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Report from Norway's NHRI to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in relation to the hearing of the 10th periodic report of Norway on 9 February 2023

The Norwegian National Human Rights Institution (NHRI) hereby provides its input to the Committee in relation to the hearing of Norway at the 84th session in February 2023.

The Norwegian NHRI was established 1 July 2015 as an independent institution under new legislation adopted by Parliament. The Norwegian NHRI has a specific mandate to protect and promote human rights in Norway, as well as to monitor how the authorities respect Norway's international human rights obligations. Submitting supplementary reports to international human rights monitoring bodies is an essential tool of this mandate.

In October 2022, we were re-accredited with A-status by GANHRI, thus being recognised as fully compliant with the UN Paris Principles.

This report has been prepared in consultation and with written contributions from the Ombud for Older Persons. As the Norwegian NHRI with A-status we always invite independent national ombuds institutions to contribute to our report if they do not prefer to submit their own report.

In this submission, we provide information on some issues of concern.

Please feel free to contact us at info@nhri.no in case of questions.

Best regards
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1. Instructions and guidance for human rights assessment in legislative drafting, policies and plans

Reference is made to Concluding Observations (CO) 2017:13(b).

The *Instructions for the Preparation of Central Governmental Measures* (“utredningsinstruksen”) were revised on 19 February 2016, and they no longer contain an explicit requirement to assess the implications for Norway’s human rights obligations when preparing governmental decisions. The purpose of the instructions is to establish a sound basis for government decisions and measures, including policies, legislative amendments and investments.

The former instructions included an obligation to consider effects on the implementation of human rights and equal opportunities, but this is now relegated to the accompanying guidelines (“veilederen”).

The Norwegian NHRI is concerned that the lack of an explicit reference to human rights obligations in the instructions could weaken the due consideration of human rights obligations in legislative drafting as well as other policy processes. We submit comments to approximately 50 draft legislative proposals annually and have noted that the human rights assessments conducted by public authorities are of varying quality. The Norwegian NHRI is in the process of developing a more detailed guide on both the procedural and substantive aspects of human rights assessments, in order to contribute to strengthening the quality of human rights assessments within the public administration.

Suggested recommendation:

- The State Party should include an explicit obligation to assess the potential human rights implications of new regulations, legislative amendments, policies and plans in the *Instructions for the Preparation of Central Governmental Measures*, as well as detailed information in the accompanying guidelines to enhance the quality of human rights assessments.

2. Follow-up of international recommendations

Reference is made to Concluding Observations (CO) 2017:11(a).

Norway has over time demonstrated its commitment to comply with human rights obligations under the UN conventions, including CEDAW. We appreciate that the Government in general is thorough and dependable in its reporting to UN human rights mechanisms. However, the dedication to systematic and transparent follow-up between periodic reports could be strengthened.

In Norway, the primary responsibility for coordinating reporting and follow-up of UN treaty body recommendations rests with four different ministries, but with input from all relevant ministries responsible for implementation.

Between 2017 – 2020, Norway received 155 recommendations from UN treaty bodies, 24 of which were from CEDAW.

To ensure effective implementation of these recommendations, the Norwegian NHRI notes the need to improve coordinated follow-up among different ministries, governmental agencies, municipalities and State institutions. Furthermore, improved coordination would also enhance transparency and monitoring by civil society. The Government has clarified that it does not envisage establishing a central unit or mechanism dedicated to follow-up.

The Norwegian NHRI has initiated several measures to facilitate and strengthen follow-up of State reporting. They include compiling a thematic overview of all treaty body recommendations available in print, and soon to be available as a searchable database on our website. We have also initiated a broad cooperation with civil society and the Equality and Anti-Discrimination Ombud, to establish a joint platform for thematic dialogue meetings with the Government on prioritized topics/UN recommendations. The next dialogue meeting is scheduled for 17 January 2023 and will focus on violence against women.

To be successful these initiatives rely on active cooperation with and support from the Government.

Suggested recommendation:

- The State Party should strengthen its efforts to ensure a coordinated and transparent process for the follow-up of UN treaty body recommendations.

3. Women’s access to justice – Reform of the Equality and Anti-Discrimination Ombud and Anti-Discrimination Tribunal, free legal aid and access to courts

Reference is made to LOIPR: 33, State Report paras. 30-42 and CO 2017: 19(a-b).

Reference is also made to the Committee’s general recommendation no. 33 on women’s access to justice.

