

STATEMENT

UPR Pre-session on Norway

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INTRODUCTION

This statement is delivered on behalf of Legal Counselling for Women – in Norwegian called JURK. Legal counselling for women (JURK) is an organization run by law students and lawyers that provide customized legal aid free of charge to women. Legal Counselling for Women works to identify structural problems that affect women disproportionately and advocates for legal reforms to improve women's rights.

ISSUES TO BE ADDRESSED

1. Rape and sexual violence against women, and the legal definition of rape in the penal code.
2. Residence permits for minority women who experience violence from their intimate partner.

STATEMENT

1. **Rape and sexual violence against women, and the legal definition of rape in the penal code.**

A. Follow-up of the last review

Several delegations addressed the need to strengthen the protection of women's rights, including the issue of violence against women. Many of the delegations mentioned the need to adopt a legal definition of rape in the Penal Code which places the absence of consent at its centre.

B. New developments since the last review

According to a new national prevalence study from 2023, one in five women in Norway report that they have been the victim of rape at least once in their lifetime, many than once.¹

In 2023, the Government appointed a committee to examine issues related to the prevention and prosecution of rape. The committee submitted its report in March 2024.

¹ Nasjonalt kunnskapssenter om vold og traumatisk stress (NKVTS) [Norwegian Centre for Violence and Traumatic Stress Studies], Omfang av vold og overgrep i den norske befolkningen [Extent of violence and abuse in the Norwegian population], 2023 (<https://www.nkvts.no/rapport/omfang-av-vold-og-overgrep-i-den-norskebefolkningen/>), p. 73.

According to the committee, a coordinated, comprehensive and long-term effort to prevent rape does not exist. Rape as a social challenge and public health problem is under-communicated and not prioritized in the distribution of resources.²

The government presented a new national escalation plan against violence and abuse against children and domestic violence in December 2023. We are concerned that the new plan will not be sufficient. As the national committee on rape pointed out in their report, action plans and escalation plans against violence and abuse “do not appear to have had the desired effect on the extent of rape”. The statistics presented in the new prevalence study is an indisputable example of this.

I would also like to briefly highlight some of the issues that the committee points out in their report when it comes to the investigation and prosecution of rape:

Most rape incidents are never reported to the police³, and few reported rape cases result in successful prosecutions. From 2019 to 2021, between 68% and 78% of the reported cases were closed.⁴ Reviews on the quality of rape investigations document several weaknesses⁵, for example that rape cases are handled by police and prosecuting authorities without special training. In 2019, a special task force on rape at the National Criminal Investigation Service (Kripos) was closed.

Another barrier faced by rape victims is the current legal definition of rape in the criminal code. The rape provision in the Norwegian Penal Code (section 291) does not mention consent and requires proof that **violence or threats** were used, or that the person was **unconscious** or **unable to resist the act**, for the situation to be classified as rape.

The Government has stated that they are seeking to implement changes to section 291 in the penal code, and in 2021 the Criminal Law Commission was appointed to conduct a review of the provisions relating to sexual offences in the Penal Code and propose legislative amendments. In the report, the Commission recommended expanding the current provision on rape so that it also covers sexual intercourse or activities “with a person who does not want to, and who expresses this in words or actions”. The Ministry is currently considering the recommendations.⁶

Based on statements presented in the report from the Criminal Law Commission, we are concerned that the Government will implement a legal definition of rape in the new penal code

² Voldtekstutvalget (Public Committee on Rape), See endnote 33.

³ Voldtekstutvalget (Public Committee on Rape), p. 132 and (NKVTS) [Norwegian Centre for Violence and Traumatic Stress Studies report p. 136.

⁴ Amnesty International, “NORWAY. Submission to the UN Committee on the Elimination of Discrimination against Women”, 84th session, 6-24 February 2023 (<https://www.amnesty.org/en/documents/eur36/6337/2023/en/>).

