification is essential to prevent misconceptions about the prisoner-staff relationship leading to false expectations that can threaten safety, security and good order.

Concerning prison allocation, foreign prisoners have access to the same living conditions as other prisoners, in terms of there being the same kinds of facilities in units housing only prisoners under expulsion as for other prisoners. Kitchens, sports equipment, libraries; size of rooms, etc are similar to other prison units. The prisoners I have met who have seen the regular living units say they feel as though their living conditions are equal to them.

The Prison Treatment Act⁴³ states that when deciding upon the allocation of prisoners to open or closed prisons "a prisoner should be placed in an open prison if no other placement is required for reasons of security or because an opportunity which should be provided for him or her to undertake some form of work, education or training cannot suitably be provided in an open prison. When assessing whether security considerations require placement in a closed prison, consideration shall be given *inter alia* to whether there is a danger that the prisoner will escape or continue in criminal activity. In addition, the prisoner should ordinarily be placed in a closed prison if there is a risk that he or she may misuse drugs or in some other way deal with drugs during the enforcement of the sentence".

⁴¹ Information from the Training Office of Prison and Probation (KRUT, Stockholm) 31 March 2006.

⁴² Prison, Probation and Ethnicity (Kriminalvård och etnicitet) pp.72-80

⁴³ Prison Treatment Act (Lagen om Kriminalvård i anstalt, 1974:203), Section 7

For prisoners sentenced to more than four years' imprisonment, a special assessment is made prior to placement. This assessment includes a risk analysis of how escape-prone the prisoner may be. Here, foreign prisoners, at least those with expulsion orders, frequently end up in more secure prison settings than a national with the same length of sentence. This is because it is believed that foreign prisoners serving long prison sentences with subsequent expulsion may well have an increased incitement to escape.

However, certain prisoners with expulsion orders and serving shorter sentences may in fact be placed in open prisons (class E prisons). This can give rise to an anomalous practice that can be illustrated as follows.

Prisoner A, serving a six-month sentence, is placed in an E class prison for the four months that he must serve, when he is released and expelled. Prisoner B, sentenced to six years' imprisonment and who has served 5 ½ years without attempting to escape, wishes to be transferred to a class E prison for his final six months. But this is most commonly not permitted. Interviewed prisoners say that they cannot understand the logic behind this practice. Although an expulsion order in itself creates a presumption of a sizeable escape risk this does not prevent certain short-term prisoners under expulsion being allocated from the start to an open prison. Yet, a longer-term prisoner under expulsion in a closed prison who has demonstrated a complete absence of escape behaviour is denied re-allocation to an open prison for a short period. Foreign prisoners with longer sentences ask, with some justification, why it is not possible to allow some of them to be given the benefit of a more open placement prior to being expelled to their home country.

Section 15 of the Prison Treatment Act⁴⁴ provides that foreign prisoners are to be allowed to practise their own religion to the extent that security is not jeopardised. Prisoners may receive visits from their religious representatives. The Prison and Probation Services have a network of representatives of different denominations who are able to visit foreign prisoners. This network, the Council for Spiritual Welfare (*Nämnden för Andlig Vård*) is made up of about 130 persons. In the larger institutions, representatives often include Catholic and Orthodox priests as well as Muslim Imams. At Kumla Prison there is a special section called the Monastery, to which prisoners regardless of their religious affiliation, may apply to enter retreats.

Prison regulations⁴⁵ prohibit the use of clothing other than that supplied by the prison administration, but individual exceptions may be made if special reasons exist. The dress code for prisoners is thus uniform in manner, although in the open prisons more lenient dress arrangements are permitted as long as security is not put at risk. In a closed prison a "kippa" may be allowed while a turban may not owing to the search difficulties attaching to the latter. Something small and easily searched may be more readily admitted than something that would require more lengthy efforts.

So far as healthcare is concerned, the same rules apply for foreign prisoners as national prisoners, with perhaps the difference that, in cases of non-emergency care, the foreign prisoner may have to wait a day or so longer to see a physician if an interpreter's services are to be used.

⁴⁴ Prison Treatment Act (Lagen om Kriminalvård i Anstalt 1974:20)

⁴⁵ Prison and Probation Regulations (Kriminalvårdens Författningssamling 2006:20)

Foreign prisoners with other cultural values may feel a sense of shame over having to be naked when leaving urine samples or being searched. This feeling of shame is compounded when a male prisoner must be naked in front of a female basic grade prison officer. to Prison Regulations⁴⁶ stated that “If a male prisoner does not wish to leave a urine sample in the presence of female staff, male staff shall be present instead if this can conveniently be arranged”. So far as searching is concerned, Rule 54.5 of the recently revised European Prison Rules provides that “persons shall only be searched by staff of the same gender”. In practice, prison staff usually try to meet the prisoner’s request for someone of the same gender to perform these duties.

