**Norwegian Parliamentary Ombudsman**

**National Preventive Mechanism unit**

**Submission to CAT List of Issues prior to reporting (LOIPR) - 2021**

On behalf of the Parliamentary Ombudsman’s National Preventive Mechanism (NPM) I thank you and the OHCHR for the opportunity to contribute to the important work of the Committee against Torture (CAT). NPM welcomes the opening to provide input to the List of issues prior to reporting (LOIPR) and presents the following for your consideration.

NPM has limited itself to highlight three main concerns. We present a summary of each issue followed by a question proposal. Where relevant, a link to the latest NPM report on the issue is provided for your convenience.

**1) Solitary confinement**

For several years, Norwegian public authorities have been criticized internationally for the use of solitary confinement in prisons. In 2018, CAT expressed great concern about the extent of prolonged isolation, and that the conditions for use of solitary confinement were not sufficiently clear. In the same year, the European Committee for the Prevention of Torture (CPT) visited Norway and recommended that inmates held in isolation should be offered structured activities and have meaningful human contact on a daily basis. The committee was particularly concerned about the isolation of inmates with mental health problems. In 2019, the Parliamentary Ombudsman published a Special Report to draw attention to the risk of violation of the prohibition against torture and inhuman treatment that solitary confinement entails. The report revealed that isolation is used extensively, that current legislation does not reflect that solitary confinement should be limited to exceptional cases only and for as short a time as possible, as well as inadequate follow-up of inmates in solitary confinement. Please also refer to paragraph 3 below, pertaining to proposed changes to the Execution of Sentences Act which inter alia entails less stringent legal provisions for the oversight of prolonged use of solitary confinement, security cell and restraint beds.

* The state should provide information on any measures intended to limit the use of solitary confinement in prison.
* The state should provide information on the weakening of reporting and oversight mechanisms that newly proposed legislative amendments entail, including how the inherent risk of inhuman and degrading treatment is taken into account when considering the amendments related to the use of restraints and solitary confinement.

The NPM Special Report on Solitary Confinement and lack of Human Contact in Norwegian Prisons is available at: <https://www.sivilombudsmannen.no/wp-content/uploads/2019/08/SOM_S%C3%A6rskilt-melding_ENG_WEB.pdf>

**2) Restraint beds in prison**

In 2020, the Parliamentary Ombudsman examined the use of restraint beds in Norwegian prisons and recommended that restraint beds should be abolished. This is in line with the recommendation made by CPT during its visit to Norway in 2011 and 2018. The use of mechanical restraints can pose a considerable risk of both physical and psychological injury. It is a major violation on personal integrity, and creates a risk of somatic injuries, trauma, and other negative consequences to mental health. The NPM investigation revealed that the use of restraint beds in prisons involves a major risk of breaching the prohibition against torture and inhumane treatment in accordance with the UN Convention against Torture and Article 3 of the European Convention on Human Rights. A disproportionate 30% of cases of inmates being placed in re­straints in the period investigated, concerned women (approximately 6% of inmates are women). This included some of the longest periods spent in restraints. Eighteen of the thirty-one high-security prisons in Norway still have restraint beds.

* The state should provide information on any steps taken to implement the recommendations by CPT and the Parliamentary Ombudsman to abolish the use of restraint beds in prison.
* The state should provide information on any measures taken to address the special vulnerability of the women`s  prison population in this regard, particularly related to past trauma and mental health.

The NPM report on Use of Restraint Beds in Norwegian Prisons is available at: <https://www.sivilombudsmannen.no/wp-content/uploads/2020/05/Thematic-report-2020_Use-of-restraint-beds-in-Norwegian-prisons.pdf>

**3) Coercive measures and introduction of “spit hoods” in prison**

In 2020, the Ministry of Justice and Public Security presented a bill to the Norwegian Parliament containing amendments to the Execution of Sentences Act, notably to § 38 (use of coercive measures). If adopted, the changes will lower the legal threshold for the use of certain coercive measures in prison and introduce the use of “spit hoods”. The Parliamentary Ombudsman has expressed concerns that the Ministry has not provided sufficient information to justify the need to introduce spit hoods in prisons; why other less restrictive measures are deemed insufficient, and to provide a thorough consideration of the potential health risk spit hoods may pose. Moreover, the proposal does not account sufficiently for the fact that spit hoods by necessity are applied in combination with other restraint devices to hinder the inmate from removing the hood, or for the weighing of the necessity and proportionality of lowering the threshold for using hand- or body-cuffs.

The bill further entails less stringent legal provisions for the oversight of prolonged use of solitary confinement, security cells and restraint beds. The implications would be that no superior body is informed of full exclusion from company before it has exceeded 42 days (despite Mandela rules 43 and 44 referring to prolonged solitary confinement as that which exceeds 15 days); there will be no duty of any superior body to decide on the continuation of the measure; and regarding the use of security cell exceeding 3 days and restraint bed exceeding 24 hours, there will no longer be a duty of a superior body to decide on the continuation of the measure.

The bill is under consideration by the Parliamentary Committee and the Committee’s recommendation is expected by 9 February 2021.

* The state should provide information on the Ministry of Justice and Public Security proposal, on its considerations related to lowering the threshold for the use of coercive measures in prison and the introduction of “spit hoods” as a new coercive measure (in prison).
* The state should provide information on how it will ensure that inmates are not subjected to prolonged isolation and are secured protection from proper oversight mechanisms.

The above information is intended to provide the Committee with a brief overview of three selected issues that NPM considers important to address during Norway’s upcoming review. We remain at your disposal to provide any additional information that the Committee deems necessary.