**NORWEGIAN NGO-FORUM FOR HUMAN RIGHTS**

UN Committee Against Torture

Secretariat of the Committee

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Report from the Norwegian NGO-Forum for Human Rights to the UN Committee against Torture in relation to the List of Issues Prior to Reporting for Norway’s 9th periodic report

The Norwegian NGO-Forum hereby submits its inputs to the Committee’s consideration of issues to raise with Norway under the simplified reporting procedure. We appreciate the one-week extended deadline allowed for this report.

The NGO Forum for Human Rights is a network of 42 Norwegian organizations engaged in the promotion of human rights.

The purpose of the network is to influence authorities, both Norwegian and international, to prioritize the creation and sustainability of principled and comprehensive policies that aim towards the strengthening of human rights. Much of the work is directed at international organizations and forums, such as the UN Human Rights Council, UN Treaty Bodies, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE).

The NGO-Forum reports on the implementation of Norway’s human rights commitments in the [Universal Periodic Review](https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx) (UPR). The Forum also reports to the [UN Human Rights Committee](https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx) and the [UN Committee Against Torture](https://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx).

In addition, it seeks to influence Norwegian foreign policies by arranging regular meetings prior to sessions in the UN Human Rights Council and by appointing observers to the UN General Assembly.

Yours sincerely,

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Coordinator of the NGO-Forum

Director of Policies, Norwegian Helsinki Committee

**A. Points suggested by the Human Rights Committee of the Norwegian Psychology Association and the Mental Health and Human Rights Info**

**1. Implementation of the Istanbul protocol in the asylum procedure**

In the Norwegian State report from 2011, as reply to questions raised in the LOIPR by CAT, on training, in particular on the Istanbul protocol, the state replied that “The principles and recommendations of the Istanbul Protocol are integrated into the training programme for caseworkers at the Directorate of Immigration and into procedures for interviewing asylum-seekers” (para 97).

Prior to the reporting in 2016 Norway was again asked by the Committee regarding this protocol, this time with specific focus on, “Steps taken to ensure that relevant medical professionals are systematically provided with thorough and practical training in the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (the Istanbul Protocol)” (para 16 in LOIPR).

This time the state replied that “The Directorate of Health’s guide (IS-1022) on health services for asylum seekers, refugees and reunited families has been updated and digitised. The guide contains a new chapter on persons who have been traumatised or tortured or have war-related injuries”. Furthermore that “Health professionals must be familiar with symptoms of torture, diagnostics, treatment and follow-up in compliance with the Istanbul Protocol” and finally, that “The effective investigation and documentation of injuries due to torture must culminate in an expert report based on the Istanbul Protocol” (para 118).

All this seems clear and well, but inquiries into health services, lawyers involved in asylum cases and immigration suggest that expert health reports based on the Istanbul protocol submitted to the immigration directorate are very scarce.

The question that can be raised is the following:

* What steps are taken to ensure asylum seekers who allege having been tortured prior to arrival, the access to expert assessment in relation to torture?
* How are the expenses involved in such reporting covered and what significance may such expert reports based on the Istanbul protocol, be given in the asylum procedure?
* If possible, please provide some information on number of Istanbul protocol reports submitted to the Norwegian Directorate of Immigration (UDI or the Appeal Board (UNE) during the last reporting period?

**2. Rehabilitation of torture victims in Norway**

As described in earlier State reports from Norway, rehabilitation and care for victims of torture is mainstreamed and provided by the general public health care, except for one particular service, namely specialized dental care provided to victims of torture, of abuse and to persons with odontophobia.

A report published by the Norwegian Red Cross in February 2020 – *Tortured and Forgotten?* – based on interviews of health professionals and others, on access to rehabilitation and follow up for victims of torture, concludes that the “rehabilitation services for people subjected to torture are fragmented, and the resulting practice is highly person-dependent” (from the English summary of the report, p. 8).

The report calls for a systematic plan to ensure that care is accessible and available, to create a system less dependent on personal engagement on the part of the professionals, and finally that more emphasis is given to capacity building among health professionals and others involved in rehabilitation of torture victims.

The question to be raised is the following:

* What steps will the State take to ensure that victims of torture are provided with the care and services necessary to provide the rehabilitation they need after having endured torture or ill-treatment, and what can be done to ensure the availability of such services in all parts of the country?

**B. Point suggested by the Norwegian Red Cross**

A similar point is presented by the Norwegian Red Cross, the publisher of the report which is available only in [Norwegian](https://www.rodekors.no/globalassets/globalt/rapporter-program-avtaler/humanitar-analyse-rapporter/torturert-og-glemt-2020.pdf) (including an English Summary). The report has, however, been presented in: “A random system”: The organisation and practice of torture rehabilitation services in Norway. In: *Journal on Rehabilitation of Torture Victims and Prevention of Torture*. ISSN 1018-8185. Houge, Anette Bringedal (2020)

* A comprehensive report on the rehabilitation services in Norway for people subjected to torture (Norwegian Red Cross 2020) shows that the rehabilitation services are fragmented, and the practice is highly person dependent. The identification of victims of torture appears to be arbitrary, and the quality of the rehabilitation services varies greatly, both at local and regional level. Please provide information on how well the current system for rehabilitation functions and whether there are plans to improve the system.

