Alternative report to the UN Human Rights Committee regarding Norway's sixth Periodic report under the International Covenant on Civil and Political Rights

December 2010

Submitted by the following organizations in the Norwegian NGO-forum for Human Rights:

Human Rights Committee of the Norwegian Bar Association

Norwegian Helsinki Committee

Norwegian Organization for Asylum Seekers

Norwegian Psychologist Association

Amnesty International Norway

Save the Children Norway

International Commission of Jurists Norway

Norwegian Center against Racism

Human Rights House Foundation

INTRODUCTION

25 November 2009 Norway submitted its sixth Periodic report under the *International Covenant on Civil and Political Rights (ICCPR)* on the status of the implementation of the *Covenant* in Norway.

The present report has been prepared by Norwegian NGOs to give input to the *UN Human Rights Committee* in advance of its examination of Norway's account of the human rights situation.

We welcome this opportunity to address human rights issues in Norway to the *UN Human Rights Committee* and we are grateful for the openness the Committee showed to Norwegian NGOs during the examination of Norway's 5th report in *New York* in March 2006.

The present report covers a vast thematic area and we believe all very relevant issues to an examination of Norway's implementation of *ICCPR*, but still we would like to highlight the following particular concerns before the Committee:

- The right to be brought promptly before a judge after arrest
- Police arrest, duration and conditions
- Involuntary deprivation of liberty and use of force in psychiatry
- Protection of refugees with reference to article 7 of the *ICCPR*
- Implementation of the *Istanbul-protocol*
- Ratification of the *Optional Protocol to the UN Convention against Torture, Inhuman or Degrading Treatment or Punishment*
- Transfer of responsibility of care for unaccompanied asylum seekers in the age group 15-18 years of age to the *Child Welfare Services*.

These topics are elaborated below. The report is organized first according to article of the ICCPR, then according to the thematic sequence of Norway's 6th report. We have split the text into sections with standardized headings containing the following information about the section in question:

- ICCPR article;
- The title of the subject, most often the title being used in the *Norway's Sixth Periodic Report.*
- The numbers of the paragraphs dealing with the same issue in *Norway's Sixth Periodic Report.*
- *Keywords indicating our main message under the topic.*

We are grateful for any attention that the *UN Human Rights Committee* may dedicate to these and other issues raised in this alternative report, during the examination of Norway's 6th periodic report. We hope that representatives of at least some Norwegian organizations will be able to attend the examination expected to take place in the fall of 2011 at Geneva to provide the Committee with additional, and perhaps, further updated information on human rights in Norway.

On a final note, the *NGO-forum for Human Rights* wants to extend a special thanks to *Lawyer Knut Rognlien* for his many contributions to human rights cases before domestic and international courts and bodies and to alternative reports to international human rights bodies, including to the present report. *Mr Rognlien* is now retiring from the *Bar Association's Human Rights Committee* after many years of service.

Questions regarding this alternative report may be directed to the *Norwegian NGO-forum for Human Rights c/o Norwegian Helsinki Committee, Kirkegata 5, 0143 Oslo, NORWAY*. Contact person, *Ole B. Lilleås* at *lilleas@nhc.no*.

Oslo, December 2010

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ICCPR Article 2

ICCPR Art.	Subject	State report para.	Keyword
2	***Legal Aid***	8-10	Income limits

The present legal aid scheme leaves a large portion of the population without a possibility to invoke most of the human rights under the Covenant despite the fact that Norway has undertaken to ensure effective protection.

Apart from a few prioritized areas of law, such as penal law where individuals receive free legal aid regardless of their income, legal aid is only given to those with very low income. The provision which enables the authorities to grant legal aid at their discretion is seldom used. *Possible human rights violation* is not among the prioritized areas for legal aid. Neither is economic fraud and identity fraud, crimes which are prevalent in Norway, but where the police often reject investigation of cases.

The income limit is set very low and includes all social security and other public support, even if social security payments are not calculated to include expenses for legal aid. Many are therefore denied legal aid, even if they have no other reasonable recourse to paying such expenses.

Any income limit should be linked to the person's own ability to pay for the legal aid in question. Wealth (i.e. partial or whole ownership of own housing) should be irrelevant. The housing policy of Norway has to a very large extent focused on having as many as possible owning their own apartment or house. Being a house owner is therefore not an apt indicator of whether it is reasonable to provide legal aid. Lastly, the assessment of ability to pay should be different as to whether the application concerns legal *advice* or legal *proceedings.*

Recommendations to Norway:

- ***The assessment of need of aid for legal advice and legal proceedings should cover the real expenses and be based on the economic ability of the individuals' most recent monthly income.***

- ***The prioritized subject matters for legal aid should include any case involving a potential violation of a human right in a convention to which Norway is a party; or at the very least it must include cases that affect individuals' ability to function and participate in society, in particular areas where the police offer little or no protection such as economic fraud, and identity fraud.***

ICCPR Art.	Subject	State report para.	Keyword
2	***Legal Aid***	10	The Asylum Procedure

Persons seeking asylum are provided information and guidance by a non-governmental organization, the *Norwegian Organization for Asylum Seekers*, in the first instance. If rejected, applicants are

provided legal assistance by a lawyer in the administrative appeals stage. At this point, applicants have the right to receive five hours of legal aid in this process and if needed, the lawyer may apply for funding for five more hours, but such additional funding is often difficult to get.

Legal aid is seldom given to asylum seekers who want to take their cases to court. The cost of this makes it almost impossible for most asylum seekers to get their cases assessed by a court.

Recommendations to Norway:

- ***Improve the possibilities of getting additional funding in the administrative appeals stage of the Asylum procedure.***

- ***Enhance the possibilities for asylum seekers to get legal aid for court cases, especially for cases involving issues of principle that may form precedence for future cases.***

ICCPR Art.	Subject	State report para.	Keyword
2	***Protection of the victim***	11-12	Protection beyond legal interests

The measures undertaken to strengthen protection of victims outlined in the State report are very welcome. In our view, however, these initiatives are too narrowly focused on rights that may affect the outcome of the trial of the accused, such as free legal aid and procedural rights in relation to the criminal case. Few or none of the initiatives are actually focused on protecting the victim.

Initiatives that would protect the victim include giving clearly delineated right to safe housing to ex-spouses and children; protect children from unattended care with a violent parent; clear criteria for how and when identity and whereabouts may be protected and concealed; and clear and well functioning plans for curtailing group-threats from large family units. The protection scheme must provide solutions for how the victim may assume a new identity with his or her children. There should also be in place a trans-national cooperation in cases where Norway proves too small to protect the victim in question. The victim must in such cases have a right to take all social security benefits abroad, as if she or he still resided in Norway.

Today victims may not count on any such protection. To the extent such protection exists, it exists as a matter of established practice decided by negotiation with authorities. The system for how to *approach* the authorities and the criteria for applying protective measures are not transparent. Informal information indicates that very few women, perhaps as few as three or four, were given a new identity in 2009. The need for new identity among female victims must be assumed to be much greater, as Norway recognise domestic abuse as a real problem.

The creation of a nationwide network of Children's Houses is a needed and welcome initiative. Still a more low-threshold support system for suffering children is lacking, in particular Norway does still not have a 24 hour free telephone or internet help line paid by the authorities where children may easily access needed support to protect them from ongoing abuse.

Recommendations to Norway:

Establish a legally defined protection scheme for victims to improve the actual protection and make protective measures more regulated and predictable. The protection scheme should:

- ***establish a clearly delineated right to safe housing to ex-spouses and children in the law;***
- ***establish a legal right of children not to be subjected to unattended care of an allegedly violent parent;***
- ***establish clear legal criteria for how and when identity and whereabouts may be protected and concealed;***
- ***establish clear and well functioning plans for curtailing group-threats from large family units.***
- ***provide solutions for how the victim may assume new identity with his or her children.***
- ***include a trans-national cooperation in cases where protection is difficult within the borders of Norway, including the right of the victim to transfer his or her social security payments abroad as if she or he still resided in Norway and regardless of membership in the National Insurance Scheme ("Folketrygden").***

ICCPR Art.	Subject	S Report para	Keyword
2	***Concluding Observations***	22	Effective and systematic follow up

Norway's last National Plan of Action on human rights of 1999 is no longer operational. The Norwegian Centre for Human Rights as the National Institution for Human Rights in Norway and several Norwegian NGOs reported on the need for a new plan of action to the UN Human Rights Council on the occasion of the UPR of Norway. The 1999-plan 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.

Recommendation to Norway:

We recommend that Norway create better procedures for the follow up, both at the national and local level, of recommendations made by international human rights monitoring mechanisms. This task should be a key part of a new National Plan of Action for human rights.

ICCPR Art.	Subject	State Report para	Keyword
2	***National Institution for Human Rights***	Not mentioned	Need to strengthen

The Norwegian Center for Human Rights at the University of Oslo is the National Institution for Human Rights in Norway. At the time of writing the Centre's activities are being reviewed by an external working group which has yet to publish its findings and recommendations. The review was initiated as it was clear that the tasks related to the National Institution were not well integrated into other fields of work at the Centre, that the Centre is performing only a minimum of what can be reasonably expected from a National Institution and that questions are being asked whether or not a National Institution can perform well with an ambition of active promotion of human rights within the framework of the University of Oslo.

Two representatives of civil society organizations are serving on the board of the Centre. They have maintained over a long period of time that there are insufficient resources for the tasks of a National Institution at the Centre, and especially that the budgetary resources set aside for the functions of National Institution have not been fully used for those purposes at the Centre.

Recommendation for the Committee:

Follow up by asking the Government about future plans on how to secure a strong national institution to monitor the situation for human rights in Norway.

ICCPR article 3

ICCPR Art.	Subject	State Report para.	Keywords
3	***Gender-based discrimination***	-	Co-ordination, resources, statistics

The government of Norway has long focused attention on equal opportunities for women and men in public life, work, political participation, representation and leadership. Despite this, unequal power relations between men and women prevail, and gender-based discrimination against women continue to pose limitations on women's ability to enjoy rights and freedoms on a basis of full equality with men. A profound expression of gender-based discrimination in Norway is the state's failure to act with due diligence to prevent, investigate and punish gender-based violence against women, and to provide victims of gender-based violence with adequate rehabilitation and compensation.

Norway is to present its periodical report to the CEDAW in 2011/2012. Several Norwegian NGOs intend to take that opportunity to present an alternative report, inter alia, to elaborate different aspects of gender-based discrimination in greater detail.

ICCPR article 6

ICCPR Art.	Subject	State Report para.	Keywords
6	***Suicides and murders by psychiatric patients***	46-47	Co-ordination, resources, statistics

The report "*Murder in Norway during the period 2004 - 2009"*and the National guidelines for preventing suicide in the specialized mental health-care services proposes a range of important measures, but an important cause of tragic outcomes of discharges seems to be the lack of resources in psychiatric institutions as well as in follow-up measures after discharge from institutions, especially follow-up measures at the municipal level. Statistics on such suicides and the circumstances, in which they take place, could shed light on risk factors.

Recommendation to Norway

Norway must ensure that follow-up measures at the municipal level are implemented and that the cooperation between the municipal services and more centralized institutions is functioning. Norway should promote research and produce adequate statistics regarding suicides and murders by persons who have mental disorders.

ICCPR Art.	Subject	State Report para.	Keyword
6	***Terrorism***	48-49	Overbroad reach of definition

Even if Norway has amended its terrorist definition, the definition in section 147 b of the *General Civil Penal Code* remains excessively broad. The definition does not delineate the required seriousness of an act in order for it to be considered *"terrorism."* It captures in litra a) individuals with malicious intent but who in effect may not be considered dangerous. Litra b) may be encompassing almost any act, leaves too much room for interpretation and does not provide foreseeability. Litra c) refers to the very nebulous concept of "*any act of crucial importance for the country.*" The revision has therefore not achieved the desired focus on how to describe the threshold of when a threat or act is sufficiently serious to be considered *"terrorist*." It also lacks precision as to which situations it is applicable, as it does not stipulate types of armed conflict and nature of opposition groups that may fall outside its scope.

Recommendation to Norway:

To review the definition of terrorism in the General Civil Penal Code to ensure full compliance with the Covenant and congruence with International Humanitarian Law as stipulated in the Geneva Conventions and their protocols.

ICCPR Art.	Subject	State Report para.	Keyword
6	***New provisions on genocide, crimes against humanity and war crimes***	50	Resources, co-ordination, application

It is welcome that the crime of genocide, crimes against humanity and war crimes have been explicitly included in the Penal Code.