The enforcement mechanisms established under the Equality and Anti-Discrimination Act were subject to significant reform in 2017. The reform was intended to streamline the handling of individual complaints of discrimination and harassment. A new Anti-Discrimination Tribunal was established as a result, with some significant powers that the previous Tribunal lacked, such as a mandate to grant compensation and redress. The Equality and Anti-Discrimination Ombud (LDO) was mandated to provide guidance to potential complainants.

The current model, with a shared responsibility between the Ombud and the Tribunal, has been operative for five years. The Tribunal's mandate was extended to include individual complaints of sexual harassment in 2020. The reform has had positive effects, such as the mandate for the Tribunal to grant redress and compensation. The Norwegian NHRI nevertheless remains concerned that there may be potential barriers preventing effective access to justice through the complaint mechanism, such as a high threshold for cases reaching and being tried by the Tribunal, written procedures being the general rule, and complex procedures in conjunction with the lack of access to free legal aid in discrimination cases. Such concerns have also been raised by legal scholars.¹

Outside the ordinary court system, the Tribunal is the sole individual complaint mechanism for discrimination cases and is intended to be a more accessible option. Free legal aid is as mentioned not available for discrimination cases, and few discrimination cases are brought before ordinary courts.

In light of this, we believe that the current Ombud and Tribunal model could be further strengthened to ensure women's effective access to justice in discrimination and harassment cases.

Suggested recommendation:

- The State Party should conduct a review of the effectiveness of the available enforcement mechanisms for the Equality and Anti-Discrimination Act, with particular focus on the 2017 reform of the Ombud and Tribunal seen in conjunction with effective access to the courts, with the aim of ensuring that women have effective access to justice in discrimination and harassment cases, including sexual harassment.

4. Sexual violence and definition of rape

Reference is made to LOIPR: 8, State Report: 75-76 and CO 2017: 25.

The State has undertaken a general review of the provisions in the Penal Code regarding sexual offences. In a submission to the "Straffelovrådet" (The Penal Code Council), the Norwegian NHRI has made several recommendations aimed at strengthening the protection of sexual autonomy, while also ensuring that the relevant provisions of the Penal Code are clear and reasonably foreseeable for the individual. In particular, we have recommended amending the legislative definition of rape to cover situations

¹ See for example Vibeke Blaker Strand and Anne Hellum, "Håndhevingslabyrinten – Om individuelle klager i diskrimineringsvernets nye håndhevingsstruktur" [About individual complainants in the anti-discrimination authority's new enforcement structure] *Nytt Norsk Tidsskrift* 39, no. 2 (2022) pp. 145-155, available in Norwegian at: <https://www.idunn.no/toc/nnt/39/2>.

where a person has rejected sexual intercourse either verbally or through other communication, as this is not currently the case.

In the Council's view, the most serious types of sexual offences are already covered by Section 291 of the Penal Code entitled "Rape", which carries a penalty of imprisonment for three to 15 years. As it stands currently, the provision prohibits sexual intercourse through violence or threatening behaviour and sexual intercourse with someone who is unconscious or for other reasons unable to resist. However, a clear shortcoming of the provision is that it does not cover all cases where a person expresses only verbally or in some other way that they do not wish to take part in sexual intercourse.

In preparing its report, the Council has been concerned with finding formulations for legislative reform that convey as clearly as possible what types of conduct are punishable. The Council has considered whether terms such as lack of "consent" or "voluntariness" should be used as constitutive elements in the wording of the provisions on rape. However, according to the Council, it is more precise to use other terms to describe the elements of the offence. The Council has therefore proposed an amendment to the current provision concerning rape so that it covers any person who has sexual intercourse with "someone who does not want to, and who expresses this in words or actions". The council has nevertheless recommended that the title of Section 291 be changed from "Rape" to "Sexual intercourse without consent" to indicate that lack of consent is a common characteristic of the acts which the council believes should be covered by the new description. From the Council's point of view, while lack of consent should not be a constitutive element of the offence, the new title would provide a principled starting point that sexual intercourse must be voluntary.

The Council also recommends changing the title of the offence of "Sexual acts without consent" under Section 297 to "Sexually degrading touching" and increasing the penalty to reflect the seriousness of the acts that may be covered by the provision. The Council does not rule out that this provision could be applied where someone has sexual intercourse with a person who is completely passive, and neither signals acceptance nor rejection. In such cases, the current penalty of a fine or imprisonment for one year may not reflect the seriousness of the conduct. The council suggests that a penalty of a fine or imprisonment for up to two years would make it possible for the courts to determine penalties that reflect the seriousness of the conduct in question.

