

# Submission for the Second Universal Periodic Review of Norway before the UN Human Rights Council

Norwegian NGO-forum for Human Rights

On behalf of

Amnesty International Norway

FIAN Norway

FOKUS – Forum for Women and Development

The Human Rights Committee of the Norwegian Bar Association

The Human Rights Committee of the Norwegian Psychologist Association

International Commission of Jurists, Norwegian Section

Human Rights House Foundation

Juss-Buss - Law Students' Legal Aid Centre

Legal Advice for Women (JURK)

The Norwegian Centre against Racism

The Norwegian Helsinki Committee

The Norwegian National Committee for UNICEF

PLAN Norway

Save the Children Norway

Oslo, 16 September 2013

The present report reflects some main concerns and priorities of organizations in the Norwegian NGO-Forum for Human Rights for Norway's second Universal Periodic Review to take place at the 19<sup>th</sup> UPR session of United Nations Human Rights Council. The fact that a subject is not addressed in this report does not necessarily mean that the issue is not a relevant human rights concern. The views are expressed solely on behalf of the organizations listed above. The Norwegian NGO-Forum for Human Rights can be reached c/o The Norwegian Helsinki Committee, Kirkegata 5, 0153 Oslo, Norway, [obl@nhc.no](mailto:obl@nhc.no), <http://www.nhc.no>

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# I. Background and framework

## I.A. International obligations

### Ratifications

1. The key human rights conventions are ratified by Norway. However, ratification of several international monitoring or complaints mechanisms intended to strengthen human rights implementation, are lacking.
2. Norway ratified the International Covenant on Economic, Social and Cultural Rights already in 1972. The Covenant is incorporated into Norwegian law through the Human Rights Act of 1999. However, at the time of writing, the Norwegian Government has yet to decide whether to sign and ratify the Optional Protocol to the Covenant.
3. Norway incorporated the Convention on the Rights of the Child (CRC) into domestic law in 2003. For this reason, signing and ratifying the third Optional Protocol establishing an individual communications procedure under the Convention<sup>1</sup> would be a logical and complementary step to show Norway's commitment to respect, protect and fulfill the rights and obligations under the CRC. In June 2013 the Parliament unanimously adopted a decision that the Government must put forward a concrete proposal to ratify this Optional Protocol "urgently"<sup>2</sup>. This has not happened by the time of writing.
4. Norway ratified the UN Convention on Persons with Disabilities (CPRD) on 3 June 2013 with substantive declarations that may limit the scope of rights guaranteed under the Convention. The Optional Protocol to CRPD establishing an individual communication procedure has not been ratified by Norway and the Government has not yet reached a position on whether Norway should do so<sup>3</sup>. As the abovementioned substantive declarations have introduced ambiguities in domestic implementation, a ratification of the Optional Protocol would be all the more important as individual communications could help clarify the effects of the substantive declarations.
5. **Recommendations:**
  - **Sign and ratify the Optional Protocol to the International Covenant on Economic Social and Cultural Rights on a communications procedure as soon as possible.**
  - **Sign and ratify the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure as soon as possible.**
  - **Sign and ratify the Optional Protocol to the International Convention on the Rights of Persons with Disabilities on a communications procedure as soon as possible.**

### Reservations

6. Norway has made a reservation to the International Covenant on Civil and Political Rights article 10, paragraphs 2 (b) and 3, with regard to separation of juveniles and adults. In Norway,

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<sup>1</sup> The Norwegian Government commissioned a legal analysis of the effects of a possible ratification of the Optional Protocol to the CRC. The legal analysis concluded that ratification of the Optional Protocol will contribute to better protection of children's rights in Norway. The analysis was presented to the Ministry of Foreign Affairs on 2 June 2013, and is currently subject to a public consultation process. The analysis and the public consultation process could become the basis for a ratification proposal before Parliament by the end of 2013.

<sup>2</sup> Minutes from Parliament (in Norwegian): <http://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2012-2013/130621/20/>.

<sup>3</sup> Proposition no. 106S from the Ministry of Foreign Affairs to the Norwegian Parliament on the Ratification on the Convention on the Rights of Persons with Disabilities.

juvenile and adult offenders are not always separated. The Ombudsperson for children has expressed serious concern about the treatment of juvenile prisoners.

7. **Recommendation:**

- **Withdraw reservations to the International Covenant on Civil and Political Rights article 10.**

### Consultations with civil society

8. Historically, Norway has tended to support the development of international human rights instruments in an open and constructive way. Authorities are transparent and open to dialogue with citizens and organized civil society groups. Also in the field of human rights, Norwegian practice of dialogue and transparency has provided a best practice.