There is a backlog of cases of alleged perpetrators of such core international crimes who reside in Norway and have not yet been brought to justice before Norwegian courts, even if other relevant jurisdictions are not willing or able to prosecute them. It is commonly believed that there are about 60 such cases. A single case has been prosecuted so far. More competence and capacity building is needed in the area of international criminal law and international humanitarian law to deal with this backlog and to reaffirm that Norway is not a free haven. The fact that most, if not all, assumed perpetrators arrived to Norway as refugees highlights the special challenge to improve coordination between the National Authority for Prosecution of Organized and Other Serious Crime and the Directorate of Immigration. The need for such co-ordination applies to both screening of potential suspects and witnesses of crimes.

On the basis of the amendments to the Penal Code, Norwegian lawyers have reported Israeli leaders for war crimes in Gaza in December 2008 /January 2009 to the Norwegian prosecuting authority. However, the prosecuting authority has not been willing to act on this report, although the indications of war crimes are overwhelming, as documented inter alia in the Goldstone-report. It is uncertain to which degree the prosecuting authority is willing to use its authority to prosecute persons for alleged war crimes.

Recommendation to the Committee:

To call on Norway to continue to strengthen the capacity to investigate and to prosecute cases of core international crimes, including by allocating resources and strengthening the cooperation between the National Authority for Prosecution of Organized and Other Serious Crime and the Directorate of Immigration.

ICCPR Art.	Subject	State Report para.	Keyword
6	***Asylum seekers' access to health care***	Not mentioned	Access to specialists and mental health care

Norway provides necessary health care to asylum seekers, including TB screening and treatment if positive on this test. The health authorities have issued guidelines specifying the right to health care in the different stages of the asylum seeking procedure. The right to health care in acute situations is

generally granted in practice, but problems arise when the asylum seeker is in need of more specialized health care, including care and treatment related to sequelae of torture. Access to mental health care assistance is particularly difficult.

As the right to health care in practice basically is in the hands of the local health provider, services may come out quite differently from one municipality compared to the next and from one asylum centre to the next. And there are frequent reports of health problems, somatic as well as mental, and even in relation to consequences of severe human rights violations, that are not met and that persons with such needs have been refused, often on the basis of a reluctance to initiate treatment in a situation where the stay in Norway can come to an end on short notice. This practice may be seen as discriminatory. It is therefore important that the Norwegian health authorities develop more specific provisions in relation to equal rights to equal care when needed, and that services in particular in relation to health problems due to human rights abuses, are dealt with, and irrespective of the person's ability to finance such services.

Recommendations to Norway:
- Strengthen the collaboration between the different instances involved in health care and reception conditions in order to ensure that necessary health care, including psychological/psychiatric services are provided to asylum seekers.
- Give special focus to the health care needs of asylum seekers with special needs, in particular persons who have been exposed to severe human rights abuses, such as torture and sexual violence.
- Provide annual statistics or reports on how the health care needs of asylum seekers are being met.

ICCPR Art.	Subject	State Report para.	Keyword
6	***Access to health care for stranded asylum seekers and irregulars***	Not mentioned	De-facto access to emergency health care and other necessary health care

Stranded asylum seekers and other irregulars have difficulty receiving health care. Individuals belonging to this group have the right to receive emergency health care, but may decide not to make use of this right since the authorities have not given a declaration that an irregular will not be apprehended upon contact with emergency health personnel.

A pro-bono medical centre run by the *Norwegian Red Cross*, the *Church City Mission* and a group of volunteer doctors, nurses, psychologists and psychiatrists, provides medical services to stranded asylum seekers and irregulars at a concealed address in *Oslo*. The centre has limited hours and works at the full of their capacity. Such centers do not exist in other parts of the country. The police has agreed not to survey the centre and the authorities has agreed not to prosecute its participants under the penal provision of the *Immigration Act of 2008* section 108(3) for wilfully assisting an illegal immigrant's stay in Norway, that may be penalized with fines and up to three years in prison under the Act.

Recommendation:

The right of stranded asylum seekers and other irregulars to receive medical care should be provided in law.

ICCPR Article 7

ICCPR Art.	Subject	State Report para	Keyword
7	***Pre-trial detention***	51	Relevance to ICCPR Article 7

The Government has chosen to consider pre-trial detention and police custody under Article 9 but we believe these issues should be considered in relation to Article 7 as well, as the most critical detention conditions tend to be inhuman. Despite this disagreement, we follow the organisation of the state report for easier reference.

ICCPR Art.	Subject	State Report para.	Keyword
7	***Female Genital Mutilation***	52-60	FGM as torture in asylum cases

Norway clearly recognizes FGM as torture in relation to Norwegian residents that may be potential victims thereof. However, this understanding of FGM as torture is not applied unequivocally in relation to asylum seeking female children, as preparatory works to the Immigration Act of 2008, section 29, merely state that risk of FGM "may" give ground for protection.

According to the *2009 Annual report from the Norwegian Immigration Appeals Board*, a large majority of those that are found to risk FGM are merely granted humanitarian status, in 69 of 92 cases[1]. This fact raise the concern that in many of the cases where the female child's parent is granted refugee status on humanitarian grounds amount to incorrect application of the *Refugee Convention*, as the female child's protection needs have not been given an individual assessment. Relevant to the HRC is that the understanding that FGM constitute inhumane treatment is not applied in cases of asylum or other forms of protection.

Recommendation to Norway:

The recognition of FGM as "inhumane treatment" must be equally applied in cases concerning female asylum seekers, and in particular female child asylum seekers.

[1] Page 21 UNE Årbok 2009 http://www.une.no/upload/PDF%20dokumenter/Aarbok2009/UNE_aarbok_2009.pdf

ICCPRArt.	Subject	State	Report para.	Keyword
7	***Coercive measures in prisons during execution of sentences***		61	

We have noted that the governmental statistics on the use of coercive measures from 1998 to 2008 show an increased use of handcuffs and protective shields, in absolute numbers and also relatively when the increased prison population is taken into account. Use of batons is very limited, but the use still *exists* – as opposed to the years 1998 – 2004 when no use of batons was reported. However, in regard to security cells, security beds and (tear)gas, the development seems satisfactory and even decreasing in absolute numbers.

All in all, the obvious negative tendency is that the use of handcuffs is rather frequent, even though the numbers peaked in 2005, and later seem to point downwards again. Either, the increased use of handcuffs may be due to changes in the prison population, or to a change of prison staff culture. If it's the latter, then this is a development that needs to be taken seriously. Of course, these numbers may also reflect that the inmates that previously would be held in security cell, now instead are handcuffed. Either way, these numbers should be analyzed by the prison authorities. Securing a satisfactory monitoring of the use of coercive measures during imprisonment is anyway of utmost importance. A developed monitoring regime is a requirement of the *Execution of Sentences Act* section 38, which states that a coercive measure has to be "*strictly necessary*" to be allowed in a given situation.

Our discussion of *Solitary confinement during execution of sentences* found under *ICCPR* article 10 in the present document is also relevant under the present topic.

ICCPR Art.	Subject	State	Report para.	Keyword
7	***Deprivation of liberty and coercion in connection with mental health care***		68-75	Involuntary hospitalization and treatment.

The Government has in its report referred to the fact that international statistics indicate a high frequency of use of coercion in mental health care in Norway compared to other countries, and goes on to say:[2]. *"Variations in reported data between and within Norwegian Health regions clearly show a potential for reducing the amount of coercive admission and treatment".* This basically means that the level of coercion is too high and goes beyond what is strictly necessary, in at least some health regions and further indicate that use of coercion may be arbitrary, and thus in violation of Article 9.

[2] State Party report, para. 73.

We must point out that even if it is positive to admit this problem, the state obligation is to ensure respect of human rights and we do not believe that the measures listed in the state report is adequate in scale or timing.

Furthermore, since the large variation in the use of coercive measures does not seem to be justified by differences in characteristics in the patient populations within each health region, a possible interpretation of the data is that the variations in use of coercive measures might partially be explained by differences in attitudes or interpretation of the legislation regarding the use of coercive measures among health personnel in different clinics and between health regions. If this interpretation is correct, this pose a serious threat to the legal protection of persons with mental disabilities. In addition, data indicate that patients with lower socio-economic status are more exposed to coercive measures, compared to patients with higher socio-economic status

The incidence and administering of force may further be linked to the so-called "treatment criterion". According to the *Mental Health Care Act* § 3.3, a patient can be coerced to hospitalisation if the medical authorities appraise that *either (*a) the patient's mental illness can become worse if he/she do not get treatment (the so-called "treatment criterion"), *or (*b) the patient is dangerous for himself or other persons (the "danger criterion"). National statistics show that the treatment criterion is used as the only reason in more than 70 % of the involuntary commitments to mental hospitals[3]. In these cases there are no risks of injuring or harming other persons or the person himself. However, the coercive treatment is considered to be in the patient's best interest, to prevent the condition from deteriorating, and to increase the chance of recovery. But the largest organization of patients, *Mental Helse Norge*, (Mental Health Norway) has voiced that the treatment criterion should be removed as a basis for involuntary hospitalisation and treatment.

The organization *Rådet for psykisk helse (Council for Psychological Health)* has recently published a research report; "*Voluntariness before coercion*", mapping out ways to reduce involuntary hospitalization in Norway. The report compared mental health institutions with frequent use of coercive measures, with institutions with less frequent use, and concludes that it might be possible to reduce use of coercive measures if mental health professionals have the time and resources to work with preventively with patients before the need of institutionalization arise.

The *"treatment criterion",* has been considered by a working group appointed by the *Directorate of Health* as referred to in the *State Report*, para. 75. The working group has concluded that there is little documentation showing that coercive treatment under this criterion will help the person to function better. On the other hand – there are many patients reporting that the coercive measures itself have made them worse, and given them additional traumas as documented in several publications.[4] This being the case, we hold that coercive treatment should not be used unless it is documented that it has a positive effect. It should otherwise be considered as experimental treatment, which requires the patient's free consent in accordance with *ICCPR* Article 7.

Furthermore, the treatment criterion gives the hospitals such a wide margin of appreciation to decide coercive measures that the possibility for arbitrary deprivation of liberty is too great. The

[3] SINTEF report of May 2008, page 73.

[4] Cfr. books by Gro Hillestad Thune and Øystein Vaaland, both published in 2008.

courts will seldom set the opinion of the psychiatrists/clinical psychologists aside, because the psychiatrists/clinical psychologists are presupposed to be the most competent to consider these questions.[5]

We now provide some examples from case-law regarding what has been considered as necessary for long lasting coercive measures, even by the courts:

– About two years of involuntary hospitalization and medication of a 19 years old man diagnosed as undifferentiated schizophrenic was not stopped, because the psychiatrist considered that it was likely that his psychosis then would "blossom" and he would withdraw from other people and become passive. He had not been proven to be dangerous to other people. It was not possible to conclude for how long the coercive measures were necessary.[6]

- About ½ year of involuntary hospitalization and forced medication of a 36-year-old woman was not stopped, because she would otherwise have bizarre opinions, no permanent place to live, no social network and would not manage to wash herself and brush her teeth.[7]

-About 1 year of involuntary medication of a 71-year-old man was not stopped, because he would continue to preach the Bible to everyone, although they are not interested in listening to him. The preaching was considered to be a problem for his wife as well as other people. However, there was no risk that he would be aggressive or threatening.[8]

-5 months of involuntary commitment of a 29-year-old man because he had an obsessive compulsive disorder whereby he felt compelled to perform certain hygiene rituals before eating or drinking. He was not considered to be of any danger to himself or others. However, the hospital submitted that involuntary commitment was necessary to increase the chance of improvement. After he was taken in to involuntary commitment he refused to eat or drink. He was therefore given intravenous therapy. He appealed to the *Control Commission* and then to the *County Governor's Medical Department* but the appeals were denied. The man was first discharged when the two Court-appointed psychiatric experts stated that the conditions for forced psychiatric care had never been fulfilled and that forced treatment was counterproductive.[9]

We consider that it is possible to help people as those described above without coercive measures, for instance with voluntary psychotherapy, a place to live, help with personal hygiene and social interaction. Even if such voluntary measures do not help, this does not justify involuntary hospitalization if the patient is not dangerous to himself or others. Abnormal or bizarre behaviour must be tolerated as long as it does not constitute a threat to others.

We hold that the use of coercive measures such as involuntary hospitalization is not necessary, because of the lack of documentation that it will help, because of the risks of damage to the patient,

[5] See the report of the working group, page 35 and 54.

[6] See Judgement of 31 October 2008 by Frostating High Court (LF-2008-142448).

[7] See Judgement of 16 December 2002 by Oslo City Court (TOSLO-2002-8528).

