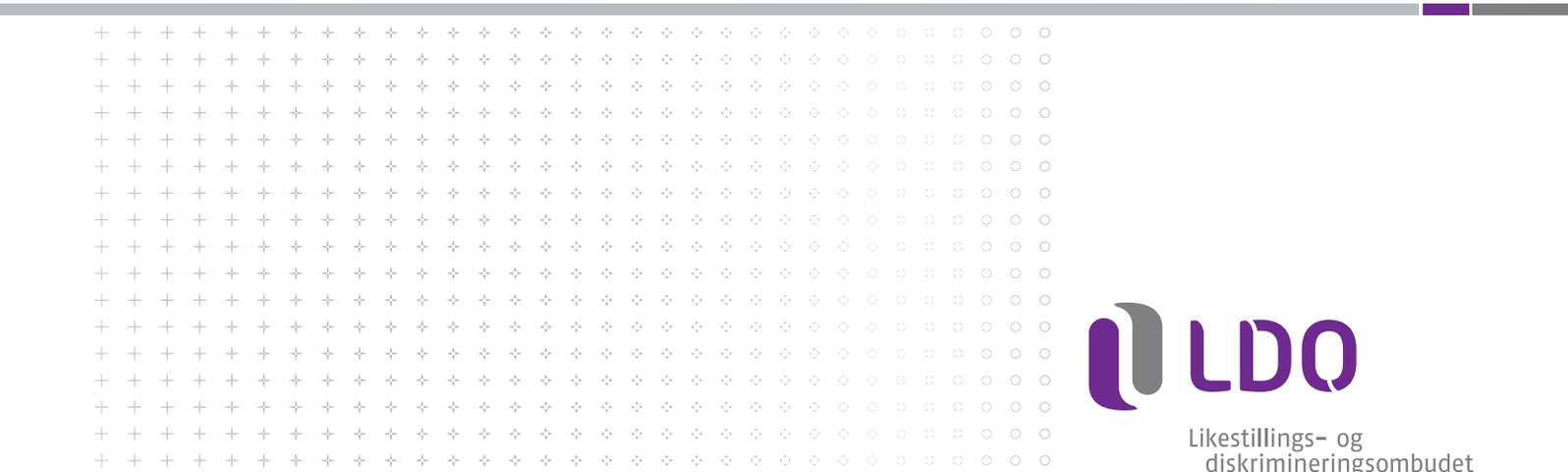




# The Ombud's report to the Committee on the Elimination of Racial Discrimination (CERD)



Ligestillings- og  
diskrimineringsombudet



# PRETEXT

The Equality and anti-Discrimination Ombud is charged with monitoring that "Norwegian legal and administrative practice is in accordance with Norway's commitments under the UN International Convention on the Elimination of All Forms of Racial Discrimination", cf the Norwegian Act on the Equality and Anti-Discrimination Ombud Act section 1 third paragraph.

I hope that this report will show how commitments under the convention matter to everyone, and by that give life to the convention. The report takes the individuals' perspective, and uses the experiences people have, in order to show how the complex situations and individuals social identity can lead to unsolved discriminatory consequences. I have specifically focused on vulnerable groups, such as national minorities, traumatized refugees and women exposed to violence. I am worried about the problems they meet when public services fail to coordinate their services effectively. This creates unworthy individual living conditions.

The report is a supplement to the Norwegian periodic report to CERD. The report, including a brief introduction, consists of three parts where the Ombud first addresses comments on topics presented in the Committees' concluding observations and then we provide feedback concerning some topics linked to the ICERD articles. The Anti-Discrimination Ombud has benefitted from useful discussion both with the coordinator of the NGO Shadow report 2010, and the Child Ombudsman.

The Equality and anti-Discrimination Ombud was established in 2006 with a mandate that aims to combat discrimination across different prohibited grounds. This gives the Ombud a unique opportunity to consider the commitments outlined in the convention as a whole. When upholding the law, the Ombud receives concrete knowledge about how people experience discrimination in Norway in public and private sectors and all areas of society. A varied and competent staff gives the Ombud the competency to consider if one-off cases rise broader issues that need to be addressed in a more proactive manner. Through networking with NGOs and other relevant private and public representatives, our knowledge is broadened and can provide insight concerning weaknesses and challenges that need to be addressed. Norway is in an important phase as we are currently drafting new anti-discrimination legislation that will provide satisfactory anti-discrimination protection given that certain issues are addressed.

I hope this report will increase focus on several key issues. I also hope that the report can be an inspiration for all, both in public and private sectors who wish to take part in working to improve the protection against discrimination in Norway.

**Sunniva Ørstavik**

The Equality- and Anti Discrimination Ombud



Likestillings- og  
diskrimineringsombud  
Sunniva Ørstavik

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# 1. INTRODUCTION

The Equality and Anti-Discrimination Ombud is charged with monitoring that Norwegian legal and administrative practice is in accordance with Norway's commitments under the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), cf. the Norwegian Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal (the Anti-Discrimination Ombud Act) section 1 third paragraph (proposition No 34 to the Odelsting, page 79-80).

This report is the ombud's input to the Committee on the Elimination of Racial Discrimination (CERD) on the practical implementation of the ICERD Articles. So far, it has not been possible to conduct a complete review of Norway's ICERD commitments, given the ombud's extensive mandate and limited resources. This report therefore consists of some input on selected topics that fall within the ombud's area of responsibility.

The report, including this brief introduction, is made up of three parts:

- Part II contains comments on topics that were presented in CERD's concluding observations relating to Norway's 17th and 18th periodic reports.
- Part III provides feedback on some topics linked to the ICERD Articles.

## **2. ISSUES RAISED IN THE CONCLUDING OBSERVATIONS OF THE COMMITTEE ON THE Elimination of Racial Discrimination regarding the 17th /18th periodic reports**

*14. The Committee invites the State party to consider incorporating the Convention at a higher level in its domestic legal order so as to ensure the primacy of the Convention over domestic legislation in case of conflict.*

### **Incorporation of ICERD at a higher level in the domestic legal order**

The ombud refers to section 14 of CERD's concluding observations relating to Norway's 17th/18th periodic report, in which CERD invited the State to consider incorporating the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) at a higher level in Norwegian domestic law.

In section 8 of Norway's 19th/20th periodic report, there are no signals that the State considers such an upgrading of the status of ICERD to be relevant. The State refers to the fact that incorporation of ICERD in the Norwegian Act on prohibition of discrimination based on ethnicity, religion etc. (the Anti-discrimination Act) is considered more natural than incorporating it in the Norwegian Human Rights Act, and also to the general principle of Norwegian law that Norwegian law shall be interpreted in accordance with Norway's international commitments. This is all the State has to say about the incorporation of ICERD in the Human Rights Act.

In line with the NGO Shadow Report (the NGO report), the ombud is of the opinion that ICERD should be incorporated in the Human Rights Act in the same way as the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC) for the following reasons:

- The fact that ICERD is incorporated in the anti-discrimination legislation while CEDAW is incorporated in the Human Rights Act is an indirect signal that ICERD does not carry the same weight as CEDAW in the application of Norwegian law. Particularly since the Norwegian authorities, on the basis of Official Norwegian Report (NOU) 2009:14 "Et helhetlig diskrimineringsvern ('Comprehensive protection against discrimination'), have recognised that the need for a general anti-discrimination act exists in Norway, it is unfortunate that CEDAW and ICERD are still not afforded the same status in Norwegian law.
- The ombud also stresses that the efforts against multiple discrimination and intersectional discrimination can be complicated by the fact that CEDAW and ICERD do not share the same status in Norwegian law.
- We would also like to point out that, even though it is unlikely that a conflict will arise between the rights protected by ICERD and the Conventions that have been incorporated in the Human Rights Act and therefore take precedence, the fact that ICERD and CEDAW are on different levels in the legal order may have practical consequences.

### Recommendation

- The ombud recommends that CERD requests that the State incorporate the UN International Convention on the Elimination of All Forms of Racial Discrimination in the Human Rights Act in connection with the ongoing work to follow up NOU 2009:14 on comprehensive protection against discrimination.

### Constitutional protection of the prohibition on discrimination in Norwegian law?

In connection with the question of incorporation in the Human Rights Act, the ombud would also like to draw the Committee's attention to some important issues relating to constitutional protection of the prohibition on discrimination in Norwegian law.

Constitutional protection against discrimination was proposed in NOU 2009:14. The ombud stresses that such constitutional enshrinement of the prohibition on discrimination will be very important. Constitutional protection would provide greater security than formal-law protection and constitute a more permanent guarantee, thus providing greater security in the future and protecting against political mood variations that might otherwise put anti-discrimination legislation under pressure.

However, the importance of such constitutional protection will, to a considerable degree, depend on how the constitutional provision is worded. The majority of the committee members have proposed a constitutional wording that would entitle the courts to review the

constitutionality of legislative decisions. The majority proposal also specifically lists the most important prohibited grounds of discrimination recognised in the international human rights context. In this respect, the majority proposal will also lead to greater harmony between Norway's international human rights commitments and Norwegian law. However, the committee's minority has proposed a more general wording that does not list grounds for discrimination and that would primarily have a symbolic function rather than defining the legal limits for Norway's legislators.

The ombud stresses that the constitutional protection of the freedom of expression and the freedom of religion entails very real legal barriers for the legislator and entitles the courts to review legislative decisions. It is important that the prohibition on discrimination is worded in a manner that ensures equal legal protection against discrimination regardless of the grounds. This is particularly important since it is conceivable that conflicts may arise between the rights conferred by the freedom of expression, the freedom of religion and the prohibition on discrimination, and that these rights should therefore be weighed against each other on the basis that they afford equivalent protection.

### **Recommendation**

- The ombud supports that the State prepare a constitutional provision against discrimination that establishes real limits for the legislator and entitles the courts to review legislative decisions.