Prison Regulations⁴⁷ stipulate that those in need of special meals for religious, medical or other reasons shall be accommodated. These accommodations most frequently include preparing meals without pork. Some more specific requests such as wanting halal meat may not be accommodated because such meat may not be readily available in ordinary Swedish food shops.

Most large prisons are able to provide excellent library services for foreign language speaking prisoners. In the two large maximum security prisons books are available in more than 30 languages⁴⁸. For the more common languages spoken in prison, such as Russian, Finish or Arabic, there are hundreds of titles available, whereas the more uncommon languages such as Japanese only have one or two titles to choose from. Newsmagazines are available in approximately ten different languages (and can be borrowed from the library). Library services sometimes include the librarian printing out the cover page of large daily newspapers which may be found online. Papers are also available in “easy Swedish” for those just learning the language.

Kumla Prison, which has a large unit for prisoners under expulsion, has prison rules written in 12 languages⁴⁹ besides Swedish. The Kumla Prison administration also helps prisoners financially so that they may phone family members in the country of residence. If the cost of calling the country exceeds 3 SEK/minute the prisoner receives one telephone card worth 100 SEK per month; if the cost exceeds 6.50 SEK, he receives two cards. This and other forms of financial aid to those with families abroad are not available at all prisons. Prison regulations state “Prisons can pay for telephone calls deemed to be of great importance for the prisoner’s preparation for release into society⁵⁰” and adds the later advice “such preparation can include contact with other government agencies, future employers, residence providers, supervision officers and occasionally contact with relatives”. As different prisons implement these regulations differently, steps should be taken to secure consistent practice.

Kumla Prison also cooperates with the local church so that visitors who need to stay overnight in Kumla may do so for only 100 SEK (9, 30 Euro) per night. Prisoners who have families abroad receive special attention in Kumla. Generally, a visitor to a prisoner is allowed to visit two days in a row. Visits from abroad, however, may visit for up to ten consecutive days, then, after four days of no visits, return for another ten consecutive day visits. In Kumla Prison’s unit for foreign prisoners, four of its 14 staff were born abroad. The prison also has staff who between them can speak 23 languages. These numbers are similar to those at the

⁴⁶ Prison Regulations, (KVFS 2006:9) Section 3, p.4

⁴⁷ Prison Regulations (KVFS 2006:20), Chapter 2, Section 3, p.7

⁴⁸ Information gathered through interviews with prisoners and staff at Kumla and Hall

⁴⁹ Polish, German, Spanish, Persian, Italian, Estonian, Russian, Czech, Lithuanian, French, Arabic, English

⁵⁰ Prison Regulations (KVFS 2006:20) Chapter 4, Section 5, p.11

maximum security Hall Prison where 19 languages are spoken by the staff group. Documents such as those concerning prison regulations and concerning repatriation possibilities for foreigners exist in ten languages.

In 2004, after five riots had taken place within three prisons, research was conducted⁵¹ into the possible causes of these events. The research method included interviewing a total of 11 prisoners and 15 staff members, all of whom had had experience of having been incarcerated in, or working at, a prison where a riot had taken place. One interview question presented to the prisoners was whether they had experienced discrimination—either between staff and prisoners or between prisoners—based on country of origin. The findings of the answers to these questions were encouraging. Most prisoners felt that staff treated foreign prisoners similarly to native prisoners. Nor had they experienced discrimination between prisoners based on country of origin.

Leaves from prison

Foreign prisoners who were interviewed for this study expressed their dissatisfaction with the way they are barred from being granted prison leaves to the same extent as national prisoners.

The Prison Treatment Act⁵² provides that prisoners may be granted leave unless there is a manifest risk that they will re-offend or misuse the leave in some other way.

The purpose of leave, as stated in the Prison Treatment Act, is to prepare the prisoner for life after release from prison. Such preparation is to begin upon incarceration and continue throughout the prisoner's stay in prison. Leaves are considered a valuable instrument in ensuring that the individual can stay in touch with family and friends as well as ease his or her reintegration into society. Leaves are also viewed as counteracting institutionalisation.

There are different forms of prison leave. A normal leave permits prisoners to spend a certain number of hours away from the prison, often with their families.

Special leaves involve a few hours spent outside prison for specific activities related to release preparation, for example to arrange housing or work.

Some special leaves can be classified as compassionate leaves granted for important personal reasons, for example to visit a sick close relation, attend a funeral, etc.