[8] See Judgement of 9 January 2002 by Frostating High Court (LF-2002-830).

[9] Oslo City Court case No. 10-023624TVI- OTIR/08.

and because of the wide margin of appreciation afforded to the psychiatrists and lack of foreseeability for the citizens to know what kind of behaviour is accepted in society.

The use of coercive measures are attempts to change the persons' personality and thus an interference with their right to private life, freedom of thought and religion, to hold opinions and the freedom of expression. This raises therefore also the issue of compatibility with ICCPR Articles 17, 18 and 19.

The most important organs to supervise the hospitals, the Control Commissions are not as independent from the government as are the courts. The leaders and the members of the Commissions are appointed by the County Governors, without an open job application procedure when a position is vacant. County Governors may ask the Bar Association and the Association of Judges for proposals and advice when appointing the leaders of the Commissions, but this is seldom done. None of the members has to be a psychiatrist, and that may be a reason why the discretionary decisions of the hospitals usually are accepted by the Commissions.[10]

Recommendations to Norway:

- ***To eradicate any arbitrary or unnecessary use of coercion and deprivation of liberty in psychiatry as a matter of urgency, including by a stricter application of the "treatment criterion".***
- ***To strengthen the Control Commissions by ensuring their full independence in their functioning and in the way of appointment and by requiring by law that the commissions are composed to include necessary expertise within the field of psychiatry and mental illnesses.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Coercion in connection with mental health care***	72, 72, 74	Involuntary treatment

Once the patient is hospitalized, inside the hospital, the treatment remedies can be coercive. Long-lasting use of *seclusion/ segregation* has been criticized by *CPT* (2005). Patients can experience such isolation as punishment more than protection and tranquillity. Many patients have also complained over coerced *medical remedies* that are used for long periods of time, and the mental health professionals don't evaluate frequently enough the effect of psycho pharmaceuticals. This is also a problem for patients who receive coerced psychopharmacological treatment outside the hospital. *Physical restraints* are also methods that can be used in a brutal way, and the patients can feel re-traumatized and feel that their integrity is violated.

[10] See the report IS-1338 of 2005 from the Social- and Health directorate page 99-100.

In the "*Norwegian NGO-Forum for Human Rights regarding the Universal Periodic review of Norway, scheduled for December 2009*", it is written that "*Electro Convulsive Treatment (ECT) can be administered without informed consent. The legislation requires such consent, but the practice is nevertheless accepted. It is purportedly justified by the "principle of necessity". We are not aware of any official statistics on the extent of forced ECT (nor on ECT administered with informed consent). We recommend that Norway minimise the use of force in psychiatric institutions and produce statistics on the use of ECT*". But in the Sixth periodic report, electro convulsive treatment is not mentioned.

Some patients do not complain on the use of coercive remedies in themselves, but rather in which way these coercive remedies are used. Thus, in cases where the use of coercion is necessary it's important to implement the coercive remedies in a manner that is as considerate and respectful as possible.

In the current *Mental Health Act* and related regulations, there is no time limit for application of coercive measures, with the exception of isolation (up to two hours at a time). To prevent long-term use of mechanical restraints, there should be introduced a time limit for these.

Such an important question about the safety of the patient's and others' lives and health should be out for consultation with various professional bodies before setting an absolute limit. Ideally, any change in the *Mental Health Act* and related regulations should be done within the framework of a research project with randomized controlled design, as the *Norwegian Knowledge Centre for Health Services* proposes in response to a letter from the *Norwegian Directorate of Health* in 2005. The *Norwegian Knowledge Centre for Health Services* also concluded: "*With a total absence of controlled studies we can ascertain that the efficacy and adverse effects with the use of coercive measures is unknown. The relative effects of different types of remedies, such as in isolation, holding firm and mechanical remedies are not known*."

Recommendation to Norway:

- ***Secure a maximum limit for the time period in which coercive measures may be used.***
- ***Ensure that treatment without a documented effect will never be allowed against a patient's consent.***
- ***Strengthen appeal possibilities in cases of coercion.***
- ***Give priority to research and necessary statistics on the use of coercive measures in psychiatry.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Protection of whistle-blowers in psychiatric institutions***	76-78	Protection in practice

It should be noted that the *Act Pertaining to Health Personnel* § 17 establishes an obligation for health personnel *on his or her own initiative* to report to the Supervisory Authorities findings that patients may be exposed to safety hazards. Accordingly § 16 obligates the authority which runs the health activity to organize the activity to make health personnel able to comply with this legal obligations.

The closed nature of mental health institutions needs to be recognized. If patients' rights are being violated within an institution, whistle-blowing is one of few possible alleys to remedies.

After the amendment of the Work Environment Act whistle blowers enjoy legal protection from retaliation and/or harassment after having reported e.g. censurable conditions. Stories from real life tell that whistle blowers' frequently have been exposed to retaliation and harassment after having reported such conditions, in particular forms of concealed and/or informal harassment that is difficult to observe, and which is even more difficult to prove. Such harassment may be performed both by the employer and by colleagues.

Thus we are of the opinion that the protection against retaliation and harassment of "whistle blowers" within this particular sensitive area of the health care system needs to be improved in practice.

Recommendation to the Committee:

Ask what steps Norway intends to take to ensure that whistle-blowers in psychiatry are protected in practice.

ICCPR Art.	Subject	State Report para.	Keyword
7	***Violence in close relations***	87-100	

Protection to victims of domestic violence and rape is the single most troubling example of police inefficiency in Norway. The low percentage of solved rape cases and convictions in rape and domestic violence cases provide unequivocal documentation that victims are not given needed protection by the police and the courts. A high percentage of reported rape cases and domestic violence cases are dismissed due to lack of evidence.

These prolonged problems indicate a strong need for the police to give a higher priority and dedicate more resources to domestic and sexual violence. A government-appointed committee on rape has

pointed out that the lack of clear strategies and regulations within the police force seems to lead to a lack of prioritization of rape and sexual offences by the police.

The lack of statistics on violence in close relations is worrying. The last mapping on violence against *children* was done by NOVA in 2007[11]. It was performed on students in the third class of upper secondary schools, but experience shows that children who suffer the hardest from violence within the family have a higher drop-out rate than other children. This group will therefore have been under-represented in the study. There is a need for better data in this field to improve protective measures.

The number of rapes reported to the police has increased steadily in recent years, from 798 in 2005 to 1006 in 2009, an increase of 26 percent. The number of reported aggravated rape cases, increased by 132 percent in the same interval, from 22 to 51. Again, there is a lack of incidence statistics available, therefore it is hard to tell whether the increase in criminal reports reflects trends or an enhanced willingness to report. Overall it has been estimated that between 8,000 and 16,000 *women* are victims of *rape or attempted rape* in Norway each year[12]. It is clear that only a minority of rapes are reported to the police.

Around 84 percent of rape cases reported to the police are dismissed by the public prosecutor, and never reach court. Compared to other crimes, few rape cases end with conviction in the courts. Between 2003 and 2005, the percentage of acquittals in rape cases was around 36 percent. The comparable percentage of acquittals during the same period was 7-8 percent for all reported crimes.

The initiatives to combat violence and spouse related murders in the *State Report*, are welcome, but for reasons stated above under the section concerning *protection of the victim*, no real change can be expected unless the victim receives clearly delineated rights where the state is obligated to take steps to provide that which actually matters to the victims, which is: safe housing, freedom of movement, functioning schemes for establishing new identities, protection from larger family groups and gangs, etc. Counselling would of course help in some cases, but the general focus of the initiative fails to recognize the seriousness of the problem. Without any such clearly delineated rights that actually matter in securing the victims, the promise that *"victims shall be guaranteed the necessary help and protection"* will ring hollow. At times the government has responded to individuals in distress that protection initiatives are difficult to establish as the women (and children) seldom are firm in their decisions to break off with the family. The response of the women (and children) is that they fear being firm as no solid and real protective initiatives are in place. In such impasse it is obviously the responsibility of the government to take the first step to provide rights that really matters.

Few acts of violence against children are reported to the child welfare services and tried in the legal system. The general population is somewhat reluctant or unable to report suspected acts of violence against children. This also goes for professionals who work with children, such as teachers, nursery school teachers and child welfare officers. Even though several of these professions have a duty to

[11] Mossige, S. and Stefansen, K. 2007, «Vold og overgrep mot barn og unge». Report no. 20/07, NOVA http://www.reassess.no/id/15705.0?language=1

[12] Estimate according to a government-appointed committee on rape, January 2008.

report cases of violence, there is reason to believe that many such cases go unreported, and that many children who need follow-up do not receive it. Many employees in schools and nursery schools do not have sufficient competence to discover cases of violence against children. This is because the topic is not sufficiently covered in their training programs. Studies carried out by the *Norwegian Centre for Violence and Traumatic Stress Studies* have revealed that students training to become teachers, nursery school teachers or child welfare officers do not receive the training they feel they need on the rights of the child and violence and sexual abuse. Nor do they gain the necessary competence in talking to children about such difficult subjects.[13]

On the issue of gender-based discrimination and gender based-violence with reference to rape against women, we refer to our comments under ICCPR Article 3, above.

We recommend to the Committee to ask Norway:

- ***What will Norway do to improve legal protection of victims of domestic and sexual violence?***

- ***See also "Protection of the victim" under ICCPR Article 2, above.***

- ***What will the Norway do to increase competence on violence against children and ensure that professionals and others know how to act in such situations?***

Recommendations to Norway:

- ***The police must give a higher priority and dedicate more resources to domestic and sexual violence.***

- ***The victim must have clearly delineated rights that she or he may invoke to protect her or his physical safety.***

- ***Ensure that professionals who work with children are given sufficient competencies as regards violence and abuse against children. The knowledge of how professionals and others should act in cases of violence should be strengthened to ensure that instances where children are in need of follow-up are reported to the child welfare services.***

- ***Conduct regular national surveys on the incidence of sexual violence and rape in Norway to obtain reliable information on the most effective policies and practices to prevent and address sexual violence and rape.***

- ***Establish sexual offences teams, with technical, tactical and legal expertise in relation to sexual offences, in every police district and an autonomous central unit for sexual violence within the police. Such a central unit could contribute to the necessary development and dissemination of competence and knowledge, and give a necessary boost to the status of police work on sexual offences on a national level.***

[13] Øverlien, C. and Sogn, H. 2007, "Kunnskap gir mot til å se og trygghet til å handle". Report no. 3/2007, NKVTS.

- ***Ensure that all relevant professionals involved in dealing with victims of rape or violence in close relations receive specialized training according to profession specific guidelines. Training and guidelines should involve relevant professional and other organizations, in order to eliminate prejudices and stereotypes about both victims and perpetrators.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Asylum: UNHCR's recommendations***	102-103	Internal flight and UNHCR standards; Legal security of procedure

In section 28(4) in the *Immigration Act of 2008*, the *internal flight alternative* is now defined in terms of being a refugee right. We welcomed that the previous incorrect regulation where *the internal flight alternative* led to the possible granting of humanitarian protection rather than refugee status, now has been replaced. The present regulation does fall short however, of recognizing *UNHCRs* standard of "*undue hardship*", in consideration of the internal flight alternative, as it merely gives a broad reference to the *reasonability test*[14] without stating the content of the test. In the practice of the *Directorate of Immigration* and the *Immigration Appeals Board*, there is no trace of applying the "*undue hardship"* test.

Provision 16-4 in the *Immigration Regulation of 2009* regarding the summoning of the *Grand Board* of the *Immigration Appeals Board* if a practice contrary to *UNHCR's* recommendations concerning protection is established, is welcome in principle, but the present provision is heavily politicized as an exception is made if the new practice is based upon instructions from the *Ministry*. The exception in the *regulation* runs potentially against the obligation set forth in section 98 of the *Immigration Act of 2008* that provides that Norway shall cooperate with *UNHCR's* recommendations. There is no avenue to challenge a refusal to summon the *Grand Board* if a new practice based upon instructions from the *Ministry* violates Norway's duty to cooperate with *UNHCR* as established by Article 35 of the *1951 Refugee Convention.*

The grand board scheme that is meant to strengthen the legal security of the asylum seeker in cases where the *Directorate of Immigration* or the *Immigration Appeal Board* may establish a new practice contrary to *UNHCR* recommendations is seriously deficient.

Firstly, the grand board decisions are not fully in the public domain, which seriously detracts from its presupposed legal significance. At times the *Immigration Appeal Board* publishes "press releases" and extracts of a decision are made available to the public. Secondly, since the handing down of two grand board decisions in May 2007, which applied *UNHCRs* recommendations regarding internal flight, there were no grand boards until the fall of 2009. There was no avenue to influence the length of dormancy, as the initiative to set a grand board is wholly at the discretion of the authorities.

