

Office of The High Commissioner for Human Rights

UPR Unit

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Date: 20. April 2009
Your ref.: 2009/7255
Our ref.:

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**Submission to the Universal Periodic review of Norway
6th UPR Session December 2009**

The Norwegian Centre for Human Rights – National institution for human rights

The Norwegian Centre for Human Rights (NCHR) is Norway's national institution for human rights, accredited with A-status according to the standards of the International Coordinating Committee of the global network of national institutions for human rights (ICC).

Preparation of the report

The report is based on the UN Human Rights Council guidelines on submissions to the Universal Periodic Review, and OHCHR's guidelines for submission of reports from national human rights institutions (NHRIs). The report uses common abbreviations for UN treaties and bodies to give room for more information.

The report is based on focused issues and areas of competence within The Norwegian Centre for Human Rights. The fact that a subject is not addressed in this report does not necessarily mean that the issue is not relevant to address in the human rights context in Norway.

Cooperation with authorities and other stakeholders

The report is prepared without the background of a broad national consultation process, as the Norwegian Government's only initiative prior to the deadline for submission of reports from other stakeholders was one meeting with general information about UPR. To secure a broad and constructive reporting process, The Norwegian Centre for Human Rights had hoped for a more pro-active approach from the Government. NCHR has in the preparation of this report collaborated with partners from civil society; however the submission is from NCHR alone.

The format of the submission

The submission is within the limit of 5 pages, with an annex of more comprehensive information which also includes endnotes with references to the given information.

The Norwegian Centre for Human Rights welcomes the opportunity to submit its views to the UPR on Norway.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. Optional Protocol to the UN Convention Against Torture - Norway signed OPCAT in 2003, but has not yet ratified. CAT recommended in 2008 that Norway proceed to ratify the Protocol at the earliest possible date. The Ministry of Foreign Affairs states that the ratification process is ongoing. NCHR recommends that the necessary legislative and other measures be put in place, and that Norway ratifies OPCAT as soon as possible.

2. Optional Protocol to the UN Covenant on Economic, Social and Cultural Rights Despite the fact that Norway voted for the adoption of the Optional Protocol to CESCR, the Government expresses reluctance to sign the OP. By signing the Protocol, Norway would give a clear indication that the country is willing to be internationally accountable and that other countries should follow. NCHR hopes that Norway will sign when the OP opens for signature.

3. The UN Convention on the Rights of Persons with Disabilities and the Optional Protocol Norway signed CRPD in 2007; however it is not ratified. The Government plans ratification at the end of 2009. No decision has yet been made regarding the CRPD Optional Protocol. The processes necessary for ratification are presently under consideration by the Government. NCHR recommends that required measures be put in place and that Norway ratifies CRPD and its Optional Protocol as soon as possible.

4. The International Convention for the Protection of All Persons from Enforced Disappearance - Norway signed CPAPED in 2007, but has not ratified. The Government is working on necessary amendments to the Penal Code, and plans ratification at the end of 2009. NCHR recommends that required measures are put in place and that Norway ratifies CPAPED as soon as possible.

5. Reservations to international human rights instruments - Norway has made a reservation to ICCPR art 10 with regard to separation of juvenile and adult offenders, arguing that small numbers of juvenile prisoners makes non-separation in the best interest of the child. This practice has proven problematic (see para 13). NCHR recommends that Norway reconsiders the reservation to ICCPR.

B. Constitutional and legislative framework

6. Review of the constitutional human rights protection through broad consultation The Norwegian Constitution was adopted in 1814. The constitution has some, but not many human rights provisions. A new paragraph§ 110 (c), added in 1994, stipulates a state responsibility to respect and secure human rights. There is an ongoing public debate considering the need to further revise the constitution. NCHR recommends that Norway ensure an inclusive consultative process in a review of human rights protection in the constitution.

7. Incorporation of CEDAW and CERD - The Human Rights Act of 1999 incorporates four treaties: ECHR, CCPR, CESCR and CRC. Treaties incorporated in this law are given statutory precedence over other Norwegian legislation. CEDAW and CERD are not incorporated through the Human Rights Acts, but through other national legislation. NCHR recommends that Norway should take steps to incorporate both CEDAW and CERD in the Human Rights Act.

C. Institutional and human rights infrastructure

8. National plan of action for human rights and establishment of a high level committee

Norway has prepared two overall documents on human rights in Norway, one in 1977 and one in 1999. The latter is a National Plan of Action for human rights. This document is no longer in use, the last report covering the years 2004-2005. The present lack of a comprehensive plan leaves Norway without a holistic approach to human rights. In addition, Norway has no body that gives attention to these matters on an overall basis. The NCHR recommends that Norway strengthens the implementation of human rights by developing a new National Plan of Action for human rights as recommended in the 1993 Vienna Declaration. The work should be led by a high-level National Committee for Human Rights – a national coordinating and monitoring body – either at the Government or Parliament level.

