

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 33rd Session

NORWAY

I. BACKGROUND INFORMATION

Norway acceded to the *1951 Convention relating to the Status of Refugees* in 1953 and its *1967 Protocol* in 1967 (hereinafter jointly referred to as the *1951 Convention*). Norway also acceded to the *1954 Convention relating to the Status of Stateless Persons* in 1956 and to the *1961 Convention on the Reduction of Statelessness* in 1971. According to the *Norwegian Immigration Act*, asylum-seekers may qualify for refugee status as Convention refugees (granted protection in line with the *1951 Convention*)¹ or obtain refugee status based on evidence indicating a real risk of death penalty, torture or other inhuman or degrading treatment or punishment. Norway also incorporated the principle of *non-refoulement* into its domestic law.²

In 2015, the Government proposed a legislative package containing 40 measures aiming at introducing more restrictive provisions into the *Norwegian Immigration Act*. The legislative package sought *inter alia* to: introduce visa requirements for all applicants who are considered to have arrived from a safe third or first country of asylum, including all Nordic countries; remove the 'reasonableness criterion' from the Internal Flight Alternative (IFA) assessment; repeal the provisions introducing a uniform status for Convention refugees and persons found to be at risk of death, torture or inhuman or degrading treatment in their home country; introduce temporary residence permits for asylum-seeking unaccompanied and separated children (UASC) under the age of 16 and a compulsory review of their continued protection needs at the age of 18 years; reduce timeframes for submitting appeals in the accelerated procedure and removing the right of suspensive effect; expand the use of cessation; and increase the use of coercive measures. While a number of these amendments have been implemented since 2016, the Parliament decided to bring into effect the remaining reforms by 2018. UNHCR is concerned these amendments risk breaching international norms.

As of June 2017, Norway hosted 217,241 refugees, originating from Somalia, Iraq, Eritrea, Afghanistan and Iran, and Syria.³ Only 2,192 asylum-seekers applied for asylum in Norway

¹ *Act on the entry of foreign nationals into the kingdom of Norway and their stay in the realm* [Norway], (hereafter: "*Norwegian Immigration Act*"), 15 May 2008, available at:

<http://www.udiregelverk.no/no/rettskilder/sentrale/utlendingsloven-eng>

² See Section 73 of the *Norwegian Immigration Act*.

³ This figure includes persons who have been granted refugee status and complementary refugee status, resettled and relocated refugees to Norway. *Refugees in Norway*, Statistics Norway, 20 June 2017 (to be updated 20 June 2018, available at: <http://www.ssb.no/en/befolkning/artikler-og-publikasjoner/refugees-in-norway>, see also relevant statistics published by the Norwegian Directorate of Immigration, available here:

during January-September 2018. During 2016 and 2017, Norway received a total of 7,006 asylum applicants (2,294 persons arrived as regular asylum-seekers, while 1,252 applicants were relocated to Norway through EU's relocation mechanism). In 2017, the Norwegian Directorate of Immigration (UDI) decided on the merits of 645 claims submitted by Afghan UASC. While in 2016, UDI issued positive decisions in 78 per cent of the cases concerning UASC, in 2017, the overall approval rate in such cases declined to 46 per cent. Additionally, more than half of the residence permits (57 per cent) issued to Afghan UASC in 2017 are temporary. In 2015, Norway received 31,145 asylum-seekers (of which 5,480 were UASC). A total of 5,991 UASC, the majority from Afghanistan, applied for asylum in Norway during 2015-2017.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 2nd cycle UPR recommendation 131.197: “Take further steps to integrate the best interests of the child at all stages of the asylum and migration process, in line with human rights obligations under the CRC, and to ensure special protection for unaccompanied asylum-seeking children.” (Austria)

UNHCR welcomes the legislative changes introduced in February 2018 which allow unaccompanied and separated asylum-seeking children who have previously received a temporary residence permit in Norway to submit a new asylum application to have their individual protection needs re-assessed. UNHCR considers that the present amendments constitute an important step towards the re-alignment of Norway's legislation and administrative practice with international human rights norms and standards.

Additional positive developments

UNHCR wishes to commend the Government of Norway for the issuance of *Instruction G-08/2016*⁴ directing the immigration authorities to interpret the *Norwegian Nationality Act*⁵ in line with Article 1.1(b) of the *1961 Convention on the Reduction of Statelessness*, thereby permitting stateless persons who have been born in Norway to obtain citizenship through application, regardless of their legal or residence status.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection for unaccompanied and separated asylum-seeking and refugee children

Linked to 2nd cycle UPR recommendation 131.197: “Take further steps to integrate the best interests of the child at all stages of the asylum and migration process, in line with human rights obligations under the CRC, and to ensure special protection for unaccompanied asylum-seeking children.” (Austria)

<https://www.udi.no/statistikk-og-analyse/statistikk/?year=0&filter=38>

⁴ *Instructions on the interpretation of national law - applicable law for stateless applicants who were born in Norway*, G-08/2016, 28 October 2016, available at: https://www.regjeringen.no/no/dokumenter/instruks-om-tolkning-av-statsborgerloven----gjeldende-rett-for-statslose-sokere-som-er-fodt-i-norge/id2518182/?utm_source=www.regjeringen.no&utm_medium=epost&utm_campaign=Rundskriv-28.10.2016.