9. However, during the last few years a number of Norwegian human rights NGOs have complained about a slow pace of ratifications and limited civil society consultations. This criticism was especially strong in relation to the question of whether Norway should ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), cfr. Norway's mid-term report on the first UPR cycle referring to criticisms by civil society regarding lack of transparency and lack of inclusion of all stakeholders<sup>4</sup>. For some years Norwegian NGOs have tried to establish a dialogue with authorities on the Optional Protocol, and called for transparency and an open debate, with limited success.

10. Civil society organizations welcomed the ratification of the Optional Protocol to the Convention against Torture, but criticized the lack of genuine consultation on which institution should function as the National Preventive Mechanism<sup>5</sup>.

11. Recently, the Government invited to consultations on commissioned reports about implications of Norwegian ratifications of the OP-ICESCR and the OP-CRC. However, the Government did not state any views or arguments for or against ratification, making it harder for civil society to engage in meaningful public debate on these issues.

12. These shortcomings in the Government's consultations with civil society may partly be due to the absence of a national human rights strategy. We call for the Government to strengthen consultations with civil society. In doing so, it could look to Finland, where authorities work according to a transparent two year plan for deciding on ratifications, actively involving civil society<sup>6</sup>.

13. **Recommendations:**

- **Ensure transparent, predictable and inclusive consultations and debates on issues of ratification of international human rights instruments that include all stakeholders and are in accordance with best practices.**

## C. Institutional and human rights structure and policy measures

### National Human Rights Institution

14. In 2012 it was decided that the Norwegian Center for Human Rights at the University of Oslo will discontinue its function as the National Human Rights Institution (NHRI) of Norway by June 2014. An external team appointed by the Ministry of Foreign Affairs to review the functioning of the

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<sup>4</sup> Universal Periodic Review, Norway, Mid-term report on follow-up of the recommendations of the United Nations Human Rights Council under the Universal Periodic Review Mechanism, June 2012, page 5.

<sup>5</sup> Public letter to the Prime Minister of Norway from the Norwegian NGO-forum for Human Rights, 27 August 2012.

<sup>6</sup> Finnish Ministry of Foreign Affairs,

<http://formin.finland.fi/public/default.aspx?contentid=278830&nodeid=15631&contentlan=2&culture=en-US>

Norwegian Centre for Human Rights as a NHRI, concluded in March 2011<sup>7</sup> that the Centre did not comply with the Paris Principles and recommended that a new human rights commission be established and that the new NHRI be allocated sufficient resources to become a respected and visible institution, monitoring and promoting human rights in Norway.

15. A multi-ministerial committee was then established to develop a proposal for the re-establishment of Norway's NHRI. The proposal that was presented in June 2013<sup>8</sup> is however, unclear regarding the organizational, legislative and financial situation of the new institution. The committee proposed a "public-management"-model, in which the new institution formally and administratively would be organized under the Ministry of Foreign Affairs. We do not support or recommend this proposed model, rather the NHRI should be established as an independent institution formally and administratively organized under the Parliament, as proposed by the review team.

16. **Recommendation:**

- **Establish a new National Human Rights Institution in full compliance with the Paris Principles with sufficient resources to be effective in monitoring and promoting human rights.**

17. **Proposed question:**

- **What are the ambitions of Norway for a new NHRI with respect to resources, independence, involvement of civil society, and overall impact and visibility?**

### **Coordination of human rights policy, especially follow-up of treaty body concluding observations and views**

18. Norway subscribes to the principle of mainstreaming in the implementation of human rights. Clearly implementation of human rights must involve many different sectors, administrative levels and bodies. However, for all those actors, agencies and levels to effectively protect promote and respect human rights, they need to be reminded of their obligations and prompted to take action, and their efforts need to be coordinated. These functions are taken care of in a fragmented manner within the present set-up, as neither the Government nor the Parliament have a body with overall responsibility for coordinating human rights policies and follow-up. The lack of such focal points is a particular cause for concern in the absence of a national plan of action for human rights.

19. The follow-up to concluding observations from treaty bodies is a case in point. Typically there is co-ordination between Ministries in reporting to UN bodies, but co-ordination of follow-up is limited until the next report is due. Overall, there is a general concern that recommendations from UN treaty bodies are not followed up in a systematic and efficient manner. One example is the failure to follow up the UN Committee against Torture's recommendations to Norway regarding solitary confinement in police detention<sup>9</sup>. Although prolonged confinement in police cells has been criticized by international human rights monitoring bodies for the last 20 years it has still not been effectively addressed.