“Breathing space leaves” may be granted for prisoners serving sentences of two years or more, a category that often includes foreign prisoners. They allow prisoners an annual leave for up to four hours accompanied by a staff member to take part in some normal activity in the outside world, for example, to attend a football match, do some special shopping, etc. The positive effects of leaves must be carefully weighed against any risk to society that may exist⁵³.

Leaves can be viewed as a significant means to ease the transition from prison life to life in the community, since although it is necessary for prisoners to conform to prison rules it is

⁵¹The Berserkers; a report on prison riots (Bärsärkarna) pp.39-49.

⁵² Prison Treatment Act (Lagen om Kriminalvård i Anstalt 1974:203) Section 32

⁵³ Prison and Probation Regulations (Kriminalvårdens Författningssamling KVFS 2006:20)

equally important to avoid institutionalisation as this leads to difficulties in the transition to adjustment in society⁵⁴.

Before granting each leave, an individual risk assessment is made. For those prisoners serving more than a four-year sentence, an initial risk analysis is made upon incarceration, which then is valid until either the staff or the prisoner request review. These assessments include stated special conditions and may for instance specify that a prisoner may be granted leave first after having served a certain number of months.

As early as 1974, when a major reform of the Prison and Probation Services was undertaken⁵⁵ was undertaken, prison leaves were intended to constitute a major way of counteracting institutionalisation and assisting the adjustment of the released prisoner in the community. Nevertheless prison regulations⁵⁶ describe situations when a prisoner may not be granted leave. Chapter 9, which deals with risk assessment, states that “*a prisoner with expulsion or removal orders should generally speaking not be granted normal leaves*”. This means that, in addition to the individual risk assessment made prior to each possible leave, foreign prisoners with expulsion orders are subject to a general criterion that limits their possibilities to spend time away from the prison in order to benefit from conditions that facilitate resettlement in the community.

Routine statistics on prison leave⁵⁷ do not distinguish between those granted to foreign prisoners and those granted to national prisoners. In consequence it is not possible to make comparisons about the relative frequency of leaves granted. But even in the absence of statistical data about the number and kinds of leave granted to foreign prisoners it seems certain that they are not granted leaves to nearly the same extent as national prisoners.

The following illustrates a hypothetical difference between a national and a foreign prisoner with an expulsion order.

National prisoner A. has a sentence of 12 years.

Foreign prisoner B. has a sentence of 12 years and is to be expelled.

Both prisoners are “model prisoners” and have not been reported for any breaches of prison regulations. Both are placed in a class A prison, a closed maximum security prison. Both will be released after they have completed eight years of their sentence.

Prisoner B receives no normal leaves.

Assume that prisoner A is granted leaves from the minimum qualification time (one-quarter of sentence served), that is after three years of incarceration. Thus, prisoner A receives his first normal leave after three years and continues be granted leaves throughout the rest of his sentence. Assume further that prisoner A remains in a maximum security prison throughout his sentence. Then, the time prisoner A spends away from the prison during the four last years of the sentence would amount to 2880 hours. (Calculated as 576 hours/year for two years, and then, when less than 2 years remains, 864 hours/year which equals 2880 hours in total or 120 days, that is about four months).

⁵⁴ Prison, Probation and Ethnicity (Kriminalvård och etnicitet) p.79.

⁵⁵ Government Bill on the Reform of the Prison and Probation Services (Kriminalvårdsreform prop. 1974:20) p.83

⁵⁶ Prison and Probation Regulations (KVFS 2006:20) p.35.

⁵⁷ Prison and Probation Statistics (Kriminalvårdens Officiella Statistik)

This example is hypothetical rather than realistic since a national prisoner, although not under expulsion, would be subject an assessment of other risk factors that might result in fewer leaves than those assumed in the example. But the example shows that under certain conditions a significant inequality can exist between the time away from the prison spent by a national and a foreign prisoner under expulsion.

In 1999, an investigation⁵⁸ was conducted into how decisions to grant leaves were made. The study was occasioned by a much-publicised case in which a prisoner on leave shot and killed two police officers. The study concluded that the decisions to grant special leaves had too often been made on the basis of subjective judgements rather than objective factors. Foreign prisoners were not given any special attention⁵⁹ when an analysis of changes in the prison population were taken into account, despite their becoming an increasingly important group in the prison population. The study resulted in new and stricter guidelines that limited the granting of prison leaves. Between 1999 and 2001, special leaves (these are the leaves that foreign prisoners are most likely to be granted rather than regular leaves) decreased from 33 457 to 15 481, that is by almost 50%. The number of regular leaves also declined from 19 934 to 13 657.