⁵ *The Act on Norwegian Nationality*, NOR-110, 1 January 1951, available at: <https://lovdata.no/dokument/NL/lov/2005-06-10-51>.

The Norwegian asylum framework was reformed during 2015-2017 with a view to implement the current Government's restrictive approach on asylum and migration matters. One such major amendment affects the refugee status determination (RSD) procedure and the assessment of the existence of internal flight alternatives. This assessment requires domestic authorities to consider whether a person could have availed herself of the possibility to relocate in specific areas in other countries where there was no risk of a well-founded fear of persecution and where, given the particular circumstances of the case, the individual could reasonably be expected to establish him/herself and live a normal life.⁶ The amendment introduced in 2016 exempts immigration authorities from taking into account the reasonableness aspect when deciding on the existence of internal flight alternatives. This not only facilitates the dismissal of asylum applications and the subsequent return of those persons whose applications were rejected, but it may also raise the risk of violating the principle of *non-refoulement*.

In fact, UNHCR is concerned about reported cases of asylum-seeking unaccompanied children, and asylum-seeking families with children, who were returned to their country of origin in violation of the principle of *non-refoulement* and against the recommendations of UNHCR. Reports also show that the focus of the immigration authorities during RSD procedures is not on evaluating “effective protection” in the alternative area within the applicant’s country of origin but rather the absence of risk (either persecution or similar serious harms). *UDI’s Practice Note on UASC*, for example, explicitly advises that the authorities’ assessment must focus on whether the child can “avoid persecution by taking up residence in other areas of the homeland.”⁷ Moreover, when considering claims submitted by Afghan asylum-seeking children, the Norwegian authorities appreciate that the poor living conditions that returned children will encounter upon return do not in and of themselves qualify them to benefit from international protection based on “strong humanitarian consideration”.⁸

Reports and analysis of administrative decisions show that UASC close to the age of majority (age 17 or older) have often been rejected asylum applications on the ground of having internal flight alternatives. Norwegian authorities considered internal flight alternatives existed including in cases where UASC lacked family ties in the country of origin and without conducting a thorough case-by-case assessment of the best interests of the affected child. The absence of adequate safeguards protecting children’s best interests during the asylum procedures is inconsistent with international human rights obligations.

Recommendations:

UNHCR recommends that the Government of Norway:

- (a) Amend national legislation in order to reintroduce the reasonableness criterion in relation to the application of the internal flight alternative;
- (b) Develop practical guidance on the operationalization of the principle of the best interests of the child, including in cases of internal flight alternative;

⁶ UNHCR, *Guidelines on International Protection: “Internal Flight or Relocation Alternative” within the Context of Article 1(A)2 of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, para 6, available here:

<http://www.unhcr.org/publications/legal/3f28d5cd4/guidelines-international-protection-4-internal-flight-relocation-alternative.html>

⁷ Norwegian Directorate of Immigration, *UDI’s Practice Note on UASC (Behandling av asylsaker fra enslige mindreårige asylsøkere-særlig om aldersvurdering)*, available at:

<https://udiregelverk.no/no/rettskilder/udi-praksisnotater/pn-2012-011/>

⁸IFA study on Norway’s asylum practice, commissioned by UNHCR, April 2017, available here <http://www.unhcr.org/neu/wp-content/uploads/sites/15/2017/11/SchultzIFASStudyJune2017-1.pdf>

- (c) Ensure asylum procedures are clear, provide claimants with adequate safeguards, and include best interest of the child determination as part of the asylum procedure; and
- (d) Provide training to immigration and other relevant authorities with regard to procedures of best interest determination in asylum cases to ensure compliance with relevant international norms.

Issue 2: Adequate reception conditions and psycho-social assistance for unaccompanied and separated asylum-seeking and refugee children

Linked to 2nd cycle UPR recommendation no. 131.202: “Place the responsibility for all unaccompanied minor asylum seekers up to the age of 18 years with the Child Welfare Services.” (Hungary)

Reports from Norwegian immigration authorities, UNHCR, international organizations and NGOs indicate that the mental health of Afghan UASC living in reception centres in Norway is significantly deteriorating. Increasing numbers resort to self-harm and attempt suicide.⁹ Children older than 15 who fall outside the responsibility of the Child Welfare Services are left with reduced or no assistance. The Standing Committee on Local Government and Public Administration requested the Norwegian Parliament to adopt legislation expanding the responsibility of the Child Welfare Services to all children aged 15, 16 and 17.¹⁰

Recommendations:

UNHCR recommends that the Government of Norway:

- (a) Amend existing national legislation to extend the responsibility of the Child Welfare Services to all children aged 15, 16 and 17 years old;
- (b) Ensure adequate alternative reception and care arrangements are available for all asylum-seeking children or children beneficiaries of international protection, fully considering children’s rights as well as the views and best interests of the children concerned; and
- (c) Ensure all children placed in reception centres, irrespective of age, receive adequate care and assistance according to their physical and mental health needs.