20. In particular, Norwegian NGOs have pointed out that the follow-up procedures to concluding observations from UN human rights treaty bodies varies significantly depending amongst other factors, on which Ministry is primary responsible. Under some treaties there are extensive

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<sup>7</sup> Nora Sveaas et al: "Protecting and promoting Human Rights in Norway. Review of the Norwegian Centre for Human Rights in its capacity as Norway's national human rights institution", Oslo, March 2011.

<sup>8</sup> <http://www.regjeringen.no/nb/dep/ud/dok/horinger/hoeringsdok/2013/horingsdokument-om-vurdering-av-endoringe/horingsnotat.html?id=731940> (accessed 2. September 2013). The public consultation ends on 24 September 2013.

<sup>9</sup> CAT/C/NOR/CO/6-7, 13 December 2012.

consultations, follow-up meetings and documents detailing steps to be taken to meet the recommendations of the treaty body in question, while other concluding observations are subject to considerably less follow-up. Norwegian NGOs involved in treaty body reporting have publically called for a systematic and ambitious approach to human rights treaty body follow-up which should apply to all treaties, be transparent and inclusive to civil society<sup>10</sup>.

21. **Recommendations:**

- **Establish a strong national high-level body, or assign to an existing body the task, to act as an overall focal point with a mandate and capacity to provide leadership in the implementation of human rights obligations, and to provide comprehensive, system-wide policy co-ordination and impetus. A key role should be to oversee the implementation of a plan of action for human rights once adopted.**
- **Ensure systematic and ambitious follow-up to concluding observations from all UN human rights treaty bodies, and to establish an effective dialogue on the national level between NGOs and the coordinating body and relevant Ministries in all such processes.**

### National plan of action

22. The 1993 World Conference on Human Rights recommended that Governments draw up national plans for the implementation of their human rights obligations. Norway made a comprehensive plan of action for human rights, specifying action to be taken until 2005<sup>11</sup>, but did not make it a permanent element of its human rights framework, as new plans have not been made. The promotion and protection of human rights requires systematic, co-ordinated and continuous work, hence the need of a plan. The planning process should be transparent, inclusive and participatory and the plan should be based on baseline studies. Evaluations should provide the foundation for new cycles of the process. We are convinced that a plan of action for human rights could contribute positively to shared ownership, cooperation, effectiveness and transparency in the efforts to promote and protect human rights in Norway.

23. **Recommendation:**

- **Adopt a long-term comprehensive plan of action for human rights through a transparent, predictable, inclusive and participatory process, with a five years cycle.**

## II. Implementation of international human rights obligations

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

#### Police arrest

24. The widespread and systematic use of solitary confinement in Norwegian police custody continues to be an issue of concern, as pointed out by the UN Committee against Torture (CAT) as late as December 2012. CAT expressed serious concerns and recommended that Norway abolish the widespread use of police detention cells beyond the 48-hour term required by the law<sup>12</sup>. It is obvious that police cells are not suitable to keep detainees for more than a very short time. Nevertheless, the 48 hour time limit was violated in 43% of the cases in 2011. Prisoners have been kept in solitary

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<sup>10</sup> Public letter to the Prime Minister of Norway from the Norwegian NGO-forum for Human Rights, 27 August 2012.

<sup>11</sup> Stortingsmelding nr 21 (1999-2000) "Menneskeverd i Sentrum". (White Paper no 21, 1999-2000).

<sup>12</sup> CAT/C/NOR/CO6-/7, section 10.

confinement in police cells for as long as 10 days. A rule from which 43% of cases are exempted cannot be said to provide an efficient protection for remand prisoners<sup>13</sup>.

25. Placement in Norwegian police cells implies use of solitary confinement by default for all detainees – without consideration of the need for solitary confinement in each individual case. This systematic and indiscriminate use of solitary confinement regardless of necessity may violate the right to be treated in accordance with the presumption of innocence protected by the International Covenant on Civil and Political Rights, article 10<sup>14</sup>.

26. **Recommendations:**

- **Abolish the widespread use of police detention cells beyond the 48-hour term required by the law.**
- **Ensure that the need for solitary confinement in police detention cells is always considered individually in each case, so that the use of such cells is limited to those cases where it is strictly necessary.**

### Pre-trial solitary confinement

27. In Norway, solitary confinement is used in as much as 15 % of all new remands overall. Courts may order solitary confinement in the pre-trial phase only in those approximately 30% of cases where confinement is a means to prevent a suspect from interfering with the investigation. (Statistically, about 70 % of the remands are for other reasons than interfering with the investigation, and in these cases solitary confinement is not applicable under the law). Hence, the statistics suggests that solitary confinement is applied by the courts in more than half of the cases where it is theoretically applicable under the law.

