



UN Committee on Torture
Secretariat of the Committee
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Report from Norway's NHRI to the UN Committee on Torture in relation to the List of Issues Prior to Reporting for Norway's 9th periodic report, to be adopted in session 70, April - May 2021

The Norwegian National Human Rights Institution (NIM) hereby submits its inputs to the Committee's consideration of issues to raise with Norway under the simplified reporting procedure. We appreciate the one week extended deadline allowed for this report.

NIM was established 1 July 2015 as an independent institution under new legislation adopted by Parliament. NIM has a specific mandate to protect and promote international human rights in Norway, which also entails monitoring how the authorities respect their international human rights obligations. Submitting supplementary reports to international human rights monitoring bodies is an essential tool for an NHRI to fulfil its mandate. We were granted A-status by the Global Alliance for National Human Rights Institutions (GANHRI) in March 2017, thus recognising that NIM is fully compliant with the UN Paris Principles.

In preparing this report we have consulted with the Parliamentary Ombudsman as the National Preventive Mechanism. The NPM will also make a separate submission. Please note that our submission does not reflect all relevant human rights challenges in Norway within the scope of the Convention.

Please feel free to contact us at info@nhri.no in case of questions.

Yours sincerely

On behalf of the Norwegian National Human Rights Institution

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This document is electronically approved and has no signature.

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FRAMEWORK CONDITIONS

1. Incorporation of torture into domestic legislation

- The state should provide an update on developments with regards to follow-up of the Committee's recommendation to consider incorporating the Convention into domestic law in order to give the Convention the same status as other human rights treaties.

2. Definition of torture

- The state should provide an update on prospects of considering amending the current definition of torture in section 174 of the Norwegian Penal Code in order to align it fully with the definition contained in article 1 of the Convention, specifically by adding a reference to "discrimination of any kind" or "other status", to the current list of specific discrimination grounds.

POLICE CUSTODY, PRE-TRIAL DETENTION AND IMPRISONMENT

3. Fundamental legal safeguards

- The state should provide information on measures taken to ensure that all persons deprived of their liberty are afforded all fundamental legal safeguards both in law and practice, from the very outset of their detention, including being informed of their rights, receiving at their request a medical examination preferably by a doctor of their own choice, having access to a lawyer or free legal aid in all cases required by the interests of justice, particularly during investigation and questioning, being informed of their right to lodge complaints and about the available complaints procedures.

4. Prolonged detention in police cells (over 48 hours) and conditions of detention, including for juveniles

The instances of individuals being held in police custody for more than 48 hours have been significantly reduced in recent years. However, there are still a considerable number of instances of prolonged police custody. In order to address this issue, the government in 2018 adopted a new regulation, which included detailed guidelines for pre-trial detention of children. Still, the number of children placed in police custody in 2019 was 278.

- The state should provide information regarding measures taken to reduce the use of police detention cells for longer than the 48 hours prescribed by law and to improve the conditions of detention facilities.

- The state should provide information on how the new guidelines on pre-trial detention of children have been put into practice.

5. Isolation in police custody

Individuals in police custody are often faced with de facto isolation. This means that, in many cases, detainees are placed in isolation without this being deemed necessary for reasons related to the investigation. The new regulation in 2018 provides several measures intended to reduce systematic isolation during pretrial detention in police cells.

- The state should provide information on how the new regulation on police custody is implemented in practice and if it is having the desired effects.

6. Isolation in pretrial detention

The courts can order partial or complete isolation of a detainee to secure the integrity of ongoing investigations. The number of detainees in full isolation in Norway remains high. The current wording of the Criminal Procedure Act allows for isolation in several instances.

- The state should provide an update on the work of the Commission on the Criminal procedure act with regard to this issue, and whether there are plans for clearer criteria for isolation during pretrial detention.

7. Solitary confinement in prison

The use of isolation in prison is a long-standing issue. There is a high rate of prolonged isolation, registered cases of exclusion, “shielding” and similar restrictive regimes for prisoners. Also, a relatively high number of instances of solitary confinement are due to shortcomings in building infrastructure and staff shortages. This situation has worsened in many prisons under the ongoing pandemic when quarantine, taking the form of de facto isolation, has been introduced to prevent outbreaks of Covid-19. This situation has worsened in many prisons under the ongoing pandemic when quarantine, taking the form of de facto isolation, has been introduced to prevent outbreaks of Covid-19.

- The state should provide information on measures intended to limit the use of solitary confinement and ensure that shortages in infrastructure and staffing are not used as grounds for exclusion and isolation.

8. Mental health care for prisoners

A high rate of inmates in Norwegian prisons suffer from mental illness, however, reports show that access to adequate mental health care is inadequate. Measures such as placement in security cells is often used to resolve acute incidents. Inmates are isolated instead of being given adequate mental health care. The Directorate of Health in 2020

was tasked to revise/update the national guidelines for health care to prisoners. The Government is also planning to increase the capacity for mental health treatment of prisoners, including building new hospital units for individuals with serious mental health illness.

- The state should provide information on measures taken to ensure that all inmates receive adequate mental health care and are not subjected to isolation.