Issue 4: Family Reunification

Persons benefiting from international protection enjoy the right to family reunification. However, this same right is not granted to persons benefiting from temporary protection, such as Afghan UASC.

In the past two years, Norway has implemented measures that restrict refugees’ enjoyment of the right to family life. Refugees can sponsor family reunification claims only within 12 months after they are granted the protection status. Their family members must be present in person at a Norwegian representation abroad to submit their claim. According to the recent amendments, the deadline for family members to submit family reunification claims has been reduced from one year to six months. The Norwegian Parliamentary Ombudsman criticised the application of these stringent time limits and the related practice of the Norwegian Appeals Board.¹¹

⁹ UNHCR report “*This is who we are*”, March 2017, (not published).

¹⁰ Innst. 474 S (2016–2017) Innstilling til Stortinget fra kommunal- og forvaltningskomiteen Dokument 8:125 S (2016–2017), available at: <https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2016-2017/inns-201617-474s.pdf>

In addition to this, Norwegian norms require spouses to both be at least 24 years old prior to lodging an application for residence in Norway. They also give immigration authorities discretion over considering the applicants' attachment to Norway as part of the family reunification procedure. Immigration authorities may reject applications for family reunification submitted by persons (including children) granted international protection in Norway when the person concerned is deemed to be able to enjoy family life in a country where the family's aggregate ties are considered stronger than those to Norway. Furthermore, the amendments also entailed a significant increase in the administrative fees from 1,022 USD to 1,341 USD for consideration of family reunification.

UNHCR commented extensively¹² on the legislative restrictions pointing out that the implementation of these measures will result not only in delays of at least three to four years in family reunification, but also that in many cases, refugees would not be able to meet all the requirements. UNHCR emphasized that Norway's proposed restrictions appeared to be the toughest in Europe, possibly in the world. The Norwegian Ministry of Justice and Public Security indicated that the present legislation might breach the *European Convention on Human Rights*.

Recommendations:

UNHCR recommends that the Government of Norway:

- (a) Ensure that family reunification applications are dealt with in a humane and expeditious manner in conformity with its international obligations and commitments; and
- (b) Amend national rules in order to ensure respect and protect refugees' right to family life by reducing the administrative fees, removing the "attachment requirement" for refugee children, and extending the deadline for submission of family reunification claims.

Additional protection challenges

Issue 3: Prevention of statelessness

Although Party to the *1956 Convention relating to the Status of Stateless Persons* for six decades, Norway has not yet introduced a definition of "stateless person" or statelessness determination procedures into its domestic law. The absence of a clear legal and institutional framework addressing statelessness results in failures to identify stateless persons or inconsistencies in their registration.

Recommendations:

UNHCR recommends that the Government of Norway:

- (a) Incorporate into domestic law the definition of a "stateless person" as prescribed under the *1954 Convention*; and
- (b) Establish a statelessness determination procedure with clear institutional responsibilities and which respects the rights of stateless persons in line with the *1954 Convention*.

UNHCR,

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

NORWAY

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to NORWAY.

I. Universal Periodic Review (Second Cycle – 2018)

Recommendation ¹³	Recommending State/s	Position ¹⁴
Ratification of international instruments		
131.4 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;	France	Supported
131.5 Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; ¹⁵	Paraguay	Noted ¹⁶
131.15 Seriously consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the optional protocols to the ICESCR and CRC;	Sierra Leone	Noted
131.22 Ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, signed by Norway on 25 October 2007;	France	Supported
131.23 Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;	Germany	Supported
Equality and non-discrimination		
131.25 Embody the principles of equality of women and men in the Constitution and other appropriate legislation;	Jordan	Supported

All recommendations made to Norway during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Norway" (7 July 2014), A/HRC/27/3, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/159/54/PDF/G1415954.pdf?OpenElement>.

¹⁴ Norway's views and replies, in English, can be found in: *Addendum* (9 September 2014), A/HRC/27/3/Add.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/159/54/PDF/G1415954.pdf?OpenElement>.

¹⁵ Similar recommendations have been made by Ecuador, Sri Lanka, Azerbaijan,

¹⁶ **Addendum:** "Norway has ratified the core ILO conventions on workers' rights, which also apply to residents who are foreign nationals."