28. Several surveys show that police applications and court decisions on solitary confinement often are poorly reasoned and phrased in a stereotyped manner (according to the General Public Prosecutor, only 17 % met an acceptable standard of reasoning)<sup>15</sup>.

29. **Recommendation:**

- **Limit the use of solitary confinement in pre-trial detention to cases where it is strictly necessary, in line with international human rights standards.**

### Solitary confinement according to the Act on Execution of Sentences

30. Solitary confinement decided by the prisons on an administrative basis is in widespread use<sup>16</sup>, and there is a serious lack of judicial control. Norwegian prison authorities have a wide and discretionary legal basis for imposing solitary confinement<sup>17</sup>. Prison authorities can place inmates in

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<sup>13</sup> According to the official statistics of the Norwegian Prison Service (Kriminalomsorgen) for the year 2011, 43 % of remand prisoners transferred to prison, were not transferred within two days, and 21 % were transferred later than three days after the arrest. More than 362 prisoners (10 %) were transferred more than five days after the arrest. The statistics were confirmed by the Norwegian government during the 49<sup>th</sup> session of the UN Committee against Torture.

<sup>14</sup> Cfr. CCPR Article 10, section 2, UN Standard Minimum Rules for the Treatment of Prisoners Article 84, section 2; UN Human Rights Committee, General Comment No 21, section 3; and UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 36, section 2.

<sup>15</sup> Publications of the General Public Prosecutor 1/2003: "Restriksjoner ved varetekt – undersøkelse av praksis første halvår 2002"; Jostein Bakke/Tor-Geir Myhrer: "Begjæring om varetekt med restriksjoner – en undersøkelse av praksis", publication of the Police Academy No 3/2009; and Anette Angelsen: "Rettens begrunnelse for varetektsfengsling i isolasjon", a master thesis, University of Oslo, 2011.

<sup>16</sup> Norwegian National Institution for Human Rights, Thematic report: "Use of solitary confinement in prison. Norwegian law and practice in a human rights perspective", Oslo 2012.

<sup>17</sup> Solitary confinement is predominantly based on the very vaguely defined notion of "calm, order and security", see the Act on Execution of Sentences, § 37.

solitary confinement for periods lasting up to a year<sup>18</sup>. By comparison, courts are limited to decide on isolation for up to two weeks at a time, with a maximum of either six or twelve weeks according to the nature of the alleged offence<sup>19</sup>.

31. There are several documented cases where solitary confinement has been used for illegitimate reasons. The use of solitary confinement varies according to local practices in different prisons<sup>20</sup>. Solitary confinement might be used by prison authorities as a means to cut costs, allowing planned reductions of prison staff on weekends, etc.

32. Written decisions concerning solitary confinement are made in Norwegian language, and are not always translated into a language the prisoner can understand. Prisoners placed in solitary confinement are not provided with sufficient possibilities to contradict the accusations behind decisions to place them there. The deadlines for appeal are often as short as 48 hours, making it hard for the prisoner in question to appeal or to contact a legal advisor for assistance. There is in general no practical possibility for judicial review of administrative decisions imposing solitary confinement<sup>21</sup>.

33. Norway has been criticized before in relation to this matter, but still fails to take adequate measures to alleviate the situation.

34. **Recommendations:**

- **Take measures to limit the use of solitary confinement to situations where it is strictly necessary.**
- **Systematically gather, analyze and regularly publish statistics showing the prevalence and incidence of solitary confinement in prisons.**
- **Ensure inmates' effective access to administrative and judicial review of decisions concerning solitary confinement in prisons.**

#### **Trandum detention center**

35. The Trandum detention centre for aliens to be deported out of Norway has improved its facilities during recent years; however several problems remain. Several instances are reported and confirmed by Trandum officials where aliens have been held with no basis in the law, as they are kept there longer than the legally defined maximum duration of 72 hours. As the statistics regarding duration are incomplete, there may be several more violations.

36. Previously, the Norwegian Bar Association has criticized the stripped cells at Trandum for being unsuitable for overnight stays, especially for detainees who are suicidal or suffer from serious psychiatric illness<sup>22</sup>.