Secondly, the *Ministry's* final say as to the appointment of the members and the leadership of the *Immigration Appeals Board* suggests serious problems concerning the legal security of tenure of the Grand Board members. The one member which partook in the two May 2007 decisions, *Terje*

[14] In Norwegian"ikke er urimelig å henvise søkeren".

Einarsen, who is one of only two university PhD's in Norway who do research on refugee law, was pushed down to the reserve list in 2009. After several controversies regarding the *Immigration Appeals Board's* procedure for summoning the grand board members (lack of written correspondence and reply), and after the leader of the *Immigration Appeals Board* publicly criticized *Mr Einarsen* for informing the public about details in a decision regarding *Dublin II returns* that the *Board* had refrained from publishing in full, *Mr Einarsen* withdrew from the *Grand Board*.

The Government has expressed that there is a goal to establish more political control over asylum issues and are considering removing the independence of the *Immigration Appeals Board*, inter alia by allowing for instruction on select or all areas of its various immigration cases. The government has not yet concluded in this matter,[15] but the concerns run high as such a development would push the legal security in this field 10 years backwards, and bring Norway out of tune with most European countries which now have functioning and fully independent *Migration Courts.*

Recommendations to Norway:

- ***UNHCR's recommendation of applying an "undue hardship" test in cases concerning internal flight should be implemented in Norwegian Asylum determination procedures.***
- ***A fully independent Migration Court should be established, or as a secondary option, the present appeal system must be strengthened by:***
    - ***Upholding the use of practice setting cases in some form and give NGOs the right to propose new members to the Grand Board of the Immigration Appeals Board.***
    - ***Giving NGOs and involved parties, such as asylum seekers, the right to initiate the summoning of the Grand Board in practice setting cases,***
    - ***Making the summoning of the Grand Board in practice setting cases, immune from instructions from the Government.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Asylum: Concluding observations of UN human rights bodies***	Not mentioned	Concluding observations not used as sources in asylum procedures

When considering cases of asylum and humanitarian protection the Norwegian immigration authorities do generally not make use of *UN human rights bodies` concluding observations* among their sources of information. Among the many different sources quoted in such decisions we are not aware of references to concluding observations, which at least indicates that concluding observations are highly underutilised as sources.

Concluding observations contain relevant information regarding possible risks of human rights violation in nearly every country of the world. The observations are results of a dialogue between the human rights bodies and *Member States*. There have been possibilities for *Member States* to refute

[15] The *Mæland-report* was delivered in November 2010 and is due to be considered in 2011.

allegations by NGOs, *UN special procedures* or other *Member States*. The basis of the concluding observations may therefore be better than reports by Norwegian authorities which have not been through such a contradictive process. When a UN human rights body following a contradictive process concludes that there are concrete concerns regarding certain provisions of a human rights treaty, this should be an important information source also for the Norwegian authorities when considering a case where the individual alleges risks of violation of the same provision. Although lawyers have called attention to this, the concluding observations of *UN human rights treaty bodies* are still not at the list of sources used by the Norwegian immigration authorities. It may therefore be likely that possible risks of violation of human rights have not been thoroughly considered and that persons have under such risks have been deported by Norwegian authorities.

Recommendation to Norway:

Concluding observations of UN human rights treaty bodies should be systematically taken into account by Norwegian Immigration authorities.

ICCPR Art.	Subject	State Report para.	Keyword
7	***Asylum procedures***	105	Application on Dublin II and the nuclear family

Norway indicates that nuclear family connection gives exception from Dublin II returns. This is not always applied. In at least one case, Norway has split the nuclear family. In that case, NGOs in Norway have reported that a wife and small children were returned under the Dublin II regulation, while the husband received asylum in Norway[16].

Recommendation to Norway:

When returning asylum seekers to other countries under the Dublin II regulation, Norway should safeguard that members of nuclear families under no circumstances are separated from each other as a consequence thereof.

ICCP Art.	Subject	State Report para.	Keyword
7	***Asylum: Dublin II***	104-108	Returning applicants to Greece without dealing with the a asylum claim

Under the *Dublin II regulation* Norway has returned asylum applicants to the first country of entry without dealing with the merits of the application, even to Greece, whose asylum procedures clearly do not provide the legal security foreseen in international refugee law, with the ultimate risk of *refoulement*.

[16] Wife had DUF 2009 01813002-002 and the children DUF 2009 121323 and DUF 2009 121324 respectively.

In 2008 NGO-reporting lead to a temporary halt in such returns to Greece, but the government defended the returns and later instructed a recommencement. UNHCR has several times reiterated its recommendation to Norway not to send asylum seekers back to Greece under the *Dublin II regulation*, and has recently called the conditions for asylum seekers "a humanitarian crisis"[17]. Norwegian NGOs have consistently asked all returns to Greece to be stopped.

In a *Grand Board* decision on 1 February 2010, concerning transfers to *Greece*, all members but one accepted that *Greece* had a satisfactory asylum procedure. Only an edited version of the decision is made public by the *Immigration Appeal Board* but other sources inform that the *Grand Board* bases heavily its factual assessments on the report of a government official working at the *Norwegian Consulate*. The report has obvious shortcomings and misrepresentations, as both previous and subsequent reports from NGOs, UNHCR and the Council of Europe[18] demonstrate[19].

In October 2010, Norwegian authorities decided to suspend all returns to Greece while awaiting a judgement from the European Court of Human Rights in a case regarding an asylum seeker returned to Greece from Belgium. The Grand Chamber of the Court has under consideration a relevant case filed against Belgium[20]. Applicants who are still in the asylum process, and who previously would have been returned to Greece, will have their asylum claims assessed by Norwegian authorities. It is still not decided what will happen to applicants who have received a final negative decision, but still resides in Norway.

We recommend to the Committee to ask Norway:

- ***about it's current practice at the time of the examination of returning asylum-seekers to Greece;***

- ***whether Norway will return asylum seekers to countries which will realistically not fulfill its obligations towards asylum seekers in accordance with the 1951 Refugee Convention; and***

- ***whether Norway recognizes an obligation to carefully scrutinize whether the "expectation that other member states comply with their international obligations, e.g. UN's Refugee Convention" (quoted from the State Party report para. 104.) corresponds with the actual facts on the ground or not; and if so, what bearing this will have on returning asylum seekers to Greece for consideration of their asylum claims.***

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[17] UNHCR press release, 21 September 2010.

18 Council of Europe Commissioner for Human Rights, report of 4 February 2010: https://wcd.coe.int/wcd/ViewDoc.jsp?id=1401927&Site=CM

[19] Reports from the Norwegian Helsinki Committee: "Out the back door: The Dublin II regulation and illegal deportations from Greece" http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2009/44836_Rapport_out_the_backdoor.pdf and "A Gamble with the right to Asylum in Europe: Greek Asylum Policy and the Dublin II Regulation" http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2008/Greece_DublinII_report.pdf

[20] M.S.S. vs. Belgium and Greece, application no. 30696/09.

Recommendations to Norway:

- To adopt a policy where the Dublin Regulation is not subject to the instruction of the Ministry, its application should be guided by legal principles.

- The practice of return to Greece has discovered troubling in relation to application of facts on norms, and Norway should adapt regulation that ensures legal security.

- Norway should advocate among other European countries for responsibility sharing in situations where a member state does not have the resources or will to fulfill their international obligations regarding people seeking asylum.

ICCPR Art.	Subject	State	Report para.	Keyword
7	***Asylum: Dublin II***		104-108	Unaccompanied minors

Due to an increase in asylum seekers entering Norway and a political direction with which Norway has aligned itself to the practice in other European countries, the Norwegian Government in September 2008 chose to introduce measures aimed at reducing the number of asylum seekers. One of these measures was specifically related to the Dublin II regulations as it opened up for the possibility to return unaccompanied minors through Dublin II to a third country were they have previously sought asylum. This is a practice that Norway previously has refrained from, but throughout 2010 continues to practice.

One of the main concerns that arise out of the practice of returning unaccompanied minors according to the Dublin II regulation is whether the best interest of each child is being upheld when they are returned and whether the immigration services consider each case individually before a decision is made to return the child through Dublin II. Current practice shows that the processing of Dublin cases can take several months as requests to countries of return are not responded to in a timely manner and unaccompanied minors therefore are left to wait in Norwegian reception centers over a long period of time during which their case is not dealt with. Of even bigger concern is the fact that unaccompanied children have been returned to countries where the reception facilities are not adequate to safeguard their needs and rights, where they are crammed into prison-like facilities without adequate access to food and clothes and in severe cases where children have been forced to live on the streets. Measures must be taken to ensure the protection of unaccompanied minors rights and avoid that they are sent to unstable situations, harmful to their best interest, or that situations arise where they are held over a longer period of time in reception centers in Norway awaiting return.

We recommend to the Committee to ask Norway:

- ***Whether the cases of unaccompanied children are processed individually with a specific lens to ensure that the child's best interest is considered and return to a third country is rejected where this is harmful to the child.***

- ***Whether the conditions in other countries within the Dublin II agreement are considered before a decision to return is made, to ensure the safety of the child upon return and ensure that their rights are safeguarded and their case considered in line with the refugee convention of 1951.***

Recommendations to Norway:

- ***In light of the information available of conditions in other countries within the Dublin II agreement, the Norwegian government must show utmost concern when assessing the individual grounds for return for each child and ensure that their best interests are protected.***
- ***As the processing of Dublin cases can take many months, the Norwegian government must ensure that unaccompanied minors are not held over longer periods of time in reception centers without their asylum case being considered. There must be a clear limit on the maximum amount of time it should take to process a Dublin case, after which the child's asylum case should be dealt with by Norwegian immigration authorities to consider granting asylum in Norway.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Istanbul Protocol***	109-115	Implementation

Norway has for a long time referred to the need to strengthen the work in relation to documentation and investigation of torture, in line with the *UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, also referred to as the *Istanbul Protocol*. The guidelines for health services for asylum seekers and refugees has recently been revised and updated, putting strong emphasis on the importance of being aware of asylum seekers subjected to torture, including sexual violence, and to have a focus on possible signs and reactions to such trauma. But the newly revised guidelines do not mention the Manual developed for this purpose. It is not clear in which way the Manual is integrated in the training of relevant personnel in work, not only in relation to asylum seekers, but in other situations where torture and ill-treatment can occur and should be documented.

Important issues follow from this – first of all there should be a clear reference to the Manual (or the *Istanbul Protocol*) as an important tool in the asylum decision procedure providing this kind of assessment when an asylum seeker reports of having been subjected to torture prior to arrival in Norway. This implies having a system of communication between the different systems involved, that is, immigration, health and reception centres and it requires a system of specialists, in particular forensic doctors and clinical psychologist, in place in order to perform this documentation and investigation. The second set of questions relates to the importance of such documentation for the asylum decision procedure. Will such evidence be used to corroborate and strengthen the application for protection? Will such documentation be made available for the person in light of a possible complaint against a torturing state, for redress and compensation? And finally, will such assessment be communicated into the health care system for further assistance and care? These questions are of utmost importance in relation to asylum seekers, documentation of torture and the meaning of such information in the process.

The State report refers to the implementation of training on how to recognize and deal with cases of torture, but this is a claim which is hard to substantiate, especially so with reference to implementation of the Istanbul Protocol. It is not clear who receives this training and how it is carried out. Furthermore an assessment of the effect and extent of such training would be most welcome. As the training documents and check lists are considered "internal" an evaluation is difficult to make of this programme and it is not possible to check whether the existing material and checklists are in accordance with the intention and purpose of the Istanbul protocol. Also, no information is given as to whether training also includes medical personnel and whether any system will be in place that secures that medical certificates describing or documenting consequences of torture and ill-treatment, both psychologically and somatically, will be provided and actively used in asylum cases.

Recommendations to Norway:

- ***Norway should make sure that the guidelines as described in the Manual are implemented in the asylum procedure, that there are adequate experts available to perform the necessary assessments and that the medico-legal reports based on such assessment are taken into consideration in the asylum procedure. Furthermore, that there is full transparency in relation to training and application of the Istanbul Protocol.***

ICCPR Art.	Subject	State Report para.	Keyword
7	***Ratification of OPCAT***	116	

Norway claim to take the lead in matters concerning human rights, and in particular in the work of combating torture. Despite this, Norway has yet to take an official position as to whether to ratify the *Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment*. For years it has been said that ratification is "right around the corner", inter alia to the UNCAT in 2007 and on occasion of the UN Human Rights Council's Universal Periodic Review in 2009.