131.26 Amend the Anti-Discrimination Act to ensure that all grounds of discrimination are subject to prohibition;	Jordan	Supported
131.28 Ensure protection against all forms of discrimination by incorporating in its laws, the principle of equality in accordance with CEDAW, ICERD and CRPD;	Pakistan	Supported
131.36 Continue to take steps to ensure the rights of LGBT persons, women, ethnic minorities, and persons with disabilities are protected, including through implementation of the four new anti-discrimination acts that entered into force in January 2014;	Australia	Supported
131.39 Amend the criminal code to address hate speech and incitement to violence and discrimination in the context of the media and election campaigning;	Egypt	Supported
131.69 Adopt a new action plan, to promote equality and prevent ethnic discrimination, as well as prevent and combat discrimination against persons from immigrant backgrounds; ¹⁷	Honduras	Partially supported
131.72 Continue efforts aimed at countering gender stereotypes and discriminative attitudes, as well as at further promotion of gender equality;	Ukraine	Supported
131.77 Adopt the measures necessary to combat all forms of discrimination against migrants;	Guatemala	Supported
131.79 Take efficient measures to combat any manifestation of discrimination, racism, xenophobia and intolerance in society, including by adopting and implementing a comprehensive national plan of action;	Uzbekistan	Partially supported
Violence against women		
131.30 Enact specific legislation to put in place comprehensive measures to prevent and address violence against women and girls, and provide adequate assistance and protection to the victims;	Poland	Partially supported ¹⁸
131.31 Enact specific comprehensive legislation on domestic violence and put in place general measures to prevent violence against women and girls, including marital rape and ensure that perpetrators be prosecuted and punished in accordance with the severity of the crimes committed;	Honduras	Supported
131.35 Strengthen the legal definition of rape by grounding it in lack of consent, rather than the use or threat of force, to ensure that the law provides better protection for survivors;	United States of America	Partially supported ¹⁹
Prevention of torture		
131.32 Strengthen domestic legislation on the prevention of torture in accordance with CAT;	Maldives	Supported
131.119 Continue working to create a national preventive mechanism against torture;	Guatemala	Supported
Migrants, refugees and asylum-seekers		

¹⁷ Similar recommendations were given by Canada, Greece, Islamic Republic of Iran, Poland, Rwanda.

¹⁸ **Addendum:** "Norwegian criminal law (the Penal Code) covers many violent offences where in practice the victims are often women and girls. Some of the relevant penal provisions have been introduced partly to prevent and address violence against women and girls, but the Penal Code is not gender-specific."

¹⁹ **Addendum:** "The Norwegian authorities are considering amending the legal definition of 'rape'. This is partly due to a recommendation from the UN Committee on the Elimination of Discrimination against Women (CEDAW). A proposal to widen the definition of rape to include all kinds of non-consensual sexual activity has been subject to public consultation. The Ministry of Justice and Public Security has not yet made a decision on the matter."

131.91 Continue and strengthen efforts in preventing and combating all forms of discrimination faced by persons with a migratory background, in particular in the labour market, the housing sector, and in education and healthcare;	Austria	Supported
131.99 Take immediate measures to address discrimination against migrants, persons from immigrant backgrounds, asylum seekers and refugees in accessing public services, housing, the labour market and health, as was concerned by the Committee on the Elimination of Racial Discrimination, and intensify efforts, including through the adoption of a new action plan, to prevent and combat all forms of discrimination and to promote equality;	Azerbaijan	Partially supported
131.111 Take measures to put an end to discrimination against migrants or people from migrant backgrounds as well as asylum seekers and refugees, especially with regard to access to public services, housing, employment and health services;	Tunisia	Supported
131.112 Take appropriate measures to address discrimination against immigrants and asylum seekers in accessing to public services, housing, health and employment, in accordance with a concern expressed by the Committee on the Elimination of Racial Discrimination;	India	Supported
131.118 Further its efforts to address ethnic and racial profiling, particularly in stop and search operations carried out by police and customs and immigration officials;	Malaysia	Supported
Detention of migrants, asylum-seekers		
131.139 Improve detention conditions in the correctional institutions and temporary detention centres of asylum seekers;	Russian Federation	Supported
131.140 Ensure the compilation of detailed statistics on the use of solitary confinement;	(Ireland	Partially supported ²⁰
131.141 Adopt prompt measures aimed at ensuring an adequate assessment of the need for solitary confinement in each case of police detention, as well as ensuring a stricter implementation of the 48 hours statutory limit to the use of such a short term public order measure;	Italy	Supported
131.142 Provide for the necessary conditions to be able to limit detention in police cells to the 48-hour term as required by Norwegian law;	Netherlands	Supported
131.143 Reduce the duration of police custody and pre-trial detention, particularly in cases of solitary confinement;	Switzerland	Supported
131.144 Reduce the use of preventive detention and isolation of the detainees;	France	Partially supported ²¹
131.145 Review the system of preventative detention with regard to juveniles and adopt alternative measures in conformity with recommendations of United Nations treaty bodies;	Uzbekistan	Supported

²⁰ **Addendum:** “The Directorate of Norwegian Correctional Services is currently in the process of ensuring the compilation of detailed statistics on the use of solitary confinement. The tool which is being installed to obtain the said statistics (ASKS) is scheduled to be in place within 2014.”