9. Evaluation of the National Institution for human rights - NCHR has been operational as a national institution since 2002 and was accredited internationally with A-status in 2006. Norway is up for consideration for new international accreditation in 2011. NCHR finds that the time is right for an evaluation, assessing to what extent the National institution for human rights has the desired effect and sufficient capacity and resources to fulfil its role.

D. Policy measures

10. Effective follow up of the recommendations of international monitoring mechanisms

The National Plan of Action on human rights of 1999 foresaw effective follow-up of the recommendations of international monitoring mechanisms as one of the most important measures to strengthen human rights in Norway. However, a proper system for this is still not in place. In a situation where there is a National Plan of Action for human rights and a responsible high-level committee, follow up of the international recommendations should be an integral part of this work. NCHR recommends that Norway create better procedures for the follow up, both at the national and local level, of recommendations made by international monitoring mechanisms.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

B. Implementation of international human rights obligations

1. Equality and non discrimination

11. Non-discrimination in working environments - Norway is to be commended for having adopted laws which impose a duty on employers and public authorities to proactively promote gender equality, ethnic equality and the equality of disabled persons. These positive duties have however been criticized for being too vague and lacking in specificity. The language of the positive duties is phrased such that it is not possible to deduce what kinds of measures should be undertaken in the promotion of equality. Moreover, there is no possibility for the enforcement body, The Equality and Anti-Discrimination Ombud, to sanction those who do not comply with their obligation. NCHR recommends that the Government specify in greater detail the obligations to be carried out by employers in the promotion of equality. It is also recommended that the enforcement body be given ability to sanction those who breach their obligation.

2. Right to life, liberty and security of the person

12. Juvenile justice - The Norwegian Bar Association has during 2008 made an assessment of the conditions for juveniles in Norwegian prisons. Their work raises concerns over the treatment of juvenile prisoners. Some juveniles are placed hundreds of kilometres away from their families, there is a large information deficit, and some are placed in a cell 23 hours a day for weeks as well as sharing a cell with an adult. The Ombudsman for children has also expressed serious concern about the treatment of juvenile prisoners. NCHR recommends that the Government makes effort to secure basic human rights for juveniles in detention.

13. Use of force against persons in need of special care - Minors, elderly, persons with grave mental disorder, senile dementia or mental disability in need of special care are groups that are at risk when it comes to detention, forced treatment, use of coercive means and intervention of privacy while they are under public care. NCHR calls on Norwegian authorities to strengthen the awareness and knowledge of human rights among professionals who face situations where force might be used against individuals in need of special care.

14. Mentally ill prisoners – Council of Europe anti-torture Committee has expressed concern, both in 1993 and 2005, about detention of mentally ill serving penal sentences in Norwegian prisons. The conditions necessary to be transferred to psychiatric care in hospital are so high that seriously ill persons are being detained under hush restrictions in prisons. There is a wide gap between what conditions the prisons can handle and what conditions are required for hospitalization. NCHR recommends that the Government takes steps to improve the situation.

15. Pre-trial detention - In 2007 OPCAT recommended that the Norwegian Government compile detailed statistics on the application of pre-trial detention and the use of solitary confinement. Presently, there are no national statistics. In a new White Paper on Criminal Justice, the Government states that both the police and the Norwegian correctional services must change their routines. NCHR recommends that the Government reinforces the regulation and practice of pre-trial detention and establishes registration routines as soon as possible.

16. Domestic violence - Thousands of families in Norway experience domestic violence. Women and children are most exposed. The Government has made a plan of action that identifies special measures to improve the situation. Based on historical experience, domestic violence is an issue that fades quickly from the public agenda as other issues arise. NCHR underlines that domestic violence is a major concern to any community which requires a vigilant focus to effectively combat this issue. NCHR urges Norwegian authorities to maintain a high focus on domestic violence.

17. Training of professionals on children in crisis - Children who live with domestic violence and abuse are especially vulnerable and must rely on adults for support. On this basis, it is of crucial importance that those working with children have the sufficient knowledge to deal with such cases. NCHR recommends that Norwegian authorities in a much stronger way than today secure education and training that include dealing with children in crises.

3. Administration of justice and the rule of law

18. Prosecution of war criminals - In Norway, more competence and capacity building is needed in the area of international criminal law and international humanitarian law. A special challenge is to improve coordination between the National Authority for Prosecution of Organised and Other Serious Crime and the Directorate of Immigration. NCHR recommends

that Norway continues strengthening the capacity to investigate and to prosecute cases of core international crimes. This should include allocation of resources and institutional cooperation.

