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Supplementary information from the Norwegian National Human Rights Institution to the UN Committee on the Elimination of Discrimination Against Women in relation to the hearing of the 9th periodic report of Norway on 7 November 2017

Reference is made to the Committee's invitation to provide country-specific information prior to the consideration of Norway's ninth periodic report at the Committee's 68th session. Please note that this is an updated and expanded version of our submission to the pre-session earlier this year.

The Norwegian National Human Rights Institution (National Institution) was established 1 July 2015 as an independent institution under new legislation adopted by Parliament. The National Institution has a specific mandate to protect and promote international human rights in Norway, as well as to monitor how the authorities respect their international human rights obligations. Submitting supplementary reports to international human rights treaty monitoring bodies is an essential tool for an NHRI to fulfil its mandate.

We submitted our application for international accreditation to the Global Alliance of National Human Rights Institutions (GANHRI) in December 2016. We are pleased to inform you that our institution was granted A-status after the review in March 2017, recognizing the efforts of the authorities and civil society since the former National Institution was downgraded to B-status in 2012.

We hereby take the opportunity to draw attention to eight issues we suggest that the Committee addresses in its deliberations with and recommendations to Norway. Our submission does not, however, reflect all relevant human rights challenges in Norway within the scope of the International Convention on the Elimination of Discrimination Against Women (CEDAW).

The issues addressed are:

1. Equality and non-discrimination in legislation
2. Monitoring structures – transitional issues
3. Norway's legislative drafting instruction
4. Sami women and health
5. Sexual violence
6. Sexual and domestic violence in Sami communities
7. Women in prison
8. Pay gap

1. Equality and non-discrimination in legislation - the Constitution and other legislation

Reference is made to Concluding Observation 2012, paragraph 10 (a)

In 2014, a human rights catalogue was introduced in the Norwegian Constitution (section E). Paragraph 98 now states that “All people are equal before the law. No human being must be subject to unfair or disproportionate differential treatment.”

The Government presented its proposal for a new comprehensive law on discrimination to Parliament in April 2017, and the new Equality and Discrimination Act was approved in June. It has gone through a lengthy process with several initiatives and draft proposals having been subject to public debate. The new law introduces a specific and comprehensive list of grounds for prohibiting discrimination. Additional grounds introduced include age. Discrimination in the workplace, however, is exempted for the elderly since it is regulated in the Working Environment Act.

The new legislation is a positive step in broadening and clarifying the scope of protection against discrimination. The Act comes into force 01.01.2018. We will monitor implementation of the new legislation.

Suggested recommendation:

- The State Party should monitor and evaluate the impact of the new legislation to verify if in practice it ensures non-retrogression of protection against gender-based discrimination.

2. Restructuring the Equality and anti-discrimination Ombudsman and the Tribunal – transitional issues

Reference is made to Concluding Observations 2012, paragraph 14 (a)

In addition to introducing the new law, the Government proposed major restructuring of the national mechanisms for the protection against discrimination, including gender based discrimination. The purpose is to streamline the individual complaint mechanism on discrimination. The re-established Equality and Anti-Discrimination Tribunal will now be the sole individual complaints mechanism outside the ordinary court system. The tribunal is provided with enhanced powers to award remedies including financial compensation in some types of cases.

The Equality and Anti-Discrimination Ombudsman focuses on monitoring, promotion and prevention, also providing guidance and support to affected individuals.

To secure the success of the reform, the authorities must ensure that restructuring does not weaken the existing competence, especially as a consequence of relocating the Tribunal to the city of Bergen. And furthermore, that special attention, including the allocation of resources, is provided to both institutions during the transitional period.

Suggested recommendation:

- The State party should ensure that a high level of competence is maintained in both institutions after the relocation;
- Measures and resources should be initiated to secure a smooth transition process.

3. Norway's legislative drafting instructions

Reference is made to Concluding Observations 2012, paragraph 10 (b)

Norway has an Instructions for Official Studies and Reports (utredningsinstruksen). This regulation obliges all state entities to consider all "principle questions" including human rights standards, that might arise when preparing government initiatives such as legislative amendments, policies and plans. This legislative drafting instruction was revised 19 February 2016, coming into effect 1 March 2016.