The model that is chosen should also reflect international human rights by listing the most important grounds for discrimination – the same grounds that are protected in the recognised human rights conventions by which Norway is bound.

*15. While noting that the State party has explained its difficulty in addressing the notion of 'race' in the Convention, the Committee is concerned that the Anti-Discrimination Act does not specifically cover discrimination on the ground of race (Arts. 1 and 2).*

### **'Race' as grounds for discrimination?**

The committee is concerned that the Anti-discrimination Act does not specifically cover discrimination on the grounds of race.

The ombud shares the authorities' view that it is not expedient to include race as separate ground in the Anti-discrimination Act. In our consideration of appeal cases, we have not experienced any practical implications of the fact that 'race' is not specifically mentioned as a ground in the Act. In cases where it is claimed that race has been an issue, this will be covered by the grounds of 'ethnicity' and 'national origin'.

19. *Language as a vehicle of social integration, the Committee is concerned about the strictness of the language requirements for acquiring Norwegian citizenship.*

## **Language requirements for citizenship as a vehicle of social integration**

The State denies that this requirement is stringent on the grounds that a large group is offered language tuition through the introduction programme and that exemption can be granted from the language requirement, for example for reasons of health or other material circumstances. The authorities also state that the effect of this scheme is being closely monitored.

The ombud would like more details on how the effect of the language requirement is being monitored by the State. The ombud is concerned that the authorities must focus in particular on whether the language requirement has an unintended or disproportionate effect on certain groups based on gender or national origin.

The language requirement is a highly profiled political issue. In his talk to the Norwegian Labour Party's committee of representatives on 4 May 2010, Prime Minister Jens Stoltenberg stated the following:

*'...This means that new arrivals are not only entitled to Norwegian language tuition, they have an obligation to learn Norwegian. That is why the Government will introduce a requirement whereby the granting of citizenship is conditional on having passed a Norwegian exam or citizenship test.'*

The Norwegian regulatory framework for granting citizenship has recently been evaluated by Oxford Research AS. The report *Rettigheter og tilhørighet* ('Rights and the sense of belonging') states the following in Section 10.3 (page 158):

*'Language and knowledge tests [as requirements for citizenship – our comment] are also highly disputed in the literature. For the sake of accuracy, there are many variants of language and knowledge tests, and the results and unintended effects will probably depend on their design, content and context. When interviewed by Oxford Research, several experts, including Rainer Bauböck and Gerhard Rene de Groot, have indeed pointed out that whether language and knowledge tests are vehicles of inclusion or vehicles of exclusion depends on their content.'*

The State regards the language requirement as an important and appropriate vehicle for ensuring integration and participation. The ombud questions the reasonableness of the language requirement in connection with applications for citizenship unless the State at the same time is able to provide documentation that the requirement has

a motivating and inclusive effect and contributes to increasing social participation in the long run.

Assuming that the State is able to document that the requirement is reasonable and conducive to social inclusion, the ombud is still concerned that some groups will be excluded.

The State's monitoring of the introduction programme seems to have focused more on recruitment to the labour market and less on those who drop out of the programme. Concerning the effect of the language requirement being a condition for obtaining citizenship, the ombud would like more documentation of whether the requirement has a disproportionate effect on certain groups, for example women.

Research has revealed some problematic effects of the introduction programme:

1. The right to Norwegian language tuition is not available to everyone who wants it
  - a) The introduction programme is not available to everyone who settles in Norway. Whether someone is entitled and/or obliged to participate in tuition depends on the individual person's basis for residence. The main rule is that those who are granted residence with the possibility of being granted a settlement permit are both entitled and obliged to 300 hours of tuition. Some groups are not covered by this arrangement. This applies to labour immigrants from the EEA and their families, among others.
  - b) The offer through the introduction programme is time-limited. The right lapses after three years. The deadline can have random and unreasonable effects. This is particularly worrying when it affects persons with extensive care duties or poor health that it is difficult to document.
  - c) As a rule, the right to participate in an introduction programme applies to the primary settlement municipality, and persons who move to or settle in another municipality (secondary settlement), e.g. because of a job offer, can lose the right to language tuition.
2. The quality of the tuition in Norwegian is not the same for everyone

Research shows that the quality of the Norwegian language tuition offered through the introduction programme varies from one municipality to the next.

Reference is made to Fafø's report from 2007:

With a right to learn and duty to participate, page 205, where the

following is stated: The biggest challenge in the time ahead will be to ensure a good and qualifying content in each participant's programme. This represents an organisational challenge for each individual municipality (or within the framework of intermunicipal cooperation), but it is also a question of financial frameworks, practical capacity (especially in small municipalities) and availability of necessary external offers.

The ombud finds it particularly worrying that gender, educational background and national background all seem to affect the likelihood of a good outcome of the tuition. In this context, reference is made to the VOX mirror for 2009 Norsk og samfunnskunnskap for voksne innvandrere ('Tuition in Norwegian and social studies for adult immigrants') page 16: 'Regardless of educational background, the failure rate in both Norwegian tests was higher among candidates from Africa and Asia than among candidates from Europe and the USA.'

To the extent that the quality of the tuition and a lack of individual adaptation of the tuition have an impact on how much each person benefits from the Norwegian language tuition, it may be disproportionate to give this decisive weight when considering applications for citizenship at a later date.

The Government has submitted a proposal for state supervision of the municipalities' activities under the introduction programme. The Government also proposes to impose on the municipalities an internal control duty in the administrative areas that will be subject to such supervision.

The ombud takes a very positive view of the proposal to ensure the quality of the introduction programme through state supervision. This will also help to establish equivalent programmes regardless of municipality. The language requirement should be postponed until the State has better control of the quality of the tuition provided.

The requirement for being entitled to apply for citizenship is completion of 300 hours of approved tuition in the Norwegian language or documentation of 'adequate knowledge' of Norwegian or Sami. The ombud finds that the condition is too vague and that it leaves a margin for discretion by the administration. Insofar as each individual person is meant to have an opportunity to qualify for citizenship, the condition must be clear and unambiguous.

The ombud is not familiar with current practice in these cases, but

fears that the unclear wording of the condition can contribute to applications being considered differently without there being reasonable grounds for this.

The ombud is also concerned about whether the State provides adequate information about the language requirement and the consequences of not meeting this requirement. Applying for citizenship must be assumed to be a somewhat peripheral issue for newly arrived immigrants.

### Recommendations:

- The ombud recommends that CERD urge the State to ensure that Norwegian language tuition is offered outside the introduction programme so that everyone has an equal opportunity to qualify for citizenship in the long term. The offer should be free of charge for everyone.
- The ombud recommends that CERD request the State to suspend the requirement whereby the granting of citizenship is conditional on having passed a language test until the quality of the Norwegian language tuition has been evaluated and assured regardless of gender, educational background and country background.
- The ombud recommends that CERD request the State to consider changing the requirement for 'adequate knowledge of Norwegian' so that the content of the requirement is more precise and predictable.

*21. The committee is concerned that many municipalities do not provide sufficient protection from disease in health services for asylum seekers, refugees and persons reunified with their families.*

### The provision of health services to traumatised refugees must be improved

In the ombud's view, the State provides little specific information on this point in its feedback to the committee.

The ombud makes reference to the NGO report in which concern is expressed in relation to the provision of treatment services to victims of torture. The NGO report calls for sufficient resources to provide the long-term, specialised treatment that such injuries require. More documentation of health injuries as a result of torture is also needed. The ombud shares this concern and stresses that the concern applies not only to victims of torture, but to traumatised refugees in general.

Non-Western immigrants in general have poorer health than the ethnic Norwegian population, and the number of persons on disability benefit is higher in this group. Immigrant women have a poorer

assessment of their own health. On average, they report more problems, and significantly more women than men report mental health problems (Ambø 2010). We do not see corresponding differences in the population as a whole. Refugees who have experienced torture and war have more health problems than other refugees (ref. Likeverdige helsetjenester ('Equivalent health services'), the Norwegian Medical Association 2008).

As of today, Norway does not have a professional community with clinical expertise in the treatment of traumatised refugees. Competence-raising takes place through Norway's four Regional resource centres for violence and traumatic stress and suicide prevention (RVTS), but they have no affiliated clinic. There is only one outpatient clinic for psychosomatic disorders and trauma. It is located in Kristiansand. The Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) in Oslo has no clinic affiliated to its activities and mainly conducts research in the field.

The current practice is to refer refugees with mental health disorders to the ordinary outpatient services at the Psychiatric District Centres (DPS). This arrangement is problematic because personnel involved in the trauma treatment of refugees who are victims of violence and torture need continuity and competence development. The sparse distribution of expertise is not conducive to establishing long-term professional communities that attract resource persons with specialist expertise in the clinical treatment of this group of patients. At present, the DPSs have varying knowledge of the special needs of traumatised refugees. The local DPSs have a relatively high turnover of specialists and those who work there are not necessarily recruited on the basis of being particularly interested in or competent to treat this group of clients. In addition to this, there are problems in the treatment situation relating to language barriers and a lack of knowledge about the patients' culture and background.

Under the UN Convention Against Torture, torture victims have rights in relation to both compensation and rehabilitation. Clinical competence must be developed to enable documentation of torture injuries and provide expedient treatment. Such a service must be organised and made available several places in the country. Today's system of Psychiatric District Centres seems unsuitable for providing adequate treatment of refugees who suffer from diseases, injuries and subsequent functional impairment as a result of torture, rape, war experiences and experience of prisons and concentration camps.

The Directorate of Health has published some guidelines entitled Helsetjenestetilbudet til asylsøkere, flyktninger og familiegjenforente ('The provision of health services to asylum seekers, refugees and reunited family members') (IS-1022 (2010)). The guidelines are primarily meant for health personnel and personnel in administrative positions in the

primary and specialist health services. They also target personnel at reception centres and municipal, regional and state employees at different decision-making levels in the primary and specialist health service. The guidelines contain important advice on what to focus on in particular when providing health services to asylum seekers, refugees and reunited family members.