In another very limited study⁶⁰ with only three staff members interviewed, subjects were asked if prisoners with foreign backgrounds reacted differently from national prisoners before, during, or after leaves they were granted. One of the interviewees mentioned that there was increased anxiety among foreigner prisoners, especially young foreign prisoners, when they were to go on leave. This was because they sometimes had not told their families that they were in prison so as to not to bring shame on them. Instead, they may have said that they were away working. However, the truth would come out since a local prison administration must plan leaves in conjunction with a specific address at which the prisoner would live during the leave.

C. ADMINISTRATIVE DETENTION

The Swedish Migration Board is subordinate to the Ministry of Foreign Affairs. Its members are appointed by the government. Parliament lays down the guidelines for migration policy on proposition of the government

The Swedish Migration Board describes its responsibilities as follows: “The Migration Board works both with permits for those wishing to migrate to Sweden for one reason or another and with funding to some of those who already have residence permits here but would like to return home. We are also responsible for seeing to it that people refused entry or given expulsion orders leave Sweden⁶¹ ...”

In a description of migration policy, the Ministry of Foreign Affairs states: “Swedish migration policy is based on a holistic approach which includes refugee, migration and integration policies, voluntary return to the country of origin and support to voluntary returnees. Included in this holistic approach are measures to strengthen respect for human

⁵⁸ Absconding from leave by long-sentence prisoners (Långtidsdömdas utevistelser) 1999

⁵⁹ Ibid., p.97

⁶⁰ Prison, Probation and Ethnicity (Kriminalvård och etnicitet) p.66.

⁶¹ Migration Board (www.migrationsverket.se)

rights, which represent the very basis for the right of asylum, international cooperation and measures to prevent involuntary migration as well as to facilitate cross-border mobility in an organized manner⁶².

In 2004 the Migration Board considered 142,000 applications for shorter or longer visits to Sweden. The Migration Board and Aliens Appeals Board granted residence permits to a total of 58,987 foreign residents (this number includes temporary residence permits as well as quota refugees)⁶³. The total cost of the Migration Board's operations in the same year was SEK 5 billion (or 538 million Euros). The Board employs approximately 3,300 persons.

The Migration Board provides accommodation in special open reception units for foreign citizens applying for asylum or those awaiting expulsion who are not escape prone. In these units various activities are designed to prepare foreigners for their departure from Sweden and reintegration into their home country. In 2004, there were 38,900⁶⁴ registrations in the reception system.

Under the Aliens Act the Migration Board may detain a person in police custody, in a remand prison or ordinary prison if an expulsion order has been made following conviction for a crime *or* if detention is warranted for national security reasons or if other special circumstances exist⁶⁵. However, children under the age of 18 may not be placed in such institutions. Children should not be separated from parents if one of them is taken into custody. However, if both a child and the person having custody of the child can be detained, they shall be detained together for a maximum period of 72 hours. This period can be extended once for an additional 72 hours. Usually, those detained have shown that they are not prepared to comply with the expulsion order and detention is necessary to prevent evasion.

A person can be detained in a Migration Board detention centre if one of the following applies:

- a) Detention for up to 48 hours for the purpose of investigating a case. Such detention may not be extended.
- b) Detention for up to two weeks if there is doubt about the identity of person applying for a residence permit. Such detention may be extended.
- c) Detention for up to two weeks if it is deemed unlikely that a residence permit will be granted, or for up to two months if a decision to expel has been taken and the person is believed to be an absconding risk or likely to engage in criminal activity. Such detention may also be extended⁶⁶.

There are seven detention centres run by the Migration Board. In 2005 a daily average of 214 individuals were detained in police custody, detention centres, remand prisons and ordinary prisons, as compared with 237 in 2004 and 159 in 2003. In connection with the present report, the largest of these detention centres at Märsta, near Stockholm, was visited⁶⁷. It can contain up to 60 detainees.

⁶² Quotation from the Board's website www.sweden.gov.se (2006-04-29)

⁶³ Swedish Migration Board 2004- and the way forward, p.1-2

⁶⁴ Swedish Migration Board 2004, p.3

⁶⁵ Aliens Act 2005:716, Chapter 8, Section 8

⁶⁶ Migration Board information sheet (March 2006).

⁶⁷ Information from Lars Ekblom and Marie Hansson, coordinators at the Märsta detention centre (2006-04-10).

Detention centres are similar to the reception units offered asylum seekers. Opportunities to engage in activities, entertain visitors and have time away from the centre exist. Märsta has also a special room for prayer for persons from any denomination.

An individual placed in a detention centre receives 24 SEK or 2, 60 Euros per day so that personal items can be purchased. Two to three persons share a room, and men and women are allowed to live together at the same centre. There are, however, units were women only. All meals are provided through external catering services and special arrangements can be made for those with dietary restrictions. Interpreters are used in all relevant conversations with the detainees, even though many staff members are themselves of foreign backgrounds and may be able to communicate with the detainee.

