

STATEMENT

UPR Pre-session on Norway

Geneva, 4 April 2019

Delivered by: Norwegian Helsinki Committee

1- This statement is delivered on behalf of The Norwegian Helsinki Committee (NHC), an independent human rights organization set up in Norway in 1977 to promote and protect human rights in Europe, North America and Central Asia.

The NHC is the co-ordinator of the Norwegian NGO Forum for Human Rights,¹ a network of 42 organisations.² This statement is based on a joint submission by members of the NGO Forum to the 3rd cycle review of Norway.³ The NGO Forum and the NHC has participated in the two previous cycles.

2- The Ministry of Foreign Affairs coordinated the preparation of the National Report.⁴ The Ministry held consultations with Civil Society Organisations (CSOs) by arranging two open meetings and inviting written input. The NGO Forum shared its submission with the Ministry during the consultation process.

The NGO Forum additionally held a meeting with the Ministry of Justice on 15 September 2015, to discuss Norway's follow-up on recommendations from the 2nd cycle.

3- This statement addresses issues related to: (1) Human rights and the constitution, (2) detention, (3) violence against women, (4) hate speech and other hate crimes; (5) asylum.

4- Statement

1. Human rights and the constitution

A. Follow-up to the last review

The Russian Federation recommended to "review legislation to ensure full freedom of belief, conscience and religion". There were also recommendations to ensure non-discrimination, including on religious grounds.

The Norwegian Constitution states that the Church of Norway is the Established Church of Norway; supported by the State. Other religious and belief communities shall be supported on equal terms.

B. New developments since the last review

The Constitution was amended in 2014; introducing a chapter on human rights. Freedom of religion or belief was, however, not included in this chapter but remains in the chapter on the government.

¹ The address of the Forum's website is www.ngoforum.no

² A list of members is available at: <https://bit.ly/2O2QKK6>

³ Available at: <https://bit.ly/2HysSwK>

⁴ Available at: <https://bit.ly/2Sr1XeI>

Articles 2, 4 and 16 of the Constitution emphasize Christian values, demand that the king shall adhere to the Evangelical-Lutheran faith and gives the Church of Norway a privileged position.

The articles can lead to discrimination and undermine equal treatment, as well as restrain the Church of Norway's right to autonomy.

The Government held public consultations in 2017 on a draft law on religious and belief communities. The draft was criticised for in effect favouring the Church of Norway economically.

C. Recommendations

To address these issues, the Government of Norway should: (1) Propose to the Parliament that the right to freedom of religion or belief should be included in the human rights chapter of the Constitution; (2) Ensure de facto equal treatment of all religious and life stance communities; (3) Propose to amend Article 2, 4 and 16 of the Constitution to ensure non-discrimination and equality.

2. Solitary confinement in police and pre-trial detention

A. Follow-up to the last review

There were recommendations from Italy, Netherlands and Switzerland to strengthen assessment of the need for using solitary confinement in police detention and pre-trial detention. There has been reduction, but still 11-16% of pretrial detainees are subject to solitary confinement.

B. New developments since the last review

Norway's Parliamentary Ombudsman established a national preventive mechanism (NPM) at its office in 2014. The NPM has through its reporting substantiated the criticism of widespread use of solitary confinement as well as lack of systematic individual assessment.

C. Recommendations

To address these issues, the Government should: (1) Introduce individual assessment of the need for solitary confinement as an absolute requirement in all cases; (2) Amend the legal framework to ensure that solitary confinement is only used when it is, "strictly necessary" and only "in exceptional circumstances" and when it is "essential for the administration of justice".

3. Violence against women

A. Follow-up to the last review

Several delegations addressed the need to strengthen protection of women's rights, including against violence. The government has put in place a range of measures, such as support and crisis centres, research programmes and strengthening police investigation.

B. New developments since the last review

A national prevalence study documents that almost every tenth woman (9.4%) has been subject to rape at least once in her lifetime. Only one out of ten women reported the rape to the police. Around 80% of the reported rape cases were dismissed by the police. Weaknesses in police investigations contribute to a low level of prosecution. Every third rape case that goes to court ends with acquittal. Despite recommendations made by UN treaty bodies to Norwegian authorities, the definition of rape in the Penal Code is still not centred on the lack of consent.

C. Recommendations

To address these issues, the Government should: (1) Adopt a legal definition of rape in the Penal Code which places the absence of consent at its centre; (2) Train judges, prosecutors and lawyers

about gender-based violence, including rape and other sexual violence; (3) Strengthen the investigative capacity of police and prosecutors in all forms of gender-based violence.

4. Hate speech and other hate crimes

A. Follow-up to the last review

Several delegations addressed the need to strengthen protection against discrimination of immigrants and to effectively address hate speech and other hate crimes in legislation and policies. The Penal Code prohibits discrimination, hate speech and other hate crimes. The Anti-Discrimination and Equality Ombud provides an easily accessible complaints mechanism.

B. New developments since the last review

While the Oslo Police district is prioritizing hate crime, other police districts have failed to do so. In 2014 Oslo Police District established a special investigation unit for hate crimes to increase competence, improve investigation and provide guidance to other police districts. The unit has been instrumental in more hate crime incidents being brought to court and follow-up of perpetrators.

C. Recommendations

To address these issues, the Government should ensure that: (1) All police districts prioritize hate crime; (2) All measures are taken to prevent hate crimes and providing support to victims of such crimes including in accessing justice; (3) The hate crime unit in Oslo is strengthened and made permanent, providing it with capacity to give guidance to other police districts; (4) Resources should be allocated to ensure the establishment of hate crime units throughout the country; (5) Gender, gender identity and gender expressions as grounds of discrimination must be included in Penal Code articles protecting against hate crime.

5. Asylum

A. Follow-up to the last review

The rights of asylum seekers not to be returned to a situation where they risk gross violations of human rights were not focused on in the last review.

B. New developments since the last review

In a few cases documented by Amnesty International, the Norwegian Helsinki Committee and lawyers it became known that asylum seekers to whom Norway had declined to provide protection had been tortured or ill-treated upon return to their country of origin. The cases have led to a growing concern among human rights organisations and lawyers that Norway takes excessive risks in its rejections of asylum applications of persons coming from countries known to have a “consistent pattern of gross, flagrant or mass violations of human rights”.

C. Recommendation

In order to address the issue, the Government should: (1) Put in place stronger safeguards to ensure that asylum seekers are not returned to countries where they may be at risk of torture or other ill-treatment; (2) Not return asylum seekers to so-called ‘safe third countries’, if these countries do not have a functioning asylum system that handle applications in accordance with international standards and have legislation that prohibits refoulement; (3) Not return applicants to internal flight in their country of origin without a thorough assessment in accordance with UNHCR Guidelines, including a ‘reasonableness analysis’.⁵

⁵ <https://bit.ly/2Y0FRgo>