The Norwegian NHRI notes that cases where the alleged victim does not consent to sexual intercourse but does not express this in words or actions because they experience tonic immobility (the freeze response) may be covered by Section 291(b) about engaging in sexual intercourse with a person who is unconscious or for other reasons incapable of resisting the act. In practice, guilt as regard to the freeze response may be hard to prove. However, Section 294 covers rape where the perpetrators have

been grossly negligent. The penalty for grossly negligent rape is imprisonment for up to six years.

Suggested recommendation:

- The State Party should implement the recommendations of the Penal Code Council with respect to the rape provision. In particular, the legislative definition of rape should be amended to cover situations where a person has rejected sexual intercourse either verbally or through other communication. The Council's recommendation regarding the penalty framework for the offence of sexually degrading touching, should also be implemented.

5. Violence against women – Police investigation and prosecution, support services and the role of municipalities

Reference is made to LOIPR: 7, 9-11, State Report: 61-90 and CO 2017: 25.

The State Report describes several efforts made by the Government in recent years to prevent and combat domestic violence. The former Government issued a National Action Plan against Domestic Violence, and the current Government is developing an escalation plan on violence against children and domestic violence. The National Action Plan against Rape expired at the end of 2022. The Norwegian NHRI welcomes these efforts, but we note that there are still significant challenges in this area.

In 2022, the Office of the Auditor General published a report investigating the authorities' efforts to combat domestic violence between 2015 and 2020. Among the main findings were that (1) the police and other support services have not implemented sufficient measures to reduce the risk of serious intimate partner violence; (2) the police and other public support services lack the knowledge and competence to ensure that victims of honour violence, forced marriages and female genital mutilation receive sufficient help; (3) many public bodies and services are uncertain of when and whether to report cases of suspected violence; and (4) there are challenges in coordination and cooperation between support services. The Commission on Partner Homicide's report contains similar findings.²

In 2020, the Norwegian Prosecuting Authority published a new report which found that while the quality of police investigations of rape had improved since the first report

² Official Norwegian Reports 2020: 17 «Varslede drap? — Partnerdrapsutvalgets utredning» [Predicted murders? The Commission on Partner Homicide's report], available in Norwegian at: <https://www.regjeringen.no/no/dokumenter/nou-2020-17/id2791522/>.

published in 2017, case processing times were still too long and there were periods of inactivity in the investigations.³

The Norwegian NHRI notes that municipalities in Norway are responsible for providing many of the support services available for victims of violence. Several reports show that municipalities struggle to fulfil their responsibilities to provide adequate services. A report from the Norwegian Centre for Violence and Traumatic Stress studies (NKVTS) and the Equality and Anti-Discrimination Ombud in 2021 showed that few municipalities have adopted action plans against domestic violence, and that municipalities generally struggle to provide crisis centres (shelters) for vulnerable groups of women, such as women with disabilities, women with substance abuse problems, and women who belong to other minority groups.⁴ Municipalities also struggle to offer sufficient follow-up of victims after a stay at a crisis centre. In addition, according to the Office of the Auditor General, the central Government does not provide municipalities with adequate follow up and support for this purpose.

Suggested recommendations

- The State Party should strengthen its efforts to protect women against violence and sexual abuse, including the following:
 - The State Party should devise a new action plan against rape. The plan should include further measures to increase the quality of police investigation of rape.
 - The State Party should implement further measures to ensure that the police and public services staff receive the necessary training and resources to identify, report and investigate the various forms of violence against women, including honour violence, forced marriages and female genital mutilation.
 - The State Party should implement measures to improve the accessibility and geographical spread of crisis centres, along with other measures to reduce the disparities between municipalities and ensure they are able to sufficiently fulfil their responsibilities towards victims of violence.

³ The Director of Public Prosecutions, *Kvalitetsundersøkinga 2016 – kvalitet på etterforskning og påtalearbeid i mishandlings- og valdtektssaker* [Quality of investigation and prosecution work in cases of abuse and rape] (2017), available in Norwegian at: <https://www.riksadvokaten.no/document/kvalitet-pa-etterforskning-og-patalearbeid-i-mishandlings-og-valdtektssaker/>; Office of the Auditor General, *Statsadvokatens kvalitetsundersøkelse 2020: Prioriterte valdtektssaker* [Priority rape cases] (Riksrevisjonens skriftserie, 1/2020, 2020), available in Norwegian at: <https://www.riksadvokaten.no/document/betre-kvalitet-pa-etterforskning-og-patalearbeid-i-valdtektssaker/>.

⁴ Astrid Sandmoe et al., *Kommunenes helhetlige arbeid mot vold mot kvinner og vold i nære relasjoner* [The municipalities' comprehensive work against violence against women and violence in close relationships] (LDO and NKVTS, 2021), available in Norwegian at: https://www.ldo.no/globalassets/ldo_2019/arrangementer/kommunenes-voldsarbeid_rapport_15juni2021.pdf.