In addition to the Aliens Act (2005:716) the Migration Board takes account of other regulations specific to its field of operations⁶⁸. These include the Dublin Regulation⁶⁹, the Treaty of Amsterdam, the Schengen Agreement, the Vienna Convention (1974:10-12) and certain other international agreements⁷⁰.

The Migration Board is the first instance body for examining and deciding on applications for a residence permit and citizenship. As from 31 March 2006, three Migration Courts and a Migration Court of Appeal hear appeals against Migration Board decisions.

Irregular immigration is not a crime but producing false documentation is a fraudulent act punishable by imprisonment.

D. NATIONALS DETAINED ABROAD

Approximately 1000 Swedes are sentenced abroad annually for crime. Most convictions are for minor offences and do not result in a prison sentence.

According to the Ministry of Foreign Affairs there were approximately 225 Swedes incarcerated abroad (not counting the Nordic countries) on April 19, 2006. They were incarcerated in 46 different countries. Spain (30), United States (26) and Germany (22) have the largest number of incarcerated Swedes, with 16 serving sentences in Thailand, and 12 in Great Britain and Poland⁷¹. The most common offences committed by Swedes abroad (85 persons as of April 19, 2006) are those related to narcotic drugs. The next most common offences are those of completed or attempted homicide and manslaughter (15 persons). Other crimes include the trafficking of persons.

Those Swedes, who wish to have their foreign sentence transferred to Sweden for enforcement, may apply to have this done through the Swedish diplomatic missions in the country of detention. It is then up to the Swedish government to see if such transfers can take place. Whether an individual enforcement can be transferred and carried out in Sweden

⁶⁸ Swedish Migration Board Regulations, MIGRFS 2003:10 and Regulations (1994:361) concerning reception of asylum seekers etc.

⁶⁹ See link in bibliography

⁷⁰ For further information see website www.migrationsverket.se

⁷¹ Katarina Bjornstad, Ministry of Foreign Affairs, interviewed on April 19, 2006. See annexed chart.

depends greatly upon the country of incarceration. As mentioned earlier, European Conventions exist for this purpose and some bilateral treaties.

For the purpose of this report, interviews were conducted with representatives from Bridges to Abroad (*Utlandsbryggan*⁷²), a non-governmental organisation working to helping Swedish citizens imprisoned abroad. These representatives had themselves experienced imprisonment abroad. In consequence their insights into the assistance given – or not given - to them is valuable and relevant. They stated that as foreign prisoners they experienced a high level of social exclusion. One said that some of the greatest difficulties occur on return to Sweden because the municipal authorities give little or no support. For Swedish prisoners released after serving long sentences, there is support from the probation and municipal social services. But for those having served long sentences abroad, perhaps even having experienced traumatic situations during incarceration, no organisation seeks to aid them mentally or physically.

E. EVALUATION AND RECOMMENDATIONS

Following this study of foreign prisoners in Sweden, some matters warrant further examination with a view to improving efforts to reduce their social exclusion. The following are some recommendations.

Translations

Prison rules and other important information have been translated into different languages at only some prisons or detention centres whilst other prisons have few or no translations available. Much would be gained if the translators of the foreign languages most commonly used by foreign prisoners were to put together information pamphlets in a form that could be easily modified by individual prisons and detention centres. Such information material could leave blank spaces for briefly writing in the local regulations of individual establishments, for example: “Work begins at ___ o’clock”. A large number of such rules and regulations, especially those concerning disciplinary procedures and punishments should be translated. The FAQ form so widely used on the Internet provides a model. In Sweden, the Prison and Probation Services maintain a computer network (Krimnet) that could contain and maintain such translated information for use as and when needed.

Leaves

As shown earlier in this report, a major difference between national and foreign prisoners lies in the granting of leaves from prison. Although there is reason because of escape risks to exclude a number of foreign prisoners with expulsion orders from prison leave possibilities it is desirable to keep this situation under review and enlarge the leave opportunities for foreign prisoners as much as possible. The extent to which the inequalities concerning the numbers of leaves granted between national and foreign prisoners might be lessened is uncertain. There are, however, ways in which, even if the inequalities must be maintained, compensation can be made to foreign prisoners for the less advantageous conditions under which they must serve their sentences. In this connection a relevant provision in the Swedish Penal Code needs to be emphasised.

⁷² See website www.utlandsbryggan.se

Chapter 29 of the Penal Code deals with the determination of punishment and exemption from sanction. Section 5 begins by stating that in determining the appropriate punishment, the court shall, besides the penal value of the crime, give reasonable consideration to certain mitigating circumstances. Sub-section 4 then describes one of these mitigating circumstances as “Whether the accused would suffer harm through expulsion from the Realm by reason of the crime”. Sub-section 8 adds a further circumstance: “Whether there exists any other circumstance that calls for a lesser punishment than that warranted by the penal value of the crime”. These provisions give the courts considerable discretion to take account *inter alia* of the hardships suffered by foreign prisoners under expulsion during the serving of a prison sentence. And in practice this means that courts can and do sentence to shorter periods of imprisonment than would otherwise be the case.