Based on a number of reports and surveys, we know that the rape of women is used systematically as a tool to destroy the opponent's morale and mental health in times of conflict and war. See for example *From Conflict and Crisis to Renewal, Generations of Change* (UNFPA 2010). The guidelines also stress that health personnel who are to provide health services to victims of rape must be knowledgeable, skilled and caring in order to help the survivors.

### **Recommendations:**

- The ombud recommends that CERD urge the State to establish an agency with special expertise in the treatment of traumatised refugees, for example along the lines of the Psychosocial Centre for Refugees before it was closed down.
- The ombud recommends that CERD request the State to ensure that more attention is devoted to the rape of women in the guidelines issued by the Directorate of Health, in line with the UN's recommendations.

*22. The Committee is concerned regarding the high dropout rate of immigrant children in upper secondary education.*

### **The work on immigrant children's participation in upper secondary education must be improved**

The authorities make reference to the action plan 'Dropout in upper secondary school 2003–2005' (extended by one year), and other documents. Despite a positive development, there is still a relatively large group of language minority students who achieve poor results and drop out of upper secondary education.

Language tuition is an important tool to ensure a good learning outcome for language minority students. The right to adapted language tuition is laid down in the Education Act, but surveys show that there are a number of challenges involved in making these rights effective. In addition to inadequate compliance with rules on the part of school owners, it has been documented that there is considerable variation in the quality of the adapted language tuition offered in the various parts of Norway (NOU 2010:7 *Mangfold og mestring* ('Diversity and coping')). One of the reasons is ambiguities in the regulations.

The ombud has therefore asked the authorities to consider whether it

may be expedient to include a separate chapter in the Education Act on adapted language tuition for language minority students.

In Norway, children from a minority language background are over-represented in segregated special education. In her three-year study of participation in segregated special education (Etnisk mangfold i skolen. Det sakkyndige blikket ('Ethnic diversity at school. The specialist view'), 2005), Joron Pihl claims to have found that the assessment of minority students' knowledge level and tuition requirements does not take account of migration, languages other than Norwegian or other factors that are particular to language minority students. She cites the example of IQ tests developed for ethnic Norwegian students being used in the assessment of language minority students. Among other things, Professor Pihl claims that this leads to language minority students being placed in segregated special education on an unsound basis, with potentially very negative consequences for their further education. Among the measures proposed by Professor Pihl is an education that qualifies people to assess, on the basis of multicultural situations, bilingualism and language development in a multicultural context.

NOU 2010:7 also points to a considerable need for competence-raising among teachers and school managers, the Educational Psychological Counselling Service (PPT) and other services, in order to ensure language minority students their rights pursuant to the Education Act.

In addition to the language factor, surveys show that the parents' social background is very important to students' learning outcome (NOU 2010:7) and that schools, among other things through the Knowledge Promotion reform, are responsible for compensating for social differences. Schools can use both general and special measures to achieve this, such as free before and after-school programmes that offer homework help, combined with improved cooperation with and active involvement of parents from immigrant backgrounds.

### **Recommendations:**

- The ombud recommends that CERD urge the State to safeguard the rights of language minority students pursuant to the Education Act.
- The ombud recommends that CERD requests that the State consider amending the Education Act as regards adapted language tuition.
- The ombud recommends that CERD urge the State to quality assure the tools used to identify students with learning difficulties.

*25. The Committee encourages the State party to continue providing awareness-rising programs for members among others teachers, social workers and other public officials on the provisions of the convention.*

## The need for awareness-raising programmes

The authorities make reference to several measures and programmes that aim to raise the level of professionalism and awareness in the face of greater diversity, focusing in particular on the prosecuting authority and the courts.

The NGO report stresses a continued need for awareness-raising programmes for judges. The ombud endorses this.

In addition, the ombud wishes to stress the need for awareness training in other important areas of society.

The ombud sees that there is a need for professionalization of public services when it comes to offering equality on service delivery. Awareness training is an important aspect of this but it must be combined with knowledge about discrimination, how service providers can identify needs among users and potential users, obtain users' points of view and adapt their services to various needs. Some public service institutions provide training in ethics and reflection on attitudes, but as far as the ombud knows, few provide knowledge about what discrimination is, how it arises and how it can be prevented. Awareness training and ethical reflection can help to make the individual service provider more aware of his/her own and the service institution's norms and attitudes. It is, however, essential that the services providers also gain practical knowledge about how to identify needs and adapt services.

### Recommendations:

- The ombud recommends that CERD request the state to ensure that knowledge about discrimination and equality on service delivery is included in all relevant programmes of professional studies and in the training of service providers. Ethical reflection should be part of this.

*26. The Committee recommends that the State party continue consulting and expanding its dialog with organizations of civil society working in the area of combating racial discrimination in connection with the preparation of the next report.*

## Dialogue with civil society organisations

The Ministry of Children, Equality and Social Inclusion financed the work of the Norwegian Centre against Racism and its coordinating role relating to a joint shadow report from voluntary organisations to the Government's 19th/20th report. The shadow report presents various input from ten voluntary organisations that deal with cases relating to the UN Convention on Racial Discrimination. The report does not

address topics where the organisations disagree on the issue and solution.

The ombud endorses the positive initiative and has been in dialogue with the Norwegian Centre against Racism in connection with the work on the report.

The ombud recognises that continuity in the scheme could be decisive to ensuring that the coordinator becomes familiar and develops a good dialogue with organisations that, for financial, practical or knowledge-related reasons, are unable to provide input to or comment on the shadow report.

**Recommendation:**

- The ombud recommends that CERD request the State to ensure that the support scheme involving the appointment of a coordinator be made permanent.

# III INFORMATION RELATING TO ARTICLES 1 TO 7 OF THE CONVENTION

## New general anti-discrimination act

The NGO report expresses concern that the State, in its proposal for a new anti-discrimination act, weakens the protection against discrimination, especially through the amendments that have been proposed concerning the prohibited grounds of discrimination. The ombud shares most of this concern.

In addition to ethnicity, the current Anti-discrimination Act mentions national origin, descent, skin colour and language as bases for discrimination. These prohibited grounds are seen as markers or sub-variants of the overall term 'ethnicity'.

The legislative review committee proposes that only ethnicity be mentioned as a basis for discrimination in the new general anti-discrimination act. National origin, descent, skin colour and language are to be interpreted as covered by this term.

The ombud agrees with the committee's assessment that skin colour, national origin and descent should not be explicitly mentioned as separate grounds of discrimination. As for skin colour, the ombud is of the opinion that it can be expedient to comment further on this in the preparatory works.

Skin colour is not necessarily always connected to ethnicity. This applies to many adopted persons and those who have one Norwegian-born parent and one parent born abroad. It will also apply to persons who have had a connection to a country for several generations but whose skin colour is different from the majority. In Norway, this will be increasingly the case as more grandchildren of immigrants grow up in this country.

The ombud does not agree with the committee's assessment as regards language as a basis for discrimination.

The ombud receives many enquiries from persons who feel discriminated against on the basis of language. Employees are also concerned with the extent to which language can be emphasised in connection with employment.

To emphasise that discrimination on the basis of language is prohibited, the ombud recommends that 'language' be mentioned explicitly as a basis for discrimination.

### **Recommendations:**

- The ombud asks that CERD request the State to consider whether the protection against discrimination is weakened through the proposed amendments in the draft of a new anti-discrimination act as regards to prohibited grounds of discrimination. The NGO report shares this concern.

### **The ombud is concerned that the protection against harassment is not equally safeguarded regardless of the basis for discrimination in the proposed new act**

Today, one-off episodes of harassment that take place outside the workplace/employment market are only protected by the Gender Equality Act. No corresponding protection exists for persons who experience one-time episodes of harassment on the basis of ethnicity other than in the workplace/employment market.

In the ombud's case 08/182, this was clearly illustrated:

A woman who originally comes from Somalia felt that she was being harassed by the chief physician who performed a caesarean on her when she gave birth to twins. According to the woman, the doctor asked her midway through the operation: 'are you referred to as negroes or blacks?' The woman found the statement to be offensive. The statement also severely affected the woman during the rest of her stay in hospital. A complaint was submitted to the Patient Ombud, and the hospital subsequently apologised for the incident. The hospital underlined that the surgeon in question had realised the gravity of his statement, but also claimed that the comment was not meant to be hurtful or offensive. In the ombud's view, the choice of words was very unfortunate, especially considering that they were uttered by a chief physician to a patient in a particularly vulnerable situation. The ombud agreed that the statement was censurable, but nonetheless found that it did not fall within the scope of the Anti-discrimination Act, as the case concerned an individual comment not made in a work context.

In its work on the new anti-discrimination act, the ombud raised the issue of a lack of harmonisation between the Anti-discrimination Act and the Gender Equality Act as regards protection against harassment. In the ombud's view, there was no reason why the rules should vary according to the basis for discrimination. The ombud is concerned that our input was not taken into consideration in the legislative review committee's proposal.

The proposal from the Graver Committee seems to uphold the current provisions on harassment.

**Recommendation:**

- The ombud asks that CERD recommend the State to ensure that the general anti-discrimination act afford the same protection against ethnic harassment as it does against harassment on the basis of gender.

**The State's work on national minorities who travel in the traditional manner must be strengthened**

The ombud is concerned about the situation for national minorities who endeavour to maintain their traditional lifestyle, and believes that, in practice, the State's policy has several assimilating features. By this is meant that access to basic rights is denied unless the traditional way of life is discontinued.

In the supplementary report to CERD, the Children's Ombud points to challenges in several areas as regards Rom children's school situation. This concerns better procedures for following up absence from school as well as teaching material in Rom languages.

The ombud shares this concern and sees that it also applies to other travellers with a traditional lifestyle.