4. Right to privacy, marriage and family life

19. Human rights and counter-terrorism - The political debate in Norway regarding police methods, in particular with regard to counter-terrorism, indicates a tendency towards a lesser degree of respect for the private sphere of individuals. NCHR recommend that all legislative processes concerning the use of surveillance in countering criminality is based on thorough considerations of the right to privacy, including private communication.

5. Freedom of religion and belief, expression, association and peaceful assembly

20. Inclusive approach to religion and belief - The Government has purposed a new formulation of the Constitution § 2 articulating basic values. It mentions humanity and Christianity specifically, with no reference to other religions or beliefs. This may not be in conflict with any human rights conventions; it might however exclude groups of the population. The same problem arises in the statements of objectives in the law on both schools and kindergartens. NCHR finds the principle of inclusion to be highly relevant in this debate. NCHR recommends that Norwegian authorities reconsider whether there is a need for explicitly highlighting the Christian belief in the constitutional values and in the statement of objectives in the laws on schools and kindergartens.

6. Right to work and to just and favourable conditions of work

21. Human Trafficking - Norway is a recipient country of human trafficking. As an economically wealthy country in Western Europe, Norway is a market for human trafficking with the attached risks of sexual and labour exploitation. The Government has a plan of action against trafficking of women and children to Norway for 2006-2009. As a step in combating traffic for sexual exploitation, Norway has new legislation as of 1 January 2009 criminalizing the purchase of sexual services. NCHR recommends that Norwegian authorities follow up with an evaluation to determine impact of these measures and that adjustments are made to maximize their effectiveness.

7. Right to social security and to an adequate standard of living

22. The right to social security - The Norwegian welfare state provides social security for the population. However, those who are disadvantaged in the labour market, or not entitled to adequate benefits, are exposed to poverty. It is an open question whether the social welfare system actually gives sufficient social security for all. NCHR supports the need for a discussion of whether existing regulations define the state responsibility in a satisfactory manner. Poverty has a special influence on children and affects their rights to development. The number of children under 16 years in Norway considered to be poor increased from 52.000 in 1998 to 70.000 in 2004. This is a situation of great concern. NCHR recommends Norwegian authorities to make strong efforts to fulfil all persons' right to social security.

8. Minorities and indigenous peoples

23. Non discrimination and integration - Non discrimination and integration of Sami, Roma and other minority groups in the Norwegian society is a challenge that needs continuous

attention. The Sami are the indigenous people of Norway with a population of around 45 000. Sami people still experience discrimination in Norway. The High Commissioner for Human Rights in the Council of Europe has voiced concern about increased intolerance in Europe against Roma people. Norway faces similar challenges to other European countries when it comes to integration of Roma people and other minority groups. NCHR recommends that Norwegian authorities keep a strong focus on non discrimination and integration between Norwegian society and minority groups.

9. Migrants, refugees and asylum seekers

24. Separated children – After years of discussions the Government has agreed that unaccompanied minors seeking asylum should, like other children without parental care, be cared for by the Child Welfare Services. This is only fulfilled for minors up to the age of 15, not for those from 15 to 18. The Government has not yet made available the required resources to change this discriminatory practice. NCHR recommends that the Government put in place the required measures so that all minors without parental care have right to equal standard of care.

25. Persons without legal status in Norway- Researchers have estimated the number of illegal immigrants in Norway to around 18 000. The media describes this group as the countries new underclass. Most are in hiding in friends' homes, basements, churches, or makeshift shelters. Economic support through public social services is not provided to persons without legal status in Norway, and with no legal right to work they are vulnerable to exploitation. Moreover, politicians have made statements that human rights organizations are violating Norwegian law by assisting these persons with their basic needs. This has created a debate about the right to provide humanitarian assistance. NCHR recommends that Norway strengthen efforts to secure basic human rights for persons without legal status in Norway.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINS

26. The challenge of implementation of human rights on local level - Most human rights are implemented on local level. National authorities have a great challenge on how to secure sufficient competence among local authorities on human rights and how to fulfil these obligations. NCHR recommends that the Government gives priority to offering quality training programs in human rights implementation to local authority employees.

IV. KEY INTERNATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

27. Human rights and development - In 2009, Norway reached the budget goal of one percent of GDP to international development work. The development policy is based on the principles of human rights, but there is still a challenge to follow up on implementation of a human rights based approach. NCHR encourages Norway to keep the funding on the present level and recommends Norway to secure human rights based approach to all development work.

V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

28. Human rights education - What we find of human rights education in Norway is fragmented. NCHR strongly believes that education in and for human rights is a critical element in the promotion and protection of human rights. NCHR recommends that Norwegian authorities develop a national action plan for human rights education that consists of programmes for human rights education at all levels.