However, Section 1 states “Punishments shall, *with due regard to the need for consistency*, be determined within the scale of punishments according to penal value of the crime or crimes committed (Author’s emphasis). Within the framework for the present study it has not been possible to ascertain to what extent sentences containing expulsion orders are shortened or the degree of consistency in the practice of the different courts. In the interest of fairness and justice these aspects warrant impartial and competent research.

A final point is that there is a humanitarian argument for granting well-behaved prisoners “breathing space” leaves more frequently than once a year in order to counteract institutionalization.

Contact with the outside world

Although books, TV, newspapers and magazines are available to foreign prisoners they cannot substitute for talking to, or receiving visits from, family and friends. Here lies the greatest risk for becoming socially excluded while in detention. National prisoners receive regular visits by family members but visits for foreign prisoners are difficult to arrange not least because of the cost of travel.

Another obstacle to visiting is the difficulty of securing the screening of potential visitors to ensure that they are not involved in criminal activity as required by prison rules. This difficulty applies even to telephone contact with families and friends living in another country. The relevant diplomatic missions are often unable to certify that a contact has no criminal record whilst telephone numbers often go to mobile telephones and are not therefore easily verifiable.

Requiring either Swedish or foreign authorities to give greater financial aid to help family members with travel costs also presents difficulties. Apart from the question of securing the necessary official funds there is also the problem of whether similar assistance should be given to national prisoners especially if, for example, an air ticket from a foreign country in fact were to cost less than a train ticket from one part of Sweden to another. Should the national prisoner’s visitor be given help to purchase the train ticket as well as the foreign prisoner’s visitor in purchasing a ticket?

Prison allocation

In addition to the two closed prisons⁷³ taking those with expulsion orders, expelled prisoners can also be placed in more open prison settings. A question for further research is whether

⁷³Kumla and Mariefred Prisons

placements in more open settings are made sufficiently often on the basis of suitability and whether foreign prisoners are sometimes placed unnecessarily in high security prisons as a matter of convenience for the prison services. Presumably it is more cost-efficient to house a large number of foreign prisoners together as staff can become more specialized in meeting their special needs. And it is true that this can be of benefit to the prisoners. Perhaps some concentration of foreign prisoners could be arranged in prisons offering more open conditions than those of Kumla and Mariefred? At a time when new prisons are being built and older ones closed, it might be worthwhile investigating if there are opportunities to create a separate prison, perhaps with an annex where visitors from abroad could rent rooms while visiting foreign prisoners? Such prisons although separating foreigners with expulsion from national prisoners, might provide a greater sense of inclusion amongst these foreign prisoners if they were housed with fellow countrymen or at least other foreign citizens.

Staff

The Prison and Probation Services already seek to employ staff from diverse ethnic and cultural backgrounds in order to enhance communication with foreign prisoners in daily activities. Staff recruitment and training practice appears already to lead to the employment of a culturally diverse group with awareness of discrimination issues. Here, the recommendation is to continue such recruitment and training and to ensure that the staff are sufficiently representative and adequate to deal with the numbers of detained foreign prisoners.

Transfers

The procedure for using international and bilateral transfer agreements is slow and time consuming. The processing time⁷⁴ for voluntary transfers was 13 months in 2005⁷⁵. Involuntary transfers required on average 14 ½ months⁷⁶. It would be desirable to reduce processing time but this can probably only be achieved if increased pressure to speed up transfer routines is exercised by appropriate international organisations.

⁷⁴ From time of application to the actual time of transfer.

⁷⁵ Kriminalvården, Återrapportering enligt Regleringsbrevet 2005.

⁷⁶ Between initiating and completing transfer.

Concluding Remarks

The limited time available for the present study (three months) inevitably means that whilst some questions have been raised and answered, other questions have been raised and left unanswered. But even when answers have been attempted it must be admitted that they often are supported by suppositions rather than firm facts. This means that there is an urgent need for more in-depth studies especially on the topic of administrative detention. A weakness of the present study is that interviews with foreign prisoners and prison staff could only be conducted at two large maximum security prisons, Kumla Prison and Hall Prison. In any future work to collect facts and illustrate practice it would be desirable for interviews with foreign prisoners and prison staff to be conducted at a number of the smaller Swedish prisons having diverse levels of security. This would make it possible to ascertain to what extent factual and perceived social exclusion is related to type of prison and the numbers of foreign prisoners held in individual establishments.