Over time, the ombud has established a good dialogue with both individuals and organisations and has received input relating to different areas:

- They are not offered adapted and inclusive tuition. Many schools know little or nothing about national minorities. There are challenges relating to language and adaptation for children whose mother tongue is Romani, and there are challenges relating to the fact that many of the parents do not have Norwegian as their mother tongue and/or are illiterate.
- The teaching material is not adapted to national minorities. The teachers often have very limited knowledge about national minorities, and some say that they feel stigmatised in school.
- The tuition is not adapted to a life of periodic travelling to any great extent.
- Travelling often leads to cuts in public transfers/child benefit etc.
- Stable housing is a necessary precondition for the home and school to collaborate on establishing suitable and equivalent tuition programmes in the long term. Discrimination in the housing market is a particular problem for Rom/Romani people. Many move houses often due to unsatisfactory, expensive and illegal leases.

The ombud is concerned that the travellers are being made responsible for the consequences of the failure to adjust Norwegian school policy to the traditional manner of travelling.

The ombud has received several enquiries from this group concerning assessments and measures initiated by the child welfare services. The cases concern undermining of the children's identity as travellers, the choice of foster parents, the lack of tuition in Romani and very limited contact with their biological parents and their families in general. In some cases, the child welfare services have stated that building the children's identity as Rom must to some extent come second to ensuring that they receive adequate care.

The ombud strongly supports a more systematic Nordic collaboration to share experience and expand knowledge at the national level. To the extent that the State puts in place measures to deal with the challenges, these should be of a permanent nature.

### **Recommendations:**

- The ombud asks that CERD urge the State to clarify the significance of the housing situation for school attendance of Rom children.
- The ombud supports the recommendation of the Children's Ombud regarding the mapping of child welfare cases that affect children from Rom backgrounds and asks that CERD urge the State to ensure that such a mapping is carried out.

## **Equality in public service delivery**

It is the ombud's experience that the provision of public services often takes place on the basis of an apparently ethnically neutral user norm, which in reality favours people from an ethnic Norwegian background.

CERD has, for example, raised the question of whether the State meets its obligation to ensure that Sami school children receive the tuition they are entitled to pursuant to the Education Act – both as regards the Sami language as a subject and the language in which they are taught. Inadequate provision of this public service raises questions about discrimination on the basis of ethnicity.

In the Children's Ombud's supplementary report, he expressed concern about this and recommended improving the educational situation of Sami children so as to safeguard their language and cultural affiliation. The Children's Ombud has also expressed concern about the situation for children from Rom backgrounds and requested better procedures for following up the children's absence from school and better funding of schools attended by Rom children. The ombud shares this concern.

In addition, today's services are not designed to take sufficient account of the combined effects of ethnicity and other factors such as age, functional ability, gender and social class.

An example is the provision of information about services to individuals who are more isolated than others in the community, such as newly-arrived refugees, asylum seekers, victims of human trafficking, au-pairs, immigrants without papers, Rom beggars and women of foreign origin who marry Norwegian men.

The ombud is concerned that sufficient relevant expertise is not assigned to following up the State's Instructions for Official Studies and Reports, which impose a requirement on the authorities to examine the negative impact of measures on gender equality. Nor are there corresponding instructions at the municipal level, where many of the policies on service provision are developed.

In January 2009, a new duty was introduced in the Anti-discrimination Act whereby all public agencies are required to work actively, purposefully and methodically to promote ethnic and religious equality and prevent discrimination. Entities are bound by this duty, both as employers and as exercisers of public sector authority. The term 'exerciser of authority' covers the roles of regulator, budgetary allocator, sector policy-maker and service provider.

In the ombud's view, this duty is essential to ensuring a more general and systematic effort on the part of public service institutions to prevent discrimination and provide equality in public services. As yet, people are not generally familiar with this duty, and there is a great need for guidance on its practical fulfilment by public agencies. The ombud provides guidance on this point and will organise a campaign in 2011 to raise awareness about the activity duty of exercisers of public authority.

The ombud sees the following questions as crucial concerning equality in public services:

- What types of measures have the authorities initiated to reach particularly isolated minority groups with information?
- What types of measures have the authorities initiated to remove language barriers?
- What types of measures have the authorities initiated to eliminate negative attitudes, prejudice and stereotyping?
- What types of measures have the authorities initiated to build confidence and trust in the government?
- What types of measures have the authorities initiated to ensure that the services provided are adapted to the particular needs of ethnic minorities without being discriminating?

– What types of measures have the authorities initiated to increase budget funding in the equality context?

### Recommendations:

- The ombud recommends that the Instructions for equality impact assessment is strengthened (e.g. by making the instructions applicable to the municipalities, by requiring an intersectional analysis etc.)
- The ombud recommends that the State consider whether the proposed Article 14 of the new general anti-discrimination act weakens the protection against discrimination. The ombud asks specifically the State to consider if the duty of public authorities to promote equality, should include a clarification on what the activity duty entails and ensuring that it is linked to a duty to report so that the progress of the work can be monitored.

### Equivalent health services in particular

In autumn 2007, the so-called 'ambulance case' led to an extensive public debate in which terms such as 'public racism' and 'structural discrimination' were used. The background was that an ambulance refused to pick up a man of Somali background after he was beaten unconscious in a park. The Equality and Anti-Discrimination Ombud addressed the case on its own initiative and concluded that there was reason to believe that the ambulance crew had acted in violation of the prohibition on discrimination based on ethnicity when the man did not receive the medical assistance to which he was entitled. The case was appealed to the Norwegian Equality Tribunal, which reversed the ombud's assessment and concluded that the case did not constitute breach of the Anti-discrimination Act.

On the basis of this case, the Government carried out a survey in which all state authorities were asked to describe what was being done to combat ethnic discrimination in the public sector as well as any cases of ethnic discrimination/differential treatment by public authorities. The ombud was given the task of summarising the survey. A third of the state authorities did not respond. Of those that responded, many made reference to measures implemented to prevent ethnic discrimination in their own enterprise; much had been done by a few, while some stated that they had no such measures in place. The report showed that the work on preventing and dealing with ethnic discrimination in the public sector was not general or systematic.

In 2010, a new 'ambulance case' emerged, but it did not give rise to as much of a debate, although the woman in question died. Reference is made to the NGO report in which both this case and the first 'ambulance case' are described in more detail.

Even though the welfare state is well established in Norway, there is a

relating to social inequality in the health sector. This largely affects ethnic minorities because immigrants have a considerably higher risk of persistent financial poverty than the Norwegian population at large. Specialised services and preventive services are used more by groups with high socio-economic status, while emergency services are used more by low-status groups.

In a survey of living conditions that was published in 2009, over half of the immigrant respondents said that they had experienced discrimination in one or more areas of society. As regards health, 80% thought that they had received the same treatment as a Norwegian patient would have received, while 7% thought that they had received inferior/poorer treatment because of their immigrant background. In another survey conducted among immigrants, more than 83% stated that they were satisfied with the medical treatment they had received.

The fact that so many say that they are happy with the health service is a good thing, but the ombud nonetheless feels that there is a need for surveys that compare health services for different groups in terms of equal access, communication and quality of service.

A 2010 survey among medical students in Oslo showed that they are not taught enough about minorities and health in the course of their studies, including about topics such as mental health and the use of interpreters in clinical interviews.

In a report from 2008, the Norwegian Medical Association listed ten factors that could provide better health services for non-Western immigrants. Among other things, the report called for more knowledge in all parts of the health services about illnesses among immigrants and their understanding of their own health and health problems, and it proposed strengthening and organising the health service in a manner that ensures equivalent provision for non-Western immigrants.

### **Recommendations:**

- The ombud recommends that the State ensures equality in public services through the following initiatives:
  - Knowledge about discrimination and equivalent service provision must be included in all relevant programmes of professional study and in the training of service providers.
  - Knowledge about discrimination and equality in public services must be included in all management training at the state, county and municipal levels.
  - The activity duty of public authorities must be made better known, and the offer of guidance to service institutions must be expanded.

- The efforts of public authorities to prevent discrimination and promote equality in public services must be subject to regular evaluation.
- More research on health services that can compare accessibility, service adaptation and the quality of service in different groups of the population.

## **Language barriers and inadequate language accommodation in the health service**

The Patients' Rights Act stipulates requirements for adapted patient information. However, many official reports show that there is a need for better procedures relating to the use of interpreters in connection with medical examinations and treatment. The reports reveal inadequate and insufficient use of interpreters, and the use of private assistants, family members and unqualified interpreters. Moreover, minors are also used as interpreters.

Inadequate interpreting and interpreting by unqualified persons can represent a significant health risk. For example, a 2007 study from the Norwegian Institute of Public Health showed that women from non-Western countries who give birth in Norway give birth to twice as many stillborn babies as others, and that this may have to do with communication problems because of the failure to book an interpreter. Another example is a woman who almost got sterilised because the interpreter had incorrectly translated the woman's wish for contraception. Norwegian studies have also shown that women from non-Western backgrounds are over-represented among those who request an abortion before and after the 12th week. The average duration of the pregnancy at the time of application for an abortion after the 12th week was also longer among non-Western immigrant women. This can possibly be explained by a lack of knowledge about the Abortion Act and the time limits that apply in that context. The same type of women is also over-represented in relation to Western women among those whose applications for abortion are rejected on social grounds. This is related to language problems that can contribute to the woman being unable to present her case.

The Directorate of Integration and Diversity's (IMDi) survey of primary doctors and the interpreting services shows that 60% of the primary doctors believe that incorrect treatment/malpractice can occur as a result of a patient's inadequate Norwegian skills. IMDi's survey shows that professionals themselves are worried about due process protection as a result of not using interpreters. IMDi's report 6-2007 shows that the primary doctors believe that the patients' lack of Norwegian skills mostly affects the doctor's ability to discover symptoms. Many doctors also believe that wrong diagnoses and treatment can occur, and that patients' statutory right to participation is undermined as a

consequence of the patient's lack of Norwegian skills.