37. The Bar Association has complained about these problems to the Police Directorate. The Directorate has replied that the reason for the lack of reliable statistics is that new statistics software has not yet been introduced. The Norwegian Parliamentary Ombudsman has also initiated an investigation into these issues.

38. **Recommendation:**

- **Ensure that all deprivation of liberty at Trandum is in full accordance with the law and international human rights standards.**

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<sup>18</sup> The Act on Execution of Sentences, § 37.

<sup>19</sup> The Criminal Procedure Code, § 186 a.

<sup>20</sup> Norwegian National Institution for Human Rights, Thematic report: "Use of solitary confinement in prison. Norwegian law and practice in a human rights perspective", Oslo 2012

<sup>21</sup> Op. cit., chapter 7.

<sup>22</sup> Human Rights Committee of the Norwegian Bar Association, visit to Trandum in 2012.

## Use of coercion in psychiatric institutions

39. The Government has accepted that the use of coercive interventions in mental health care should be reduced and has taken certain measures to this end. In 2006 the Directorate of Health launched a plan of action to reduce and ensure quality in the use of coercive interventions in the Norwegian mental health services. Still, the widespread use of coercive interventions in Norwegian psychiatric institutions remains an issue of great concern as no substantial reduction in the use of coercion has been noticed<sup>23</sup>.

40. As no recommendation was made about mental health care in Norway's first UPR, recommendations in this field would be particularly welcome in the second UPR, in particular in light of the importance and concern attached to this problem area by UN treaty bodies and NGOs in recent years.

41. Official statistics show huge variations in the use of coercive interventions in mental health care across regions and institutions. This suggests that in some institutions the use of coercion may be beyond what is strictly necessary, raising concerns over arbitrary deprivation of liberty and arbitrary use of coercive means at some wards and in some areas. This has been known for some years. The variations may be due to differences in treatment culture on an individual, ward, hospital or community level. Improving decision making processes on involuntary admissions should be prioritized. The Government should make urgent and focused efforts to reduce the problems regarding coercion in psychiatry, provide clear instructions to the health regions and individual psychiatric institutions where substantial reductions are needed and assist and monitor those units.

42. Coercive interventions include detention, seclusion, use of restraints and involuntary medication. The argument for using involuntary admission is often to enforce the administration of anti-psychotic medication. The necessity of using anti-psychotic medication and the negative effects of such drugs has been under debate in Norwegian mental health organizations for some time.

43. A White Paper on coercive interventions in psychiatric institutions<sup>24</sup> was published in 2011. None of the proposals in the White Paper had resulted in formal initiatives for legislative changes by the time of writing.

44. **Recommendations:**

- **Give clear and detailed regulations on the use of coercion in psychiatric institutions to ensure full compliance with international human rights standards.**
- **Take concrete steps and measures to put an end to any unjustified use of coercive interventions towards psychiatric patients.**
- **Assist and monitor psychiatric institutions known to have the highest incidences of coercion.**
- **Monitor coercion towards vulnerable groups of patients such as children, youth, the mentally disabled and the elderly.**

## Gender based violence

45. Although the authorities and the justice system in Norway claim to give high priority to combating gender-based violence, including rape and sexual violence, the victims' right to justice is often hampered in practice. There is a lack of expertise and prioritization within the public support- and healthcare services, police, prosecuting authorities and the courts<sup>25</sup>.

<sup>23</sup> <http://www.nhc.no/no/nyheter/Report+on+Civil+and+Political+Rights+in+Norway.9UFRnQ4P.ips>

<sup>24</sup> NOU 2011:9 «Økt selvbestemmelse og rettssikkerhet».

<sup>25</sup> Aas, G.: «Politiets arbeid med vold i nære og familiære relasjoner – fra utrykning til tiltale», The Police Academy, Oslo 2013.

46. Estimates indicate that there are between 6.000 and 8.000 cases of aggravated intimate partner violence every year. The vast majority of victims are women<sup>26</sup>. From 2009 until today 33 women have been murdered by their male partner or ex-partner<sup>27</sup>. From January to June 2012, 12 women have been murdered, allegedly by their current male partner or ex-partner<sup>28</sup>. In April 2013 the Supreme Court of Norway ruled that the state had not fulfilled its obligation under the European Convention on Human Rights to protect a woman from persecution from her perpetrator<sup>29</sup>.