6. Violence against women – vulnerable groups

Reference is made to LOIPR: 7, 12, 21 and CO 2017: 25.

6.1. Sámi women

Further reference is made to the State Report paras. 64, 66, 68, 89-90 and 221.

The SAMINOR 2 survey conducted in 2012 shows that of the 1,242 Sámi women who responded to the survey in 25 of Norway's 356 municipalities, 49% reported experiencing some form of violence or abuse in their lifetime, compared to 35% of non-Sámi women (including all forms of emotional, physical and sexual violence).⁵ Further analysis shows that 17.2% of Sámi women in the study reported having experienced intimate partner violence, compared to 11.8% of the non-Sámi women.⁶

Research conducted by NKVTS also indicates that the police and support services lack specialist expertise in Sámi languages and culture, making it more difficult for them to protect people with a Sámi background.⁷

The Norwegian NHRI welcomes the aforementioned National Action Plan against domestic violence, containing a chapter with measures designed to combat domestic violence and abuse in Sámi communities, and the current governments' establishment of NASÁG/NASAK, the National Sámi Competence Centre.⁸ However, we remain concerned about the situation for victims of violence in Sámi communities, including the lack of a designated Sámi crisis centre in the Sámi people's traditional territory (Sápmi) after the centre in Kárášjohka was shut down in 2019.

The Norwegian NHRI is also concerned about the lack of regularly updated data on the prevalence of violence against Sámi nationally and their access to public services. In general, the current approach to Sámi statistics in Norway does not allow for adequate human rights monitoring.⁹ While the SAMINOR study provides some important insights, it is geographically limited and is only conducted every 8-10 years.

Furthermore, the authorities do not collect administrative data on the number of Sámi people who report incidents of violence to the police, health services and other support

⁵ Astrid M. A. Eriksen et al., "Emotional, physical and sexual violence among Sami and non-Sami populations in Norway: The SAMINOR 2 questionnaire study" *Scandinavian Journal of Public Health* 43, no. 6 (2015).

⁶ Astrid M. A. Eriksen et al., "Intimate partner violence and its association with mental health problems: The importance of childhood violence – The SAMINOR 2 Questionnaire Survey" *Scandinavian Journal of Public Health* 50, no. 8 (2021).

⁷ NKVTS, *Om du tør å spørre, tør folk å svare: Hjelpeapparatets og politiets erfaringer med vold i nære relasjoner i samiske samfunn* [If you dare to ask, people dare to answer. Support services and police experiences with domestic violence in Sámi society] (report no. 2, 2017) pp. 63, 104.

⁸ The centre's mandate is to strengthen the quality of the services offered for Sámi children, adults and families in child protection services, family protection services, and crisis centres.

⁹ The Norwegian NHRI, *A Human Rights-Based Approach to Sámi Statistics in Norway* (NIM-R-2020-003-EN, 2020) available at: <https://www.nhri.no/en/2020/a-human-rights-based-approach-to-sami-statistics-in-norway/>.

services or how their cases are followed-up. This makes it difficult to develop evidence-based measures to prevent and combat violence against Sámi and to monitor their effectiveness over time. In addition, there is still little research into the underlying causes of domestic violence in Sámi communities, and research into the characteristics of perpetrators of such violence.

Suggested recommendations

- The State Party should strengthen its efforts to prevent, combat and investigate violence and abuse against Sámi women, including by ensuring well-coordinated and culturally sensitive support services and by re-establishing a Sámi crisis centre in the Sámi traditional territory.
- The State Party should investigate options for collecting and publishing administrative data concerning violence and abuse against Sámi women, including their access to and interactions with the police, health services and other support services, provided adequate data protection and privacy safeguards are in place. The State Party should also encourage further research on the underlying causes of violence in Sámi communities and the characteristics of perpetrators.
- The forthcoming escalation plan on violence and abuse against children and domestic violence should contain specific measures to address violence and abuse in Sámi societies, with a particular focus on providing adequate support services for Sámi victims of domestic violence.

6.2. Older women

Further reference is made to the State Report paras. 64 and 167-168.

The Norwegian NHRI and the Ombud for Older Persons are concerned that older women, including those living at home and in nursing homes, are at risk of not being effectively protected against violence and sexual abuse.