²¹ **Addendum:** “(‘Preventive detention’ is understood as ‘pre-trial detention’.) The Norwegian police has in recent years increased the fight against organised criminal groups committing thefts. Many of the arrested suspects are foreign nationals. This has created a strong increase in the use of pre-trial detention. Use of isolation in pre-trial detention is a restriction decided by the court, if there is an imminent danger that the detainee may interfere with the evidence of the case. The conditions to use isolation as well as the possibilities to prolong the isolation period are strict. Children cannot be fully isolated. Steps are currently being taken to reduce the effects of isolation on people in police holding cells.”

131.146 Revise its system of detention to reduce the use of police custody for children, and ensure that police custody of children is a measure of last resort and for the shortest period of time possible;	Canada	Supported
Trafficking		
131.123 Step up efforts to provide assistance to victims of trafficking and bring provisions of the Criminal Code, related to human trafficking, in conformity with the Council of Europe Convention on Action against Trafficking in Human Beings and recommendations of the Group of Experts on Action against Trafficking in Human Beings;	Belarus	Supported
131.147 Implement policies and programmes for the prevention, rehabilitation and social integration of victims of sexual exploitation and abuse, particularly minors;	Costa Rica	Supported
131.200 Take measures to prevent minors from disappearing from reception centres by identifying and ensuring the protection of children at risk of being trafficked;	Finland	Supported
Education		
131.174 Guarantee access to primary and secondary education to all children, including migrant children and asylum seekers;	Mexico	Supported
Asylum process and return		
131.196 Reassess involuntary return practices and asylum processes, particularly for minors, in order to guarantee refugees the full protection accorded by the law;	United States of America	Noted
131.197 Take further steps to integrate the best interests of the child at all stages of the asylum and migration process, in line with human rights obligations under the CRC, and to ensure special protection for unaccompanied asylum-seeking children;	Austria	Supported
131.201 Continue giving top priority to the issue of unaccompanied asylum-seeking minors placed in asylum centres and protecting them from disappearances, including providing the necessary resources, enhancing measures to quickly identify and bolstering previous efforts in this regard;	Germany	Supported
131.202 Place the responsibility for all unaccompanied minor asylum seekers up to the age of 18 years with the Child Welfare Services;	Hungary	Noted
131.203 Consider further strategies aimed at effectively addressing the situation of undocumented asylum seekers and the return of foreigners to States in internal armed or generalized violence on humanitarian grounds.	Sierra Leone	Noted

II. Treaty Bodies

Human Rights Committee

Concluding Observations, (2018), [CCPR/C/NOR/CO/7](#)

Discrimination against persons with an immigrant background

8. The Committee reiterates its concern (CCPR/C/NOR/CO/6) that persons with an immigrant background continue to face discrimination in the employment and housing sectors. In particular, it is concerned at reports that, in 2016, the unemployment rate among persons with

an immigrant background was 11.2 per cent, almost three times higher than the general unemployment rate of 4.2 per cent. It is further concerned about reports that persons with an immigrant background face higher rents and more restrictive contractual terms in the housing sector (arts. 2 and 26).

9. The State party should ensure equal treatment for everyone in its territory, regardless of a person's national or ethnic origin. It should address the high rates of unemployment of persons with an immigrant background through ensuring equal rights to employment and eliminating discriminatory practices in the employment sector. It should evaluate the effectiveness of its strategy on housing and welfare and take measures to eliminate discriminatory practices and barriers, such as higher rents and more restrictive contractual terms, affecting persons with an immigrant background in the housing sector.

Ethnic profiling of persons with an immigrant background

10. The Committee is concerned that section 21 of the Immigration Act authorizes the police to stop persons assumed to be foreign nationals, thereby subjecting those with an immigrant background to ethnic profiling by the police (arts. 2, 12, 17 and 26).

11. The State party should revise the Immigration Act to ensure that its laws clearly prohibit ethnic profiling by the police and prevent disparate treatment on the basis of physical appearance, colour or ethnic or national origin. It should continue to provide all law enforcement personnel with training in order to effectively prevent ethnic profiling.

Violence against women and girls

14. The Committee, while noting the efforts by the State party, reiterates its concern at the continuation of violence against women and girls, including rape, in the State party. It is concerned: (a) by allegations that 1 in 10 women in the State party have been victims of rape and half of those who reported it were under the age of 18; (b) that the lack of free consent is not at the centre of the definition of rape in section 291 of the Penal Code; (c) by alleged significant underreporting of rape and other forms of gender-based violence; (d) by reported societal and legal barriers in accessing justice for rape victims and the low numbers of prosecutions and convictions of rape cases; and (e) by reported higher rates of violence against Sami women, who face difficulties in seeking justice for these crimes due to cultural and linguistic barriers and mistrust of authorities (arts. 2, 3, 7, 24 and 26).