**C. Points suggested by the Human Rights Committee of the Norwegian Bar Association**

**Police detention**

Committee against Torture (CAT) Concluding Observations on the eighth periodic report of Norway (5 June 2018), Paragraph 12:

* Although detainees increasingly are being brought before a judge within 48 hours of their apprehension, breaches still occur. An increasing concern is that of minors in police detention cells, which also includes solitary confinement and security cells. 278 minors were placed in security cells in 2019. <https://www.advokatbladet.no/forsvarergruppen-glattcelle-isolasjon/278-barn-pa-glattcelle-i-2019/157624>

**Police cells**

CAT Concluding Observations 2018, Paragraph 14:

* Police detention cells are still in use beyond the 48-hour term stipulated in law. In the initial phases of the Covid-19 pandemic, all detainees were routinely kept in isolation both in police cells and prisons, see below.

**Pre-trial detention**

Regarding CAT Concluding Observations 2018, paragraph 16:

* No improvements have occurred. Pretrial detention of minors has increased.

**Solitary confinement in prisons**

CAT Concluding Observations 2018, para 18 litra a-h:

* A specific concern in 2020 was the limitations posed on detainees because of the Covid-19 situation. During the initial phase of the pandemic most prisons implemented a 14-day quarantine period for all new inmates, both in pre-trial detentions and in prisons. This meant that new inmates were placed in isolation, with very limited human contact. This measure (the quarantine) was implemented without individual assessment of risk of infection, without legal basis and no medical justification.

<https://www.sivilombudsmannen.no/en/uncategorized/report-protecting-prison-inmates-during-covid-19-pendemic/> and

<https://icpa.org/wp-content/uploads/2020/10/Expert-Network-Newsletter-_Special-Issue-6-CORRECTED_.pdf> and

<https://www.advokatbladet.no/isolasjon-korona/ogsa-fanger-er-mennesker-sa-hvorfor-respekteres-ikke-menneskerettighetene-for-dem/150131>

Solitary confinement happened more than 200 000 hours in 2020, see: <https://www.advokatbladet.no/isolasjon-korona/over-200000-timer-med-full-isolasjon-grunnet-pandemien-i-norske-fengsler-i-2020/157847>

The Parliamentary Ombudsman National Preventive Mechanism (NPM) published in June 2019 a special report on solitary confinement in Norwegian Prisons, in which a key finding is observations that inmates are locked inside their cells for 22 hours a day or longer. The lack of clear statutory or regulatory requirements on how much time inmates should be entitled to spend with other inmates, creates ambiguity and diminishes the authorities’ knowledge of the extent of solitary confinement in Norwegian prisons.

The most extensive use of solitary confinement is not due to the conduct of the inmate, but to financial or practical challenges within the prison organization. The NPM have ten concrete recommendations to the parliament, including to amend the provisions of the Execution of Sentences Act to ensure that:

Solitary confinement is only used in exceptional cases and for as brief a period as possible; follow-up off all inmates in solitary confinement in accordance with human rights standards; solitary confinement for 22 hours or more a day is prohibited in situations mentioned in the Nelson Mandela Rules. <https://www.sivilombudsmannen.no/wp-content/uploads/2019/08/SOM_S%C3%A6rskilt-melding_ENG_WEB.pdf>

The Supreme Court has established the 22-hour definition of solitary confinement from the Nelson Mandela rules in national case-law regarding right to extra deduction for *de facto* solitary pre-trial confinement in sentencing. This is as of now still not reflected in laws and regulations, and prisoners who experienced this during serving of sentence has no effective remedy available.

The Supreme Court also stated that the practice of routine-based body search in prisons violated ECHR art. 3 and should be remedied by reduction of sentence when it occurred during pre-trial detention. No available remedy for prisoners not on remand.

The government has proposed to change the execution of sentences act to introduce new forced measures such as spit hood/spit masks, and to limit use of other forced measures such as handcuffs and body cuffs, measures which constitute degrading treatment. <https://www.advokatforeningen.no/aktuelt/horingsuttalelser/2019/oktober/forslag-til-endringer-i-straffegjennomforingsloven/>

A couple of concerns regarding limitations in prisons has been noted by the Human Rights Committee of the Norwegian Bar Association, both limitations on communication between inmates in their mother tongue, as well as limitations to communicate with family members in prisons. Most are afforded 20 minutes phone-calls per week.

**Mental health care in prisons**

CAT Concluding Observations 2018, paragraph 20:

* Degrading measures continue to be used to control inmates with psychological disabilities, such as restraint beds, in which prisoners are fixed with belts to their beds. The Parliamentary Ombudsman National Preventive Mechanism (NPM) has called for an abolition of this measure.