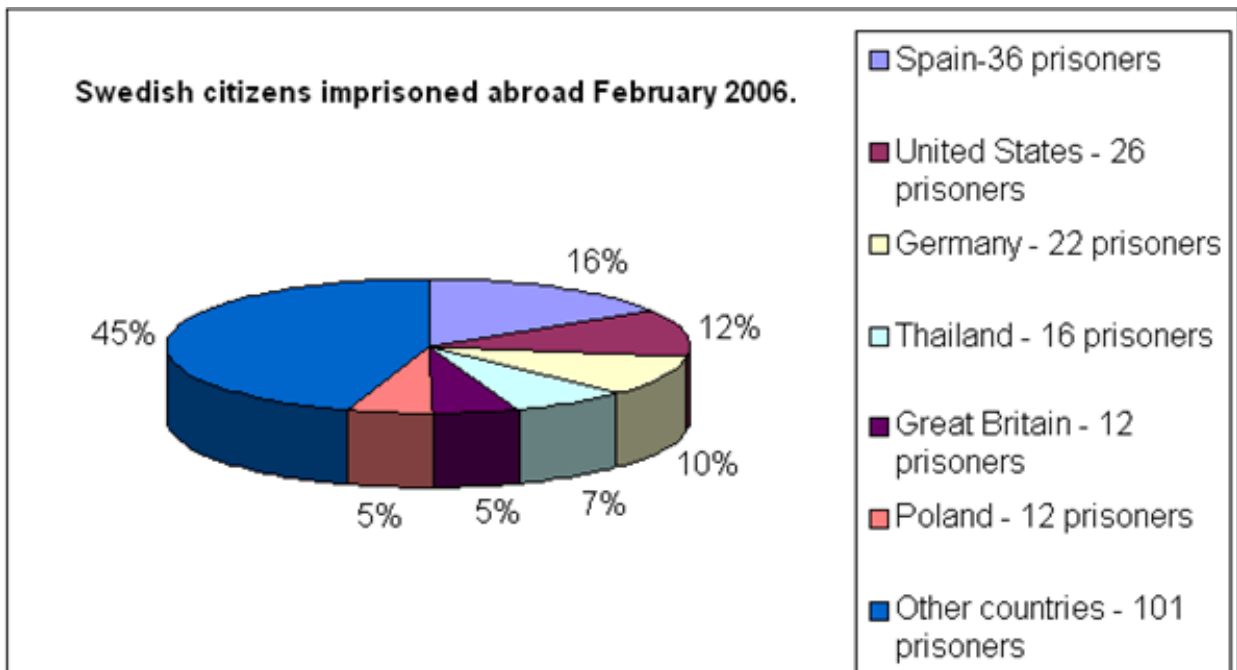
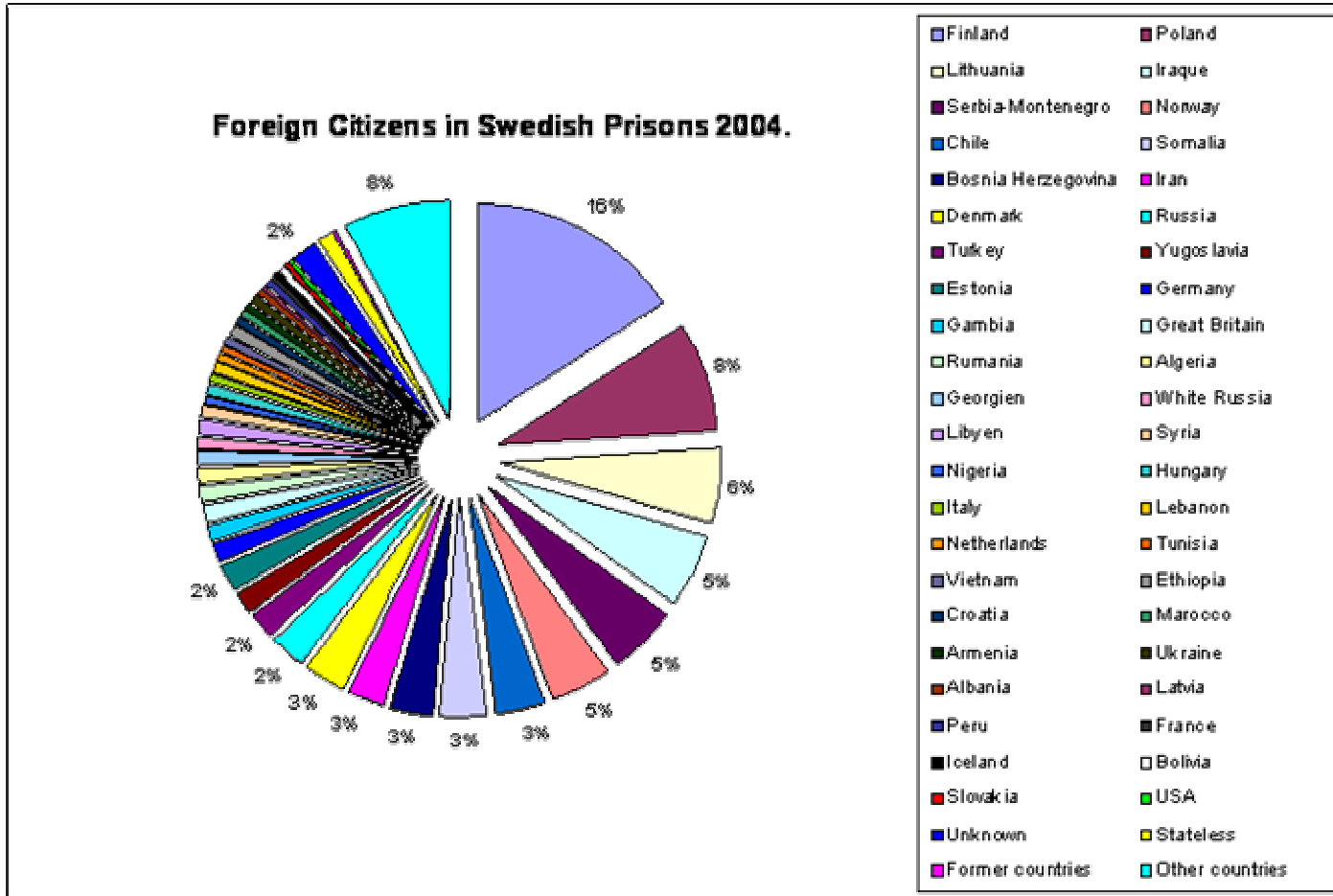
Finally, it must be admitted that the present investigation suggests beyond reasonable doubt that social exclusion is a fact of life among foreign prisoners in Swedish prisons. This is so despite that fact that the Prison and Probation Services have taken steps to minimise exclusion. These measures include the right for foreign prisoners to practise their own religion and receive visits from their religious representatives. Prison libraries provide books, magazines and newspapers in a large number of languages. The prison authorities encourage family contacts and seek to assist such contacts as much as possible. The Prison and Probation Services recruit, train and make use of staff with cultural and ethnic backgrounds that mirror the diversity to be found among foreign prisoners. Interpreter services are provided notably in connection with situations where accuracy of communication is important, for instance, in dealing with illness. Nevertheless, there is some reason to think that many of the positive forms of help exemplified above vary between different prisons in the extent to which they are made available. An important aim for future work should be to investigate unjustified variation in the creation and use of assistance measures and where necessary to secure greater consistency in their application. Some suggestions to this end have been presented in the section Recommendations.