47. In January 2008, the Government appointed committee on rape estimated that between 8.000 and 16.000 women are exposed to rape or attempted rape in Norway annually<sup>30</sup>. The number of indictments and convictions in rape cases remain low. Around 84 percent of rape cases reported to the police are dismissed by the public prosecutor, and never reach court, according to the most recent analysis from 2007<sup>31</sup>. The Norwegian penal code still links the question of guilt to the ability to prove that the sexual act was enforced through the use of violence or threats of violence.

48. Since 2010, there has been a 10 percent drop in the number of existing crisis centers offering immediate support and protection to victims of violence, and more are at risk of closing<sup>32</sup>.

49. **Recommendations**

- **Develop a comprehensive national prevention strategy and awareness raising campaign against gender based violence that address gender stereotypes and prejudice, inter alia through the education of children and young people. Special priority should be given to vulnerable groups of women<sup>33</sup>.**
- **Take all necessary legislative or other measures to ensure that breaches of restraining or protection orders are subject to effective and immediate dissuasive criminal sanctions.**
- **Take all necessary legislative or other measures to ensure that victims have access to adequate assistance and protection, health care and social services. This should include access to psychological counseling. Ensure that shelters and sexual assault centers are adequately resourced, and are guaranteed stable and predictable funding to enable them to make long-term plans for their work.**
- **Adopt a legal definition of rape which defines rape and other forms of sexual violence as sexual conduct in any instance in which the consent of the person involved is not truly and**

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<sup>26</sup> Vista analyse. Rapport 2012/41. It is estimated that between 75.000 to 150 000 persons over 16 years of age are victims of some form of intimate partner violence every year.

<sup>27</sup> Ministry of Justice and Public Security. Report no. 15 to the Storting (2012 -2013).

<sup>28</sup> <http://www.vg.no/nyheter/innenriks/artikkel.php?artid=10111476> (accessed 21 June 2013).

<sup>29</sup> Supreme court decision. HR-2013-881-A, case no. 2012/1900, civil appeal against judgment, available at [http://www.domstol.no/upload/HRET/saknr2012-1900\(anonymisert\).pdf](http://www.domstol.no/upload/HRET/saknr2012-1900(anonymisert).pdf) (accessed on 21 June 2013). - Decisive importance was attributed to the fact that the police's follow-up of the continued violations of a restraining order was highly inadequate and to the fact that two potentially very serious threats were not investigated in any detail. The acts of the perpetrator undisputedly fell under Article 8 of the ECHR. Whether it also fell under Article 3 was not considered by the court.

<sup>30</sup> NOU 2008:4 – «Fra ord til handling», page 36.

<sup>31</sup> Riksadvokatens utredningsgrupper, Report 1/2007.

<sup>32</sup> Since the adoption of the new "crisis center law" in 2010 where the economic responsibility to fund the centers was transferred to the municipalities, the number of centers has dropped from 51 to 45.

<sup>33</sup> Women with disabilities are five times more likely exposed to violence or threats of violence and discrimination compared to other women. Ramm, Jorun: «På like vilkår? Helse og levekår blant personer med nedsatt funksjonsevne», 2012. Women with minority background make up more than 50% of the people staying in the crisis shelters according to Rasmussen, Strøm, Sverdrup, Vennemo: "Samfunnsøkonomiske kostnader av vold i nære relasjoner". Vista analyse, Rapport 2012/41.

freely given, that is, given without coercion of any kind, in accordance with international human right standards<sup>34</sup>.

- **Ensure appropriate education and training of judges, members of the jury and other key actors in the legal system in order to evade any discriminatory attitudes that might affect women's right to fair trial.**

### Violence and sexual abuse against children

50. Norway has ten Children's Advocacy Centers<sup>35</sup> that provide interdisciplinary and coordinated support for reportedly abused children. The Centers provide police or judicial interviews, medical investigation and psychosocial support for children. In regulations the right to judicial interview is limited to children up to the age of 16<sup>36</sup>.

51. The 2012 annual report from the Centers shows that the average time it took from a police report was filed until a judicial or police interview was conducted varied from 42 days up to 123 days, a considerable deviation from the statutory deadline which is 14 days<sup>37</sup> in cases concerning sexual abuse. According to the Centers' report, the delays were not due to a lack of capacity at the Centers, but rather due to the limited capacity of police districts and local courts.