15. The State party should increase its efforts to prevent and combat all forms of violence against women and girls and, in particular: (a) Proceed with plans to launch a new national plan of action to eliminate violence against women and girls, with a focus on eliminating rape and other forms of sexual violence in the State party, including in the Sami community, in consultation with Sami peoples and other stakeholders; (b) Amend section 291 of the Penal Code to ensure that the lack of free consent is at the centre of the definition of rape; (c) Facilitate the reporting of rape and gender-based violence cases by, inter alia, systematically informing women and girls of their rights and of the existing legal avenues through which they can access resources, services, protection and justice; (d) Strengthen its efforts to raise public awareness of the adverse impact of sexual and gender-based violence. Continue to train judges, prosecutors and law

enforcement officials on addressing sexual and gender-based violence and strengthen the investigative capacity of law enforcement for such cases. Ensure all reports are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims have access to full reparations; (e) Investigate further the root causes of higher levels of violence against women in the Sami community. Take effective measures to address these root causes, eliminate cultural and linguistic barriers and build trust between the Sami community and authorities.

Hate speech and hate crimes

16. The Committee, while noting with appreciation the measures taken by the State party, such as section 185 of the Penal Code, and the creation of a designated hate crime investigation unit in the Oslo police district and the Strategy against Hate Speech (2016– 2020), remains concerned about the persistence of hate crimes and hate speech, including on the Internet, against Romani people/Tater, Roma, migrants, Muslims, Jews and Sami persons. The Committee is concerned at the lack of systematic registration of cases and collection of comprehensive data on hate crimes and hate speech. It is also concerned at underreporting of hate crimes and criminal hate speech and at the low rates of convictions for lack of evidence (arts. 2, 20 and 26).

17. The State party should: (a) take effective measures to prevent hate speech and hate crimes in accordance with the Covenant, including by increasing efforts to promote tolerance, ensuring full implementation of the Strategy against Hate Speech (2016–2020) and the creation of hate crime investigation units in all districts; (b) streamline the national registration of reports of hate crimes and hate speech and systematize the regular collection of data on these crimes, including the number of reported cases, investigations launched, prosecutions and convictions; (c) encourage the reporting of hate crimes and criminal hate speech and ensure that these crimes are promptly identified and registered as such; and (d) strengthen the investigation capacity of law enforcement officials on hate crimes and criminal hate speech, including on the Internet, and ensure all cases are systematically investigated, that perpetrators are prosecuted and punished and that appropriate compensation is awarded to the victims.

Liberty and security of person and treatment of persons deprived of their liberty

24. The Committee notes the comprehensive review of prison conditions undertaken by Norway. The Committee is concerned though at the high rates of full exclusions or isolation from many forms of human contact in custodial facilities, which has risen in 2017 to 4,788 cases. It is concerned that there is no set maximum number of days a prisoner can be kept in full exclusion (arts. 7, 9, 10 and 14).

25. The State party should evaluate the effects of full exclusions with a view to reducing them and use alternative measures whenever possible. It should set a maximum number of days a prisoner can remain in full exclusion in its policy, law and guidelines, in accordance with international standards.

26. The Committee is concerned by a 2017 report of the Parliamentary Ombudsman, who found that the use of isolation for persons with psychosocial disabilities and the lack of provision of

proper health-care services had led to a deterioration in health of these persons (arts. 7, 9, 10 and 14).

27. The State party should abolish the use of full isolation for persons with mental disabilities and use alternative methods, whenever possible. The State party should ensure the provision of adequate health-care services to persons with psychosocial disabilities in prison.

Legal aid

28. The Committee reiterates its concern (see CCPR/C/NOR/CO/6, para. 6) and notes that, despite its previous recommendation, the means-tested legal aid system continues to fail to take into account in practice the actual circumstances of the applicant and the cost of legal services being sought, and does not provide legal aid in many categories of cases.

29. The Committee reiterates its previous recommendation that the State party should review its current legal aid scheme and its impact, and make the necessary amendments to this system to ensure that free legal aid is provided in all cases in which the interests of justice so require.

Unaccompanied minors

30. While noting the information provided by the State party indicating that the Child Welfare Act applies to all children in the State party, the Committee is concerned that unaccompanied minors seeking asylum aged between 15 and 18 years are cared for by reception centres with lower levels of care, staffing and accommodation conditions, while other children are cared for by the Child Welfare Services, ensuring higher levels of care. The Committee also expresses deep concern at reports of the high numbers of unaccompanied asylum-seeking minors who are missing from these reception centres and the lack of conclusive information from investigations of these cases (arts. 2, 7, 9 and 13).