A national study conducted in 2017 of incidents of violence and abuse against persons over the age of 65 living at home indicates that between 6.8% and 9.2% of persons in this age group have been victims of violence or abuse.¹⁰ Eight out of ten stated that they were in a close relationship with the offender. The Ombud for Older Persons and the Norwegian NHRI welcomes the use of the “TryggEst tool” by municipalities to detect and handle violence and abuse of vulnerable adults, including older persons.¹¹ However, less

¹⁰ Astrid Sandmoe et al., *Vold og overgrep mot eldre personer i Norge: En nasjonal forekomststudie* [Violence and abuse against older people in Norway: A national incidence study] (NKVTS, report no. 9, 2017).

¹¹ See State report, paras. 167-168.

than 40 municipalities have decided to use this tool, and there are 356 municipalities in Norway in total.¹²

The Parliamentary Ombud for Scrutiny of the Public Administration has expressed concern over the lack of staff competence and organisational routines to reduce the risks of violence and abuse against older persons in nursing homes.¹³ The Norwegian Directorate of Health reported in 2021 on violence and abuse against older persons in nursing homes. Based on research published in 2020, they found that of the 3693 nursing home staff surveyed, 76% had observed at least one incident of abuse of older persons during the past year.¹⁴ The most commonly reported forms of abuse were neglect and psychological abuse. The report concluded that staff-to-resident abuse was relatively common in Norwegian nursing homes.

Suggested recommendations

- The State Party should strengthen its efforts to prevent, combat and investigate violence and abuse against older women both living at home or in nursing homes, including by ensuring that nursing home staff receive sufficient training and by encouraging more municipalities to adopt the “TryggEST tool”.

6.3. LBTI women

Reference is made to State Report para. 58.

While there have been several studies on violence against women and on domestic violence in general, there is little research on LBTI women’s experiences of violence in a Norwegian context. According to a survey published in 2021 from the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir), bisexual women experience higher rates of threats, discrimination, and violence than heterosexual persons, lesbian women, and gay men.¹⁵ The same study shows that transgender persons report a significantly higher extent of discrimination, threats, and violence than cisgender persons. It is somewhat unclear from the research currently available whether

¹² Bufdir, *TryggEst – vern for risikoutsatte voksne* [protection for adults at risk], available in Norwegian at: <https://ny.bufdir.no/vold/tryggest/>.

¹³ The Civil Ombud, *Sivilombudets besøk til sykehjem 2020-2022: Oppsummering av de viktigste funnene* [The Civil Ombud's Visit To Nursing Homes 2020–2022: Summary of the most important findings], available in Norwegian at https://www.sivilombudet.no/wp-content/uploads/2022/10/Oppsummeringsdokument_Sykehjem_nettpdf.

¹⁴ The Norwegian Directorate of Health, *Vold, overgrep og forsømmelser i norske sykehjem omfang og pågående forebyggende arbeid* [Violence, abuse and neglect in Norwegian nursing homes and ongoing preventive work], 14.06.2021 (in Norwegian); See also Anja Botngård et al., “Elder abuse in Norwegian nursing homes: a cross-sectional exploratory study” *BMC Health Services Research* 20, no. 9 (2020).

¹⁵ Norman Anderssen et al., *Seksuell orientering, kjønns mangfold og levekår. Resultater fra spørreundersøkelsen 2020* [Sexual orientation, gender diversity and living conditions. Results from the survey 2020] (Bufdir, 2021). Available in Norwegian at <https://www.bufdir.no/Bibliotek/Dokumentside/?docId=BUF00005350>.

transgender women's experiences differ from transgender men's experiences, and the experiences of non-binary transgender persons.

The lack of data makes it difficult to effectively monitor the human rights situation for LGBTI women, including the extent to which these groups of women experience violence and abuse, including domestic violence.

Suggested recommendations

- The State Party should strengthen its efforts to prevent, combat and investigate violence against LGBTI women, including for example by adopting measures regarding violence in the forthcoming national action plan on LGBT+ and by encouraging research to address any existing knowledge gaps.

6.4. Women with substance abuse problems

Reference is made to State Party report para. 68.

People with substance abuse problems are significantly more exposed to violence than the rest of the population. 31% of persons with substance abuse problems who receive help from municipal healthcare services expose others to or are themselves exposed to violence or threats.¹⁶

The statistics on crisis centres for 2021 show that the centres are less likely to provide housing for people with known substance abuse problems. Only 28% (12 of 43) of the centres offering services to women state that they have an offer for this group.¹⁷ Reports also point out that there is a lack of adequate coordination between the centres and other important agencies in the support system – such as out-of-hours services, substance abuse services, mental health services and the specialist health service.