52. **Recommendations:**

- **Make the services of the Child Advocacy Centers available and accessible for all children up to the age of 18.**
- **Ensure that effective procedures are in place to strengthen the due process of law for children whom have been reported as victims of violence or sexual abuse by ensuring that these children are interviewed within the statutory deadline.**

### Trafficking of children

53. One group of children that are specifically identified as vulnerable to exploitation and trafficking is unaccompanied minors between 15 and 18 years of age living in asylum centers under the care of the immigration authorities. In 2012, 85 unaccompanied minors between 15 and 18 years of age went missing from asylum centers<sup>38</sup>. The number has increased since 2011. The children who have disappeared may have become victims of trafficking. There is a need for effective preventive measures, such as placing the care of all children identified as potential victims of trafficking under the Child Welfare Services, who are better staffed and equipped to take care of vulnerable children at risk. The assistance to child victims of trafficking is still fragmented and better cooperation between the agencies involved is needed.

54. **Recommendation:**

- **Ensure that all children who are identified as victims of trafficking are placed under the care and assistance of the Child Welfare Services. The cooperation between child protection services, outreach services, police and immigration authorities should be strengthened so that child victims of trafficking receive adequate care according to their individual needs and best interest.**

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<sup>34</sup> Relevant human right standards on rape are stated in the Council of Europe Convention on preventing and combating violence against women and domestic violence, article 36; and the UN Committee on the Elimination of Discrimination against Women, Communication No. 18/2008 (Vertido Case), section 8.9.

<sup>35</sup> «Statens Barnehus».

<sup>36</sup> <http://www.lovdato.no/for/sf/jd/xd-19981002-0925.html#1>

<sup>37</sup> <http://www.lovdato.no/for/sf/jd/xd-19981002-0925.html#map001>

<sup>38</sup> PRESS (Save the Children Youth Norway), report: "Savnet" (Missing). January 2013.

### 3. Administration of justice, including impunity and the rule of law

#### Access to justice

55. The Government does not consider outreach legal information or legal aid to be a state responsibility even if several recent research reports have confirmed that the most indigent, who often are not aware of their rights and who in many cases are reluctant to contact a lawyer by themselves have ineffective access to justice<sup>39</sup>.

56. Lack of information about human rights, including information about discrimination issues, is a barrier to access to justice and legal empowerment. This is in particular so among immigrant women and other marginalized groups, such as disabled people<sup>40</sup>. Apart from a general duty for public administration employees to provide general guidance on rights<sup>41</sup> there are only a few projects or groups dealing with information about rights<sup>42</sup>, but these typically run on project funding while regular funding is not ensured.

57. The free legal aid scheme leaves a large portion of the population without a possibility to invoke many of Norway's international human rights obligations despite the fact that Norway has undertaken to ensure effective protection<sup>43</sup>. The provision that enables the authorities to grant legal aid at their discretion is seldom used. In its Report no 26 (2008-2009) to Parliament on legal aid, the Government briefly mentions the human rights obligation to provide access to justice, but the report proposed no policy to ensure that this obligation is met. By the time of writing, there has been no follow-up of this Government report.

58. The existing legal aid scheme is insufficient to ensure that all citizens enjoy access to justice/fair trial rights in cases regarding civil matters. Apart from a few prioritized areas of law, legal aid is only provided to those with very low income. Many are thus excluded from the legal aid scheme, even in important cases concerning housing, discrimination, debt, social security, claims for unpaid wages, prison law, and most areas of immigration law.

59. **Recommendations:**

- **Provide legal aid in all circumstances where it is necessary to ensure effective legal protection.**
- **Provide legal aid in cases involving a potential violation of human rights.**
- **Provide support to information and legal aid projects targeting indigent and marginalized groups and make a strategy for how to provide immigrants and other groups who have language barriers and/or other barriers with sufficient information about rights and duties.**

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<sup>39</sup> Johnsen: «Hva kan vi lære av finsk rettsbistand», Oslo 2009; Graver et. al.: «Rettsbistand 2001», Oslo 2002; Bentsen og Rønning: «Bruken av unntaksbestemmelsene i lov om fri rettsbistand», Oslo 2008; Nordstrøm: «Diskriminering på tvers – rapport fra et oppsøkende rettighetsinformasjonsprosjekt høsten 2009», Oslo 2009.

<sup>40</sup> See Nordstrøm: «Diskriminering på tvers – rapport fra et oppsøkende rettighetsinformasjonsprosjekt». Kvinnerettslig skriftserie nr 83/2010, «Discrimination across the board – report from an outreach project concerning information on rights». (Studies in Women's Rights Law no 83/2010). See also Else Leona McClimans: «Funksjonshemmedes rettigheter, hvor står vi foran stortingsvalget i 2013» («The rights of the disabled: status before the Parliamentary elections in 2013»), for The Norwegian Federation of Organizations of Disabled People (FFO) available from [http://ffo.no/upload/Dokumenter/Rapporter/2013/funksjonshemmedes\\_rettigheter\\_notat\\_mcclimans.pdf](http://ffo.no/upload/Dokumenter/Rapporter/2013/funksjonshemmedes_rettigheter_notat_mcclimans.pdf).