⁵ Statsadvokatenes kvalitetsundersøkelse 2020 – Prioriterte voldtektssaker [Director of Public Prosecutions – Quality investigation of priority rape cases 2020], (<https://www.riksadvokaten.no/document/betre-kvalitet-paetterforskning-og-patalearbeid-i-valdtektssaker/>)

⁶ NOU 2022: 21- Strafferettslig vern av den seksuelle selvbestemmelsesretten — Forslag til reform av straffeloven kapittel 26

that does not fully reflect the right to sexual autonomy. Although the suggested definition is a vast improvement compared to the current definition, the suggested definition does not make sure that the responsibility to ensure consent falls on the person initiating or seeking sexual activity.⁷

C. Recommendations

- Consider measures to ensure compliance with Norway's international obligations to prevent and address violence against women and girls and ensure that perpetrators are prosecuted.
- Adopt a legal definition of rape that places the lack of consent assessed in the context of the surrounding circumstances at its centre, in line with international and regional standards. The law should state that consent cannot be presumed.
- Ensure sufficient resources and capacity building for the police, the prosecution services, and the courts to deal with rape cases sensitively, efficiently and without undue delay.
- Ensure that specialised training in sexual crimes is made mandatory for judges who handle sexual crimes.
- Support research on all forms of sexual violence to study its root causes and effects, incidences and prevalence rates.
- Conduct surveys regularly to assess the prevalence of and trends in rape and other forms of sexual violence.

2. Residence permits for minority women who experience violence from their intimate partner.

A. Current status

I would also like to highlight an issue that, as far as I could tell, was not explicitly addressed in the previous UPR cycle, which touches upon residence permits for minority women who experience domestic violence.

Women with minority backgrounds are overrepresented in shelters. In 2023, they constituted 62 % of residents.⁸ Minority women who experience domestic violence are facing significant legal barriers if they want to leave their partner.

According to section 53 of the Immigration Act, a foreign national on family reunification may be eligible for a residence permit on individual grounds she is exposed to domestic violence. However, authorities interpret this provision strictly, leading to women remaining in violent relationships because of fear of losing their residence permit if they apply on individual

⁷ The Council of Europe's monitoring body GREVIO, which oversees the implementation of the Istanbul Convention, has clearly expressed that the most no-mean-no model does not fully align with the standard set by the Convention – see GREVIO Baseline report Germany October 2022 paragraph 252.

⁸ Statistics from: <https://www.bufdir.no/statistikk-og-analyse/krisesentrene/om-beboere>

grounds. Several actors working with minority women in Norway have called for a review of how the immigration authorities apply the rule.⁹ The CEDAW Committee and GREVIO have also expressed concern regarding whether the provision is being applied too strictly.¹⁰

Another way out of a violent marriage is to apply for a permanent residence permit (section 62). A foreign national may be eligible for permanent residence if they have resided in Norway for five years if the residence permit is based on family reunification with a refugee. That means that for many women, their only option is to stay with a violent partner for 5 years.

A foreign national must support themselves economically to obtain a permanent residence permit (section 62). As of 2024, they must earn NOK 310 070 before tax in the previous year. For some immigrant women who are living in relationships where they are subjected to massive control from their partner, their possibility to have an income this high is illusory.

Overall, the barriers to obtaining a permanent residence permit for these women are too high. The strict requirements for a residence permit on individual grounds represent an impairment of the rule of law for immigrant women in Norway.

B. Recommendations

- Conduct a review of how the rules for permanent residency in cases of abuse are applied.
- Lower the threshold to obtain a residence permit on individual grounds.
- Reduce the required period for foreign nationals to obtain residence permits on family reunification and reduce the economic requirements.

⁹ Report from the Norwegian National Human Rights Institution (NIM): “Videre etter vold?” chapter 7.

¹⁰ GREVIO, Baseline Report Norway, paragraph 272 and UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the Tenth Periodic Review of Norway, para. 31 (i).