9. Use of coercive measures, including “spit hat” in prisons (new issue)

The Government has proposed new changes to section 38 of the Act relating to the execution of sentences, (Use of coercive measures). If adopted the proposed changes will lower the current legal threshold for the use of coercive measures such as handcuffs, transport belts and body cuff. It will also provide prison staff with the possibility of using the “spit hat” as a coercive measure. Reports from the Parliamentary Ombudsperson identify various challenges with current use of coercive measures in prisons, including how such measures affect inmates with mental health issues. The proposal also weakens internal reporting and oversight mechanisms.

- The state should provide information on its considerations related to the proposed legislative amendments which seem to lower the threshold for the use of coercive measure in prison as well as weakening reporting and oversight mechanisms.

10. Women in prison

Reports from both the Parliamentary Ombudsperson and the Equality and Anti-discrimination Ombudsperson indicates unequal conditions for women in Norwegian prisons in comparison to male inmates. Women risk having to serve in prisons with a higher level of security than their sentences require and far from their families and children due to the low number of suitable prison places for female inmates. 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. Health care services are not fully tailored for the women’s needs and the substance abuse rehabilitation services offered to women are inferior to those offered to men. Many women have significantly poorer access to outdoor areas and physical activities than men.

- The state should provide information on measures taken to address the unequal conditions of women inmates in Norwegian prisons.

CHILDREN IN CARE INSTITUTIONS

11. Child welfare Institutions (new issue)

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) has issued reports after its visits to child welfare Institutions across the country. The reports show that a number of these institutions have challenges linked to the use of coercive measures, including securing qualified personnel and continuity of personnel as well as general conditions and activities offered within the institutions.

- The State should provide information on the general conditions within child welfare institutions, including the use of coercive measures as well as qualification of personnel.

PERSONS WITH DISABILITIES

12. Use of coercive measures in psychiatric health care

Reports indicate that the use of coercion in mental health care remains at a high level. Reports on practice, including on coercive medication, coercive ECT (electroconvulsive treatment), shielding of patients from other patients and the use of mechanical restraints such as belts, emphasize the need to strengthen both procedural safeguards for the patients and to increase focus on the use of less intrusive methods before employing coercive measures. The use of non-consensual ECT is of particular concern and the extent of its use is not known. A special legislation committee that was mandated to review the rules for the use of coercion in the health care services issued its proposal for a new act limiting the use of coercion in health care in June 2019. The Government is still in the planning process on how to follow-up this proposal.

- The state should provide information on steps taken to reduce the use of coercion in mental health care, to further strengthen legislation and refrain from any undue use of coercion.

VIOLENCE AGAINST WOMEN AND OTHER VULNERABLE GROUPS

13. Violence against women

Sexual violence is a considerable problem in Norway as documented by several Government sponsored reports and studies. The government has adopted an action plan for 2019-2022 to combat rape, which includes many important measures across various sectors. There is serious concern regarding the quality of police investigation of domestic violence and rape. These challenges include the use of police investigation methods, restraining orders in cases of rape and obtaining evidence in general. Norway has been

recommended by other UN Committees to review the Penal Code with regard to free consent as a requirement in the definition of rape.

- The state should provide information on the implementation of the action plan to combat rape, especially on measure to strengthen investigative quality in domestic and sexual violence cases.

14. Violence against children, Sami, elderly persons and persons with disabilities

Various reports indicate existing weaknesses in the prevention, protection and redress to vulnerable groups such as children, Sami and elderly persons exposed to violence and sexual abuse, including domestic violence. A new national coordinated action plan against domestic violence and abuse was to be issued in 2020 but has been postponed to the beginning of 2021. The forthcoming national action plan is mandated to include measures addressing the issue of domestic violence and abuse in Sámi communities. There is also need for the forthcoming action plan to include specific measures for other vulnerable groups, including children, older persons and persons with disabilities.

- The State should provide information on the development and implementation of a new action plan to combat domestic violence, including measures specifically designed to address the situation of vulnerable groups like children, Sami, elderly persons and persons with disabilities.

DETENTION OF ASYLUM SEEKERS

15. Situation of asylum-seeking minors

Research indicates that a total of 625 unaccompanied asylum-seeking minors disappeared from reception and care centres from 2008 to June 2015. During the period 2015 to 2019, a total of 413 unaccompanied minor asylum-seeking minors disappeared. A recent report also indicates that only 30 % of unaccompanied minors living in reception centres with four or more symptoms of mental health problems receive services from a psychologist.

- The State should provide information on its efforts to strengthen protection of unaccompanied minor asylum-seekers, including prevention of, and effective follow-up of disappearance-cases.

16. Situation in immigration detention facilities

The report from the Parliamentary Ombudsman's National Preventive Mechanism (NPM) highlights a number of challenges in the immigration detention facilities in Trandum. A large percentage of the placements in the Centre's security section were partially or entirely due to the detainees' mental health conditions, self-harming or risk of suicide.

There were also incidents where minors were placed in the security section. Further, the use of handcuffs in connection with transportation appeared to be routine procedure. There are also concerns regarding the general conditions and lack of activities offered in the security section, as well as the independence of the medical personnel at the Center.

- The State should provide information on the conditions in the security section of the Trandum Holding Centre as well as on use of coercive measures during detention and deportation of migrants.