The revised instruction lists the minimum requirements (in question form) to be assessed and addressed when deciding whether and how proposed measures should be implemented. The National Institution notes that the revised instruction does not explicitly require assessment of implications for Norway's human rights obligations, including gender equality and non-discrimination, a departure from the former instruction. The consideration of human rights and gender and equality is now relegated to the accompanying guide ("veilederen") to the instructions, where they are included as two of the many examples of the types of matters of principle that should be considered and described when relevant in the proposal from the Government.

The National Institution is concerned that omission of these considerations in the instructions weakens the implementation of human rights in practice as it makes the state obligation to address and analyse relevant human rights standards in legislative work less explicit.

Suggested recommendation:

- State Party should reintroduce the obligation of human rights analysis in the drafting processes.

4. Sami women and health

Reference is made to Concluding Observations 2012, paragraph 32 (a)

The Committee expressed concerned that Sami women continued to face multiple discriminations, including difficulty in accessing adequate health care, owing, inter alia, to the unavailability of adequate services for Sami women living outside the defined Sami area. The committee called upon Norwegian authorities to ensure that all Sami women are provided with adequate social and health services, including mental health services.

A study from 2010, cited in an Official Norwegian Report,¹ stated that the Sami have poorer self-reported health than Norwegians, and that the health of Sami women is generally poorer than that of Sami men. Sami-speaking women living in typically Norwegian areas had the poorest health of all. Reference is also made to a study from 2015 which states that there is reason to believe that the right to use Sami language in contact with health and care services will have an effect on the Sami people's health and opportunity to obtain qualitatively good treatment.

A research report from 2015, reviews the existing research on discrimination among indigenous Sami people, national minorities and immigrants and their descendants in contemporary Norway.² The report states inter alia that qualitative studies indicate that the Sami risk facing structural discrimination in the public health system. The qualitative studies indicate that the assistance the Sami receive from the Norwegian health-system is deficient due to social and health workers' lack of knowledge of Sami culture and the scepticism that many Sami have towards Norwegian health personnel. These challenges are summarized in the 2016 white paper, and several measures to remedy the challenges are proposed.³

CEDAW article 12 calls upon State Parties to take all appropriate measures to eliminate discrimination against women in the field of health care. The Northern Norway Regional Health Authority will in 2018 co-locate specialist healthcare services in a Sami health centre in the municipality of Karasjok in Finnmark county. The Sami National Centre for Mental Health will also be located here. This co-location of health services tailored for the Sami people should be completed by 2019. There have been some challenges in the establishment of the Sami Health Centre in Karasjok, as representatives from the Sami health institutions have withdrawn from the process in June 2017, due to the lack of trust in the County Health Authority (Finnmarkssykehuset) responsible for the Sami Health Centre project. The representatives for the Sami health institutions claim that Sami views are not taken into account in this process.

Suggested recommendations:

- The state party should provide more information about the process towards establishment of a Sami Health Centre, and how representatives of the Sami people are being consulted and involved in this process;
- Request the State party to include information and data on the situation of indigenous women and on the impact of measures taken to overcome multiple discriminations against them in its next periodic report.

¹ NOU 2016:18 «Hjertespråket, Forslag til lovverk, tiltak og ordninger for samiske språk»

² Midtbøen, Arnfinn H, og Hilde Lidén: «Diskriminering av samer, nasjonale minoriteter og innvandrere i Norge», Institutt for samfunnsforskning Rapport 2015:01

³ Ibid NOU 2016:18

5. Sexual violence

Reference is made to General Observations 2012, paragraph 24 (a)

There are several reports and studies sponsored by the Government indicating that sexual violence is a considerable problem in Norwegian society. One survey conducted by the NKVTS in on Violence and Rape in Norway,⁴ shows that 9% females and 1% males in Norway, have been exposed to rape at least once in their lifetime. More than half of the female respondents said they were raped before the age of 18. The high number of people exposed to sexual violence is further supported by sociological studies and surveys from organizations supporting victims of sexual violence.

Police statistics on sexual violence cases under investigation as of first quarter 2017 (2,655 cases), shows a 70% increase compared to 2013 figures.⁵ This may reflect a higher number of reported cases, rather than increase in the type of criminality. The official figures are commonly agreed among experts and practitioners to be considerably lower than the actual number of cases due to under-reporting.