Recommendations to Norway:

Norway should as a matter of urgency ratify the Optional Protocol and ensure that a National Preventive Mechanism is established as soon as possible, following the general guidelines for such a preventive body. We recommend that to ensure the independence, integrity and credibility of the body to be established, both the process of its design, and the method of appointment of its members, should be open to non-state actors, including Human Rights organizations and other stakeholders.

ICCPR Art.	Subject	State Report para.	Keyword
7	***Norwegian Corporations contribution to torture abroad***	Not mentioned	Reported cases not prosecuted

Norwegian NGOs have tried to focus on Norwegian corporations` responsibility for possible contribution to torture abroad. The Norwegian authorities have not been willing to do anything that could efficiently prevent such activity, for instance legal sanctions. It is therefore symptomatic of the Government's approach that its report does not deal with this issue.

In a white paper to Parliament[21] about corporations' responsibilities in a globalized economy, the Government does not propose any sanctions to corporations that contribute to torture abroad. Complaints about corporations in this respect may be sent to the Norwegian *National Contact Point,* an *OECD*-procedure. This office may make critical remarks, but there is no possibility of sanctions.

A case in point is the complaint from some NGOs about the Norwegian corporation *Aker/Kværner`s* involvement – through a subsidiary – in the Guantanamo prison camp. Having considered the complaint, the *Norwegian National Contact Point* made critical remarks about the situation, but there were no sanctions against the corporation*. Amnesty International Norway* therefore reported *Aker/Kværner* to the prosecuting authorities, which refused to investigate the matter. The prosecuting authorities held that, even though the subsidiary was wholly owned by *Aker/Kværner,* the parent company was not responsible or liable for the actions of its subsidiary.

In our opinion, it is unacceptable that a company is not responsible for the actions of wholly owned subsidiaries. The motivation to start a commercial activity will usually be profits, and the parent company should not have the possibility to have only advantages of the activity and not the responsibility for the disadvantages, especially when there are suspicions regarding torture.

We recommend to the Committee to ask Norway:

- ***Will the State Party establish and make effective Norwegian corporations` responsibility for possible contribution to torture abroad through investigations and sanctions?***
- ***What will the state party do to ensure that such responsibility applies to subsidiaries of Norwegian corporations as well?***

[21] St.meld.no 10 (2008-2009).

ICCPR Article 8

ICCPR Art.	Subject	State Report para.	Keyword
8	***Trafficking***	117-121	Forced labor; Children; Protection of witnesses in cases against traffickers

The government's current action plan on trafficking has expired, and no new action plan has yet been proposed. In our experience, the government's focus on forms of exploitation is chiefly concerned with prostitution. The existing remedial measures, such as the right to shelter in a safe house, are directed at women exploited in prostitution. We are not aware of concrete measures to reveal or prevent the form of exploitation known as *forced labour*. There have been only a few cases in Norwegian courts concerning *forced labour*. Norway has had a large influx of labour from *Eastern Europe* and other parts of the world. Based on the cases so far we are concerned about the prevalence of *forced labour*. It is regrettable that the Norwegian government has not put together a coordinated effort to reveal and help victims of *forced labour*.

Despite three action plans during the last decade there is still little progress in identifying and protect children who are victims of trafficking. The fact that children are seldom identified as victims should be given greater attention by the Norwegian government. There is a strong need to build competencies and to strengthen national coordinated structures to be able to identify and reach out to victims and adequately protect them. To meet existing challenges it is therefore strongly recommended that a separate resource center for children exposed to all forms of trafficking is set up, with the mandate to protect children for a shorter period, prior to the interference by the child welfare system. This would also enable the documentation of cases and assist in revealing the extent of trafficking in Norway in all its forms.

It is commendable that permanent protection can be granted to victims of trafficking who testify against their alleged perpetrators in court, under the *Immigration Act*. In our experience from concrete cases, the Act is practised in a very strict manner. Possible retribution from the traffickers and re-trafficking are major problems for victims of human trafficking. However, in our experience it is too difficult for victims of trafficking to prove that they are in danger of reprisal from traffickers. As a result, relatively few victims are given protection as refugees and on humanitarian grounds.

Furthermore, such protection is only granted to victims and not to other groups of witnesses in proceedings against traffickers. It is often due to chance whether a trafficked person receives status as victim or only as a witness in the case, e.g. how the prosecuting authority considers the evidence in the case. Therefore, it is not predictable for a victim whether he or she will receive permanent protection in Norway. For this reason many victims do not press charges against traffickers.

In several Police districts it is an additional problem that human trafficking is not always a priority. As an example, several lawyers have criticised the *Oslo Police Department* for allocating insufficient resources to tackle human trafficking. It is often beyond the control of the victim whether or not the *Public Prosecution Service* will make investigation a priority. The victim would again fall outside the new section of the *Penal Code* concerning permanent residency for the offended who give evidence

in a criminal case against traffickers. There are exemption clauses, but they are narrow, and they are practised in a strict manner.

We recommend to the Committee to ask Norway:

- ***What measures to identify and strengthen the protection against forced labor exist or are being considered to combat forced labor?***
- ***What kind of specific measures to identify and strengthen the protection of children exist or are being considered to combat the trafficking of children?***
- ***Will steps to taken to offer refugee protection to all victims of trafficking who testify against their traffickers regardless of their status in the case and regardless of the efficiency of police investigation and prosecution decisions?***

Recommendations to Norway:

- ***The Government should formulate a new action plan against trafficking. The new action plan should not only focus on trafficking for prostitution, but also contain concrete measures to combat trafficking for other purposes and specific groups, including forced labor.***
- ***A renewed action plan on trafficking should include stronger measures to identify and protect children and build competencies about children exposed to all forms of trafficking by establishing a separate resource center.***
- ***Permanent protection in Norway should be granted to any person who gives evidence in a criminal case against traffickers. Neither the judicial status of the person during the proceedings nor the outcome of the case should be made a condition for granting permanent protection.***
- ***The Police districts should allocate sufficient resources to properly investigate and prosecute any evidence of human trafficking.***

ICCPR Article 9

ICCPR Art.	Subject	S Report para	Keyword
9	***Pre-trial detention***	122-139	Relevance to ICCPR Article 7

There is no maximum time for pre-trial detention or custody pending trial. There are examples of cases where the time spent in custody is almost 4 years.

The Government has chosen to consider pre-trial detention and police custody under Article 9 but we believe these issues should be considered in relation to Article 7 as well, as the most critical detention conditions tend to be inhuman.

ICCPR Art.	Subject	State Report para.	Keyword
7 (9)	***Pre-trial detention***	122-139	Duration / Conditions / Frequence

The *Ministry of Justice* has given a new regulation on pre-trial detention in police cell: An arrested person shall have ordinary prison accommodation available within 48 hours, unless this is practically impossible. It came into force 1 July 2006.

The *Norwegian Correctional Service* has made statistics showing that many arrested persons are held in police cells for much longer than 48 hours**.** In 2009 there were 1710 such cases. It is the experience of practising defence lawyers that the arrested persons are seldom transferred to an ordinary prison before they are brought before a judge, even if the time limit of 48 hours has been exceeded.

Several police- and prison officers have confirmed to Norwegian lawyers that they have been instructed that they do not have to start to work on transferring arrested persons from police cells to ordinary prisons before there is a detention decision by the court. Since the time limit for bringing the case before the court is 72 hours, these instructions are one of the reasons that the 48 hours limit are not followed.

The conditions in the police cells are not satisfactory for the arrested persons to prepare for the meeting with the judge. The arrested persons are in solitary confinement. They have no furniture and in practice no access to shower, clean clothes, or tobacco. They are usually worried about the situation, and have sleep problems because the light is often on all night and day.

The longest stays in police arrest are in *Oslo Central arrest*. *In 2010 there have been persons held there for 10 days.* The regulations concerning the police arrest are violated both with respect to the maximum time for stay as well as regarding the conditions for the detainees. According to the regulations, the detainees should have one hour daily in open air, and the possibility to have a shower and clean clothes, but the regulations are seldom followed. Many detainees are therefore isolated and locked in the cells without any furniture for several days without the possibility to wash themselves or their clothes. This is contrary to *UN`s Standard Minimum Rules for the Treatment of Prisoners of 13 May 1977* para 13, 17 and 21 which the Government according to the Committee` s *General Comments No. 21* (GC 21) para 5 should have addressed

Norwegian regulations also give the detainees the right to obtain required medicine and to consult with qualified health personnel. This right is important since the detainees often are held more than a week in police arrest. But in practice it is up to the prison officers to decide whether consultation with health personnel is necessary. We would like to point out that prison officers are not competent to make such decisions.

There are *no rational reasons* why the police arrest for sober detainees should not have available cells equipped with a chair, table, bed, radio and TV, especially when they have to spend many days there. Many defence lawyers report that their clients feel that this is done to “soften” them to give statements with a content that corresponds to the wishes of the police. Some detainees have given false statements in order to be transferred from the police arrest to an ordinary prison. Although this situation is not the authorities expressed intention, it may nonetheless be the effect.

In order to avoid such pressure felt by the detainees and thereby false statements, it should not be allowed to interrogate detainees until they do have ordinary prison conditions. Long stays in police cells may impair the detainees` capacity of rational thinking. Interrogating under such circumstances may therefore be contrary to principle 21 para 2 of *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment of 1988,* which the Government according to GC 21 para 5 should have addressed.

Solitary confinement, and the non-availability of furniture, free air and shower for many days in *Oslo central arrest* are in practise restrictions not decided by the courts, which are not strictly required for the purposes mentioned in Principle 36, para 2. The Government should have addressed this in the report (GC 21), but has failed to do so.

In 2009 there were about 51.917 cases of detention in police arrest, of which 2.056 concerned children less than 18 years of age and 49 less than 15 years of age. The abovementioned conditions in the police cells have of course a much worser effect on children than on grown-ups, and the risk for irreparable damages is so high that children should never be put in such police cells.

The Government has in its report (para 139) underlined that it is important that the civil society should be part of the control mechanism for detention facilities. The *Norwegian Bar Association* and the *Association of Defence Lawyers* have proposed that lawyers or law students should be allowed to stay in the central police arrest in Oslo to supervise and report the practise of the regulation of the police arrest. *Oslo Police District* has refused to allow this.

Recommendations to Norway:

- ***The use of the current police cells should be put to an end. The cells should be rebuild and have the same standards as normal prison cells. Those who are arrested should go directly to prison, and not spend time in a police cell.***
- ***The use of police cells should be regulated in the Criminal Procedure Act.***
- ***The distribution of the leaflet on the rights of arrested should be obligated by the criminal procedure act. When receiving the leaflet, the detainee should sign a statement attesting that they have been informed of their rights in a language which they understand.***
- ***Supervision in the central police arrest in Oslo by independent observers should be allowed.***
- ***Joint and detailed statistics on the use of police cells should be provided.***
- ***Children should not be put in police cells. Regulations for the police when arresting children should be drawn up.***

ICCPR Art.	Subject	State Report para.	Keyword
7 (9)	***Pre-trial detention***	122-139	Detention of relatives

The conditions of the police arrest may have an especially adverse effect when all or many adult members of the extended family of the presumed main suspects are arrested. During 2007 the Oslo police at least in two cases arrested not only the main suspect, but also parents, brothers, wives, co-habitants, ex-wives and in one case even a mother-in-law. The small children of the families had to be taken care of by others. Since the parents of the children were isolated in police arrest and later in prison for some time, the children were not allowed to speak to their parents. Both families belonged to the immigrant communities.

In one of the cases the presumed main suspect was told by the police that he could contribute to have the other members of the family released if he gave statements to the police.[22] He was so concerned to have the others released that he confessed to all that the police proposed to him, inter alia that a package confiscated in his working place (a restaurant) contained cocaine. Just after the confession his parents and brother were released. It turned out that the package did not contain any cocaine. *Oslo City Court* accepted to detain his cohabitant because the judge trusted the information given by the police that the package "presumably" contained cocaine, although the police could have found this out before the court hearing and before arresting the other family members and interrogating the main suspect.

Many of the cases regarding the parents, the brother, the co-habitant, ex-wives and mother-in-law have been finalized by acquittal or dismissal.

In relation to human rights, the practise of detaining the whole extended family is of special concern. Firstly, the basis to detain the other family members is not so thoroughly looked into by the police and the court, when the charge against the main suspect is serious. Secondly, the detention of the other family members is felt by the main suspect as a pressure to give certain statements, especially knowing that the other family members are held in the same conditions in police arrest as described above. Thirdly, these actions may have detrimental effects to minor children, who are separated completely from their parents for some time.