The Norwegian NHRI notes that there is a need for more research on how to prevent and combat violence against women with substance abuse problems, including sex workers. According to a report from Pro Senteret in 2020, drug-related prostitution is often ignored by the authorities and rendered invisible, which means that sex workers often lack adequate support and protection when it comes to dealing with incidents of violence.¹⁸

¹⁶ Inger Bjørge Hustvedt et al., *Brakerplan – årsrapport 2020: Tjenestemottakere med rusproblemer og psykiske helseproblemer i kommunale helse- og omsorgstjenester* [User plan - annual report 2020: Service recipients with substance abuse problems and mental health problems in municipal health and care services] (Stavanger Health Trust, 2021). The mapping is limited to 194 of the country's municipalities, and the figure is therefore not necessarily valid for the whole country.

¹⁷ Bufdir, *Krisesentertilbudet i norske kommuner: Tilgjengelighet på krisesentrene* [Crisis center provision in Norwegian municipalities: Availability of the crisis centres] (2022), available in Norwegian at: https://bufdir.no/Statistikk_og_analyse/Vold_og_overgrep_tall_og_statistikk/krisesentertilbudet_i_norske_kommuner/tilgjengelighet_pa_krisesentrene/.

¹⁸ See State Party report, para. 108.

The government is currently working on a prevention and rehabilitation reform in the drug field, which is supposed to be launched in the end of 2023. The Norwegian NHRI has recommended that the reform should be founded on human rights obligations, including the human rights of women with substance abuse problems exposed to violence.

Suggested recommendations:

- The State Party should strengthen its efforts to prevent, combat and investigate violence against women with substance abuse problems, including by ensuring access to adequate support services and by encouraging research to address any existing knowledge gaps. The prevention and rehabilitation reform in the drug field should include measures to protect women with substance abuse problems from being exposed to violence.

7. Hate speech and hate crime directed at women

Reference is made to LOIPR: 6, State Report: 55-60 and CO 2017: 23.

A survey conducted by YouGov on behalf of the Equality and Anti-Discrimination Ombud in 2021 found that women under 30 in Norway experience a disproportionately high amount of online hate speech and that men are overrepresented among the perpetrators of hate speech.¹⁹ Section 185 of the Penal Code was amended in 2021 to add gender identity and expression to the list of prohibited grounds of hate speech, but this does not include people with a gender identity or expression that corresponds to their biological sex. Pursuant to Section 185, it is possible for women to bring a complaint relating to hate speech based on their skin colour, national or ethnic origin, religion, sexual orientation, gender identity/expression or disability, but not solely on the basis of gender. However, gender is included as one of the prohibited grounds of harassment under Section 13 of the Discrimination Act, which has a lower threshold compared to hate speech under the Penal Code.

Official police statistics on hate speech are disaggregated by the motive of the alleged crime according to the prohibited grounds listed in the Penal Code, not by the personal characteristics of the alleged victim. For example, there are no published statistics on the proportion of women who report ethnicity-based hate speech, indigenous people who report disability-based hate speech, or older persons who report religious-based hate speech. This makes it difficult to develop evidence-based measures to address the intersecting forms of discrimination and hate speech against women and other vulnerable groups, and to monitor their effectiveness over time.

¹⁹ Beate Sletvold Øistad and Amna Veledar, *Hatefulle ytringer på nett* [Online Hate Speech] (LDO, 2021), available in Norwegian at: <https://bufdir.no/Bibliotek/Dokumentside/?docId=BUF00005370>.

The government's previous strategy against hate speech for the period 2016-2020 included measures aimed at a broader range of speech than what is criminally punishable, including gender-based hate speech against women. The Institute for Urban and Regional Research (NIBR) evaluated the strategy in 2021 and concluded that there is a need for continued measures to prevent and combat hate speech, either in the form of a renewed strategy or another policy framework. The Ministry of Culture and Equality has not yet confirmed whether the strategy will be renewed but has committed to making a decision based on the external evaluation. The Ministry of Labour and Inclusion is currently developing a new strategy against racism and discrimination on the grounds of ethnicity and religion, but given the broader focus of this plan, it is unlikely to include specific measures regarding hate speech against women.

Suggested recommendation:

- The State Party should disaggregate police statistics on hate speech and hate crime by all relevant background variables, including ethnicity, nationality, age, sex, sexual orientation, gender identity, religion and disability.
- The State Party should strengthen measures to prevent and combat hate speech, either through the adoption of a new strategy or action plan against hate speech or more specific action plans aimed at vulnerable groups.

8. Permanent residence for women mistreated in relationships

Reference is made to CO 2017: 33.

According to Section 62 of the Immigration Act, a foreigner with a temporary residence permit can obtain a permanent residence permit after three or five years, depending on the grounds for the permission. If the temporary residence permit was based on family reunification with a spouse or cohabitant in Norway, one of the conditions for a permanent residence permit is that the foreigner is still in the relationship.