31. The State party should eliminate differential treatment of unaccompanied asylum-seeking minors aged between 15 and 18 and provide them with the same level of care as that provided by the Child Welfare Services. It should investigate and take measures to address the underlying causes of disappearances of unaccompanied asylum-seeking minors from reception centres.

Asylum seekers and non-refoulement

32. The Committee is concerned about the increased restrictions on asylum policies in the State party. The Committee is also concerned that amendments in 2015 and 2017 to the Immigration Act and related circulars have reduced protection for asylum seekers, for example by allowing asylum applications to be rejected without consideration of their merits, on the grounds that an asylum seeker has entered the State party after having stayed in a country in which they were not persecuted. The Committee is further concerned that the previously legislated requirement that asylum seekers be given access to asylum procedures in the return country has been eliminated, creating the risk of chain refoulement (arts. 6, 7 and 13).

33. The State party should amend the Immigration Act to ensure greater protection of asylum seekers from refoulement and chain refoulement, in accordance with

international standards. It should consider all asylum applications on the basis of their merits and ensure an in-country appeals system for rejected applications. It should respect the principle of non-refoulement by ensuring that asylum seekers are not extradited, deported or expelled to a country in which there are substantial grounds for believing that there is a real risk of irreparable harm, such as that set out in articles 6 and 7 of the Covenant.

Statelessness

34. The Committee is concerned at the lack of a clear legal definition of stateless persons in legislation and the lack of sufficient safeguards to prevent statelessness among all children born in the State party (arts. 2, 24 and 26).

35. The State party should include a legal definition of stateless persons in its legislation, and establish legal and other safeguards to ensure that all children born in the State party are entitled to a nationality at birth, even if it is not the nationality of the State party, as stated in general comment No. 17 (1989) on the rights of the child. It should also provide for a specific procedure to determine statelessness, in line with international standards.

Committee on the Elimination of Discrimination against Women

Concluding Observations, (2017), [CEDAW/C/NOR/CO/9](#)

Trafficking and exploitation of prostitution

26. The Committee welcomes the fact that the State party has begun to develop a national referral mechanism for victims of trafficking and other measures to combat trafficking in persons, in particular women and girls, including with international partners, and has increased the maximum prison sentence for the crime of trafficking. It is, however, concerned about:

- (a) The lack of comprehensive data about victims of trafficking, despite the fact that the coordination unit for victims of human trafficking compiles figures from various agencies;
- (b) The decrease in the number of reported cases of trafficking in the past five years, which may partially result from the increased immigration control by the police discouraging victims from coming forward to seek assistance;
- (c) The transfer of competencies from the Norwegian Labour and Welfare Service to the Directorate of Immigration when women victims of trafficking become asylum-seekers resulting in a change of their residence or legal status and the discontinuing of their rights and entitlements to assistance;
- (d) The risk of swift deportation of women victims of trafficking after a reflection period of six months if they are not willing or able to cooperate with law enforcement authorities with regard to the perpetrator;
- (e) Rejected asylum-seeking women becoming vulnerable to human trafficking.

27. The Committee recommends that the State party:

- (a) Systematically collect comprehensive data about victims of trafficking and report them to the Committee in its next periodic report;**
- (b) Adopt a human rights-based approach in its efforts to combat trafficking, and prioritize the prevention of trafficking and re-trafficking, the protection of victims and the prosecution of perpetrators;**
- (c) Create a uniform national system for identifying and following up on women victims of trafficking, ensuring the continuity of rights and entitlements when there is a change in the residence or legal status of the victim, conducting awareness-raising campaigns about human trafficking and discontinuing the return of victims of human trafficking under the Dublin Regulation;**
- (d) Revise immigration policies to ensure that laws and policies on the deportation of foreign women are not applied in a discriminatory manner, do not deter migrants, refugees and asylum seekers from reporting crimes of trafficking and do not undermine efforts to prevent human trafficking, identify or protect victims or prosecute perpetrators.**

Nationality

32. The Committee welcomes the fact that, following recommendations based on a mapping of statelessness in the State party by the Office of the United Nations High Commissioner for Refugees in 2015, the Nationality Act was amended to include a definition of statelessness in line with the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961. The Committee is, however, concerned that:

- (a) Foreign women may be at risk of becoming effectively stateless upon dissolution of a marriage to a Norwegian spouse if they have taken the nationality of their spouse and renounced their own and losing custody of their children if only the father has the same nationality as the children;
- (b) The State party lacks a procedure for determining statelessness and a regime for the protection of stateless persons, and children born in the State party to a stateless woman, including women asylum-seekers and refugees, may therefore become stateless;
- (c) The current condition for obtaining permanent residence status of three years of temporary residence may force women in abusive marriages or cohabitation to remain in such violent relations, exposing them to revictimization owing to the high threshold for proving abuse;
- (d) Restrictive requirements in immigration laws and policies, such as minimum income requirements and strict insistence upon participation in language courses, even during maternity leave, may not adequately accommodate the specific needs of women with caregiving responsibilities and have a disproportionate effect on ethnic minority, refugee and asylum-seeking women.