In its 2008 report *Likeverdige helsetjenester* ('Equality in health services'), the Norwegian Medical Association states that qualified interpreters are not used enough by the health services. The report stresses that the treatment quality may be reduced as a result of the failure to use interpreters. It is pointed out that a scheme must be introduced whereby consultations where interpreters are used are financed other than over the institution's operating budget.

In its interim report (2009), the European Commission against Racism and Intolerance 2009, which is tasked with monitoring human rights in the member states of the European Council, also took a critical view of the use of interpreting services in the health sector and legal system in Norway. The Commission recommended that Norwegian authorities increase the accessibility and use of qualified interpreters in these areas and requested that priority be given to implementing this recommendation in the course of the next two years.

Here, the ombud has chosen to focus on language-related challenges in the health services in particular. However, our recommendations apply to the public sector as a whole, as language barriers are experienced in the whole public sector.

The ombud recommends that the State ensures that all public agencies that have contact with the public must earmark budget funds for interpreting services and for accommodating multiple languages.

The ombud recommends also that the State ensures that all state employees who have contact with the public attend courses in the use of interpreters.

Finally the ombud recommends that all state enterprises use the Instructions for equality impact assessment, in order to identify the need for accommodating languages and to implement necessary measures.

### **Recommendations:**

- The ombud asks that CERD urge the State to ensure that the right to a professional interpreter be laid down by law, e.g. the Public Administration Act.

### **Negative attitudes towards marginalised immigrant groups – a growing problem**

The UN's Special Rapporteur on Racism and Xenophobia has previously warned against increasing islamophobia throughout Europe, and especially against political parties with islamophobic tendencies gaining

more and more positions in various parliaments.

Based on what is reported in the media, it is easy to get the impression that the tone used in certain internet forums can be quite hostile, and that smear campaigns against Muslims are common. Such defamation is not prohibited by the Anti-discrimination Act unless it is directed at individuals, but the ombud can point to this in its capacity as initiator, and has done so on several occasions. One relevant question is whether those who administer online forums are discriminating when they treat the defamation of different groups differently, for example if they are more tolerant in relation to smear campaigns against Muslims than smear campaigns against other minority groups.

Another relevant issue concerns persons with a liberal view of their own religion versus persons with a conservative view of religion. In Christian communities, it is usually the conservative members who feel marginalised, while in Muslim communities, more liberal members claim that they are marginalised and smeared.

As elsewhere in Europe, it is an ongoing issue that not least conservative Muslims are associated with fundamentalism. To what extent this takes place is difficult to say, but it is an issue that we need to be aware of, as it may lead to increased discrimination.

There have also been some cases in the media about Jewish school-children being harassed and bullied at school because of their Jewish backgrounds, most often by children from Middle Eastern minority backgrounds. This was especially an issue in connection with the war in Gaza, when Norwegian Jews felt that they were held accountable for actions carried out by the State of Israel. The ombud has not considered any such cases, and cannot say how widespread this problem is.

In a survey carried out by a Norwegian newspaper in 2010, 61% of the respondents stated that conflicts between the Western and the Muslim world represent a great threat. The year before, 55% agreed with the same statement. People expressed more concern about such conflicts than about the climate crisis. Another survey conducted by a Norwegian periodical in 2009 showed that, between January and March 2009, the Norwegian media had more than five times as many stories about Muslims and hijab than about the climate crisis. A third survey carried out by IMDi showed that there were about as many media headlines about Islam and Muslims in 2009 as about the Norwegian Prime Minister, and more than about swine flu. The report concluded that the Norwegian media's coverage of immigration and integration cases is polarised and often focuses on problems. It also showed that some groups, especially Somalis and Muslims, get more attention and negative focus than others.

This shows that there is a strong focus on Islam and Muslims in the public debate and that very strong opinions are often expressed without nuances or facts. Some express concern that traditional aspects of the Norwegian culture will disappear, others fear increased segregation, and others again fear that democratic values such as equality and freedom of speech are under attack. Some contributions, especially on the internet, are clearly racist in relation to Muslims.

In such a climate, it is important that the politicians and the authorities acknowledge that prejudice and Islamophobia result in poorer quality of life, discrimination and, at worst, violence. This means that they must work actively against any signs of the 'us' and 'them' rhetoric, contribute facts to debates and refer to Muslims and other minorities in an inclusive way. Although Norway has so far been spared the most severe consequences of the financial crisis, it has also affected people here, including in the form of increased unemployment. This can make it easier for prejudice and racism to gain ground, something that the authorities need to guard against.

The ombud is particularly concerned about the way Rom beggars and Rom/Romani are referred to by the media, especially when official representatives of the police and the prosecuting authorities are quoted. The ombud has seen several cases in which criminal offences committed by individuals have been referred to in general terms as having been committed by Gypsies, travellers or Rom beggars. For example, the police have repeatedly been quoted under headlines such as 'The Gypsies are coming', 'Gypsies forced girls into prostitution and begging', 'Typical confrontation in the Gypsy community'. The issue has been raised with the Directorate of the Police.

In the ombud's view, official representatives have a particular responsibility to be careful and ensure that their statements are not repeated in a manner that affects an entire community. The ombud fears that the police in particular contribute to weakening the due process protection and to justify defamation and offensive comments directed at national minorities. Experience from Europe, where serious acts of violence have been committed against the Rom community, calls for more awareness than what is found to be the case today.

The ombud calls for an increased number of specific government initiatives, such as more targeted investigation and prosecution in cases of serious defamation. In the ombud's view, the National Criminal Investigation Service's (Kripos) hate crime hotline should be made more publicly known.

**Recommendation:**

- The ombud recommends that CERD urge the State to strengthen its effort to combat prejudice and negative stereotyping in the public

public sphere. Public spokespersons should feel a particular responsibility when they are quoted in the public debate.

- The ombud recommends that CERD urge the State to improve its efforts and carry out more targeted work, investigation and prosecution in cases of serious defamation.

## **Victims of prostitution and human trafficking are let down**

The ombud would like to point out that Norway is obliged by international conventions to prevent, combat and punish human trafficking. Norway is in the process of preparing the fourth national action plan relating to this topic. The third action plan states that measures must be put in place to 'ensure the victims adapted services and protection' and that 'lead to more human traffickers being identified and prosecuted'. Although the Government uses phrases such as 'overall, adapted, coordinated and tailored services' for victims of human trafficking and prostitutes who wish to leave prostitution, national surveys and reports from relief efforts show that the services offered to women and men are random and fragmented, and depend on their legal status as immigrants. Making the rights of this group effective is complicated by immigration policy considerations on the one hand, and immigration law and criminal law on the other. Criminal prosecution has held an important place in the fight against human trafficking and been a precondition for offering assistance to and protection of the victims

The accessibility of healthcare services and accommodation for women and men who have experience of prostitution currently depends on their legal status / residence status. This result in an unequal access to important public services and differential treatment on the basis of national origin. If the victims are incapable of or unwilling to cooperate with the police, they are not entitled to safe housing, healthcare or a work permit. Only a few satisfy the requirements for cooperation and necessity and are allowed to stay in the country. The rest of the women and men are identified but never get to the point where they become recipients of adequate help. They end up as dropped cases, subjects of negative decisions by the Directorate of Immigration (UDI) and return cases. The reflection period of six months ensures that the women have rights on paper, but not in reality. The threshold for being granted asylum is very high.

### **Recommendation:**

- The ombud recommends that CERD urge the State to strengthen its efforts in relation to victims of human trafficking and to ensure that they have sufficient access to basic services and rights such as healthcare, housing and protection.

## State efforts to combat female genital mutilation (FGM)

The third government action plan against female genital mutilation applies to the period 2008–2011. The action plan stipulates a total of 41 measures. In 2010, the Government made available nearly NOK 18 million for different measures aimed at combating female genital mutilation. There is strong disagreement in Norway about what measures should be implemented to prevent and detect female genital mutilation. One of the measures in the action plan for 2008–2011 is a scheme whereby victims are offered someone to talk to and a voluntary clinical gynaecological examination. The scheme includes all girls and women who come from areas where the prevalence of genital mutilation is 30% or more. The scheme is organised by the public health centres and school medical service and was launched in selected municipalities and city districts in autumn 2009. The Directorate of Health has prepared information material for the groups involved and guidelines for health personnel in connection with the scheme, and the plan was to make the scheme nationwide from 2010.

The ombud and others have expressed concern about the effect of measures aimed at certain ethnic groups. It is particularly worrying if the measure helps to create a lack of trust between the target group and public service institutions, such as schools, kindergartens, the police, the child welfare services and the health services. The measure has not been evaluated. To make it possible to evaluate the effect of this measure, in terms of the experience of both the target group and the first-line services, the ombud will ask the authorities to map and analyse the extent to which the measure has been implemented and the experience so far.

In 2009, the ombud received an enquiry from the Institution Against Public Discrimination (OMOD). OMOD asked the ombud to assess whether the first-line services use racial profiling in their assessment. The case is still under consideration.

The ombud has also considered two individual complaints relating to FGM. Both complaints come from parents who feel discriminated against because of the first-line service's handling of suspected FGM. The cases reveal a need for competence-raising in the first-line services, both as regards FGM in Norway and as regards the correct approach on suspecting that FGM has been or will be carried out. The impression is also confirmed through the ombud's outreach activities in relation to various players and organisations involved in preventive work against FGM, and persons and communities targeted by the various measures against FGM. The ombud also recognises a need for the authorities to assess the quality and use of existing guidelines. The ombud is also concerned about the lack of due process protection for the parents involved.

The ombud also sees the need for mapping the possible extent of FGM in Norway. At present, the development of national policies is largely based on practice and extent in the countries of origin.

### **Recommendations:**

- The ombud recommends that the State is asked to document the following in its preventive FGM work in Norway:
  - The State should document the extent of and attitudes towards FGM among target groups in Norway.
  - The State must look into the consequences of measures targeting specific ethnic groups, and especially the due process protection of the target group.
  - The State should evaluate the quality and use of existing guidelines and manuals for the first-line services and their work to prevent and discover FGM.
  - The State must ensure and improve the knowledge and ability to respond of organisations and other players involved in preventive work aimed at the target groups.