However, according to § 53 first paragraph letter b of the Immigration Act, a foreigner must be granted a residence permit on an independent basis when “cohabitation has ceased, and there is reason to assume that the foreign national or any children have been abused during the cohabitation relationship”. A residence permit on an independent basis shall be granted, according to this provision, without any time condition with regard to the duration of the residence.

In the White Paper (Official Norwegian Reports 2020: 17) “Predicted murders? The Commission on Partner Homicide's report” the official governmental committee mentions cases where the public services in contact with a victim of partner violence or abuse were not aware that the victim had the possibility of applying for a residence permit on an independent basis.

Suggested recommendation:

- The State Party should enhance knowledge among public services staff on the options available under Section 53 of the Immigrant Act for women seeking permanent residence who have been abused in a relationship that forms the basis of their temporary residence permit. In addition, they should disseminate information on the rights contained in Section 53 to immigrant communities, legal aid groups and relevant civil society actors.

9. Girls in poverty

New issue.

Child poverty in Norway is persistently high despite general growing prosperity. The Government implemented a Strategy on Children Living in Poverty (2015-2017). The statistics provided in the report show that the number of children living in low-income families has increased from 2007 to 2017. According to data from Statistics Norway from 2022, 11.7 percent of children lived in a household with an income below 60 per cent of the median income over a three-year period (persistent low income) in 2020.²⁰

In November 2019, The Church City Mission published the report “Snakk om fattigdom” (Talk about poverty), where they have interviewed children who have grown up in low-income households. The report has several recommendations for the future work against child poverty, for instance the importance of openness and recognition of the problem among politicians and in the society at large, the importance of available resources in the municipalities, of cross-sectorial cooperation and increased focus on the child’s perspective.

In 2022 the Government established an Expert Group on Children in Poor Families (“Ekspertgruppe om barn i fattige familier”), with a mandate to consider potential measures and how to best prioritise the governmental efforts aimed at eliminating child poverty and how to prevent inter-generational poverty.²¹

Suggested recommendation:

- The State Party should strengthen its efforts to address the human rights implications of child poverty, including by ensuring that the Expert Group on Children in Poor Families has a human rights-based approach to its mandate.

²⁰ Statistics Norway, *Barn i lavinntektsusholdninger* [Children in low-income households] (2022), available in Norwegian at: <https://www.ssb.no/inntekt-og-forbruk/inntekt-og-formue/statistikk/inntekts-og-formuesstatistikk-for-husholdninger/artikler/fremdeles-115-000-barn-med-vedvarende-lavinntekt-i-2020>.

²¹ The Ministry of Children and Families, *Oppnemner ekspertgruppe for barn i fattige familier* [Appointment of Expert Group for Children in Poor Families] (2022), available in Norwegian at: <https://www.regjeringen.no/no/aktuelt/oppnemner-ekspertgruppe-for-barn-i-fattige-familier/id2924131/>.

10. Women in prison

Reference is made to LOIPR: 21, the State Report paras. 162-166 and CO 2017: 47.

As described in the State Party's report in para. 162 to 166, there are considerable challenges in connection with the treatment of female prisoners. These challenges have been confirmed by several Ombud institutions and researchers.²²

The Anti-Discrimination Tribunal concluded in a case on 9 June 2020 that the Directorate of Norwegian Correctional Service had discriminated against female inmates in Tromsø prison on the basis of gender.²³ The tribunal concluded that female inmates were treated less favourably than male inmates because there was no separate section for women in high security, and that the compensatory measures implemented by the Directorate of Norwegian Correctional Service were not sufficient.

Women make up a small proportion of the total number of inmates in Norway and there is a general policy that inmates should serve their sentences close to their place of residence. This may result in women serving their sentences in a unit where the vast majority of inmates are men, with the risk that this entails for, among other things, a more restrictive manner of serving the sentence, including less time outside the cell.²⁴ A lack of available places in the high-security ward means that women who are to serve time at that level are often placed in a detention ward. In addition, the need to ensure women's safety means that women are in practice excluded from some activities and possibilities for social interaction where safety cannot be sufficiently ensured.