There is significant disparity between reported cases and those decided by the courts. A 2015 study by the National Criminal Police Authority (Kripos) evaluated police work on sexual violence.⁶ The report found considerable variation in quality and effectiveness of the investigations conducted. As much as 40% of the cases are not investigated in a satisfactory manner. The report also shows a clear relationship between quality of initial investigative actions and successful outcome of the investigation. Improved investigation will ensure justice for victims, and is also likely to increase trust in the system and encourage other victims to come forward.

Suggested recommendation:

- State party should strengthen its investigative capacity on sexual violence.

6. Sexual and domestic violence in Sami communities

Reference is made to Concluding Observations 2012 para. 24 (a) and List of issues para. 8

The National Institution is concerned that linguistic and cultural barriers hinder Sami women from accessing effective prevention, protection and redress from the authorities against domestic violence.

As mentioned by the State Party, research indicates that Sami women are exposed to violence more often than ethnic Norwegian women.⁷ A new report about domestic violence and sexual abuse in Sami

⁴ NKVTS, a national competence centre on violence and traumatic stress, Report 1/2014: "Vold og voldtekt i Norge, En nasjonal forekomststudie av vold i et livsløpsperspektiv", p.14.

⁵ Politidirektoratet, «Anmeldt kriminalitet og straffesaksbehandling, Første tertial 2017», p.17.

⁶ Politidirektoratet og KRIPOS, "Evaluering av politiets arbeid med seksuelle overgrep" January 2015.

⁷ «*Emotional, physical and sexual violence among Sami and non-Sami populations in Norway: The SAMINOR 2 questionnaire study*», Eriksen, A., Hansen, K.L., Javo, C. & Schei, B (2015) Scandinavian Journal of Public Health. See State Report, paragraph 106.

communities launched in March 2017,⁸ suggests that abused individuals from Sami communities experience special challenges and barriers in their interaction with the police and support services. The report reveals a lack of cultural and linguistic understanding among public officials, skepticism towards Norwegian authorities as well as the Sami tradition of putting the needs of the community before one's own and "being strong".

The report confirms the need for more research on domestic violence in the Sami community. It recommends further research on how Sami women are met by police and support services, what may encourage them to seek help, and whether there is a need for more cultural sensitivity whilst dealing with victims of domestic violence from the Sami community. The State party does not mention these recommendations. We also note that the State Party has not specifically answered one of the questions in the List of issues para. 8, namely "... to indicate subsequent policy measures taken to address these phenomena".

Another relevant matter related to sexual and gender based violence against women in Sami communities not mentioned by the State Party, is the case of Tysfjord-Divttasvuotna, a small Lule-Sami community. In June 2016, the police in Nordland county started an investigation after eleven women and men from Tysfjord-Divttasvuotna came forward with stories of sexual abuse in the media. In total, more than 80 people are under investigation for various forms of sexual abuse of children and young persons. Some of the cases are 40 years old. This is the most extensive investigation of sexual abuse of children in a Sami community, and has affected the whole community. The Sami Parliament called the high number of sexual assault cases a national tragedy. The Government is involved, upon request from the Sami Parliament, and has allocated 7.5 MNOK to future prevention measures in the community.

The National Institution is concerned that there is a lack of adequate measures to ensure effective prevention, protection and redress for Sami women exposed to domestic violence. The situation may raise issues regarding Norway's obligation to take all appropriate measures to eliminate discrimination against women under CEDAW Article 3, ref. the General Recommendation No. 19.

Suggested recommendations:

- The State party should initiate and conduct research on how Sami women who are at risk of being victims or already are victims of domestic violence can receive effective prevention and protection from the authorities;
- Recognizing the measures taken by the state, the State party should ensure sufficient resources to a) enable effective investigation and b) enable preventive measures in relation to occurrences in Tysfjord;

⁸ «Om du tør å spørre, tør folk å svare» («If you dare to ask, people will dare to answer»), Øverli, I., Bergman, S., Finstad, A.-K., (2017), Rapport nr. 2 2017, NKVTS. See State Party's reply to the List of Issues paras. 65-68

- The State Party should ensure that all measures put in place, are culturally and linguistically sensitive measures.