### **Crisis centre services for women from minority backgrounds**

Statistics from Norwegian crisis centres show that, for many women from minority backgrounds, the crisis centres are a very important service in times of crisis. In 2009, women from ethnic minority backgrounds represented 61% of the residents at Norwegian crisis centres. At nine centres, the proportion of women from minority backgrounds was 70% or more. The over-representation of women from ethnic minority backgrounds applies to all Norwegian counties (Jonassen and Skogøi p. 63).

That women from minority backgrounds are over-represented in the crisis centres may be related to many of them not having their own income and having less of a social network than ethnic Norwegian women. A good and accessible crisis centre service is therefore important in relation to providing protection against violence for many women from minority backgrounds, cf. the Convention on the Elimination of All Forms of Racial Discrimination Article 5.

*New funding model can lead to poorer crisis centre services for women from minority backgrounds.*

The Act relating to Municipal Crisis Centre Services (the Crisis Centre Act) entered into force on 1 January 2010. Pursuant to the Act, all Norwegian counties have a duty to provide crisis centre services for both women and men. One consequence of the new Crisis Centre Act is that the crisis centres, from 2011, are fully financed by the municipalities, so that the government grants for the crisis centres will be incorporated in the

in the municipalities' financial frameworks. The earmarked government grants to the crisis centres are thus discontinued from 2011. By transferring the funding of the crisis centres to the municipalities, the crisis centres must compete with other statutory measures in the municipalities and follow ordinary allocation criteria (Aktiv dødshjelp til krisesentrene? ('Assisted killing of the crisis centres?') by Wenche Holmberg Nielsen. Published in Kommunal Rapport on 27 May 2010). The changed funding has meant that most crisis centres in the country have been warned of budget cuts. The ombud fears that several of the country's crisis centres will have to close down as a consequence of being fully funded by the municipalities.

The Storting has made appropriations of NOK 15 million in 'emergency aid' for crisis centres that will experience economic problems as a consequence of the changed funding. The amount is a lump sum for 2011 from which the municipalities can apply for grants. Whether the amount is big enough and whether it will improve the situation for the crisis centres is uncertain (see news story from the Norwegian Broadcasting Corporation (NRK): <http://www.nrk.no/nyheter/distrikt/ostfold/1.7384216>). Moreover, the lump sum is for 2011, which means that the problems relating to the form of funding are transferred to 2012.

Weakening the crisis centre services will affect minority women, since most of the women living in the crisis centres belong to this group. Tighter finances at the crisis centres will also affect minority women in that many of them risk being rejected by the crisis centres. In a conversation with the ombud, the Crisis Centre Secretariat reported that some minority women are already being rejected by Norwegian crisis centres because they are under such serious threats that keeping them at the centres would be too demanding in terms of resources. According to the ROSA project (Re-establishment, Organising safe places to stay, Security, Assistance) and the Crisis Centre Secretariat, in several cases this has happened to women identified as victims of human trafficking, but it has also happened to other women from minority backgrounds. The ombud finds that this warrants severe criticism.

*It is unclear what is meant by the condition in the Crisis Centre Act that women and men shall be physically separate.*

The Crisis Centre Act section 2 fifth paragraph stipulates that accommodation for women and accommodation for men shall be physically separate. What this entails is unclear. Some crisis centres offer accommodation for women and men at the same address.

The ombud takes a critical view of co-localisation of crisis centre services. In the ombud's view, this organisation of the services can weaken the safety of women and of minority women in particular.

The ombud is also concerned that joint crisis centre services for men and women can lead to some women, on the basis of their culture or religion, not wanting to use the services. According to the 2009 report *Menn på kritesenter* ('Men at crisis centres'), some women, and especially women from minority backgrounds, are sceptical towards male residents at the crisis centres. The women who were interviewed in the report were mostly concerned about how it would be if women and men had to share premises, i.e. bathrooms etc. In the ombud's view, the same problems will be relevant as long as the accommodation is located at the same address, for example shared outdoor areas. The ombud can also see that it may be difficult for some minority women to return to their social network after having stayed at a crisis centre with men.

The municipal crisis centre services are not adapted to women who, for various reasons, need a safe place to stay for a prolonged period. The crisis centre is an emergency service. Surveys show that the users appreciate staying at a crisis centre during a phase of acute need (Jonassen and Skogøy 2010, p. 124). However, a crisis centre is not a good offer of long-term accommodation for women (Jonassen and Skogøy 2010, p. 125). Many women stay at crisis centres for a long time due to a lack of alternative accommodation. Very few of the women who have stayed at crisis centres for a long time have accommodation alternatives.

Statistics from Norwegian crisis centres show that women from ethnic minority backgrounds stay longer at crisis centres than ethnic Norwegian women. While ethnic Norwegian women on average stayed 22 days at crisis centres in 2009, the average period for ethnic minority women was 36 days (Crisis centre statistics 2009).

Users of the crisis centres who are victims of human trafficking stay there the longest. According to the 2009 statistics, the average period of stay for these women was 90 days (Crisis centre statistics 2009). However, several of these women had stayed at crisis centres for several years (conversation with ROSA, among others). An evaluation of the ROSA project in 2008 clearly showed that the women find it problematic and difficult to stay several years in an emergency facility (Dyrlid and Berg 2008).

The ombud finds it highly unfortunate for the re-establishment and integration of these women that they are not offered any real alternative accommodation to the crisis centre. Statistics from Norwegian crisis centres in 2009 showed that, more so than other women, women from ethnic minority backgrounds tended to return to the abuser after their stay at the crisis centre (Crisis centre statistics with comments from 2009).

Although the ombud highly approve the strengthening of the legal framework for crisis centres, we still see some major challenges that need specific attention.

### **Recommendations:**

- CERD should request that Norwegian authorities ensure sufficient and more predicable financing of Norwegian crisis centres.
- CERD should ask Norwegian authorities to ensure that women who currently stay at crisis centres for a long time are offered alternative accommodation within a reasonable period of time. The Commission should in particular request that victims of human trafficking be offered alternative accommodation.
- CERD should ask Norwegian authorities to ensure that the municipalities play a greater role in helping minority women who have been victims of violence to enter the housing market.

### **Lack of coordinated public services available to women who are victims of violence**

A lack of coordination of public services means that many women who are victims of violence, especially women from minority backgrounds, are unable to exercise their rights.

On the basis of various reports and experience of individual cases, the ombud has noted that women who are victims of violence experience difficulties in gaining access to the public services to which they are entitled. The lack of coordination especially affects women who do not have a social network, who have inadequate Norwegian skills and knowledge about the Norwegian system, and who, due to their ethnicity, face barriers in the housing market and employment market. The consequences of inadequate coordination of public services are therefore particularly harsh for women from minority backgrounds.

Access to public services and support services is necessary for women who have been victims of violence. Surveys show that women from minority backgrounds to a greater extent than ethnic Norwegian women need practical assistance and referral to other support services (Jonassen and Skogøy 2010, p. 102). Both in the acute phase and in a transitional phase, women are often in great need of assistance from public services, including assistance with finances, housing and health (Nilsen and Prøis: *Fra krisesenter til eget lokalmiljø* ('From crisis centre to own local community') 2002 p. 11).

The problem of inadequate service coordination is discussed in the report *Fra krisesenter til eget lokalmiljø* from 2004. According to the report, one of the minority women in the project was in contact with 58 public and private bodies in connection with moving from a crisis

centre to her own home. She had to relate to between 110 and 120 persons who were involved in her case. The woman had been in contact with the following over a seven-month-period: a lawyer, a social security office, the child welfare services, kindergartens, schools, the before and after-school programme (SFO), the Norwegian Labour and Welfare Service (NAV), an interpreting service, a traffic office, the judicial system/courts, the police, a hospital, a physiotherapist, a maternal home, the County Governor of Oslo, the population register, the tax assessment office, the Directorate of Immigration (UDI), the housing office, OBOS (building association), the bank, Securitas (security company), the public health clinic, the taxi centre, a relief home and a support person.

The new Crisis Centre Act identifies the municipality's duty to coordinate public services for victims of violence. The Crisis Centre Act entered into force in January 2010, and there are therefore no reports or statistics to indicate whether the act has led to more coordinated services for victims of violence. However, through conversations with the Crisis Centre Secretariat, and well as access to individual cases, the ombud has learnt that the situation has not improved since the Crisis Centre Act entered into force. There is still a great gap between the formal and the actual rights of victims of violence. The extent to which the different agencies work together to ensure coordinated public services for victims of violence varies from one municipality to the next. Most municipalities in Norway do not have interdisciplinary measures targeting violence in close relationships (Jonassen and Skogøy 2010). The fact that the municipalities hardly take any responsibility for ensuring good, overall services to women who have been victims of violence means that, in practice, it is the crisis centres that left with the responsibility for coordination. The crisis centres do not have the resources to provide extensive assistance to everybody who is in need of assistance. Some crisis centres receive users from as many as 24 municipalities. Providing practical assistance in the form of coordinating services is therefore a demanding task in terms of resources when left to the crisis centres alone.

Another challenge involved in the municipality's responsibility in practice being transferred to the crisis centres is that not all women who are victims of violence contact the crisis centres. Some women feel that the crisis centre is not a suitable service for them. For these women, it becomes an even greater challenge to get the help to which they are entitled.

### **Recommendations:**

- The ombud recommends that the State ensures that interdisciplinary measures that target violence in close relationships are established in all municipalities, and that each municipality has a designated municipal domestic violence coordinator. The

municipal domestic violence coordinator should work on individual cases in addition to carrying out preventive work and ensuring coordination of public services. The coordinator should also cooperate with the police on individual cases.