In recent years the Correctional Service has carried out considerable work in connection with women's sentencing conditions, see the State Party's report paras. 162 to 163. In the state budget for 2023 additional funds have been allocated to inter alia be used for measures to secure for more equal conditions between women and men. However, the

²² The Equality and Anti-Discrimination Ombud, *Innsatt og utsatt - rapport om soningsforholdene for utsatte grupper i fengsel* [Prisoned and exposed - report on the sentencing conditions of vulnerable groups in prison] (2017) available in Norwegian at: https://www.ido.no/globalassets/brosjyrer-handboker-rapporter/rapporter_analyser/soningsrapport-web.pdf; JURK, *Kvinner erfaringer med å sone i norske fengsler våren 2017* [Women's experiences of serving time in Norwegian prisons spring 2017] (2018) available in Norwegian at: <https://foreninger.uio.no/jurk/publikasjoner/rapport-jurk-kvinner-erfaringer-med-a-sone.pdf>; The Civil Ombud, *Kvinner i fengsel* [Women in prison] (2016) available in Norwegian at: https://www.sivilombudsmannen.no/wp-content/uploads/2017/05/Temarapport_Kvinner-i-fengsel.pdf; Marion Hellebust and Peter Scharff Smith, *Lengst inne i fengselet – Kvinnelig innsatte med behov for helsehjelp* [Furthest inside the prison - female inmates in need of health care] (Institute of Criminology and Sociology of Law UiO, 2021).

²³ The Anti-Discrimination Tribunal, *Complaint case 19/114*, available in Norwegian at: <https://www.diskrimineringsnemnda.no/media/7633/sak-19-114.pdf>. An unofficial English translation of the Equality and Anti-Discrimination Act can be found at: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51>.

²⁴ The Civil Ombud, *Særskilt melding til Stortinget om isolasjon og mangel på menneskelig kontakt i norske fengsler* [Report to the Parliament on isolation and lack of human contact in Norwegian prisons] (report no. 4:3, 2018/19), p. 42, available in Norwegian at: https://www.sivilombudet.no/wp-content/uploads/2019/06/SOM_S%C3%A6rskilt-melding_WEB.pdf; See also the Civil Ombud's report after the Prevention Unit's visit to Trondheim prison 17-19 March 2015, 18 August 2015 (2015/519) point 5.5.1 and its Report after the Prevention Unit's visit to Tromsø prison 10-12. September 2014, 24 October 2014 (2014/2247).

Norwegian NHRI is not aware of any steps taken by the authorities to carry out a systematic review of The Execution of Sentences Act, the Regulations relating to the Execution of Sentences and the associated guidelines, with a view to ensuring protection from discriminatory treatment.

The Norwegian NHRI believes that there is a need to investigate both the legislative framework and guidelines to ensure that women are not discriminated against during sentencing and that sufficient remedial measures are implemented in the event of discrimination. In order to be able to carry out the necessary measures, adjustments to the building stock will probably be required, and clearer legal regulation will help to clarify such needs. There is also a need for more detailed rules regarding outdoor time for women and men at the same security level and for safeguarding the proximity principle.

Suggested recommendation:

- The State Party should review the Execution of Sentences Act and the Regulations on the Execution of Sentences, as well as the associated guidelines, to ensure the fulfilment of female inmates' protection against discrimination.
- The State Party should adopt a comprehensive and specific plan to secure equal prison conditions for female prisoners.

11. Health rights for undocumented migrant women

New issue.

According to the Regulations on the right to health care services for persons without permanent residence, undocumented migrants' access to medical care is limited to acute medical care, and medical care deemed urgent and necessary, which in Norwegian law is interpreted as medical problems that must be treated within three weeks.

Many undocumented migrants, and others who cannot be returned to their country of origin, stay in Norway over longer periods of time. As a result, undocumented migrants can live in Norway for prolonged periods without effective access to necessary medical care. As a general rule, this group is required to pay for medical services, unlike many other groups. One example is that many undocumented migrant women are required to pay for medical care in relation to childbirth and maternity care, whereas such care is free for others.²⁵

²⁵ Moa Nyamwathi Lønning and Inga Laupstad, *Helserettigheter for papirløse: Utenfor velferdsstatens sikkerhetsnett* [Health rights for the undocumented: Outside the welfare state's safety net] (The Norwegian Red Cross, 2021), available in Norwegian at: https://www.rodekors.no/contentassets/803e39b6886f4c76a949be374af06499/rapport_helserettigheter-for-papirlose_sept2021.pdf.

The Norwegian NHRI is concerned that the combined impacts of the limitations in access to medical care for undocumented migrant women could conflict with the State's obligations to ensure women's health rights.²⁶

Suggested recommendation:

- The State Party should ensure that irregular migrants have access to necessary healthcare services, giving due consideration to their de facto long-term stay in Norway, their vulnerability and limited financial resources.

²⁶ Norway has also received criticism from CESCR for these limitations in its concluding observations to Norway, see E/C.12/NOR/CO/6, para. 39.