7. Women in prison

Reference is made to the List of Issues paragraph 20

In recent years, reports and statements have been released, focusing on the conditions of female inmates in Norwegian prisons.

A cross-disciplinary working group prepared the 2015 report “Equal conditions for women and men under the responsibility of the Correctional Service” to the Directorate of Norwegian Correctional Service. The working group concluded that efforts are required at many levels and areas in order to obtain equal prison conditions for women. A total of 54 measures were proposed to improve conditions for women in Norwegian prisons.

Based on a complaint about the conditions in Trondheim Prison, the Equality and Anti-Discrimination Ombudsman concluded in a statement in March 2015 that female inmates were being discriminated against on the basis of their gender because the Correctional Service had not considered measures to provide women with equal access to outdoor areas used by men. According to our information, changes have been made in Trondheim Prison in the wake of the statements of the Equality and Anti-Discrimination Ombudsman.

In January 2017, the Parliamentary Ombudsman (the National Preventive Mechanism against Torture and Ill-Treatment) issued a thematic report on women in prison. The Parliamentary Ombudsman has submitted the report directly to the Committee. The report shows that women serve under worse conditions than men. It also points to international research that shows that the low number of women in prison compared with men often leads to prison administration and prisons in general being organized on the basis of the needs of male inmates. It is also pointed out that a higher percentage of women in prison come from disadvantaged backgrounds than men.

The report lists several reasons for the unequal conditions for women and men in Norwegian prisons. For instance, several women’s prisons are located in old and unsuitable buildings, and many women have significantly poorer access to outdoor areas and physical activities than men. Furthermore, female inmates often have other health problems than men, and therefore need different health services. The Parliamentary Ombudsman recommends that mental health care for women in prison should be improved. The substance abuse rehabilitation services offered to women are also inferior to those offered to men. In addition, the report shows that some women risk having to serve in prisons with a higher level of security than their case indicates due to the limited number of prison places for women. Other female inmates risk serving their sentence in prisons far from their families and children due to the low number of suitable prison places. Moreover, the report shows that women serving in mixed-gender prisons (common prison, separate units for males and females) have an increased risk of unwanted attention or sexual harassment by male inmates.

In May 2017, the Norwegian Equality and anti-discrimination ombudsman issued a thematic report on prison conditions for various vulnerable groups that mentioned similar challenges.⁹

It follows from the Government's replies to the List of Issues that a strategy for women on remand or serving a sentence has been developed, based on the above mentioned reports. For instance, the prison places for women in Drammen prison have been abolished, and a separate wing in Kongsvinger prison has been transformed into a women's department.

While the National Institution welcomes the Government's effort to develop a strategy plan and establishment of new separate women's sections, it gives cause for concern that they have decided to locate the newly-established women's section in premises that the Parliamentary Ombudsman considers not to meet modern requirements for prison conditions.

Suggested recommendation:

- The State Party should reinforce its efforts to follow up the findings and address the unequal conditions for women in Norwegian prisons.

8. Salary gap

Statistics show that women's hourly pay on average is 88% that of men. Research carried out by CORE shows that for lower income jobs the gender difference is 6%, whereas the difference is 20% in higher-paying jobs. They focus on two main explanatory factors for this difference and note that the gender-segregated market accounts for almost half of the variation.

Furthermore, another key contributing factor identified is the effect of family life on women. Research indicates that women with children earn less than women without children, while the situation is the opposite for men.¹⁰ Research, however, shows an interesting trend in that fathers are taking a more active role in childcare. This has the effect that subsequent family life is likely to share burdens more equally. The authorities have been actively promoting equality in the family life, including introducing paternity leave quotas, which were recently reduced.

Suggested recommendation:

- State to continue implementing measures which avoids retrogression and ensures more equal participation of both parents in family life, including best practices such as use of paternity leave quotas.

⁹ Likestillings- og diskrimineringsombudets rapport: «Innsatt og utsatt – om soningsforholdene til utsatte grupper i fengsel», 2017

¹⁰ Report CORE

We look forward to meeting you at the upcoming review of Norway in Geneva.

Yours sincerely,

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Director

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This letter is electronically approved and is sent without signature