Recommendations to Norway:

-It should not be allowed to arrest the whole extended family, unless the charges against each of the other family members are individually and thoroughly examined both by the police and the court. Under no circumstances should the main suspect be interrogated while he or the other family members do not have ordinary prison conditions.

[22] Police Case No. 10148253 Doc. No. 05.06.

ICCPR Art.	Subject	State Report para.	Keyword
7 (9)	***Promptly before a judge***	127-129	Availability of statistics / Monitoring / Time limits

The time limit within which arrested persons are to be brought before a judge (section 183 of the *Criminal Procedure Act*) has been extended to 72 hours. The intention was to reduce the total use of detention. The amendment came into force 1 July 2006.

We have tried to obtain official statistics on the use of detention after 1 July 2006, but it has not been possible. Informal information suggests that the total use of detention has increased a little from the year before 1 July 2006 to the year after. This trend is the opposite of what was intended, and the amendment should therefore be reconsidered.

Recommendations to Norway:

- ***The time limit should be reduced to a maximum of 48 hours.***
- ***For children the time limit should be no longer than 24 hours.***

ICCPR Art.	Subject	State Report para.	Keyword
7 (9)	***Imprisonment of foreign nationals***	141-148	Duration / Administraive Decision / Legal Grounds

The new *Immigration Act of 2008* section 106 carries on the human rights problems of the old act by giving no maximum time for detaining a foreign national, who is considered to give false information about his identity. There is no condition for the detention that the foreigner has committed any criminal acts. It is sufficient that the police and the court find reasons to believe that the foreigner gives false information. On this basis there have been cases in which the person has been detained for more than one year[23], even 18 months[24].

The Government presents statistics showing that the number of detainees at *Trandum* by administrative decision is many times the number detained by court decision[25]. Since the maximum time for detaining a person without court decision is 72 hours under Norwegian law and as this applies also for persons detained at *Trandum*, it is necessary to have statistics about the detention time for all detainees at *Trandum*, including the eventual detention time spent in police arrest and prison. The *Norwegian Bar Association* has asked for such statistics, and the Police[26] have now

[23] See recent supplementary report to CERD from a group of Norwegian NGOs.

[24] Rettstiende-2009-797.

[25] State report, para. 145.

[26] Politiets Utlendingsenhet.

responded. The reply came only after the Police was reported to the *Ombudsman* for lack of response. In the reply, dated 29 November 2010, the Police states that they do not keep statistics on persons detained at *Trandum* without a judicial review / court decision. Without such statistics it is impossible to monitor whether the Government is in compliance with the 72-hour rule.

ICCPR Art.	Subject	State Report para.	Keyword
7 (9)	***Imprisonment of foreign nationals***	141-148	Lack of coordination between Police units / Duration of imprisonment / Quality of legal defense

The various Police units do not coordinate their individual assignments related to foreigners who serve prison sentences and are to be transported out of the country. Often the preparation for the deportations does not begin until the prison sentence is served. The effect is that these foreigners are detained for additional weeks until the deportations are carried out. This state of affairs could be avoided if the Police started preparing for the deportations before the foreign prisoners had finished serving their sentence. This deprivation of liberty should therefore be totally unnecessary.

When cases regarding additional detention are brought before the Courts, the Police do not inform the Court about the defence lawyer chosen by the detainee, and the lawyer is not informed about the detention case. The Police often do not allow detainees to contact their original lawyer when detained[27]. Because the Courts do not know about the lawyer chosen by the detainee, they will appoint another, who will not have the same knowledge about the detainee and the criminal case. The detainee is usually informed about a new defence lawyer right before the detention case is due for court hearing, and may only then ask to be assisted by the original defence lawyer which is likely too late for the original defence to become available. To avoid such situations, the Police should be required to inform the originally appointed lawyer as soon as they begin the preparation for detention and deportation. The Police should also be required to inform the Court about the originally appointed defence lawyer at the same time as the case is sent to court.

ICCPR Art.	Subject	State Report para.	Keywords
9 (10)	***Juvenile offenders***	150-155	Separation, isolation, children in high-risk insitutions

Norway has made a reservation to Article 10 paragraphs 2(b) and 3, regarding the obligation to keep young criminal offenders and convicted persons separated from adult prisoners, (cf. Article 37 c in *UNCRC*). The main reason behind this reservation is, as mentioned in the report from the Government, that there is a guiding principle of the *Norwegian Correctional Services* that a convicted person should serve his/her sentence in close proximity to his/her home, cf. Section 11 first paragraph in the *Execution of Sentences Act*.

[27] Case No 11208302 5379-10150.

In practice a lot of children serve their sentence far away from their homes, even though they serve together with adults. A survey was made by the *Norwegian Bar association* in 2008[28]. Some of the children in this survey served their sentence, or where remanded in custody far away from home. One of the boys was held in custody 2000 kilometers from his mother. The State party systematically does not comply with the provision in the CRC to undertake an individual assessment before placing children together with adults.

The government further argues that there are very few juveniles in Norwegian prisons so if the separation from the adult population were to be adhered to, along with the principle of proximity; the result would be to place them in almost total isolation. Against this argument we emphasize that the survey revealed that some of the children were held in total isolation or solitary confinement 23 hours a day, even though they served together with adults.

To avoid juveniles serving their sentences in prisons together with adults or in total isolation, Norway has established separate prison units for young offenders. Norway has worked on establishing two special prisons for juveniles, one in Bergen and one in Oslo, only the one in Bergen has become operational at the time of writing. It is of great concern that establishing such units will facilitate greater juvenile imprisonment than today. Bergen prison for young offenders has been operational for about 1 year and the number of juveniles is increasing. There are reasons to believe that judges and others will find it easier to put children to jail if the prison cells are available. According to the records of the Ministry of Justice, 46 children were confined in Norwegian prisons in 2006. In 2007 the figure was 54. In 2008 and 2009 the numbers have increased. In 2008, 74 children were imprisoned, and in 2009 the number was almost 100 children altogether.

The survey has also revealed that as many as 70 percent of the confined children had been exposed to isolation over prolonged periods of time. Three of the children were in isolation for three months or more, with no other breaks than one hour in the prison yard per day. It has also been identified that in many of the instances where children had been exposed to isolation, this is because of a collective punishment which most often related to the adult inmates, but which affected the child as well, without an individual assessment being made as to whether a child can or should be punished for such matters. Despite this one of the boys where held isolated in 150 days, during which he had to stay in his cell for 23 hours a day.

The member states are encouraged to actively establish alternatives to custody, and to make these measures known to the courts, the police, and the authorities that in their line of duty are in contact with children who perpetrate criminal acts. The state party has yet set up only a few specific alternatives to custody or imprisonment of children, even though it is an expressed objective for the State party that there shall be no children in Norwegian prisons. The principle of restorative justice is the recent policy on juvenile offenders. The principle is important and interesting, but it has not been implemented in such way that the numbers of children in prison are decreasing.

[28] Survey by the *Norwegian Bar Association*, published on page 44 in *The Norwegian Forum for the Convention on the Rights of the Child: Supplementary Report 2009 to Norway's forth Report to the UN Committee on the Rights of the Child, June 2009*. Copies can be obtained from *Save the Children, Norway.*

The Government's proposal to establish mediation board solutions is welcome, but the Government has so far not been as eager to follow up this proposal, than the proposal for separate prison units for young offenders. We are afraid that the result will be more juveniles in prison.

Children in high-risk institutions

The said survey also disclosed that seven out of ten children were confined in the same prison unit as one or more perpetrators of the most serious crimes, such as homicide, rape and drug trafficking. Three out of ten children were committed to "high-risk institutions". These institutions have been subject to serious criticism in the past, by e.g. the European Committee for the Prevention of Torture. Children are incarcerated in high-risk institutions such as Oslo Prison and Ringerike Prison without professional and individual assessments that should be made in advance of such incarcerations.

Recommendations to the Committee:

- ***Ask the State Party why the number of children in prison has about doubled since2005, despite numerous statements the goal is to avoid putting children in prison.***

Recommendations to the Norway:

- ***Children under the age of 18 should not be placed in prison and under no circumstance in high risk institutions where they are locked up with adults for up to 23 hours a day.***

ICCPR Art.	Subject	State Report para	Keyword
9	***Electronic Monitoring – an alternative to prison***	156-158	Call for extension of use

We welcome the introduction of electronic monitoring as an alternative to prison and hope that the pilot project will be extended to a permanent measure for the whole country as soon as possible in order to avoid discrimination.

ICCPR Art.	Subject	State Report para	Keyword
9	***Prisons: Pregnant and breast-feeding women***	163(-165)	

The Government reports that there is no practise in Norway of separating infants from mothers who are due to serve a prison sentence. It is positive that there is currently no such practise, but this was the practise in the 1990s. There are no guarantees that infants will not be separated from their breastfeeding mothers, if the mothers are detained or have to serve their sentences and there is considered to be a risk of escape. There is no rational reason not to let the baby stay together with its breastfeeding mother in prison. The Government has provided no documentation to show that it

would be better for the baby to be separated from the imprisoned mother than to stay together with her in prison. See also our comments above regarding the arrest of the whole extended family (under the heading "Police Arrest").

ICCPR Art.	Subject	State	Report para.	Keyword
9	***Health care in prisons***		168-171	Psychiatry; Equal access

In Norwegian prisons, few inmates have the same access to a doctor or specialists as other citizens, particularly for their psychiatric health problems. The health care provided to inmates in prisons is lacking for many of those with *serious psychiatric problems* and is of a potentially discriminatory character.

In general, the local health authority in the municipality where a prison is located is responsible for the health care services for the prisoners. There are no national standards of what this health care shall include. The health care service for prisoners varies a lot from municipality to municipality depending on the resources available. Five of six prisons have their own health services, but generally these are both understaffed and incorrectly staffed with nurses instead of doctors.

Statistics show that overall about 60 % of inmates are drug addicts and 50 % have some sort of chronic disease. Several reports from different organizations and institutions show protracted[29] and systematic breaches of inmates' patients' rights.[30] The recurring problem that is documented in these reports is lack of psychiatric care. Inmates are at risk of inadequate and discriminatory treatment.

In February 2010, Norwegian authorities published a study to document the extent of the problem of *psychiatric health care* in prisons[31]. Even if that report presents important information, lack of

[29] The mental health crisis of inmates toppled when the only high security institution *Reitgjerde* was closed in 1987, which led to a series of proposals and reports on the need for a new institution that may serve the needs of convicts with severe mental illnesses, but no real changes has come about: In a government white paper, Stortingsmelding nr. 41 (1987-88),the government proposed the establishment of a separate psychiatric institution for inmates. In a Norwegian public report (NOU 1990:5 Strafferettslige utilregnelighetsregler og særreaksjoner), in other government white papers, (Stortingsmelding nr. 25 fra Helse og omsorgsdepartementet i 1997) and Kriminalmeldingen høsten 2008) separate sections in prisons were proposed.

[30] In 2005 the Ombudsman gave a worrying report on the number of suicides and self inflicted injury in Norwegian prisons which far outnumbered those in psychiatric institutions, http://www.sivilombudsmannen.no/helsetjenester-i-fengsel/61-forebygging-av-selvdrap-og-selvbeskadigelse-i-fengsel-article384-293.html; in 2007 the Ombudsman visited *Skien* prison and noted a systematic failure to map the health needs of the inmates upon their arrival, along with a clearly insufficient psychiatric care that led to deterioration of inmates' mental health and a danger of inflicting bodily harm upon themselves or others, http://www.sivilombudsmannen.no/helsetjenester-i-fengsel/58-undersoekelse-av-forholdene-i-skien-fengsel-article386-293.html; and in 2008 the *Ombudsman* visited *Tromsø* prison and emphasized the responsibility of the prison institution to ensure the right of inmates in need of transfer to psychiatric institutions http://www.sivilombudsmannen.no/helsetjenester-i-fengsel/59-oppfoelging-av-besoek-i-tromsoe-fengsel-article1223-293.html. In several letters and reports *Amnesty International* and the *Norwegian Helsinki Committee* have pointed to the lack of psychiatric care, i.e. letter to the *European Committee Against Torture* of 10th March 2009, https://no.amnesty.org/web2.nsf/pages/8A4B756E42DCE15DC125710300567A3C

[31] Ministry of Justice's working group report of February 2010

reports is not the problem. A screening program potentially encompassing 800 inmates has also been initiated. We welcome this, but these are not sufficient measures when held against the responsibility of the Norwegian government to immediately provide adequate psychiatric health care to all inmates, by for instance establishing an appropriate institution or ward.