33. The Committee recommends that the State party:

- (a) Adopt the proposed amendments to its nationality and citizenship laws to allow for dual citizenship to reduce the risk for foreign spouses, upon dissolution of a marriage to a Norwegian spouse, of becoming stateless and losing custody of their children born in the State party;**
- (b) Ensure birth registration of children born to refugee and asylum-seeking women;**
- (c) Review the threshold for proving partner abuse in the context of the requirement for obtaining permanent residence status of three years of temporary residence, and implement the proposal to grant an independent right to stay to foreign women who are abused by persons other than their partners;**
- (d) Review immigration laws and policies to ensure that they do not have disproportionate consequences for ethnic minority, refugee and asylum-seeking women and girls.**

Refugee and asylum-seeking women and girls

44. While the Committee welcomes the fact that gender-related persecution, including that of lesbian, bisexual and transgender women and intersex persons, is a relevant factor in asylum case decisions in the State party, and that rape, forced sterilization or abortion, female genital mutilation, bride burning and killings in the name of so-called honour may also constitute persecution, the Committee is nonetheless concerned that the tightening of the laws relating to refugees and asylum seekers may have a disproportionately negative impact on women and girls.

45. In line with its general recommendations No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, the Committee calls upon the State party to continue to apply a gender-sensitive approach in receiving refugee and asylum-seeking women and in considering asylum claims, thereby ensuring that the protection needs of asylum-seeking and refugee women and girls arriving in the State party are addressed as a priority concern.

Women in prison

46. The Committee welcomes the fact that the State party has begun to implement the recommendations of the report on equal conditions for women and men under the responsibility of the correctional services of 2015 and of the report of the of the Parliamentary Ombudsman on women in prison of 2017, including through the development of a strategy and the establishment of separate wings for women in prisons where they did not exist, with a view to achieving equal prison conditions for women and men. The Committee is, however, concerned that:

- (a) A number of prisons for women are located in old and unsuitable buildings;**
- (b) Owing to the low number of suitable prisons, women prisoners are at a higher risk than men of serving their sentences in prisons with higher levels of security, of serving their sentences far from their families, including their children, and of being exposed to sexual harassment in mixed prisons, even with separate wings for women and men;**

- (c) Many women prisoners have significantly poorer access to outdoor areas and physical activities than men;
- (d) Health services in prison are at times not tailored to the specific needs of women, including with respect to mental health care and substance abuse rehabilitation services.

47. The Committee recommends that the State party:

- (a) Step up its efforts to improve prison conditions for women prisoners on an equal level with men in prison and in compliance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), adopted by the General Assembly in its resolution 65/229;**
- (b) Improve health-care services, including mental health care and substance abuse rehabilitation services, for women prisoners.**

III. Special Procedures Mandate Holders

[Independent Expert on human rights and international solidarity, Visit to Norway, \(2016\), A/HRC/35/35/Add.1](#)

Solidarity with migrants and refugees

30. Norway is confronted with the same immigration challenges as many other Western European countries are when it comes to managing the growing number of migrants. There has been a steady rise in immigration and a change in the profile of immigrants, as asylum seekers have started to outnumber labour migrants. The Government's approach has generally been to encourage voluntary departure after a negative decision on asylum claims has been made, viewing it as a more humanitarian, cost-effective and more efficient means of return than forced repatriation. In order to ensure a more efficient return procedure, the Government has tried to initiate negotiations on readmission agreements particularly with countries of origin where readmission is difficult to secure. At the time of the visit of the Independent Expert, there was no clear indication on how or whether Norway would develop any further opportunities for safe and regular migration.

31. Norway has hosted an office of the International Organization for Migration (IOM) in Oslo since 2002 and worked jointly with the organization to develop different reintegration programmes that provide support to returnees. Norway is also involved in the Equi-Health project, run by IOM, which promotes the provision of health services to migrants, Roma and other vulnerable groups in European Union and European Economic Area countries. Norway also cooperates with the European Union to address problems in the Mediterranean area.

Conclusions and recommendations

76. The Independent Expert welcomes the progressive approach adopted by Norway to humanitarian assistance and development cooperation, combining crisis response and sustainability, reflecting the three essential components of international solidarity, namely preventive solidarity, reactive solidarity and international cooperation. She notes with appreciation the efforts made by the Government to diversify the support provided to partner countries through various initiatives aimed at empowering local sectors and at strengthening accountability for the management of natural resources

79(d) Within the framework of the Government's engagement in the discussion regarding the global compact for safe, orderly and regular migration, the Independent Expert welcomes the assistance provided by Norway to refugees and encourages the Government's leadership in promoting increased opportunities for regular channels of migration as a sign of solidarity with migrants and as an acknowledgement of the positive contribution they bring to host societies in economic, social and cultural terms.