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Having lived for nine years in Japan, one year in Germany and eight years in the United States, she currently resides in Stockholm where she works at a major maximum security prison, Hall Prison, as a client case manager at the c-unit holding 56 prisoners. Her work experience includes probation work with offenders as well as professional work for the American Red Cross September 11 Recovery Program, where she was a Family Support Specialist working with crisis management in New York in the aftermath of the 2001 terrorist attacks on World Trade Center. She has also assisted in a study on the effects 9/11 had on men and women within the New York Police Department.

Chart shows average number of foreign citizens in Swedish Prisons, 2004



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Ministry of Justice (<i>Penal Code in English</i>)	http://www.sweden.gov.se/sb/d/584
National Council for Crime Prevention (BRÅ) (<i>Crime statistics and research</i>)	http://www.bra.se/
Swedish Prison and Probation Administration (<i>Detailed information on prison and probation work</i>)	http://www.kvv.se/
Swedish government	http://www.sweden.gov.se/sb/d/3083
Court Administration	http://www.dom.se/
Police Administration	http://www.polisen.se/inter/nodeid=1461&pageversion=1.html
Bureau of Statistics	www.scb.se/templates/tableOrChart__159277.asp
EUROSTAT	http://epp.eurostat.cec.eu.int
Laws	www.lagrummet.se
Migration Board	http://www.migrationsverket.se/
The Dublin Regulation	http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32003R0343:EN:NOT

Non-governmental organisations

Criminals Return in Society (KRIS)	http://www.kris.a.se/
National Association of Voluntary Supervisors (RFS)	http://www.rfs.a.se/
Red Cross (Röda korset)	http://www.redcross.se/
Bridges to Abroad (Utlandsbryggan)	http://www.utlandsbryggan.se

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