The report of the *Ministry of Justice* emphasizes the emergency of the situation, even if the numbers stated are considered as conservative by NGOs. According to the report, 85 – 90 of Norway's approximately 3350 inmates are *clearly* without adequate health care; these persons are all afflicted with serious psychiatric problems, and are at the same time either particularly vulnerable or particularly dangerous. This number only counted those that do not belong in prison but should permanently be placed in psychiatric institutions. They receive emergency care, but no long-term treatment. In addition, even inmates that are in need of only emergency care may have their rights violated, as media reports show that they are placed on isolation cells awaiting openings for admission to their local psychiatric ward.[32]

The report of the *Ministry of Justice* also reveal a worrying discrepancy in how the prison authorities report far many more inmates in need of psychiatric treatment than does the prisons own health care staff. Whereas the prison authority's count of inmates belonging to this group was 160, the prison health care only counted 120. This discrepancy indicates an additional problem of inmates not receiving the correct attention from the health professional that are supposed to look after their medical interests. Media reports also show that it is the prison authorities and not the health staff themselves that more often champion inmates' psychiatric health rights.[33]

The lack of adequate psychiatric treatment for inmates is linked to a flagrant breach by the health authorities, primarily the prison health authorities, of the responsibility to establish an *individual treatment plan* for each inmate. This right is prescribed by law to anyone that is diagnosed with a long-term illness and is particularly highlighted in the law regulating psychiatric health care.[34] For inmates this entails that it is the prison health care facilities that has the primary responsibility to draw up and carry out the individual plan. The content of such a plan involves the establishment of the duties of the health care services to cooperate and provide treatment and any duties of the patient. As for instance the reports from *The Ombudsman* on *Tromsø prison* mentioned in the footnote above, cooperation between the prison administration and the local psychiatric ward represent a separate problem to the inmates' right to adequate health care.

Access to specialist health care is also inhibited by practical problems. If people in custody need specialist health care services they must normally be transported by the police. The police have many

[32] Norwegian television Documentary , NRK "Brennpunkt" February 2009 http://www.nrk.no/programmer/tv/brennpunkt/1.6517814

[33] Interview with Director Knut Bjarkeid of ILA prison to the same TV Documentary http://www.nrk.no/programmer/tv/brennpunkt/1.6517814

[34] According to the Norwegian Health act § 6-2a, Specialist health services act § 2-5, Psychiatric health care § 1-4 and Social services act § 4-3a, an individual plan for the treatment of each patient shall be established. This right becomes to everyone in need of long-term treatment, also individuals in institutions, including prisons. According to the regulation to these paragraphs, a sub-legal act of 23. December 2004 § 6, it is the responsibility of the authorities to establish the individual plan and it is the health care office that the patient approaches that is responsible to carry out the plan.

other obligations and are often not available when needed. Again, this is particularly a problem for mentally ill prisoners.

Recommendations to Norway:

- ***Capacity of both emergency and long-term psychiatric care should be ensured to inmates, regardless of whether they represent a security risk or not, by immediately establishing separate wards or sections within prisons or psychiatric institutions.***
- ***Prison health care services should be properly and sufficiently staffed and all medical staff should be instructed to ensure the right of each inmate to have an individual treatment plan in accordance with Norwegian law.***

ICCPR Article 10

ICCPR Art.	Subject	State	Report para.	Keyword
10	***Solitary confinement during execution of sentences***		NN	

In the *Concluding Observations of 25 April 2006*, para. 13, after the examination of Norway's 5th periodic report, the Committee expressed concern about the Norwegian provisions on solitary confinement.

The use of solitary confinement during execution of sentences is not addressed in the sixth periodic state report. However, we wish to draw attention to the subject, as it is of a high importance when considering the serious damage that solitary confinement may impose on those who are subjected to it. Generally, a lot of attention is rightfully given to the problems of solitary confinement during pre-trial detention, but in regard of *regular imprisonment*, the subject is more rarely addressed.

Section 40 of the *Execution of Sentences Act of 18 May 2001* explicitly lists all the different forms of *sanctions* that lawfully can be used towards an inmate when prison rules and regulations are deliberately violated. Since the said law was changed, solitary confinement may no longer be used as a sanction (only partial confinement can). However, we are concerned that in practice, this change has not fully repaired the formerly criticized use of solitary confinement in Norwegian prisons. This concern is due to the following *other* provisions under which solitary confinement is legal:

- **Solitary confinement due to suspicion of committed violations**

Section 39 of the *Execution of Sentences Act* gives the prison the authority to hold an inmate in solitary confinement for 24 hours when there is suspicion of certain violations of the applicable prison regulations. This includes less serious violations, but not the *least* serious category. Seriousness is measured by which sanctions a violation may lead to according to section 40. For instance, suspicion of a violation severe enough to result in the loss of the right to watch TV inside

the cell, qualifies for such 24 hour solitary confinement. According to the regulation that detail section 39, the probability of the inmate's guilt must be more than 50% for isolation to be applied. The stated reason for the provision is to give the prison the possibility to establish facts about the alleged violation.

There are no limits to how many times this measure may be used, neither towards one person, nor to how often. Time in solitary confinement will be subtracted from the sentence measured out if guilt is proven. However, there are no ways of repairing the unrighteous use of solitary confinement towards inmates that are not found guilty of an alleged violation. We are concerned that section 39 may provide opportunities for prison officers to make informal punishments in form of solitary confinement towards inmates that for example are considered "difficult".

Prisons have no duty to report the use of 24 hours solitary confinement pursuant to section 39 to any higher authority, neither regarding frequency nor factual basis. Therefore, there are no outside control or official statistics on the application of solitary confinement under this rule. How often it is employed, and to whom it is used, remains unanswered.

- Solitary confinement as a preventive measure

Section 37 of the *Execution of Sentences Act* is called "*Exclusion from company as a preventive measure"*. Pursuant to this section, the *Correctional Services* may decide that a prisoner shall be wholly or partly excluded from the company of other prisoners if this is necessary in order to:[35]

"a) Prevent prisoners from continuing to influence the prison environment in a particularly negative manner in spite of a written warning,
b) Prevent prisoners from injuring themselves or acting violently or threatening others,
c) Prevent considerable material damage,
d) Prevent criminal acts, or
e) Maintain peace, order and security"

In addition, it follows from the provision that the *Correctional Services* shall decide on partial exclusion if that is sufficient to achieve the purpose, and that the complete or partial exclusion shall constantly be considered and not be maintained longer than necessary. Further, paragraphs 7 and 8 of the provision states that solitary confinement may be used when it's required solely because of the resource situation in the local prison (in situations of staff and buildings challenges).

It is within the discretion of local prisons to apply the described measures, including the application of "*complete exclusion of company*", which means solitary confinement. There is a duty to report to higher authorities under this provision;[36]

" *If complete exclusion from company exceeds 14 days, the regional level shall decide whether the prisoner shall continue to be excluded. If the total period of exclusion exceeds 42 days, the measure shall be reported to the Norwegian Correctional Services. After that, reports shall be made to the*

[35] Our translation of the Act.

[36] Execution of Sentences Act, Section 37 fourth paragraph, our translation.

Norwegian Correctional Services at 14-days intervals. Exclusion pursuant to items a) to e) of the first paragraph may only extend beyond one year if the prisoner himself or herself so wishes."

Evidently, section 37 gives a rather wide authority to apply solitary confinement. The list of generating situations pursuant to section 37, first paragraph, items a) to e) (listed above) is exhaustive. Especially item e), to "*Maintain peace, order and security*" is very extensive, vague – and judging from the wording, a lot of behaviour may be covered. For instance, may the word "*order*" apply to an inmate who does not want to take part in the activities he or she is assigned to?; or who does not keep his cell tidy? There is little or no guidance in regulations, case law, white papers or literature as to how this provision in general, or item e) in particular, should be applied. Further, there are no statistics available to us on the discretionary decisions that are made pursuant to section 37. When staff and building challenges are considered as sufficient grounds for confinement), it is hard to argue that the provision has limits at all. We are concerned that section 37 may imply that solitary confinement can be used as a sanction *in practice*. Some inmates have made statements to this effect, but surveys or methodical examinations of the issue are not available to us.

In general, we recommend that the provisions regulating imprisonment are made clearer and less dependent on individual assessment. In our opinion, the risk of abuse generally increases if law provisions are made vaguer. It is a fair observation that over the last two decades, the prison regime as a whole increasingly depends on the personal judgements of prison officers. The wide powers of discretion in the application of vague provisions necessitate a stronger monitoring than is currently in place.

- Monitoring of practice within the legal framework

Considering the potentially problematic aspects of the said legal provisions (sections 37 and 39), one should expect Norway to keep adequate statistics and records, on local, regional and national level, in order to document the use of solitary confinement as part of active monitoring against possible abuse. Statistics should be sufficiently detailed and informative to evaluate discretionary practice, and should be available to decision makers as well as to the public, the press and watchdog organisations.

- "Informal" solitary confinement

Persons in pre-trial detention or prisons may be excluded from company due to the resource situation or other practical reasons (for instance illness in the staff, or because there is no activity room available) without a formal decision to this effect. In such situations, the prison officers do not have to specify the grounds of the confinement, and the confinement goes clear of any possible monitoring. According to informal statements from lawyers, legal aid workers and officials, this is a problem large enough to be called general. According to information from the national prison administration, correctional services at the regional level must report on a frequent basis on whether their prisons fulfil the "*minimum level*" of activities or company for the inmate outside the prison cell, measured by hours per day. However, perceptions of "*minimum level*" vary between regions. We have not succeeded in getting an official definition of what the countrywide minimum level is and why. Such a definition needs to be made.

It should be mentioned that organisations in the *Norwegian NGO Forum for Human Rights* have previously shared some of the above mentioned concerns with the *Committee against Torture*, during the last periodic review of *UN CAT.*

Recommendations to Norway:

- ***Norway should actively monitor and regularly analyze the statistics on the use of coercive measures in prisons.***
- ***Norway should produce adequate statistics on the practice of the use of solitary confinement pursuant to section 39 of the Execution of Sentences Act.***
- ***Norway should produce adequate statistics on the practice of the use of solitary confinement pursuant to section 37 of the Execution of Sentences Act.***
- ***Norway should reassess the wording of section 37 and the conditions given by the provision, especially the question of whether the provision gives too wide an authority to individual prison administrations.***
- ***Norway should assess and define the "minimum level" of time for activities or company outside the prison cell, and make this a national standard.***
- ***Norway should make sure that the necessary resources are given to the prisons in order to ensure that the inmates are not in practice being excluded from company, even if they are not subject to restrictions according to any law provisions.***

ICCPR article 14

ICCPR Art.	Subject	State Report para.	Keyword
14	***Right to review by a higher tribunal***	182-183	Implementation

It is welcome that both the Norwegian courts and the Ministry of Justice have followed up the decision by the UN Human Rights Committee of 17 July 2008 that the appellant has the right under article 14, paragraph 5 to have the Court of Appeal's reasons for denying the appeal, cf. communication No. 1542/2007.

ICCP Art.	Subject	State Report para.	Keyword
14	***Evidence obtained by illegal means***	NN	Rules of evidence, Equality of arms

According to Norwegian case law[37] courts can allow evidence against an accused even if the evidence is obtained through illegal means. The Court may further allow evidence obtained through illegal means even when the objective of the violated rule is to secure that the evidence is real. The

[37] Rt. 1992-698. In Norwegian. Known as the Treholt case.

Supreme Court[38] stated that the more serious the charge, the more likely that the Court would allow illegally obtained evidence. In defence of permitting such evidence it was argued that the court would also allow arguments to the fact that the evidence was faked.

The example of this case indicates that it is a violation of the fair trial principle to allow evidence which is not obtained according to regulations that are supposed to secure that the evidence is real. Such evidence is especially unfortunate in serious criminal cases, where the consequences of a wrong judgement are greatest. It is not sufficient that the Defence is allowed to give counter-evidence, especially since there is no rule granting the Defence access to all the documents in the Police`s possession, for example all photographs. The police may choose the documents which they consider relevant for the Defence, and the Police are not obliged even to inform the Defence or the court about the existence of other documents. The Defence will therefore not know about documents which may have given basis for counter-evidence.

Recommendations to Norway:

- ***Establish an absolute rule that forbids illegally obtained evidence in court.***
- ***Establish a rule granting the Defense access to all the documents in the Police`s possession.***

ICCPR Article 18

ICCPR Art.	Subject	State Report para.	Keyword
18	***Teaching of religion and moral education***	196	Religion in education

Following the conclusions of both the *Human Rights Committee* in 2004 and the European *Court of Human Rights* in 2007 that the compulsory religious education subject[39] in schools was in violation of the right to freedom of religion, the regulations of religious teaching in schools have been adjusted for better compliance. The *Christian object clause* of *the Educational Act*[40] was altered from 1 January 2009, to downplay the Christian foundation of the teaching. This framework which the schools and kindergartens operate within is still not free of religious preferences. The statements of objectives in the laws on both schools and kindergartens mention humanity and Christianity specifically, with no reference to other religions or beliefs.