- The ombud recommends that the State considers whether to establish a central office for domestic violence cases, to provide guidance to individuals and the public support services.

### **Lack of coordination between different city districts and municipalities**

The fact that municipalities do not allow women in need of municipal housing to move from one urban district to another weakens the women's security. The ombud has received two enquiries from minority women who said that the accommodation offered by the municipality did not safeguard their need for security. In both cases, the women wanted to be placed in accommodation in another urban district to get away from the offender and his family, but their requests were rejected by the municipality. The municipality told the women that it was very difficult or impossible to obtain municipal housing in another urban district. In one of the cases, the woman wanted to file a complaint. However, the woman was told by the municipality that a decision had not been made and that she therefore had no right to complain.

#### **Recommendation:**

CERD should request the Norwegian authorities to clarify why a lack of cooperation between the various urban districts and the municipality is a general problem, and how it can be solved.

### **Violence against women at asylum reception centres**

In 2008, Amnesty International Norway published a report on violence against women at asylum reception centres. The report revealed that the situation of women at reception centres is particularly vulnerable as regards violence, including because many women have previous experience of violence. Based on quantitative data from all the reception centres and qualitative analyses of a selection of reception centres, Amnesty International Norway concluded that women at reception centres lack necessary protection against all forms of gender-based violence, including sexual violence. The ombud has previously stressed the importance of the staffing situation at the reception centres. In order to keep the women safe, reception centres should be staffed 24 hours a day both on weekdays and at weekends. Reception centre staff must receive necessary training in the topic of gender-based violence, including various forms of sexual violence and what agencies to contact to ensure that women who have been victims of violence are provided with necessary protection and assistance during their stay at the

reception centre.

After publication of Amnesty International Norway's report, NOK 30 million was made available for measures to ensure the safety of women at reception centres in Norway. So far, NOK 25 million of this amount has been spent on better safeguarding of women at reception centres, among other things through making physical improvements to protect single women. The final report will be published in 2011.

The ombud recommends that the following security measures at reception centres should be implemented as soon as possible:

- Based on the UDI's final report, the authorities should initiate a systematic survey of all the reception centres in Norway in order to evaluate whether the funds earmarked for improving the safety of women at reception centres are employed as intended. Mapping and evaluation should be based on specific and expressed minimum standards defined by the central authorities.
- Reception centres should be staffed at all times. Fixed night-duty and weekend rotas should be established at all reception centres.
- Reception centre staff should be given systematic training in the topic of violence in close relationships and other gender-based and sexual violence.
- Reception centre staff who are informed about violence, threats of violence, harassment or other forms of sexual abuse must take immediate action to protect the individual(s) concerned against such violence. Common procedures should also be established for registration by all reception centres of violence against women and women's experience of violence.
- Procedures must be established to assist women who experience violence during their stay at the reception centre. Everybody who works at a reception centre must learn about these procedures. There should be a common standard for these procedures, which should apply to all reception centres.

## The right to move freely

The introduction programme limits the participants' right to move freely within Norway. This is because the right to participate in an introduction programme is primarily linked to the settlement municipality. Insofar as participants, for various reasons, wish to move to another municipality, participation in the introduction programme can continue provided that the move is agreed between the municipalities in advance. However, the municipality to which the asylum seeker moves is not obliged to offer an introduction programme in such cases. Surveys carried out by for example Fafo (report 2007:34) and figures collected by Statistics Norway show that refugees move less and only after having lived in one place longer than used to be the case before the introduction programme was introduced.

Norway's public care functions used to be organised in a similar way pursuant to the 'right of municipal domicile'. In principle, the regime was such that nobody was entitled to poverty relief unless they could document a connection to the municipality of a certain duration, usually two or three years. The regime was abandoned, among other things because it was found to be undignified.

In the annual report for 2009, the Health and Social Services Ombudsman in Oslo stated:

#### *SETTLEMENT OF REFUGEES*

*The Health and Social Services Ombudsman receives a number of queries from people who have entered Norway as refugees or asylum seekers. Like Norwegian nationals, most foreign nationals are entitled to move when and where they like. However, the rights of foreign nationals to social security benefits are limited compared with Norwegian nationals.*

–

*The residence municipality's duty to provide assistance is limited in relation to people who reside in the municipality by agreement between the immigration authorities and the settlement municipality. It follows from the Regulations on foreign nationals' rights to social services section 1–2 that, in principle, the residence municipality can refer a person requesting social security benefits back to the settlement municipality. This only applies in those cases where the settlement municipality receives an integration grant, the move has not been agreed between the municipalities and the foreign national does not have a standing offer in the settlement municipality.*

The ombud is concerned that important challenges relating to integration are dealt with by establishing parallel schemes for different ethnic groups in which basic public-care principles are deviated from in the schemes that apply to ethnic minorities. This development is incomprehensible, particularly in light of what must be regarded as the successful establishment of the Norwegian welfare state. Through making every person who needed it an offer that was so good that it could not be refused, everybody was integrated in the norms and values of the middle class and offered an opportunity for change without losing their dignity.

The ombud is concerned about those who choose to move other than by agreement with the municipality, both as regards the social distress that they may experience when they receive no assistance from the municipality in which they reside and as regards the potential long-term consequences of the move in terms of meeting the language requirement on applying for citizenship. Many of these cases concern whole families, often with small children.

## Recommendations:

- The ombud recommends that CERD urge the State to ensure that the needs of individuals who move between municipalities are met in terms of rights and social benefits wherever they live.

## Right of access to all locations

Travellers who maintain the traditional way of life and travel around encounter many obstacles in Norway today. This applies to Norwegian nationals as well as those who enter Norway on a tourist visa. The grounds on which they are denied access vary and often relate to more or less specific references to previous poor experience. The grounds for denying access seldom have to do with specific episodes or persons that can be documented – reference is most often made to national minorities as a group. To some extent, the poor experience that is referred to seems to concern minor episodes that took place a long time ago.

The ombud has been contacted by individuals in approximately ten cases that concerned equal right of access to locations. Camp sites predominated, but restaurants etc. have also denied people access. In such cases, there is no balance of strength between the parties in that the proprietors are, without exception, represented by a lawyer, while the complainant never is. This makes it particularly demanding to respond to the complainant's arguments in the case.

The situation can be summed up as follows:

- It is well-documented that Rom/Romani people are systematically denied access to restaurants etc. and camp sites on the grounds that they belong to a national minority. To the extent that 'situation-testing' is carried out in order to identify discriminating exclusion, the ombud finds that State doesn't ensure that the group of inspectors identify other dimensions relating to exclusive social identities (inter-sectional discrimination). National minorities are sometimes denied access to restaurants etc. that do not otherwise deny access to people from a foreign background.
- The police will assist proprietors in removing Rom/Romani people regardless of whether complaints are made about discrimination. The ombud finds that State doesn't ensure systematically the quality of the police work of their first-line organisation, so that members of the police do not collaborate with proprietors and contribute to discrimination at camp sites and restaurants etc.
- The police do not request documentation or evidence to substantiate the alleged poor experience of proprietors.

The ombud recommends that the State establishes a Nordic collabora-

tion on necessary measures. Access to camp sites, for example, is said to be easier in Sweden than in Norway.

### Recommendations:

- The ombud recommends that CERD urge the State to implement concrete measures to solve this problem, in addition to the dialogue with representatives of the organisations. The problem has been adequately documented.

### The right to work

The ombud's complaint cases show that discrimination in the workplace/ employment market is a considerable problem for the immigrant population in Norway. The employment market is the socioeconomic area concerning which the ombud receives the highest number of enquiries.

Research also shows that immigrants as a group face other barriers in the workplace/ employment market than the population at large. In this context, reference is made to *Mangfold og likestilling i arbeidslivet* ('Diversity and equality in the workplace/ employment market'), Fafo report 2010:39 by Kristian Rose Trondstad. He raises the question of what problems equality measures must address, p. 23:

'The lower employment rate among immigrants, their over-representation in certain trades and the fact that they hold positions that are subject to lower qualification requirements than their education would indicate, are not alone proof of discrimination. Different employment outcomes between immigrants and the population at large can have many causes, but extensive differences may be an indication that immigrants encounter particular obstacles.'

He refers to the difference in employment between immigrants and the rest of the population having remained stable for the past 20 years. The unemployment rate among immigrants has been twice as high or more throughout the period, while immigrants from Asia and Africa are three to five times as likely to be unemployed as the rest of the population. When the unemployment rate drops in the population at large, it also drops among immigrants, but at a later stage. 'This suggests that immigrants are the first to be pushed out of the labour market during economic downturns and the last to return when the economy recovers.'

Many of the ombud's guidance and appeal cases concern the practicing of religion at work, especially the use of headgear (usually hijab), the right to prayer breaks, time off on religious holidays and requirements in job advertisements concerning applicants' religious affiliation.

Based on the enquiries we receive, it seems that women in particular are subject to discrimination on the grounds of multiple factors – gender, ethnicity and religion (the use of headgear). Men often make enquiries about adaptations in the workplace such as the right to take time off, prayer breaks etc. We do not have statistics or research reports that directly concern discrimination on the basis of religion in Norway.

The most widely debated case concerning religion that the ombud has considered was the question of a prohibition on the use of headgear as part of the police uniform (case 08/1528). The ombud and the Norwegian Equality Tribunal decided that the Department of Justice and the Police had not substantiated that a prohibition on the use of headgear was necessary to ensure neutrality, peace and order, and concluded that the prohibition was in breach of the Anti-discrimination Act and the Gender Equality Act.

However, the State has not followed this up by changing the uniform regulations in accordance with the conclusion. The authorities have based their arguments on the public not wanting the police to wear hijab. In the ombud's view, the State's attitude contributes to undermining the purpose of a protection against discrimination, which is to safeguard the protection of human rights for individuals when such rights come into conflict with the needs and wishes of the majority.