<https://www.sivilombudsmannen.no/en/news/prevention-torture/use-of-restraint-beds-in-norwegian-prisons/>

<https://www.sivilombudsmannen.no/besoksrapporter/hoy-risiko-for-brudd-pa-forbudet-mot-umenneskelig-behandling-rapport-om-bruk-av-belter-i-fengslene-2/>)

**Use of coercive measures in psychiatric health care**

CAT Concluding Observations 2018, paragrape 22 litra h) and i) on coercive electroconvulsive treatment:

* The abolition of enforced administration of intrusive and irreversible treatments such as electroconvulsive therapy has not been incorporated into law. No measures have been taken to abolish this practice.

**Immigration detention facilities (Trandum)**

* Although fewer people have been detained at Trandum since March 2020, the situation for the few remaining is grave, as they are deprived their freedom of movement for a longer time than previously accepted. The legality of locking the detainees into their rooms during lunch-hour and at night has been questioned by the Trandum Supervisory Board (Tilsynsrådet).

[https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport-2019-politiets-utlendningsinternat.pdf chapter 7](https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport-2019-politiets-utlendningsinternat.pdf%20chapter%207).

* This concern has previously been raised by the Human Rights Committee of the Norwegian Bar Association and is on-going.

**D. Points suggested by Amnesty International Norway**

**Mental health care for prisoners**

CAT Concluding Observations 2018, paragraph 19.

A very high percentage of prisoners have mental health problems and are not always provided with appropriate psychiatric health care. It is a concern that the mental health care services remain severely insufficient and that there is a lack of capacity of inpatient psychiatric wards to accommodate prisoners with serious mental illnesses, which often result in their placement in isolation, including in security cells, which leads to a further deterioration of their health. It is particularly important to follow up on the absence of adequate health care for persons with symptoms of severe mental illness in Ila, Ullersmo and Alna prisons (arts. 2, 11, 12, 13, 14 and 16 of the Convention against Torture).

CAT Concluding Observations 2018, paragraph 20.

* The Committee should ask if its recommendation that the State party take all measures to ensure that prisoners with psychosocial disabilities and serious mental health problems receive adequate mental health care, by increasing the capacity of inpatient psychiatric wards, including the security departments, and providing full access to mental health care services within all prison facilities, has been fulfilled.
* The Committee should ask if Norway has abolished the use of full isolation of persons with mental and psychosocial disabilities, in particular when their conditions would be exacerbated by such measures.

**Violence against women**

CAT Concluding Observations 2018, paragraph 23.

Rape and sexual violence affect women disproportionately and is as such a form of gender-based violence. A national prevalence study published in 2014 concludes that almost one in 10 women in Norway have been raped at least once in their lifetime, nearly half before the age of 18. Under the Convention against Torture Article 2, State parties have an obligation to take effective legislative, administrative, judicial, or other measures to prevent acts of torture under its jurisdiction.[[1]](#footnote-1)

Of particular concern are the following issues, which the Committee should ask to be informed about:

* The Government has not taken action to ensure that the lack of free consent is at the center of the definition of rape in Section 291 of the Penal Code. As the rape provision in the Norwegian Penal Code is not in compliance with international human right standards, a number of reported rape cases go unpunished.
* A major obstacle to justice is the prevailing weaknesses in police investigations of reported rape cases, resulting in a low level of prosecution. In addition, a lack of systematic training on gender-based violence for judges, prosecutors, and lawyers to counter rape myths and stereotypical notions about female and male sexuality, is contributing to a high percentage of acquittals in rape cases.
* The incidence of violence, including sexual assault, against Sami women and girls, as well as other vulnerable groups, such as children and older persons, and the reported distrust of the Sami communities towards public authorities (arts. 2, 12, 13, 14 and 16).

**Situation at immigration detention facilities**

CAT Concluding Observations 2018, paragraph 28.

The Committee should ask for information about whether:

* Norway ensures that persons held at the Trandum Holding Centre, together with those in other immigration detention facilities, are treated in accordance with the law and are held only for the duration prescribed by law, and that the prevailing conditions and treatment are in line with international standards, including the Nelson Mandela Rules.
* Norway ensures that safeguards with regard to non-refoulement are observed.
* Norway ensures that prompt mandatory services of medical examinations are provided to persons accommodated in all the asylum centers promptly upon arrival.
* Procedures are in place to identify torture victims among asylum seekers and for assessing the risk of torture in cases of deportation.
* Procedures are in place to ensure medical examination of all persons in cases of deportation, and whether these examinations are conducted by *independent* health personnel.

**Other issues**

34. The Committee should ask Norway to ratify the Optional Protocols to ICESCR, CPRD and UNCRC, and to sign the ICMW.

1. General Comment 2 from the Committee against Torture elaborates on the principle of due diligence and makes it clear that State authorities have a responsibility to prevent, investigate, prosecute and punish acts of torture or ill-treatment committed by private actors. If State authorities fail to do so with due diligence, the State is responsible under the Convention for acquiescing to impermissible acts, as the State’s inaction provides a de facto permission. GC2/Article 18 clearly states that the principle of due diligence especially applies to the failure of State Parties to prevent and protect victims from gender-based violence including rape. [↑](#footnote-ref-1)