Furthermore, the content of lessons is still to a great extent left up to the teachers, there has been no systematic replacement of teaching materials and teachers have not received any concrete

[38] Op. cit.

[39] Kristendom, Religion og Livssyn (KRL)

[40] 17.7.98, number 61.

guidelines as to how to alter the teaching. The *Norwegian Centre for Human Rights* stated that:[41]
"When the Educational Directorate to a large degree chooses to leave the practical implementation of the subject to the schools and teachers based on vague guidelines in the curriculum, it is hard to ensure that the legislator's intentions in the new decisions in the Educational Act are being fulfilled for each pupil and his or her parents. Consequently, there will still be a considerable risk of human rights violations."

There is still a guiding principle that every child needs to have his or her religion strongly internalized before he or she is able to participate in dialogue with children of other religions. The government therefore holds that, because the majority of children have parents of Evangelical-Lutheran parents, the state schools must provide a thorough teaching in the Evangelical-Lutheran faith so that it is internalized. This is compulsory for all pupils. We hold that religious freedom can best be achieved if the basic religious teaching is done outside the compulsory school. In this way the compulsory teaching on religion can concentrate on dialogue and knowledge about all major religions and life stances.

Recommendation to the Committee:

- ***To ask Norway how it ensures that the religious and ethical instruction in compulsory education organized by the state is genuinely objective and neutral for the individual pupil.***

Recommendations to Norway:

- ***Thoroughly examine the implementation of the new rules on religious and ethical instruction, to ensure that the rights of the child to freedom of religion are met.***
- ***Reconsider whether there is a need for explicitly highlighting the Christian belief in the statement of objectives in the laws on schools and kindergartens.***

ICCPR Article 19

ICCPR Art.	Subject	State Report para.	Keyword
19	***Freedom of Expression***	197-202	Freedom of speech and rights to privacy

The removal of criminal liability for defamation as well as the fact that the right to a judgment declaring a statement to be null and void has been dropped, both improves freedom of speech in Norway.

[41] Response from the *Norwegian Center for Human Rights* to the proposed *"læreplan i faget religion, livssyn og etikk"* (RLE) from the *Directorate of Education*, quoted from Chapter 4 Conclusion, para. 1. The response is dated 2 April 2008. Our translation.

We further welcome the amendment of the penal code to take into account several decisions of the European Court of Human Rights indicating that Norway gave too much emphasis to the right to privacy in its interpretation of the scope of the right to freedom of expression. However, it took some 10 years from the start of this string of decisions until the amendment was made / took effect. This illustrate that a more flexible system should be in place to review legislation in light of findings of international human rights monitoring bodies and courts.

ICCPR Article 23

ICCPR Art.	Subject	State Report para.	Keyword
23	***Family reunification and family establishment***	221-226	

Requirements for obtaining family reunification have become much stricter in the last few years. The Government has introduced strict conditions for family reunification, especially requirements regarding income and minimum time of education or work experience in Norway. We are concerned that persons who are granted residence permits on humanitarian grounds will be affected by this in such a way that it will become very difficult for many to fulfil the requirements. Furthermore, it has become so difficult to obtain residence permits on humanitarian grounds that those who are granted such permits often are very vulnerable, which has further decreased the likelihood of individuals in this group to meet the requirements. As a result, foreigners with residence permits on humanitarian grounds given because they would risk human rights violations, such as deprivation of liberty in contravention of article 9, if they returned to their native country may not be able to live with their family.

There is a general exemption clause to the requirements but it seems that this clause is rarely applied. We understand that the immigration authorities are not instructed to consider whether a refusal of family unification will be in contravention with Articles 17, 23 or 24 of the Covenant.

Recommendations:

- ***Norway should make it easier for vulnerable persons to fulfill requirements for obtaining family reunification, or make sure that the exemption clause is more widely used.***

ICCPR Article 24

ICCPR Art.	Subject	State Report para.	Keyword
24 (27)	***Transfer of responsibility of care for unaccompanied asylum seekers under the age of 18***	242-244	Discrimination within the age group 15-18

According to Section 1-1 of the Act of 17 July 1992 relating to *Child Welfare Services*, the Act applies to all children residing in the realm. However, the Norwegian *Child Welfare Services* assumed responsibility for the care of unaccompanied asylum-seeking minors below the age of 15 as of December 2007.

The responsibility of care for unaccompanied asylum seekers in the age group 15-18 has yet to be transferred to the *Child Welfare Services*. Hence, individuals belonging to this group are not given the same rights to care as other children in Norway, which amounts to discrimination.

Despite repeated criticism from civil society and UN bodies and urgent requests to transfer responsibility for the care of unaccompanied asylum-seeking minors between the ages of 15 and 18 to the child welfare system, the responsibility for the care of these children still rests with the immigration authorities. Sufficient resources have still not been allocated to facilitate a full transfer of the care.

We recommend to the Committee to ask Norway:

- ***How does the State party assess the consideration of non-discrimination with regard to unaccompanied asylum-seeking minors' right to care?***
- ***When will the State party grant unaccompanied asylum-seeking minors between the ages of 15 and 18 the same rights and access to care as all other children in Norway?***

Recommendation to Norway:

- ***The State party should submit a progress plan with a final date for when the child welfare services will assume responsibility for the care of all unaccompanied asylum-seeking minors in line with the provisions stipulated in the Child Welfare Act. The unfair discrimination of unaccompanied asylum-seeking minors with regards to their care situation must cease.***

ICCPR Art.	Subject	State Report para.	Keyword
24	***Children's citizenship***	234-235	Children as legal persons

Since the report in 2008 to the *UN Committee on the Rights of the Child* Norway has established a practice where a child's application for Norwegian citizenship can be declined if it is considered that one of the parent's stated family identity lacks credibility. In one case, four Iranian children were denied citizenship on account of identity issues of one of the parents, a complaint was brought forth to the *Ombudsman*, the authorities acknowledged that the existing practice may be in violation of the best interest of the child. Subsequently the law is under revision; however the expected changes may not fully protect the best interest of the child and the child's right to be acknowledge as a separate legal person.

Recommendation to Norway:

Norway should adopt regulations ensuring that children are treated as separate legal persons so that their rights are not derivative of their parents' rights.

ICCPR Article 25

ICCPR Art.	Subject	State Report para.	Keyword
25	***Monitoring of elections***	245-6	

We welcome the changes to the *Election Law* which makes clear that the process is open to international and domestic observers in accordance with international election standards. The *Norwegian Helsinki Committee* organized election observations in Norway with domestic and international observers before the changes to the law (in 2005) and after the new provisions of the law came into force (in 2009) and experienced that all segments of the electoral administration were transparent and gave due access to observers in both cases.

ICCPR Article 27

ICCPR Art.	Subject	State Report para.	Keyword
27	***Coastal Fisheries Committee and the Sami Rights Committee II***	274-5	Fishing rights for the Sea Sami People

The rights of the indigenous *Sea Sami People* in Norway have been examined by the *Committee on fishing rights in the ocean north of Norway for the Sami People and other citizen*, hereinafter the Committee, appointed by Royal Decree of 30. June 2006. The membership of the Committee comprised a broad range of the various interests involved, as well as comprehensive legal expertise on the rights of minorities and indigenous people, including a former *Chief Justice of the Supreme Court* and member of the *UN Permanent Forum on Indigenous Issues*.

The Committee handed down its unanimous report 18 February 2008[42]. The extensive work of the Committee comprise a detailed study of both the historic developments regarding fishing in the sea off the *Finnmark coast* and Sea Sami settlements and culture. Further the report provides a thoroughgoing study of legal issues, including international law protecting the fishing rights of the *Sea Sami People*. The core findings on legal issues are summed up in chapter 8.17 of the report (our translation):

[42] The report is published as *NOU 2008:5 Retten til fiske i havet utenfor Finnmark.*

"The Norwegian state has a legal duty to provide the Sami People real possibilities to ensure the survival and continued development of their culture. For the Sami People living by the coast (the Sea Sami People) fishing in the fjords and the costal sea is – often in combination with other trade – of vital importance for the settlements in the Sami communities and for the maintenance of the Sea Sami culture.

This legal obligation stems from the Constitution, international legal undertakings and from the Human Rights Act 1999. In international law the central provisions are article 27 of the UN Convention on Civil and Political Rights and article 15 of ILO Convention No. 169. These provisions must be interpreted in the light of the historic position of the Sami in Norway.

The state's legal obligation comprises the material basis for the culture. I.e. the Sami People must be provided the economical and physical means to ensure the survival and continued development of their culture. A significant element in recent legal developments is the states' recognition of this obligation. This entails a legal claim from the Sami side to utilize natural resources. For the Sea Sami People this entails the right to fishing in the sea, which provides the basis for settlements.

The Sami People have the right to claim affirmative action in relation to the rest of the population to the extent that this is necessary to ensure the survival and continued development of the culture. This principle is also recognized by the Norwegian authorities. A claim for affirmative action is strongest in the areas that are vital for Sami culture. The culture of the Sea Sami People is especially vulnerable as a consequence of long lasting policy of norwegianization. The situation for this part of the Sami culture is critical.

The same principles as in international law is embedded in the Sami provision of section 110 a of the Constitution. Thus, in Norwegian law the international protective rules have thus obtained strong support by the Constitution."

The Committee proposed legal reforms intended to secure the rights of the *Sea Sami People*, including the adoption of an Act which acknowledged the *Sea Sami Peoples'* right of fishing in the sea off the coast of *Finnmark*, both for self consumption and as a business providing income for a household, either as the only income or together with other income. A right of fishing in the fjords in accordance with traditional usage should also be acknowledged. For the administration of fishing rights in the area, it was proposed that a new public authority (*Finnmark fiskeriforvaltning*) should be established.

On 29 May 2008 the *Sami Parliament*, sitting in plenary session, gave its unanimous support to the proposals from the Committee.

Regrettably, the Government has decided not to follow up the Committee's proposals. Accordingly, no legislative initiatives have been taken and no such initiatives seem to be planned either. On the contrary, it seems that the Government has turned the *Sami People's* rights into a national political issue, rather than a legal issue. Significantly, the current *Minister of Fisheries and Costal Affairs* said in a speech on 14 April 2010 that she would emphasise that (our translation):

"… the end result will be of a character that will gain strongest possible acceptance, not only in Sami communities, but also in other communities in Finnmark and elsewhere."

This is at odds with the legal obligations undertaken by Norway under articles 27 and 2, paragraph 1 of the Covenant.

Recommendations to the Committee:

- ***Based on the observation that the legal rights of the Sea Sami People are convincingly underpinned by the extensive work of the committee, the Norwegian Government should be urged to follow up the proposals from the Committee on fishing rights in the ocean north of Norway for the Sami People and other citizen, in order to adequately ensure the survival and continued development of the culture of the Sea Sami People.***

ICCPR Art.	Subject	State Report para.	Keyword
27	***Situation for the Roma***	304-10	

Whereas several initiatives have been taken to support and preserve the culture of Roma, little initiative is focused on the social and economic needs of this group. The Norwegian Roma population is very small, compared i.e. to that of Sweden. Informal reports assess the number to be about 400. The authorities fail to recognize that a small group needs particular initiatives that may differ from minority initiatives in cases where the group is more sizable. Roma mainly resides in Oslo and their problems may be more affected of belonging to one of potentially four family structures, as well as having a long history of being stigmatized due to ethnicity. The family structures are heavily burdened with a high percentage of the males having been or presently staying in prison. Substance abuse is also assumed to be far more prevalent than in other segments of the population. School attendance is low. Few, if any, cases exist where a parent is made responsible for not ensuring its child's education. Women are reported as being oppressed and subject to domestic violence. Particular health issues are more prevalent within the group which suggests recurring trauma in the different family structures. Despite the significantly inferior life quality of Roma, existing research is very limited. Norway has several times refused to adhere to the advice of the UNCERD regarding the need to identify size and other statistics on ethnic minority groups in order to assess and implement effective policies to prevent discrimination and improve living conditions.

Recommendations to the Committee:

- ***Norway should be asked to provide statistics pertaining to the life quality of Roma, including the percentage of males and females having served prison sentences, time in school, the percentage having had fulltime work for any length of time and an assessment of their health problems compared to that of the rest of the population.***

Recommendations to Norway:

- ***Norway should provide a plan on how to ensure both the rights of Roma women and the rights of the group.***