In the wake of this discussion, the ombud has also noted that several key players, including voluntary organisations, questioned the legitimacy of the ombud, as the State chose not to comply with the ombud and Norwegian Equality Tribunal's conclusion.

### **The activity duty and reporting duty**

Since 2009, an activity duty and a reporting duty relating to ethnic equality have been included in the Anti-discrimination Act. The provision entails a duty for all public authorities and all private employers with more than 50 employees to make active, targeted and systematic efforts to promote ethnic equality. The act mentions specifically that it applies to recruitment, promotions, development opportunities, pay and working conditions and protection against harassment.

The reporting duty entails a duty to report about measures to promote equality, while considerations of privacy protection prevent the reporting of factual information regarding the ethnic composition of an organisation. The limited reporting duty is problematic because factual information about the organisation is important when an enterprise, in accordance with the activity duty, is to assess its own challenges relating to equality and the need to implement measures.

It is therefore important that the State considers making full use of existing central registers to obtain available data on ethnic composition

and other overviews of the equality situation in enterprises. These overviews should be made available to the enterprises.

So far, we have limited experience of the activity duty and the reporting duty. The ombud's experience is that the municipalities' reports often fail to comply with statutory requirements.

Immigrants from non-Western backgrounds are over-represented in trades and occupations that require no education. This is due to discrimination in recruitment, but also that, more so than the general population, immigrants lack formal qualifications. A lack of formal qualifications is therefore an obstacle to a permanent job and development opportunities for many immigrants. Among other things, this applies to the care sector, where many first-generation immigrants work and where the high demand for labour will continue in the future. The State should ensure that this group is ensured educational opportunities in the trades or occupations in which they work.

### **Recommendation:**

- The ombud asks that CERD urge the State to ensure that the duty to report pursuant to the Anti-discrimination Act is extended to include factual information about the organisation, which is important when an enterprise, in accordance with the activity duty, is to assess its own challenges relating to equality and the need to implement measures to remove the barriers.
- The ombud asks that CERD request the State to consider establishing an adapted education offer for non-Western immigrants who work in trades where there is a need for more formal qualifications.

### **Access to effective legal remedies**

The ombud makes reference to the Committee's concluding observation no 5.

Neither the ombud nor the Norwegian Equality Tribunal is qualified to grant compensation or damages, cf. the Anti-Discrimination Ombud Act sections 3 and 6. This means that even if a person wins support for his/her claim that the Anti-discrimination Act has been breached, he/she is nevertheless dependent on access to the ordinary courts to be granted compensation and/or damages cf. the Anti-discrimination Act section 14. Moreover, a lack of access to the legal system is critical in cases in which the parties have failed to reach an agreement after the ombud and the tribunal have found that an offence has been committed, and the case is a matter of principle.

The problem is, however, that bringing a case before the regular courts is very expensive and that the legislation relating to free legal aid does

not recognise a special need for free legal aid in cases concerning ethnic discrimination.

The rules governing free legal aid are laid down in Act no 35 of 13 June 1980 relating to free legal aid (the 'Free Legal Aid Act'). This act draws a distinction between two types of cases: 1) priority cases 2) non-priority cases.

1. Priority cases are types of cases in which a person is entitled to free legal representation.  
There are two types of priority cases: with means testing – i.e. types of cases in which legal aid is only granted if the person in question has a gross income and a net wealth below a certain limit, and cases without means testing – i.e. types of cases that are deemed to be particularly invasive for the person in question, where free legal aid is granted independent of the applicant's gross income and net wealth.
2. Non-priority cases (second case type), i.e. types of cases for which free legal aid is only granted as an exception if the applicant meets the financial conditions and, objectively speaking, the case is particularly important to the applicant. In the assessment, particular emphasis shall be placed on whether the case has similarities with the prioritised cases.

As regards cases in which a person has been discriminated against on the basis of ethnicity, i.e. cases covered by the UN Convention on Racial Discrimination, these types of cases are considered to be non-priority cases. This means that free legal aid can only be granted on application in exceptional cases and if the person in question meets the financial conditions.

This is one of the reasons why there have been very few cases concerning ethnic discrimination in the Norwegian legal system, and case law are therefore scarce.

In light of the fact that neither the ombud nor the tribunal are qualified to grant compensation or damages to a person whose claim that he/she has been discriminated against on the basis of ethnicity has been supported, it is especially unfortunate that it is so difficult to be granted free legal aid in these types of cases.

The current practice also means that, even if the ombud or the Norwegian Equality Tribunal recommends legal proceedings, the County Governor will not necessarily grant free legal aid.

If this situation is compared to a situation in which legal proceedings are recommended by the Parliamentary Ombudsman concerning a breach of the Public Administration Act, it is evident that there is a high degree of differential treatment. In cases in which the

Parliamentary Ombudsman has recommended legal proceedings, the person in question is entitled to free legal aid, regardless of income. This means that this type of case has first priority, while cases involving ethnic discrimination, where legal proceedings are recommended by the ombud and the tribunal, are non-priority cases.

The right to free legal aid is currently under consideration in Norway. In Report No 26 to the Storting, Offentlig rettshjelp ('Free legal aid') (2008–2009), section 9.3.3.8 on free legal aid to certain groups discusses whether free legal aid should be granted to the private party in cases where legal proceedings are recommended by the ombud or the tribunal, in line with the system that applies to legal proceedings recommended by the Parliamentary Ombudsman, as mentioned above.

It is acknowledged that trying more discrimination cases before the court can contribute to a more effective enforcement of the regulations. In this context, the ministry states that it should be more closely considered whether free legal aid should be granted without means testing in cases where legal proceedings have been recommended by the ombud or the tribunal.

### **Recommendations:**

- The ombud asks the State to consider if cases in which the ombud or the Norwegian Equality Tribunal has recommended legal proceedings receive equal treatment with cases in which legal proceedings are recommended by the Parliamentary Ombudsman. This means that free representation should be granted without means testing.

### **Protection against discrimination of gay and lesbian persons from minority backgrounds**

The ombud makes reference to the summary in sections 247 to 250 about the situation for lesbian and gay persons from ethnic minority backgrounds (immigrants and Sami people).

The ombud also makes reference to the report Likeverd 2009 ('Equality 2009') published by SEIF (Selvhjelp for innvandrere og flyktninger – 'Self-help for immigrants and refugees'), which is a summary of the organisations' work among lesbian, gay, bisexual and transgender (LGBT) persons. The report refers to the fact that the number of persons contacting SEIF has increased by 32% in one year. SEIF knows of several cases in which homosexual children of first-generation immigrants have been victims of serious acts of violence from someone in their immediate family. Attempts at forced marriage is also known to be a problem.

Norwegian authorities – through IMDi in particular – are involved in

extensive work on combating forced marriage as a phenomenon. In this work, there is little focus on gay and lesbian persons who are victims of forced marriage. The authorities often grant financial support to voluntary organisations such as Skeiv Verden (network organisation for LGBT persons from immigrant backgrounds) to enable them to work on these issues. This is good, but it is a problem that it seems as if the authorities do so instead of including this aspect in their own preventive work against forced marriage.

Furthermore, the ombud is of the opinion that there is a general lack of mainstreaming of the LGBT perspective in the integration policy. In the Government's action plan for improving the situation for LGBT persons (2009–2012), the topic of LGBT persons from ethnic minority backgrounds has been included, while it has nearly been omitted from the Government's action plan to promote equality and prevent ethnic discrimination (Handlingsplan for å fremme likestilling og hindre etnisk diskriminering. 2009–2012).

It is especially important to mainstream the LGBT perspective in the work on improving the situation and living conditions for the immigrant population and Sami people. In general, the authorities carry out extensive work relating to ethnicity, religion and sexual orientation, but there is a need for an overall intersectional approach.

The ombud participates in an inter-ministerial coordination group consisting of the various ministries and directorates that are responsible for implementing the Government's adopted measures to improve the situation and living conditions for LGBT persons (Handlingsplan for bedre livskvalitet for lesbiske, homofile, bifile og transpersoner 2009–2012). The Government's action plan comprises many measures, including measures that target LGBT persons from ethnic minority backgrounds in particular, including surveys of living conditions, research, forced marriage, asylum, training of newly arrived immigrants and dialogue with ethnic minority organisations and religious organisations and institutions.

The challenge is the actual implementation, or lack of implementation, plus the lack of evaluation. So far, no overall status reports have been prepared on the implementation of this action plan, as opposed to the Government's action plan on ethnicity, which was published a year after the Government's action plan for LGBT persons. The status report on ethnicity was published already in 2010.

In the ombud's view, Norway also lacks a comprehensive religious policy that addresses the intersection between religion and rights on the basis of gender and sexual orientation. Like many other countries, Norway is currently faced with the challenge of finding the right balance between freedom of religion on the one hand (regardless of

whether one has a traditional, conservative religious perspective, a more liberal religious perspective or is in favour of freedom from religion), and gay and lesbian persons' right to protection against discrimination.

### **Tuition in social studies for newly arrived immigrants**

In the ombud's view, the introductory course for newly arrived immigrants must reflect the fact that immigrants can also be LGBT persons. In addition, immigrants must also gain knowledge about the fact that LGBT persons have rights that must be respected on a par with rights conferred on the basis of religion and ethnicity.

### **Comprehensive protection against discrimination**

The proposal for a new general anti-discrimination act provides for protection on the basis of sexual orientation in all areas of society, which the ombud supports and has worked to achieve. However, the proposal is not good enough in relation to gender identity and behaviour, a point that was raised by the ombud's consultative statement.

#### **Recommendations:**

- CERD should urge the State to initiate further research on the situation, challenges and effective measures that can improve the situation for lesbian, gay, bisexual and transgender persons from ethnic and religious minority backgrounds.
- CERD should urge the State to mainstream the LGBT perspective in its integration policy, including in the measures against forced marriage.
- CERD should urge the State to develop a comprehensive religious policy and to initiate a closer collaboration between authorities (including the ombud) and religious, ethnic and LGBT organisations.



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