<sup>41</sup>The Public Administration Act, section 11.

<sup>42</sup>With some exceptions, including the «Rights Center» of the Norwegian Federation of Organizations of Disabled People (FFO) and the legal information programs of the Legal Advice for Women (JURK).

<sup>43</sup>Cfr. ICCPR, article 2.3.

## 13. Migrants, refugees and asylum seekers

### The Istanbul Protocol

60. Norway has frequently claimed that the Istanbul Protocol<sup>44</sup> is implemented as a tool to document torture and ill-treatment in training programmes for caseworkers at the Directorate of Immigration and into procedures for interviewing asylum-seekers. However, our main concern is that Norwegian authorities have yet to implement the Istanbul Protocol in the sense that forensic evidence is gathered in a systematic way in cases where there are claims or indications of torture or ill-treatment. In the absence of systematic documentation of physical and psychological sequelae of torture, Norway runs the risk of violating the principle of non-refoulement and makes it more difficult to identify needs for medical and psychological rehabilitation. Finally, documentation of torture may prove important at a later stage for victims seeking redress.

61. There is ongoing work aimed at integrating the use of the Istanbul Protocol in the asylum procedures. However, what is still urgently needed is a plan for systematic training of health personnel in the Istanbul Protocol and to ensure that funding is allocated for the actual assessment and documentation to take place. Norway has recently ratified the Optional Protocol to the Convention against Torture. The National Preventive Mechanism that will soon be established will need at its disposal medical and psychological professionals trained in the detection and determination of torture in accordance with the Istanbul Protocol.

62. **Recommendations:**

- **Ensure that upon arrival, all asylum seekers undergo a health check by health personnel and ensure that signs of torture be examined and be subject to forensic reports in accordance with the Istanbul Protocol.**
- **Provide systematic, thorough and practical training in the application of the Istanbul Protocol to all relevant health personnel, including to professionals monitoring deprivation of liberty under the Optional Protocol against Torture.**

### Discrimination of unaccompanied asylum seeking children

63. In December 2007, Norway added a chapter to the Child Welfare Act to ensure that the child welfare system assumed responsibility for the care of unaccompanied asylum-seeking minors below the age of 15. Unaccompanied asylum seeking minors between the ages of 15 and 18 are subject to discrimination in as far as they are not given the same rights to care, pursuant to the Child Welfare Act, as other children. Despite repeated criticism from the UN Committee on the Rights of the Child, the responsibility for the care of these children still rests with the immigration authorities. Furthermore, sufficient resources have still not been allocated to facilitate a transfer to the child welfare services.

64. **Recommendation:**

- **Ensure that all unaccompanied and separate children under the age of 18 are placed under the care and assistance of the child welfare services.**

### Best interest of the child determination

65. In certain immigration cases immigration control and the best interest of the child are competing concerns weighing in opposite directions. In the Norwegian Immigration Act, concrete factors related to immigration control are presented, while corresponding factors and examples

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<sup>44</sup> UN Manual to effective documentation and investigation of torture.

relating to best interest considerations are not provided. There is currently no regulation that provides the immigration authorities with a common understanding as to which aspects should be considered when determining the best interest of the child, nor is there an understanding how this should be weighed against other considerations in cases of conflict. This creates uncertainty as to which factors are relevant in assessments of the best interests of the child, and can ultimately lead to decisions that are in conflict with the UN Convention on the Rights of the Child.

66. To ensure that immigration authorities conduct a thorough assessment of and give due considerations to the best interest of the individual child, regulations should specify *how* the interests of the child shall be considered in immigration matters, and *what weight* should be given to these considerations. In its concluding observations to Norway's Fourth State Report (January 2010), the Committee on the Rights of the Child recommended that "practicable directions for how to operationalize the principle" should be elaborated<sup>45</sup>.

67. **Recommendation:**

- **Specify in regulations how Norwegian immigration authorities should interpret the best interests of the child in immigration matters, in line with the UN Committee on the Rights of the Child's General Comment No. 14<sup>46</sup>.**

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<sup>45</sup> CRC/C/NOR/CO/4.

<sup>46</sup> The Committee on the Rights of the Child's General Comment No.14 on the best interests of the child (2013): [http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC\\_C\\_GC\\_14\\_ENG.pdf](http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf)