

NGO Shadow Report

*Supplementing and commenting on
Norway's Combined 19th/20th Periodic
Report Submitted by Norway under
Article 9 of the International Convention
on the Elimination of All Forms of Racial
Discrimination.*

2010

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The Joint shadow report:

This shadow report is a joint initiative by 10 Norwegian NGOs. Each organisation has contributed with their expertise and knowledge in their particular field. The issues raised in particular sections reflect the concerns and the expertise of these organisations. This does not mean that all the supporting organisations necessarily endorse all the specific policy recommendations, where these are outside their remit.

It has been made possible thanks to financial support from the Ministry of Children, Equality and Inclusion. The work has been coordinated and conducted by Norwegian Centre against Racism (Antirasistisk Senter), a non-governmental organization whose main objective is to fight racism and discrimination.

This report was finalised on May 31st, 2010.

Contributors to the report

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I Introduction

1. This report is in three sections
 - Section II considers legal frameworks and relates directly to the latest State report.
 - Section III covers issues relating to Healthcare and Education linked to the report.
 - Section IV focuses on information relating to articles 1 to 7 of the Convention and how these are covered in the State report.
2. A number of recommendations are made in this report. These are in most cases made to agencies of the Norwegian government, and may relate to more than one. For simplicity these recommendations are therefore made to 'The State' except where stated otherwise.

II Issues raised in the concluding observations of the Committee on the Elimination of Racial Discrimination in 2006

Towards policy coherence, incorporation of CERD in the Human Rights Act

3. In reference to the state periodic report, paragraph 14 of the Norwegian Report:
4. In paragraph 14 of the Committee's concluding observations to Norway's 17th/18th report, the Committee invites the State to consider incorporating the Convention at a higher level in its domestic legal order, in order to ensure the primacy of the Convention over domestic legislation in case of conflict. In paragraph 8 of Norway's 19th/20th report, the State informs the Committee that the Convention has not been incorporated at a higher level – in the Human Rights Act, and that the

Convention is still incorporated at a level that does not secure the primacy over domestic legislation – in the Anti-Discrimination Act.

5. The State does not give any substantial arguments nor has it presented any significant evidence to show that the issue of incorporation has been given any serious consideration. There are three specific areas of concern:

- *Firstly*, the State gives reference to clarity and coherence in the law, and the Anti-Discrimination Act is the natural place to incorporate the Convention. However, the Convention on the Rights of the Child is incorporated in the Human Rights Act, not the Children Act; and the Convention on the Elimination of All Kinds of Discrimination against Women (CEDAW) is also incorporated in the Human Rights Act, not the Gender Equality Act.
- *Secondly*, the State mentions that the courts will apply the principle of harmony, which means that the domestic law shall be interpreted in accordance with international obligations. However, the Supreme Court has clearly stated that if the domestic law and the international obligations are incompatible, the domestic law will be given the primacy, cf. Rt. (Journal for the decisions by the Supreme Court) 1997 p. 580. Thus the principle has a limited effect, clearly different from the primacy clause of the Human Rights Act. However, now that CEDAW has been moved to the Human Rights Act, it is hard to see why CERD has not been given the same status. Without giving the same status to CERD, the State offers different protection regarding two important grounds of discrimination.
- In 2009 a committee of experts, appointed by the State and charged with proposing a comprehensive anti-discrimination legislation, delivered their report¹. This new act would cover all discrimination grounds and all (public) areas of society. The report revealed that the committee was not asked to consider whether the incorporation of CERD should be moved from the Anti-Discrimination Act to the primacy clause under the Human Rights Act, even though the State only months before was specifically asked by the CERD-Committee to consider this question.

Recommendations:

- The CERD should be incorporated in the Human Rights Act.

A shift of climate?

6. It seems that the reluctance to follow up the recommendation by the Committee is affected by a general ‘shift of climate’ regarding the status of human rights conventions – that the State fears that such conventions, and its international supervision bodies, as well as the domestic courts applying the primacy clause, will take power from the elected parliament. In this regard, the reluctance should be seen together with the decision of the State to not ratify the additional protocol to the Covenant on Economical, Social and Cultural Rights. The same stand has been taken regarding the ratification of protocol no. 12 to the European Convention on Human Rights, concerning discrimination.

A failure to give CERD due weight: The Vigrid case² – freedom of speech and ECHR

7. Further to the Committee’s Opinion in Case 30/2003, it should also be noted that in Rt. 2007 p. 1807 the Supreme Court again addressed the issue of interpretation of Article 135a and the potential

¹ NOU 2009: 14 “Et helhetlig diskrimineringsvern” (A comprehensive protection against discrimination).

² See point 88 for further comments on the Vigrid case.

conflict with the freedom of speech as protected by Article 100 of the Constitution. The Prosecution had referred to the Committee's Opinion, but the Supreme Court explicitly sidestepped the issue of the relevance of the Committee's Opinion. Instead of basing its interpretation of the Norwegian legislation on the Committee's Opinion, the Supreme Court distinguished the case from the Sjølie-case without indicating that its jurisprudence should be affected by the Committee's opinion. On the contrary, the Supreme Court in its final paragraph of the judgment explicitly avoided addressing the relevance and weight of the Committee's Opinion. In other cases the Supreme Court has held that it attaches substantial weight to comparable views and comments from international supervisory organs. Thus the Supreme Court's judgment created confusion about the legal status of the Committee's opinion.

The use of the term “race”

8. In reference to the state periodic report, paragraph 15, point 10-11.

9. In paragraph 15, the Committee recommends that the State ensures that discrimination on the ground of race is adequately covered in the Anti-Discrimination Act and by its supervisory organs. The question has been considered by the committee of experts appointed to propose a new act on discrimination mentioned above and the committee has concluded the same way as the State in its 19th/20th report, paragraph 11. We support their findings. The consideration of this issue must be based on the fact that it is scientifically both impossible and unethical to divide people into races. Any wording in a law against discrimination should not be capable of being misused to argue that such division is possible. The Convention seems to presuppose that different races exist. This is not necessarily the best approach, and there are good reasons not to oppose the stand of the State in this question.

10. The phrase ‘race’ («rase») may have more negative connotations in the Norwegian language than in English, and one can argue that using the term lends legitimacy to organisations or persons whose views and politics are based on a belief that human beings can be divided into races. Recent political debates in Norway triggered by a series of television programs (“Brain Wash”, Norwegian Broadcasting Association / April 2010) however show that the ideas of human races are far from dead, and the question of whether “race” exists is still not settled in scientific circles.

Recommendation:

- The Committee should accept that the word “race” is not included in the text of the Anti-Discrimination Act, as long as the Act explicitly prohibits discrimination in the basis of the broader term “ethnicity” which – according to the Travaux préparatoires – will also cover discrimination based on the erroneous perception of mankind being divided into races.

11. We would also like to call the Committee's attention to the proposed new Comprehensive Anti-discrimination Act, where skin colour and language are again omitted from the listed grounds of discrimination. See pt. 56.

The Finnmark Act and Sàmis' rights

12. In reference to the state periodic report, paragraph 17, point 14-20.

13. In its Concluding Observations of 19 October 2006 paragraph 17 the Committee recommends the adoption of concrete measures to ensure the preservation of the East-Sámi's distinct culture and way of life.

14. The material/economic basis for this culture is mainly reindeer herding and fishing. The East-Sámi no longer have available pastures or grazing land for reindeer. This is due to a gradual occupation - many years ago - of the traditional East-Sàmi grazing land in the Neiden area by a Sàmi group belonging to the majority Sàmis with quite another culture than the East-Sàmi. The authorities have by inaction accepted this and remain unwilling to contribute to a sufficient reduction of reindeer herded by the other Sàmi group or to a reallocation of land to the East Sámi through an expropriation as suggested by the Sàmi Rights Committee.

15. It is not possible for the East-Sàmi to preserve their culture and way of life when they cannot herd reindeer, because this is an important part of the basis for the culture.

Insufficient measures

16. None of the measures mentioned in the Government's Report is sufficient to keep the culture alive. There is even a risk that the museum for the East-Sàmi culture will be the society's indulgence for not keeping the culture alive. A museum dedicated to a dead culture is of limited value until the most fundamental needs to preserve the very same culture have been secured.

17. The Government's referral to the Finnmark Commission is not relevant, because the Commission has no power to expropriate the existing rights of one Sàmi group in favour of the East-Sàmi. In addition, the Commission has started and will finalize its work in other parts of Finnmark before the Neiden area will be considered. The leader of the Commission, Jon Gauslaa, has suggested that the work will take at least ten years. The referral to the Finnmark Commission is therefore at best a new delay in solving the problem.

18. The Government's proposal to let East-Sàmis have a small reindeer-keeping operation in connection with tourism is not sufficient to revive the East-Sàmi culture. It will be artificial and is likely to delay the real measures to address their fundamental issues.

19. For thorough observations and documentation we will refer to the letter of 5 October 2007 with enclosures to the Committee from lawyer Knut Rognlien on behalf of the organization "The East-Sàmi of Neiden".

Recommendation:

- The Committee should urge the State Party to implement measures that are capable of preserving the East-Sámi culture, and especially measures that will secure the maintenance of sustainable reindeer herding as a primary way of living for this minority group.

Use of detention

20. In reference to the state periodic report, paragraph 18, point 23-27.

21. There are several examples of extensive use of detention in cases where a non-national is suspected of having provided a false identity.

22. In Rt. 2009 p. 797 a foreigner had been detained for 18 months in addition to 7 months prior imprisonment. Continued detention was accepted by the Court of Appeals, but this decision was overturned by the Supreme Court. In a decision of 14th October 2004 the Court of Appeals accepted continued detention after 13 months, expressing the view that the detainee refused to cooperate, that he had the "key" to the solution of the case and that investigation likely to provide a positive result was still going on.

The detention center for foreign citizens at Trandum

23. For several years, there has been strong criticism of and much controversy around the detention center for foreigners at Trandum, close to Gardermoen Airport outside of Oslo. For a long time, basic guidelines for the handling and wellbeing of the detainees were not in place, and the institution has previously received harsh criticism from both the Committee against Torture of the Council of Europe after visiting the facility, the Parliamentary Ombudsman and also the UN Committee against Torture.
24. Still, as recently as April 2010, parts of the institution were closed down immediately by the representative of the employees charged with overseeing the health and security of the employees (“hovedverneombud”) due to the working conditions. One of the reasons stated was the poor air quality following a fire. According to news reports, there have recently been several fires and situations bordering on riots at Trandum. In April 2010, after years of criticism, the representative of the employees still describes the place as “chaotic and at times out of control”.
25. With increasing governmental focus on deportations, it seems clear that the capacity of the detention centre at Trandum has been pushed beyond the actual capacity, and that there is a strong need for greater care for the safety and wellbeing of the detainees.

Recommendation:

- The Committee should follow this situation closely and urge the State Party to employ every possible effort to reduce the time spent in custody in these cases, e.g. by allocating enough resources to the investigation of the identity of the foreign nationals.

Adequate standard of physical and mental health particularly for victims of torture

26. In reference to the state periodic report, paragraph 21, point 32-33 and to article 5 I E, point 175-179.
27. There are three major issues involved regarding adequate standards in this respect:
 - The lack of clinical expertise on treatment of victims of torture to support the public health system, or public clinics when more specialized treatment or assessment is needed.
 - The lack of sufficient resources, e.g. time to carry out long term therapy in the public clinics when required.
 - Documentation and assessment of torture and its consequences.
28. According to the guiding principles and standards laid down by Norwegian authorities regarding the right to social services, including the right to health services, all persons residing in the country shall have access to the regular public services and the care of refugees, including victims of torture, should be mainstreamed. This implies that any clinic, doctor or health service shall provide such services. These principles require building up special expertise.
29. In order to make this possible, a Psychosocial team, later Centre, was established with functions related to the following:
 - training of health personnel in work particularly with refugees and tortured/traumatized refugees,
 - direct assistance by creating an out-patient clinic for traumatized refugees,
 - supervision for clinicians working in other places with this group research,
 - dissemination of research, literature and other information to professionals as well as to society as a whole.

30. Regional centres were established with the same objective; direct clinical work and assessment as well as supporting other professionals through supervision and training in order to obtain the main objective, namely an integrated health care system.

31. This model was changed in 2003/2004 and the national as well as regional centres were restructured into the NKVTS (The Norwegian Centre for Violence and Traumatic Stress Studies) and RVTS (Regional Resource Centres on Violence, Traumatic Stress and Suicide Prevention) to promote improved competence and improving inter-disciplinary and inter-agency cooperation within the region. These centres were established to provide knowledge and research within a broader field of trauma and trauma work, taking into account the many common aspects within the different areas. The problem today is that the direct clinical work no longer acts as basis for such work, but is in its entirety left to the general clinics and private practitioners: There is a lack of specialized clinical services to supplement, collaborate with and provide direct clinical supervision to professionals working in the field.

32. What is needed is specialized professional expertise in dealing with victims of torture, provided by centres or clinics with specialized clinical services in addition to the main stream services. This would enable a focus on specialized assessment and evaluations, on trauma and rehabilitation work with persons who have been traumatized for years, who need a well integrated and holistic model of treatment.

33. Today there is a trauma clinic established in the South of Norway (Kristiansand) with the aim of serving persons who are traumatized and who will need special attention. This clinic also collaborates extensively with other regular clinics, and should be seen as good practice in this field. Previously, there were psychosocial teams in each health region and these were incorporated into the regional resource centres for violence, traumatic stress and suicide prevention (RVTS). These resource centres were told not to engage in clinical practice, but some of the professional teams for refugees at some of RVTS's have set up a small clinical service. This is both RVTS-North (Tromsø) and at RVTS-Central Norway (in Trondheim). The idea is that RVTS's assist the regular care system, so that asylum seekers and refugees receive adequate help through the mainstream system. Whether asylum seekers and refugees should get help in the ordinary health system or through specialized service is both a professional and a political question. Experts have expressed concern whether this group receives adequate help and request more specialized clinics in all parts of Norway.

The lack of resources allocated to the clinics results in a very tight frame for ongoing therapies, and economic constraints lead to reluctance towards long term work with interpreters. This is an active hindrance to work with victims of torture who need to feel sure that treatment will be more than a very brief encounter. Few persons with such a background will open up if they know that the contact may not be continued over some time. In addition to this there is the cultural aspect. Many therapists feel uncertain in this work. In spite of this many refugees do receive good care both in the clinics and in private practice – but there are too many examples to the contrary. In fact, reports show that refugees represent the client group most frequently refused and referred to others – or back to the original referee³.

34. For many years there has been a question as to what procedures Norway has in place to document and assess torture and its consequences. In 1999 the Istanbul protocol – or manual for effective investigation and documentation of torture – was made a UN document. Many countries in the world today use this protocol as a tool in asylum cases – and the UNCAT also recommends the use in the context of prevention of torture. Norway has not yet ratified UNCAT, but accepted the recommendation from UN HR Council to do so during the examination of the UPR in December

³ See NKVTS report by Hjemdal – "Kartlegging av tilbudet til traumatiserte ofre for vold, overgrep, ulykker og katastrofer, flyktninger og torturofre" (2006). (Mapping of services to traumatized victims of violence, abuse, accidents and disasters, refugees and torture victims).

2009. This is a step, but the state party can well be reminded of the necessity to do so – also in order to facilitate the identification of vulnerable asylum seekers coming to Norway and who may require special attention. This is also included in a reception directive from the EU. Within the context of the asylum procedure, it is of particular concern that many victims of torture go through the asylum procedure without injuries caused by torture (including physical scars) ever being documented, as they receive no help in obtaining such documentation, and indeed would find it hard to find the competent medical personnel even if they try. An asylum seeker with for instance extensive scarring due to torture may thus be rejected without the torture being given due consideration and weight.

35. There are too few specialized services, and experts fear that this group does not receive sufficient help in the regular health service. There is still relatively little knowledge about effective treatment methods for this specific group, despite increasingly accumulation of more and better knowledge. Asylum seekers and refugees are a marginalized group when it comes to health care, as in other aspects of community life.

Recommendations:

- Establish specialized resource clinics that may serve and collaborate with mainstream services, acting as a base for clinical work, research, and dissemination of knowledge and information.
- Organize main stream services in such a way that they take care of the important aspects of such work - namely time, multidisciplinary collaboration and sense of security for traumatized patients.
- Establish routines for documenting the assessment of victims of torture living in Norway, and the extent to which treatment is offered and received.

The right to education for minor asylum seekers

36. In reference to the state periodic report, paragraph 22, point 35.

37. The major issue involving the right to education for minor asylum seekers: The Norwegian authorities are committed to offering education to children living in reception centres. However, minor asylum seekers between sixteen and eighteen years old are not entitled to upper secondary school in Norway if they lack qualifications equivalent to Norwegian lower secondary school, nor are they admitted to lower secondary. Since 2005 they have had the right to instruction in Norwegian language and social science, but this is by no means enough.

38. According to The UN Convention of the Rights of the Children (UNCRC), they are considered children and do have the right to education. By ratifying the Convention, States commit to undertaking “*all appropriate legislative, administrative and other measures*” for the full realization of the rights it contains and to reporting on these measures to the Committee on the Rights of the Child, the body of experts charged with monitoring States’ implementation of the Convention.

39. In the UNCRC article 28 States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- “Make primary education compulsory and available free to all”
- “Make higher education accessible to all on the basis of capacity by every appropriate means”
- “Take measures to encourage regular attendance at schools and the reduction of drop-out rates”.

Recommendation:

- All children, including aged 16-18 minor asylum seekers with or without a legal residence permit, should be given the same legal rights to education as those under 16 years of age.

Plan of actions to minimise student drop-out in upper secondary education

40. In reference to the state periodic report, paragraph 22, point 37.
41. There are three major issues involving drop-outs in upper secondary school:
- Students with a non-western immigrant background are overrepresented in the statistics of drop-outs in upper secondary education.
 - Teachers that are in the “front line” and daily interact with the students are not given sufficient training in how to detect and prevent drop-outs, especially among students with non-western immigrant background
 - The ‘Certificate of Practice’ (praksisbrev) is one among many measures to fight drop-out. The Union of Education Norway has detected that there is a tendency to overuse this alternative where students with minority background is of concern.
42. An OECD report⁴ has shown that students with non-western immigrant background in Norway are increasingly completing secondary education, but still to a somewhat less extent than youth of majority background. Dropout rates are higher in upper secondary programmes and particularly high for first-generation immigrant students. Figures shows that 45% of first-generation immigrant students who entered upper secondary vocational programmes in 2001 had dropped out five years later, compared to 28% of native students and 30% of second-generation immigration students (Norwegian Directorate for Education and Training 2008).
43. The same report points out that there are negative results for apprenticeship seekers with non-Western background and this involves mainly male immigrant students⁵, in particular those who applied for apprenticeship in Oslo. The results indicate that discriminatory practices exist and represent an impediment to some of the immigrant students attending vocational courses in terms of completing their education. Several non-Western immigrant students have stated that they feel that in order to avoid discrimination they have to outperform their majority peers in order to have the same chance of obtaining an apprenticeship.
44. The Union of Education Norway has noticed that students with immigrant background are recommended to vocational educational programmes because of lack in competence in general skills, including Norwegian language, instead of giving them sufficient and necessary education. It seems that vocational education programme is recommended, not presented as a possibility. It is especially worrying that it is promoted when the largest dropout rates are found in these programmes.
45. The Union of Education Norway points out that there are some uncertainties as to whether and how far social partners welcome the certificate of practice in the labour market, and the possibility of building further competence with this certificate as a basis. The OECD-report recommends that education policy should be coordinated with the labour market, promote dialogue with social partners and encourage diversity in the apprenticeship and workplace.

⁴ See OECD 2009- “Reviews of Migrant Education, Norway”. Taguma, Shewbridge, Huttova and Hoffman.

⁵ Engebrigtsen and Fuglehaug, 2007 (page. 40 in the OECD report from 2009).

46. An independent research organization, SINTEF, evaluated the project “Focus on drop-out in upper secondary education”⁶ (2003-2006) and found that measures directed toward prevention and follow-up of drop-outs are having an effect. This includes awareness-raising of contact teachers, heightening the competence of advisors and the establishment of support networks around individual students which includes both the school and the student’s parents. However, these measures do not have the greatest impact when only guiding counsellors. Staff from Educational Psychological Service (PPT) and Follow-up Service (OT) are offered courses in this area, and not teachers who are in contact with the students on a daily basis. SINTEF also notes that very few of the competence raising measures are aimed at instructors and academic administrators in in-service training establishments.

47. All counties have a follow-up service (OT) that is offered to all young people who have the right to education, but have not sought or received apprenticeship, interrupted training before it is complete or does not have a permanent job. FAFO, an independent and multidisciplinary research foundation, published a report in 2010⁷ that revealed that the OT-service appears to be more based on students' own initiative and too little on active follow-up by OT. FAFO believe that OT must be revitalized and also become part of a reporting system to ensure quality of service.

Recommendations:

- Work is needed to increase competence among the teaching staff, guidance counsellors and Educational Psychological Counselling Service (PPT), as well as increased parental involvement.
- There is a need to develop alternative learning arenas and courses of training without using certificates of practice as the first resource. One proposal is to introduce intensive courses or “Saturday schools” in order to develop the necessary skills or to provide access to educational resources and learning opportunities outside of core school time for students, parents and communities, and also encourage municipalities to offer flexible adult learning opportunities.
- There is a need to develop specific indicators and quality tools for learning and implementation, and for cooperation between schools and in-service training establishments. This would provide a national quality system to assess and develop the quality of vocational training.
- OECD recommends developing a new teacher education framework that explicitly addresses the needs of immigrant students within mainstream teaching. All teachers need to be trained to identify and respond to the learning needs of immigrant students, particularly those arriving at an older age and refugees.

Awareness-raising programs for judges

48. In reference to the state periodic report, paragraph 25, point 42.

49. Further to the Government’s observations in its 19th/20th report the National Court’s Administration has been asked whether there is an awareness-raising programme for members of the judiciary. Unfortunately, it seems that this is not the case.

50. Awareness-raising programmes are important in order to increase knowledge and understanding of social related issues - especially racial discrimination. The consequence of not

⁶ SINTEF 2007: ”Intet menneske er en øy – (No man is an Island). Trond Buland og Vidar Havn in cooperation with Liv Finbak and Thomas Dahl.

⁷ FAFO 2010:03: "Gull av gråstein: Tiltak for å redusere frafall i videregående opplæring". ("You can't make a silk purse out of a pig's ear: Measures to reduce drop-out in secondary schools"). Gudmund Hernes. <http://www.faf.no/pub/rapp/20147/20147.pdf>

implementing such programmes is that cases will be dismissed and victims of racist discrimination will not be given access to justice.

Funding for the shadow report

51. In reference to the state periodic report point 44, responding to Concluding Observations paragraph 26, concerning consulting and expanding dialogue with civil society:

52. We commend the Ministry of Children, Equality and Social Inclusion for good practice concerning distribution of information to civil society about the latest periodic report. In particular we find that the decision to make funding available for producing a shadow report from civil society has been a positive one.

53. Until today shadow reports from the civil society to CERD have been produced independently by a few organisations. Financial support for shadow-reporting provides the opportunity for increasing the engagement in the follow-up of CERD by NGOs and thereby a more comprehensive response, as well as for cooperation amongst non-governmental organizations.

Recommendation:

- Funding of the NGO shadow report is a good practice which we recommend should continue in the future.

III Information relating to articles 1 to 7 of the Convention

Article 1: Racial discrimination

The Anti-Discrimination Legislation

New comprehensive act lacking protection for legal persons

54. At one point the committee charged with proposing a comprehensive anti-discrimination act has proposed a weakening of existing protection. In contrast to the current Anti-Discrimination Act, the proposed law will not give protection to legal persons – only to physical persons. The question is practical regarding national, ethnical etc. minorities, where organisations that mainly consist of persons from one minority, including organisations established to promote the rights of the minority, may be discriminated against on grounds of nationality, ethnicity etc.

55. If a new comprehensive Anti-Discrimination Act is passed it will be even more difficult to explain why CERD is incorporated in this law, while CEDAW is incorporated with a higher status in the Human Rights Act.

Recommendations:

- The Committee should urge the State Party to amend the proposal for a new Anti-Discrimination Act in order to re-introduce the protection of legal persons, in conformity with Article 2(1) (a) and (d).

Neither Race, Colour nor Language in the proposed comprehensive Anti-Discrimination Act

56. Referring to the State report points 52-53 (and also State report points 10-11 answering to CERD Concluding Observations paragraph 15).

57. We have a concern regarding the grounds for discrimination specified in the proposed Anti-Discrimination Act. Within the current Anti-Discrimination Act the bases of discrimination specified are *ethnicity, national origin, descent, skin colour, language, religion or belief*, but the commission charged with proposing a new and comprehensive Anti-Discrimination Act recommends that both skin colour and language are omitted from the list.

58. The proposed text in the comprehensive Anti-Discrimination Act is: “no one is to be subject to discrimination by the state’s authorities on the basis of their *gender, ethnicity, disability, sexual orientation, religion, belief, political views, age or other similar significant circumstances* relating to a person”

59. Major issue concerning Anti-Discrimination Act and skin colour:

Non-white Norwegians do not necessarily belong to a “different ethnicity”. Many are facing discrimination based purely on their skin colour. Persons adopted from Asia, Africa and Latin-America has voiced this experience for a long time. People may be refused admittance to pubs and bars, be stereotyped by police officers or meet harassment on the street, solely based on their skin colour; i.e. receiving negative differential treatment by people who have no other information about them than their physical appearance.

60. Norway’s population already includes a growing proportion of people of colour and/or with other physical traits recognizable as non-European and this trend will continue. Increasingly this population will include people of mixed backgrounds, born and bred in Norway, resulting from intermarriage over several generations, integrated and part of native Norwegian population and culture.

61. “Ethnicity” is something one is brought up to and with, not born with – unlike skin colour. Defining discrimination based on skin colour as “ethnic discrimination” turns the attention from the perpetrator’s racist or stereotyping attitude, to the victim’s background.

62. We find that this proposal to leave out skin colour is veiling the truth about the nature of the discrimination faced by people of minority background, and this will be increasingly felt in the future. The proposed Anti-Discrimination Act should be designed for this future.

63. The Commission argues that *ethnicity* is a collective term/category for national origin, descent, skin colour, language, religion and livssyn (or life stance) and that these categories constitute elements of the term ethnicity, or markers for ethnicity.

64. Issues concerning language

Referring to this report’s pt. 237. Language is an important factor for discrimination in the labour market, as we see that employers use language as a criteria to exclude job-applicants with ethnic non-Norwegian background, for instance in job advertisements. There is also anecdotal evidence of discrimination by public authorities on the background of language. Language both figures as a

marker for ethnicity, and as a ground for discrimination in itself, and we therefore recommend that language be included in the list of grounds for discrimination in the coming anti-discrimination act.

Recommendation:

- We recommend that colour and language be included in the enlistment of grounds for discrimination in the new Anti-discrimination Act.

Article 2: The Government's efforts to combat ethnic discrimination

Interpreting services

65. In reference to 2 B, point 61 in the state periodic report.

66. See pt. 122, and also pt. 245 below.

Hate crime and racism on the internet

67. In reference to article 2 B no. 2 point 77-78 and 80.

Reporting and recording of hate crimes

68. For more than 20 years the Centre against Racism and Discrimination has urged the authorities to monitor and collect data on hate crime⁸. The first national report on reported hate crimes was published in January 2009⁹ and consisted of data from the year 2007. The report shows that there were 257 reported hate crimes in Norway and in 8 out of 10 reported cases race or ethnicity was the motive of the crime. The report also shows that today's system has a high rate of errors in reporting and furthermore is vulnerable to under and over reporting. This vulnerability cannot be eliminated within the existing system, and the report recommends that a new system similar to the Swedish model should be implemented. This new system needs a lot of resource and cannot be implemented within current resource limits and the report suggests some temporary measures. This includes the need to strengthen knowledge of the definition of hate crimes among police staff. Incidents of hate crime might also not be reported as hate crime due to lack of understanding of how to use the registration system on the computer (BL), and some incidents are also registered erroneously as hate crime.

69. Both the police and civil society organisations have noted that the procedures for reporting hate crime need improvement and the government claims that they are working on these improvements. The police and the civil society both believe that hate crimes are largely under reported. In a survey done by the police in 2008 it is reported that only 28 % of hate crimes are reported to the police.

⁸ Hate crime is a collective term used to describe crimes that have a racist, xenophobic and homophobic motive, or in any way is based on prejudice against a person or group of persons on the basis of their actual or perceived group affiliation.

⁹ Politidirektoratet og Oslo Politidistrikt 2009: "Hatkriminalitet – Anmeldelser registrert i 2007" (Hate crime – Reports registered in 2007).

70. The report recommended a series of actions in order to ensure a reliable annual report in the years to come, but the fate of these recommendations is still unknown. The police have not yet published any information from 2008 or 2009.

71. The ECRI report¹⁰ points out that it is important to distinguish between racist crimes and racist incidents, in order for the police to have a pro-active attitude to the problem. ECRI also emphasise that registration in itself is not enough. A good and transparent system must be followed up in a way that shows that the police are taking the matter seriously and that they must conduct a de-facto investigation. Just to tag an incident is far from enough, according to ECRI. Norway has failed to take forward the recommendations from the 2007 ECRI-report.

72. Details about hate crime reported by the media are in appendix I.

Recommendations:

- Support and resource the creation of a search engine based on the Swedish model that uses a number of predefined code words to generate a list of possible hate crime related reports.
- Formulate a clear and transparent definition of what should be registered as hate crime in the police register.
- Enhance the understanding of the concept and definition of hate crime, and of the new reporting and registration routines among police employees.
- Set up a permanent reporting arrangement with an annual quality assurance from the central government.

Hate crimes and the Internet – a free space?

73. In reference to 2 B, no. 2, point 79-80 in the state periodic report:

74. Many immigrants and Norwegians with a different ethnic background are subjected to abusive and racist comments on the internet in addition to public debates that have become more acute. Even more alarming is the fact that a high number of the persons that express directly or indirectly racist attitudes feature with their full name. The fact that these people are not interested in hiding their identity shows how the political climate has changed and how far freedom of speech seems to stretch.

75. A report¹¹ about children and online risk shows that 57% of all Norwegian children who have begun to use the internet after the age of 13 years have spread racist comments on the Web. This is an alarming trend and the government should take measures in order to change the public attitude.

76. Another example is the new concept of “snikislamisering” that may be translated to hidden Islamisation, something that is happening so discreetly that no one notices it. This concept was introduced by the leader of the Progressive Party, Siv Jensen, in 2009. Shortly after a facebook group: “No to more Islamisation of Norway”. Within two weeks the group had 23,400 members. The large number of members clearly shows that Islamisation debate engages many people, and that “Islamisation” may end up being more or less an acceptable concept in the Norwegian population. For further comments on islamophobia, see pt. 95.

77. Aggressive debates can also lead to more racism among Norwegians and at worst lead to more discrimination and violent acts. This development resulted in a conviction in Finland, where a man was convicted for expressing hatred against asylum seekers through his Facebook group called “No more asylum seekers”. At present the problem is not taken seriously in Norway.

¹⁰ ECRI 2007: General Policy Recommendation No. 11 on combating racism and racial discrimination in policing

¹¹ Staksrud, E. and S. Livingstone (2009). “Children and online risk: Powerless victims or resourceful participants?”

Monitoring of racism or racist threats on the Internet

78. There is currently no systematic monitoring of racism or racist threats on the Internet. Some NGOs are monitoring the few active Nazis' activities on the Internet and the Norwegian Centre against Racism is planning a research project on racism on the Internet. So far this project has no funding. The National Bureau of Crime Investigation (KRIPOS) has a webpage where the public can contact the police regarding racism and racist expressions on the Internet. KRIPOS got 160 complaints in 2008 alone, but none led to further investigation or any other action from the authorities.

Recommendation:

- There is a need for monitoring racism and racist threats on the Internet. We recommend that the authorities make funding available for NGOs with expertise in the field interested in taking up this task.

Article 4: Condemnation of all propaganda and hate-organizations which attempt to justify or promote racial hatred and discrimination in any form.

The General Civil Penal Code 2005

79. In reference to article 4 A and B, point 87-88 and point 91 in the state periodic report.

80. Key issues with regard to 'hate speech':

- With reference to the State report point 87 we do not agree that amendments of the section 135a of the General Civil Penal Code from 1902 have resulted in stronger protection from ethnic discrimination. This is very clear when cases involving hate speech are not prioritized by the police.

81. The official crime statistics shows that there have been 89 complaints to the police on hate speech the past three years: 31(2008), 29 (2007) and 29 (2006). During this period, only one complaint led to a trial, in which the accused was convicted.

82. The National Bureau of Crime Investigation (KRIPOS) has a webpage where the public can tip the police regarding racism and racist expressions on the internet. KRIPOS got 160 complaints in 2008 alone, but none led to further investigation or any other action from the authorities.

SIAN / Arne Tumyr case

83. Stop the Islamification of Norway (SIAN) is a Norwegian anti-Islamisation group which was established in 2008 with the aim to combat and stop the alleged islamification of Norway. In June 2009 The Norwegian Centre against Racism reported Arne Tumyr, the head of the organization for breach of the Penal Code § 135 a which, among other things, sets penalties for racist expressions and the use of racist symbols. The background for this was a televised interview given on May 22nd 2009 by Arne Tumyr, the head of SIAN (Stop the Islamisation of Norway). Tumyr made a comparison of Islam to the Nazi-occupation, by expressing to TV2 (Norwegian channel) that: "[...] *we have the exact same situation as in 1940-1945. Then as now we had the choice either to surrender or to take up arms*".

84. Other notorious supporters of SIAN's standpoints and work are Øyvind Heian (leader of the former Patriots Norway) and former Supreme Court lawyer and known defender of right-wing extremists Erik Gjems Onstad.

85. On June 29^h 2009 the police dismissed the case and explained in a notification letter to the complainant that this was "[...] *due to lack of capacity to deal with the case now*"¹². The Norwegian Centre against Racism appealed to both State's Attorney in Oslo and District Attorney and ask whether the previous signal given that matters relating to racist expression should be prioritized did not longer hold stand.

86. In a letter dated 17th August 2009 the State's Attorney asked the police to send over the case documents with the police comments and market the letter with "urgent". Two months later they still had not received the case documents and the State's Attorney criticised the police for "*insufficient follow-up*"¹³. A few weeks later the Norwegian Centre against Racism received a letter from the Districts Attorney stating that "*the police themselves have transformed the decision to dismiss and decided to initiate an investigation of the case.*"¹⁴

87. Almost a year after the Norwegian Centre against Racism reported Arne Tumyr the case was finally closed by the police on April 29th 2010. This time because the police could not find the case to be punishable. That the case was dismissed send strong signals that hate speech and racist expression will go unpunished and may feed into the population in general as acceptable.

The Vigrid-case

88. On 14th July 2003 the nationwide Norwegian newspaper, VG, printed a quote by then Vigrid-leader, Tore Tvedt, where he stated that: "*We want to seize power in society, purge the Jews and send the immigrants out of the country. The Jews are the main enemy, they have killed our people, they are vicious killers. They are not people; they are parasites that will be purged*".

89. The statement was shortly after reported by the Norwegian Centre against Racism and The Mosaic Religious Community. The court spent nearly 3 years to assess whether Tvedt should be judged according to Penal Code Section 135a, which includes defamation against races or ethnic groups. He was evicted by the District Court; Tvedt appealed and was then acquitted by the Court of Appeal the following year. Later the Supreme Court overruled the acquittal and Tvedt was in may 2008 sentenced to 45 days' in prison.

Hate speech prioritised?

90. The facts that hate speech is rarely taken seriously and that so few of the complaints lead to any action from the police are likely to affect the public's opinion of the police.

The crime statistics do not tag information regarding whether "hate motivation" is an aggravating circumstance, and therefore it is no way of knowing whether this paragraph is being used in the Norwegian courtrooms. The authorities refuse to implement this, despite numerous requests by NGOs.

Recommendation:

- Although the Norwegian Centre against Racism sees the sentence of Tore Tvedt as important in punishing hate speech, one eviction is not enough. The same priority should therefore be given to other acts of hate speech.

¹² Letter from the Oslo Police to the Norwegian Centre against Racism, 29th June, 2009.

¹³ Letter from the State's Attorney to the Oslo Police, 9th October 2009.

¹⁴ Letter from the Districts Attorney to the Norwegian Centre against Racism, 22nd October 2009.

General civil Penal Code 2005 and increased penalties for racially motivated crimes

91. In reference to article 4 B, point 89 in the state periodic report.

92. There is to our knowledge no registration of increased penalties due to background in “other’s” religion, skin colour, homosexual predilection, handicap etc. in the Central Registration System of the police (STRASAK). We are deeply concerned that the system for registration of reporting of hate crime is not linked to nor records the levels of penalty for those found guilty.

93. Consequently, no information is available as to whether practice in courtrooms is in line with these intentions.

94. An issue linked to this is the lack of systematic training within the police education and training systems in recognizing racist motives and racist discrimination.

Recommendations:

- The use of increased penalties must be registered as part of the Central Registration System of the police (STRASAK).
- Systematic training in recognizing racist motives, racist discrimination and handling these cases on street level must be included in the police education.

Article 5: Prohibit and eliminate all forms of racial discrimination and to ensure all equality before the law

Islamophobia

95. In general reference to article 4.

96. The major issue involved in Islamophobia: The NGO Human Rights Service (HRS) is of concern as a state funded advocate of anti-muslim prejudice. This is feeding into the already growing problem of Islamophobic tendencies in Norway (see 2 B, no.2, 79-80 further up). One example of this is the Norwegian organization Human Rights Service (HRS). HRS has a constant negative focus on Islam and Muslims, with articles criticizing Islam and Muslims strongly dominating their web page¹⁵. HRS is both a major actor in and of themselves and a major resource for anti-Islamists.

97. Their activities are to a large extent funded by the Norwegian state; in fact, they are included at the same point in the state budget as the Norwegian Centre against Racism, the Norwegian Organisation for Asylum Seekers, SOS Racism, and other NGOs working against discrimination.

98. In their presentation of the Geert Wilders trial, the Head of Information at HRS Hege Storhaug states: “*This is about his right to focus on the discomfort that parts of Islam have brought to Europe –*

¹⁵ www.rights.no

facts that the elite vehemently denies, or perhaps more correctly put completely ignores: That the Koran and Islam in themselves advance values and actions that are in full collision with humanity and human rights". This is representative of the HRS discourse; while employing a certain level of nuance, the actual focus has a distinct anti-Islam bias, in article after article through a number of years.

99. They have also presented Geert Wilder's speech in the British Parliament 5th March 2010 with admiration, in their presentation of his speech describing Wilders as a man who sees the dangers of Islam clearly. This is the speech where Wilders asks whether this will be London in forty years or "Londonstan"; where he asks if we will choose "freedom or slavery"; where he says that we need "Fewer Chamberlains, more Churchills"; and where he concludes: "We will never surrender."

100. In 2009 HRS employed the highly controversial American writer Bruce Bawer as advisor. Bawer's book "While Europe Slept: How Radical Islam is Destroying the West from Within" was nominated for the National Book Critics Circle Award for 2006 in the criticism category, a circumstance that led to controversy. According to the New York Times¹⁶ one of the board members of the Circle, Eliot Weinberg, stated that Bawer's book was an example of "racism as criticism". Later the president of the Circle's board, John Freeman, wrote on the organization's blog¹⁷ "I have never been more embarrassed by a choice than I have been with Bruce Bawer's 'While Europe Slept' [...] It's hyperventilated rhetoric tips from actual critique into Islamophobia."

101. Bawer himself states in the book that rising Muslim birth-rates and a "refusal" to integrate will allow them to dominate European society within 30 years, and that the only way to avoid such a disaster is to abolish the politically correct and multicultural doctrine that, according to him, is rife within the continent. He also suggests a physical solution for the problem he perceives: "European officials have a clear route out of this nightmare. They have armies. They have police. They have prisons. They're in a position to deport planeloads of people everyday. They could start rescuing Europe tomorrow."

102. In his article on the trial against Wilders published on Human Rights Service's web page Bawer stated bluntly: "In fact, Wilders has only done one thing: he has made visible important truths about a very dangerous ideology."

Our recommendations:

- The authorities need to seriously consider if the HRS contribute to integration in light of public grants given by the government (chapter 651, item 71). The overarching goals for this grants programme is to, and we quote;
"support organisations that work to ensure that everyone has equal opportunities, rights and obligations as regards participation in society and making use of their own resources. Support can be given to nationwide organisations that develop expertise about what promotes social inclusion and what constitutes an obstacle to equal opportunities, and that disseminate experience and know-how to local and national authorities and the general public. Support can also be given to organisations that contribute to safeguarding the rights of asylum seekers in the community and that build knowledge about asylum seekers' needs in order to look after their interests in society".

¹⁶ http://www.nytimes.com/2007/02/08/books/08circ.html?_r=1

¹⁷ www.bookcriticscircle.blogspot.com

Racially motivated crimes

103. In reference to article 5 I A, point 95 in the state periodic report.

104. We refer to pt. 83 and 90 above, which show that racially motivated crimes are not prioritized “irrespective of the gravity”. This is contrary to what the State report tells us.

Shelters for battered women

105. In reference to article 5 I B, point 100 in the state periodic report.

106. In recent years there has been an increase in women with minority background using women’s shelters. Therefore it is important that the women shelters offers and employees’ competence reflects this new reality. The competence requirements must include knowledge of culture, religion, migration and rights relating to residence permits. Crisis centres also need to have written information available in a language the users understand, in addition to a good interpretation service.

107. Women with minority backgrounds should be guaranteed housing after completing a stay at a women’s shelter. This user group is in a special situation in that many minority women who break out of violent relationships lacks social networks, family and support system that can fulfil their needs for financial security and ensure their housing situation. These women often have limited or non-existent economic independence; in addition to that they experience widespread discrimination in the housing market. An overall consequence of these conditions is thus that they stay longer at women shelters’.

108. There is a lack of research and data in regard to violence in close relationships and children from minority backgrounds exposed to violence or witnessing violence. There is a need for a more systematic knowledge around these issues in all fields, but there is a lack of resources from relevant authorities to support development of such a full knowledge base.

Violence against women living in reception centres for asylum seekers

109. In October 2008, as part of its international campaign against violence against women, Amnesty International Norway launched a report on violence against women living in reception centres for asylum seekers. Due to a number of reasons, female inhabitants of reception centres for asylum seekers are particularly vulnerable to gender violence. Previous exposure to sexual violence, the disruption of existing social networks, lack of language skills and social isolation are some of the reasons.

110. Amnesty International’s report was based on a quantitative survey sent to all reception centres, and a qualitative research study at five selected reception centres. The main conclusion of the report was that female inhabitants of reception centres experience an extreme vulnerability and a lack of protection against gender-based violence, including sexual harassment and abuse. One of the reasons for this perceived vulnerability is the limited presence and accessibility of personnel at reception centres. In addition, personnel working at reception centres are not enabled to deal with violence in intimate relationships and sexual violence due to a lack of training and guidance. This lack of knowledge limits the ability to notice incidents of violence including threats of violence, and creates a reluctance to intervene even in cases where there is concrete evidence that a woman is victim of violence. Violence against women at reception centres is largely underreported in official statistics due to insufficient registration routines. Amnesty’s report also documents how the physical structure of the reception centres contributes to women’s experience of a lack of safe spaces.

111. The Norwegian Government (former Ministry of Labour and Integration) responded positively to the Amnesty International report, and granted 30 million NOK to ensure women safe spaces in asylum centres. The Directorate of Immigration initiated training of personnel and improved registration routines of the incidence of gender-based violence. Nevertheless, the Norwegian authorities have rejected Amnesty International's call to increase the presence of personnel at reception centres.

Recommendations:

The State should:

- Increase the general presence of personnel at reception centres for asylum seekers in Norway, especially in the evenings and at weekends, in order ensure women have adequate protection and support against gender-based violence;
- Carry out an assessment of all reception centres in Norway in order to identify further need for reconstruction to ensure women's access to safe spaces;
- Ensure continuous training on all forms of gender-based violence for personnel working in reception centres in order to enhance their capacity to intervene in a adequate manner;
- Facilitate the necessary cooperation between reception centres, local health authorities, women's organisations, crisis centres and other relevant institutions at local and regional level.
- Initiate a housing scheme especially for women with minority backgrounds who do not have access to the ordinary housing market.

The reception centres should:

- Have a continuous focus on conflict-, cultural- and gender sensitivity, with implementation in all parts of the operation. Centres must set mandatory requirements linked to minimum standards and procedures to ensure protection against violence at the reception, with particular focus on women and children.
- Accept that it is not enough that the UDI states that the officer on duty and leisure to be "good enough", leaving those who host /operate the reception centres to consider what this means. There is a need to set clear and specific standards.
- Provide resources to establish information- and discussion groups for both men and women in the reception.
- Employ more multi-racial, multi-cultural staff to represent the diversity of women who are residing in the shelters.
- Provide assistance for children living in shelters with their mother in forms of a special care unit and document the effects of violence within the family on children.

Plan of Action to Combat Female Genital Mutilation

112. In reference to article 5 I B, point 101-103 in the state periodic report.

113. There are two major issues involving female genital mutilation:

- The third Action Plan to combat FGM is based on "racial profiling" that can lead to mistrust by the target group.
- The Action Plan is also based on too little information on the situation in Norway, and relies more on assumptions and figures from countries in Africa.

114. The Government has within a 10 year period launched its third Action Plan to combat FGM in Norway, and this one includes 41 measures. The efforts concentrate on immigrants from particular regions of the world and their descendants (predominantly Eastern and Western Africa). Unfortunately the Government has not ensured that measures against FGM do not become in themselves acts of 'racial profiling', with the attendant consequences for increasing mistrust between targeted

communities and authorities such as public health-care services, police, child welfare services, schools and nurseries.

115. One of the measures is to “invite” families from these particular regions of the world and their descendants for a voluntary check of their young daughters. The target group experiences this measure to be based on the principle of being guilty unless proven otherwise.

116. During the last 10 years and 3 Plans of Action little has been done to aggregate information on FGM in Norway. There are inadequate figures on how many children that have been checked and the results of these checks are non-existent. Considering the enormous efforts that have been put into combating FGM in Norway the lack of interest in aggregating information has to be questioned. This is especially concerning when considering the nature of some of the measures, the assumptions behind the measures, and the negative impact these measures have on the targeted communities and the way they are perceived by society at large.

117. The Institute against Public Discrimination (OMOD) points out that many children have been checked for FGM and so far there are no results to show for in relationship to these checks. Norway continues to rely on figures from countries in Africa. Given the difference in infrastructure between for instance Somalia and Norway one has to ask why, after 10 years of major efforts in Norway, the Government still knows so little about the national situation.

118. The first plan of action was based on the assumption of FGM being prevalent in Norway. However, the discourse in the public sphere has gone from saving thousands of children to saving the one girl child. There seems to be a lack of clear targeting in the efforts to combat FGM in Norway.

Recommendations:

- Efforts to aggregate information about the Norwegian scenario, that the civil rights of targeted groups are recognised in the policies implemented and that the criteria for targeting individuals and families must be based on more than ethnic and/or national origin.
- It is important to avoid mistrust between the authorities and the target group. Mistrust may neutralize the authorities’ efforts to combat female genital mutilation.
- Work against female genital mutilation must take place on several levels and development of new laws needs to be done in parallel with preventative measures. The authorities need to further support organizations working within this area so they are able to work in the longer-term on preventative work to hinder young girls and women being exposed to genital mutilation.

Recruitment of students from minority backgrounds to the Police University College

119. In reference to state report 5 I B no. 4, point 106.

120. We commend the Police University College for the effort regarding increasing the number of students from minority backgrounds. It is however important if the police force is to reflect the multicultural society they operate in, that these students upon completing college are employed in the police force, are allowed career opportunities and stay in the force.

121. We think it is important that this aspect be monitored, because there is some anecdotal evidence about police officers with ethnic minority background choosing to leave the force and take

up work elsewhere for reasons that can be labelled as marginalisation and even discrimination. If this is the case the investment into education and training has not led to the targeted goal, which is a police force mirroring the community within which it is operating.

Recommendation:

- At this time there is no knowledge of the level of retention of police officers with ethnic minority background within the service. It is important that this be established, bearing in mind the investments made in increasing the recruitment.
- We recommend that the Ministry of Justice and Police Directorate commission research to establish facts regarding how long police officers with ethnic minority background stay in the police service compared with police officers with ethnic Norwegian background, and how their career development compares to the same group.

Negative aspects and general problems with the use of a non-qualified interpreter

122. In reference to article 5 I C, point 120-121 in the state periodic report.

123. We note two major issues involving the interpreter service:

- In spite of important measures taken by the authorities to ensure a better qualified interpreter service, several studies reveal there is still a problem that unqualified interpreters are being used in situations where this can lead to weakening of legal protections and pose a risk to life and health through misdiagnosis and incorrect treatment¹⁸.
- The field of interpreting in Norway appears to be fragmented, chaotic and disorganized. At the same time as the legislation on interpreting is unclear and inconsistent, there are different ethical guidelines for interpreting in different languages, and the adherence to these guidelines in practice varies greatly.

124. There are several important areas that need strengthening in regard of interpreting service, but we will restrict comments to the following:

Women who are victims of violence – an unmet need for interpreters

125. The need for interpreters is growing in parallel with the growing proportion of women with minority backgrounds at women's shelters. However, this need is not being met as is shown by a study conducted by National Centre for Violence and Traumatic Stress Studies (NKVTS) in 2010¹⁹. Interpreters were used in 21 % of the cases regarding women with minority backgrounds, while a further 11% were in need of an interpreter. In 2008, a little over half of users from minority backgrounds (54 percent) could only speak a little or no Norwegian, suggesting that many more women are in need of an interpreter.

¹⁸ Among others:

- "Bedre forvaltningspraksis for bruk og bestilling av tolk" (Better management practices for the use and booking of an interpreter). Report to the Ministry of Children, Equality and Social Inclusion. 2009.

- "Bruk av tolk i straffesaksjeden" (Use of interpreters in the criminal proceeding chain). IMDI 2009.

- "Rett til tolk: Tolking og oversettelse i norsk straffeprosess" (The right to an interpreter: interpretation and translation of the Norwegian Criminal Procedure). 2005.

¹⁹ NKVTS:2010: "Et hjem for oss – et hjem for deg" (A home for us, a home for you). Jonassen and Skogøy. Page 28.

126. Many women are concerned about what country or region the interpreter comes from. Ethnic groups in Norway are relatively small, and there is a real risk of being recognized. Oslo Krisesenter (Oslo Crisis Centre - OK) report that most of the women did not want an interpreter who knew her husband or family for fear of gossip, or that it was perceived as being too close and too personal to talk about difficult things²⁰.

127. *An example can illustrate this:*

Zobia had several conversations with an interpreter present at OK and she told OK about serious mental, physical and sexual abuse through a three-year long marriage. OK contacted the police and conveyed at the same time that Zobia was dependent on a female interpreter to be able to communicate about the serious violations. This was not taken into account and an older male interpreter from her region was provided. The result was that Zobia only told a little about some of the abuse and the matter was quickly dropped.

128. It is a serious problem when the police do not have sufficient knowledge of cultural background, and that in this context they bluntly overlooked the request from OK. Most of the women who decide to report to the police often have to wait several weeks and sometimes months to get an appointment. This can lead them to stay in destructive relationships and, more seriously, that they lose their nerve and in the end do not report the abuse.

Family doctors and the interpreting service

129. Several studies show that many GPs lack both information and guidance on how to work with interpreters as well as good practice for the booking of qualified interpreters.

130. A study conducted by Oslo women's shelter²¹ of several medical centres in Oslo shows that these differed regarding the use of interpreters for patients who did not speak Norwegian. In one case the doctor thought the woman should bring her husband as interpreter, as she had done previously. This happened even though the doctor had been informed that the woman was victim of violence by the same husband, and had gone to the women's shelter.

131. These findings were later confirmed in a study done by The Directorate of Integration and Diversity (IMDI) I 2007²². The survey was conducted among 1596 family doctors and show that there is uncertainty about the doctors' responsibility. Only one in four family doctors are aware that they themselves have the responsibility to book an interpreter. Moreover, eight out of ten answered that it is common to use family members, including children, or a person from the patient's own environment instead of a professional interpreter. This reveals that many family doctors lack good practices for booking of qualified interpreters and half of family doctors say they have seen that communication with the patient often (8%) or sometimes (42%) has been degraded due to the interpreter's lack of skills,

132. For further comments on health services and interpretation, see also pt. 245.

The use of interpreters in the juridical system

133. The report "Norge – En rettsstat for alle?" (Norway – A state governed by the law for all?) reveals that as many as 61 percent of 171 lawyers report that they have experienced situations where the lack of interpretation has been "problematic" (47 percent) or "very problematic" (14 percent).

²⁰ From the report "*Hjelperens rolle i arbeidet med voldsutsatte kvinner og deres barn*", published by Krisesentersekretariatet and written by Kristin Berntsen.

²¹ Oslo Krisesenter (OK), 2005: "*Hjelperens rolle i arbeid med voldsutsatte kvinner og deres barn*" (The helper's role in work with women exposed to violence and their children).

²² IMDI-report 6 – 2007: "*Fastleger og tolketjenester*" (Family doctors and interpreter service).

134. The Norwegian Immigration Appeals Board (UNE) uses UDI's interpretation base where interpreters' qualifications are tested and then rated, and interpreters without state-authorization may be used. UNE is only obliged to give notice if they are dissatisfied with an interpreter and the quality of the service is below standard. This may include problems with translating into Norwegian or where the interpreter has not understood their role and interfered in the matter. Poor translations can also occur when the interpreter omits important information. If this is detected the meeting is cancelled and rescheduled with another interpreter. It is a serious matter that these interpreters have undergone UDI's qualification test²³ and therefore are deemed as qualified for the interpreter task in UNE. UNE wishes that more qualified and good interpreters were available in more languages than the current situation. Some meetings are delayed over long periods of time due to problems with obtaining an interpreter with the correct language and gender.

Recommendations:

- The State has initiated a number of measures to improve the education for interpreters and established a register for qualified interpreters. We like these positive measures to be followed by further actions to ensure that qualified interpreters are being used as well as filling the gap in certain languages.
- We echo the recommendation enlisted in the report "Better management practices for the use and booking of an interpreter" (2009) in that common guidelines for using interpreters are introduced. Until interpreters have achieved a professional status which in itself contributes to quality control, the next best thing is to raise both awareness and training of officials and professionals who need to communicate through an interpreter in their work. This can be done through distribution of information materials (when to use an interpreter, who is responsible for checking the interpreter's qualifications and booking of the services, as well as how the expenses are to be covered), continuing education courses and seminars. In the longer term training on communication through an interpreter should be an integral part of basic and further education of professions where this may be needed.
- In addition, the working group behind the report also recommends that the authorities should initiate an overall review of current laws and regulation and based on this make possible revisions.
- The working group is also concerned with the fact that "interpreter" is not a protected title. However, the title "certified interpreter" is protected, but too few manage to get an authorization (167 in 18 languages in 2009) and this does not cover the market needs. It would therefore be necessary with alternative quality assurance measures - such as requirements for entry to the National Interpreting Register.
- The working group points out that the National Interpreting Register still needs some more work and may be considered to be developed into an ordering service. This will make it easier to order and use interpreting services with satisfactory quality.
- Journeyman examination (svenneprøve) should continue in parallel with educational development, since it will not be practicable at all times to provide for equal educational in all languages needed.

²³ UDI uses ToSPoT which is a bilingual test that shows whether the interpreters have sufficient language skills to function as an interpreter. Interpreters are also required to attend an orientation seminar, regardless of educational background. The seminar is aimed at interpreting the asylum interview with a focus on how to function as an interpreter, interpreter ethics, introduction to the asylum procedure and terminology used in the immigration administration.

Stricter Asylum Policy

135. In general reference to article 5 I D, no 1-3, and point 122-131 in the state periodic report.

136. Major issue involving the stricter asylum policy in general:

- There is a strong restrictive trend in Norwegian asylum politics, and a harsher rhetoric than before is being directed at refugees and immigrants.

137. In general, Norwegian asylum policy has taken a very restrictive turn recently, starting on 3 September 2008, when the Government introduced its first package of 13 restrictive measures. This was followed with further restrictive measures in June 2009 and in October 2009. It has also been announced that more restrictive measures will be considered.

138. In its official report, the Government claims that the restrictive measures have been introduced “to limit the number of asylum seekers who are not in need of protection”. This is more rhetorical than factual. These negative signals will probably motivate asylum seekers who in fact *are* in need of protection to choose another country of destination rather than Norway. Furthermore, an important part of the new, more restrictive policy is also to limit who would actually be considered in need of protection. Restrictive Measure no. 2 has as a direct consequence returning more asylum seekers to an internal flight alternative (IFA) in their country of origin, referring them to a state of internal displacement contrary to the standards established for the use of IFA by the UNHCR. Also, measure no. 3, though the UNHCR is not explicitly mentioned, in fact stresses Norwegian sovereignty vis-à-vis the UNHCR, as is clear from the national debate on the issue.

139. The Government regularly refers to the fact that Norway receives a higher number of asylum seekers *per capita* than most other European countries. However, this statistic is never put into an economic perspective. Norway indeed remains a wealthy country, also *per capita*, clearly possessing the resources to protect a larger number of asylum seekers and refugees than the poorer countries in the South that tend to host by far the largest number of refugees. If adjusted for an economic perspective, the situation is very different from the crisis outlook of the Norwegian Government. Of course, the Government’s crisis outlook also affects the wider population, lowering the public’s acceptance for the receiving of refugees.

140. Furthermore, there has been a strong focus from the Government on asylum seekers who supposedly “abuse” the asylum system and particularly on asylum seekers without proper identity papers. The much repeated claim from the Government that 9 out of 10 asylum seekers have not documented their identity has created a needlessly negative impression when compared to recent information from the Directorate of Immigration that the case is the opposite: more than 9 out of 10 have in fact substantiated a credible identity.

141. Some of the asylum measures that are being carried out are quite experimental and, particularly within a Norwegian context, extreme. This particularly includes the Government’s plan to “establish care and education centres for unaccompanied minor asylum seekers in their countries of origin.” The relevant countries are Iraq and Afghanistan. We are highly critical of establishing such institutions, and find it highly doubtful that such institutions will be either physically safe or beneficial to the children’s care and development. The risks are many and obvious, including the risk of new flight with a hope of real safety somewhere else.

Recommendations:

- If institutions for unaccompanied minors in countries of origin are in fact established, there must be clear requirements both for 1) actual physical safety, 2) the living conditions and other social circumstances, and 3) follow-up when they turn 18 and have to leave the centres in order to make sure that they are not sent into destitution.
- If such institutions are established there must also be full transparency about the situation of the minors and what happens to them. Furthermore, there must be a comprehensive, independent, civil society evaluation at regular intervals.
- The Government must take care to address issues related to refugees and immigrants with an appropriate rhetoric that does not fuel stereotypes and prejudice.

The new Immigration Act

Age control of unaccompanied minor asylum seekers

142. In general reference to the article 5 and to the New Immigration Act.

143. The key issue involving age control of unaccompanied minor asylum seekers:

- The pelvic part of the age control is an intervention of private life and is not voluntary as refusing to undergo the control effects the asylum seekers application negatively.

144. According to the Immigration Act 1998 § 37 and 2008 § 88 asylum seekers have a duty to contribute to the clarification of their identity, including age, if it is not possible to determine with reasonable certainty whether the foreign national is over or under 18. Immigration Directorate (UDI) introduced in 2003 a system to assess whether the age stated by persons classified as "solitary minor asylum seekers" was correct in cases where there seemed to be reasonable doubt. The assessment of age was done by examination of teeth and x-ray of the skeleton, but to ensure the quality of these investigations the Norwegian authorities have proposed to check the pubertal development through examine facial hair, armpits and lower genital (scrotum and penis). An email from Ullevål University Hospital, presented in an email from UDI September 28th 2009, states that: "*In the medical examination the asylum seeker must stand on the floor and pull down his pants for inspection of the genitalia. The testis must be touched in order to assess testes size*". When it concerns female solitary minor asylum seekers they are also asked to show their breast which also can be touched in order to assess how developed they are.

145. On the assignment from the Norwegian People's Aid the law firm Stabell & Co conducted a human right assessment of the clinical examination, with special focus on the intimate part of the examination. The 26-page report from the law firm concluded that the proposal violates both the Norwegian law and will be in conflict with the European Convention on Human Rights Article 8²⁴. The report states that among other things, that the:

²⁴ **Art 8.** *Right to respect for private and family life*

1: Everyone has the right to respect for his private and family life, his home and his correspondence.

2.: There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- Examination is an intervention in private life. This is particularly an issue regarding children in a vulnerable position, who often come from cultures with a different relation to nakedness.
- Since the age survey includes sensitive personal data it can within Norwegian law draw parallels to the requirements for informed consent by the Personal Data Act, § 9, first paragraph a. The Data Inspectorate (Datatilsynet) attitude regarding the UDI's method for obtaining consent is that this does not satisfy statutory requirements for informed voluntary consent and the information thus obtained shall not be saved.

Voluntary consent?

146. The question here is whether such a pelvic examination is voluntary. Directorate of Immigration (UDI) underlines that asylum seekers have to give their consent, and that no one will be forced, while the Norwegian People's Aid point out that the lack of willingness to submit to the examination affects the application for asylum, this then becomes compulsive consent. Consent is obtained during the asylum interview. The foreigner will be informed about the consequences of not consent, see Immigration Act 1998 § 37 g and Immigration Act 2008 § 88. Not only is the consequence of refusing the examination that it affects the application for asylum, but also that the applicant can be denied free legal advice for the treatment of asylum applications in the first instance.

Recommendations:

- Follow the concerns and recommendation by the Committee on the Rights of the Child report from 2010. The report points out that the examinations is: *"often indecent, culturally insensitive and generally unreliable methods used for age determination"* and recommend that *"age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child"*. This means that pelvic examination should be put to an end.

Poorer protection for refugees

147. In reference to article 5 I D, no 1-3, point 123 in the state periodic report.

148. Major issue of concern regarding the concept of refugee in the new act
- The new Norwegian Immigration Act gives poorer protection for refugees from war and conflict than the EU Status Directive.

149. As stated in the official report, a new Immigration Act entered into force on 1 January 2010. It is positive that the new Act defines the concept of "refugee" more broadly than the former Act. However, it is not correct as stated in the official report that *"those who are eligible for subsidiary protection status under the EU Qualification Directive will be granted refugee status under the new Norwegian statute"*. Under article 15 of the Qualification Directive, only a) and b) will be encompassed by the "refugee" concept in the new Norwegian Immigration Act. Article 15 c), that is, *"serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict"*, largely remains outside the scope of the refugee definition in the new Norwegian Act.

150. Persons falling into this category will normally 1) be granted only a residence permit on humanitarian grounds, which holds much weaker rights particularly in regard to family reunification, or 2) be rejected. This difference between Norwegian and EU law is part of the reason for a negative

decision on asylum seekers from Southern Somalia in March 2010, which puts Norwegian practice at odds with the practice in most of our surrounding countries.

151. For persons granted a residence permit on humanitarian grounds, among them people who risk “serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict”, the financial requirements for family reunification with spouse and in some cases with children have also been made a lot tougher with the new Act.

152. This remains one of the most serious shortcomings of the new Act. It is troubling that the Norwegian Government on this issue has misrepresented the actual situation in its official report. The case remains that many persons granted a residence permit because of fleeing war and conflict will have limited rights to reunification with spouse and children, or indeed will be rejected.

Recommendations:

Norway should, as a minimum, provide the same standards of legal protection of asylum seekers and refugees as in the surrounding countries, i.e. the EU.

The UNHCR guidelines

153. In reference to the state periodic report article 5 I D, no. 1-3, point 125.

154. The major issue involving the UNHCR guidelines

- A new procedure to strengthen the adherence to UNHCR Guidelines in fact is of very limited consequence.

155. The Government states in its official report that “where an administrative decision is inconsistent with UNHCR guidelines or recommendations with regard to protection, the case will, as a main rule, be referred to the seven-member grand board of the Immigration Appeals Board.” In practice, this is not the main rule, but rather the exception. What is not stated by the Government is that the Ministry of Labour and Social Inclusion/the Ministry of Justice may also itself give instructions to the Directorate of Immigration (UDI), obliging them to breach the UNHCR Guidelines; this has indeed happened repeatedly. Such instructions from the Ministry cannot be overturned by the grand board of the Immigration Appeals Board. This, in fact, is what most commonly happens. Although this UNHCR provision in the new Act seemingly would reflect a very positive development, in actuality it is of very limited importance, if any.

Family Reunification

156. In reference to the state periodic report article 5 I D, no. 1-3, point 126.

157. The major issue involving family reunification

- Several restrictive measures have heightened the threshold for family reunification with spouse and minor children.

158. As indicated in the official report, and above, the Government has tightened the rules regarding subsistence requirements in the new Immigration Act. The new, tougher requirements apply

quite broadly, with the only exception for persons recognized as refugees. That is, they apply to persons who have been granted a residence permit on humanitarian grounds, students, work immigrants, and Norwegian citizens alike. In addition to the former requirement of an income at a certain level, these are some of the new requirements:

- The family member in Norway must be able to document a sufficient income not only at the time of application, but also the previous year, as documented by a tax assessment. For asylum seekers who have been granted a residence permit on humanitarian grounds, students and work migrants this implies that they will have to wait and work for a minimum of one year before they can even apply for family reunification.
- The family member in Norway must not have received any social support during the last year.
- If the person not residing in Norway already has a job offer in Norway, this income will *not* be included in the assessment.

159. While formerly the subsistence requirement did not apply to persons holding a Norwegian citizenship (attainable after 7 years of legal residence in Norway) or to persons with a permanent residence permit (attainable after 3 years with an ordinary residence permit), a subsistence requirement now applies also to these groups.

160. Since many non-Norwegians have a more vulnerable and insecure position, economically and particularly on the labour market, these requirements make it much more difficult to be reunited with their family, which in turn may make their vulnerable situation even more permanent, especially regarding former asylum seekers.

161. There is a risk that the tougher subsistence requirements may lead to individuals choosing a shorter path of education in order to fulfil requirements at an earlier stage.

Combating forced marriage?

162. The measures are partly intended as a means of combating forced marriage by requiring that the person in Norway should have gained a minimum of independence from his or her parents. However, the measures do not only apply to new marriages, but also to marriages that were in place, possibly many years before any of the spouses immigrated to Norway. They also apply to children aged 15-18. (For children under the age of 15 who are alone in the country of origin, there is an exception.) Clearly, the measures go much further than warranted by any fight against forced marriage, and are rather part of the general restrictive trend. These restrictive measures will be particularly severe for persons granted a residence permit for humanitarian reasons after fleeing from war and conflict (ref. above).

A further restrictive measure in regard to family reunification

163. Furthermore, there is another restrictive measure in regard to family reunification. From 1 January 2010 a four year education or work requirement was introduced for *new* marriages; that is, when the marriage was entered into after one of the spouses immigrated to Norway. This applies to everyone who has received a residence permit after applying for asylum, be it refugee status or a residence permit on humanitarian grounds, but not to Norwegian citizens, students or work migrants. For instance, it will apply to a recognized refugee who has a fiancé/boyfriend/girlfriend in the country of origin possibly at war, or living in a refugee camp in a neighbouring country.

164. For people in this situation, reunification will be impossible for a minimum of four years. Given the time of separation following the flight, the time it takes to handle the asylum application, the time it takes to find gainful employment and the later handling of the application for family reunification, the separation would realistically last 6-8 years, or even longer. Although it is difficult at present to estimate the number of persons this will apply to, for those affected the measure will surely be experienced as draconian.

Two cases that can illustrate the nature of these tough requirements:

165. Family reunification with children, a case from The MiRA-Centre:

166. This is a case of a woman who came to Norway from a country in Africa after marrying a Norwegian man. They have a child together. The woman was previously married and also has three children in her home country. She wishes to have her children with her in Norway as their father died, but her application for family reunification have been rejected several times. The argument given for refusal was lack of documentation. This lack of documentation has been a farce.

167. Her application was rejected by UDI the first time because it lacked documents proving that she had the sole custody of the children. She then provided the documentation, but again got a rejection because UDI stated that she could not provide sufficient evidence that the father of the children was dead. The third time she provided both the death certificate and the documentation that she had sole custody of the children. She brought the application to the Norwegian embassy in the relevant country with the children's passports. But the Embassy informed her that they did not need the children's passports, the application would be dealt with without the passports. Despite this information, the application was rejected the third time due to the lack of copy of the children's passports.

168. This whole process has now taken eight years, and one of the children is over 18 years old. The case has throughout been very difficult and the rejections have been on the bases of lack of assistance to the mother from the very beginning on what documentation was required from her side. She has applied for family reunification again and we are waiting for the answer.

Family reunification for elderly women (over 50), a case from the MiRA-Centre:

169. A woman has come to The MiRA-Centre for help because she has received a final rejection on her application for family reunification with her husband living in Asia. Her application was rejected due to suspicion of pro forma marriage. The woman is 12 years older than her husband, which the immigration authorities see as one of the reasons why this marriage is a pro forma marriage. The woman in this case has been divorced and her family is very conservative and controlling. She had managed to break out from the family. No one in the family had wanted her to fall in love and get married again. But in spite of all these difficulties, she had the courage to remarry with a man she loved. She risked her life and has her whole family against her, and now she feels that even the law is against her.

Recommendations:

- The requirement that the family member in Norway must be able to document sufficient income for the previous year in practice equals a one year ban on family reunification. This requirement should be lifted.
- The four year work or education requirement in the case of new marriages equals a four year ban on family reunification. As the measure only applies to former asylum seekers with a residence permit, and not to Norwegian citizens, students or work migrants, this measure is discriminatory in nature, and should be abolished.

In the child's best interest?

170. In reference to the article 5 I D no. 1-3, point 127 in the state periodic report.

171. The major issue involved regarding unaccompanied minor asylum seekers:

- The government policy implies systematic discrimination of children and this runs counter to Convention on the Rights of Child article 2 about non-discrimination.

172. Solitary underage asylum seekers between fifteen and eighteen years old are being discriminated against when they do not get the same rights to care as other children. The UN Expert Committee on the Rights of the Child has in their notes to Norway several times (1994, 2000, 2005) underlined the importance of an improved offer to these children, and a demand that the discrimination of these children is put to an end.

173. Although the authorities have initiated some short-term remedial action for some of these children, agencies such as Norwegian People's Aid are experiencing large variation and immense deficiencies across the country when it comes to ensuring these children's legal rights and living conditions. It is stated by the Convention of the Rights of the Child that refugee children shall have the same rights as other children and they are also entitled to special protection. It is a community task and state responsibility to ensure that these children have competent guardians. This follows the international obligations Norway has undertaken within Norwegian law.

Temporary residence permits for unaccompanied minors

174. As part of the Government's new restrictive measures, some unaccompanied minor asylum seekers who are at least 15 ½ years old when arriving in Norway are only given a temporary residence permit until they turn 18. On their 18th birthday, the residence permit expires, and if they do not return voluntarily to their country of origin they will be removed by force. In 2009, 33 minors were given this kind of temporary permit; 19 of them were from Iraq, 5 from Ethiopia, and 1 from Afghanistan. In autumn 2009 a special reception centre was also established for this group of minors.

175. This practice is highly controversial, and has particularly met with strong opposition from the local branches of the Government parties. These local branches have in fact threatened to take their own national parties to court, demanding that all children be treated as children. There have also been strong reactions from civil society organisations; there are concerns over the mental wellbeing of the children who live in this kind of limbo, knowing that when they turn 18 they will be deported to often war-torn countries. There are also strong concerns about what will happen to these children when they as young adults of 18 are forced to manage, possibly on their own, in cities like Bagdad, Addis Ababa or Kabul. This measure is highly experimental, and it is easily predictable that some or many of the minors subjected to this practice both suffer serious psychological harm while in Norway and face an uncertain and indeed hazardous future when deported.

Recommendations:

- Children are children regardless of country of origin, and children of asylum seekers are entitled to precisely the same care as Norwegian children. Care for children of asylum seekers between the ages of 15-18 years old must therefore be transferred from the Directorate of Immigration (utlendingsforvaltningen) to child welfare as soon as possible.
- There is need for an independent, nationwide arrangement for recruiting, training and follow-up of appointed guardians for unaccompanied minor asylum seekers that can function as a resource for the Public Guardian's Office.
- Solitary underage asylum seekers should not be detained and be forced out of the country when they become of legal age. One likely consequence is that some of the children will leave the institutions in the waiting period and disappear into Norway's growing group of paperless refugees.

Deportation of parents leaving children in distress

176. Another issue concerning the best interest of the child and where the children's interests are not adequately protected, in spite of the Children's Convention being included at the constitutional level, is when one of the parents (most frequently the father) is deported due to breaching the Immigration Act, and the children are thus put in a situation of emotional as well as economic distress.

177. Upon enquiring to Norwegian Directorate of Immigration (UDI), in April 2010, about how many children are deprived of contact with one of their parents for periods between 2-5 years, we have been informed that there is no registering of such cases.

178. Referring to a case taken up by Norwegian Broadcasting Corporation (NRK) on March 2nd 2009, a decision seems to have been taken to do this. State secretary at the Ministry of Labour and Inclusion, Libe Rieber Mohn is quoted to have said that authorities started registration of underaged children with an expelled parent in 2008, and there were 16 such cases in 2008, involving 25 children. The state secretary also stated that as a rule only serious crime shall lead to expulsion when children are involved, and breach of immigration law (illegal residence or working without work permit) is not considered serious in this context (<http://www.nrk.no/nyheter/1.6498752>). However the Law Students' Free Legal Aid Organisation (JUSSBUSS) stated in a follow up article the next day (March 3rd 2009) that JUSSBUSS alone annually handle 100 cases of expulsion and children are involved in at least 50% of the cases. The case handler in JUSSBUSS also stated in the same interview that the children's best interest is not taken into consideration.

179. A specific case in question in relation to these issues is Selim Molliqaj, a Kosovan father of 3 and married to his Norwegian wife since 2001, who was expelled in 2003 because of working without a work permit, and who will not be allowed re-entrance until the year of 2010 because of repeatedly having entered the country without permission.

Recommendation:

- We echo the Committee of the Rights of the Child in its Concluding Observations on Norway's fourth Periodic report in January 2010: *The Committee also recommends that the right of a child to live with his or her parents be adequately considered in cases of deportation of a parent*²⁵.

Living in limbo?

180. In reference to the article 5 I D no. 1-3, point 129 in the state periodic report.

181. The temporary departure centres for rejected asylum seekers are controversial and indeed troubling institutions; the mental pressure on the inhabitants due to the passivity, isolation, uncertainty and fear, for periods as long as four years (and increasing), is likely resulting in psychological harm.

182. The official report briefly refers to the departure centers for rejected asylum seekers. In fact, these institutions are very controversial and have been heavily criticized. There are currently two such centers, both located outside Oslo. The first centre was established March 2006, the second in October 2007. Some of the people who were at that time transferred to the departure centre are still there four

²⁵ Committee on the Rights of the Child. Fifty-third session . Consideration of reports submitted by States parties under article 44 of the Convention : Concluding observations: Norway

years later.

183. The living standard at the centers is, within a Norwegian context, very low. Four grown men share one room of 5x6 meters year after year. Although the inhabitants are free to come and go, the centers are surrounded by high fences, and there is intense camera supervision. Both centers are fairly isolated, located at some distance from populated areas. Life here is generally defined by an extreme isolation and passivity. The inhabitants themselves describe their situation in the departure centers as “mental torture”. We quote an inhabitant: *“In just one week, there have been three serious episodes. An Iraqi man cut himself, writing “Fuck Norway” with his blood, it was quickly washed away. A 60 year old, sick Iraqi man even with boils on his body cried outside the reception for several days for medical help, Sunday he broke a window, so the police took him to legevakta [emergency room]. Then, an Ethiopian boy suddenly broke windows throwing pool table balls. I can say, Fagerli mottak [Fagerli departure centre] is like a psychological torture centre.”*

184. We quote another inhabitant: *“We the people living in Lier and Fagerli ventemottak [departure centers] are the witnesses to these situations. We see no difference of torture either here or there in our countries of origin. The only difference is that our countries are torturing its own citizens while Norway is torturing foreigners. The methods of torture are totally similar, although mental and psychological torture takes longer time than physical torture to destroy life, it is a shame to speak about it in the 21st century in a democratic country like Norway.”*

185. *“Many people living in Lier or Fagerli ventemottak will have lifelong mental and psychological damages due to systematic torture for the last 3 years, waiting for deportation. While these people face mental torture here in ventemottak [departure centre] in Norway, the families back in their home countries are also being affected psychologically. Maybe only the rich should survive; the poor must die silently through mental torture. We shall regret this after it becomes history, and condemn it strongly.”*

186. There have been numerous reports from the inhabitants of harassment and other unacceptable behaviour by the staff. We quote one of the complaints: *“Sometime in the summer an inhabitant of Lier ventemottak [Lier departure center] went to the reception to ask for some help. He wasn’t satisfied with the way he was answered and started to cut himself. A person gets as desperate as that. Blood covered the floor and then a staff reacted by telling him: “if you really want to cut yourself, open... your stomach from side to side”. The staff was pointing with a finger from the right kidney to the left one. That is how qualified the staff is.”*

187. There are numerous other complaints against the staff for unprofessional behavior; some of these are currently being looked into by the Norwegian Centre against Racism. In this context it is of concern that both departure centres are run by private business enterprises, with weak control from state authorities.

188. There is in the Norwegian Immigration Act no time limit for how long a person can live in “limbo” in these departure centres. It would be correct to say that these departure centers are among the worst living facilities now in existence in Norway. This is directly related to the status of those living there as foreign citizens. More than that, it is difficult to see this hostile treatment is entirely unconnected with their ethnic and cultural differences from the general Norwegian population.

189. Most inhabitants are from countries torn by war and conflict or under totalitarian rule, such as Iraq, Somalia, Afghanistan, Sudan, and Eritrea. Although their asylum applications have been rejected by the Norwegian authorities, often they do not see returning to their country of origin as an option.

Recommendations:

- There is need for professional management of the departure centres and indeed for close supervision of the wellbeing of the persons living in them; therefore, any such departure

centers should be under direct state control, alternatively by a humanitarian organisation, not administered by private business enterprises.

- The standard of the health care, both physical and psychological, must be substantially improved for persons in the departure centers awaiting deportation.
- There should be a maximum time limit for how long anyone should stay in “limbo” ref. below.

The appeal process

190. In reference to the state period report 5 I D, no. 1-3, point 132.

191. The major issue regarding the appeal process

- Most asylum seekers and other persons with an immigration related case never meet (or indeed have any other direct contact with) the persons deciding their case. This entails a particularly low standard for legal safeguards in the handling of immigration related cases.

192. As stated in the official report, an official committee has been established which will consider the current appeal model. The current Immigration Appeals Board handles asylum, family reunification, visa and expulsion applications. The main criticism from human rights organizations is that only a small minority of the appellants (as for asylum seekers, approximately 10 percent) are allowed to meet the board in person to present his/her case. Compared to other categories of cases (such as the handling of criminal cases by the courts), not even meeting the decision maker entails a particularly low standard of legal safeguards in these cases.

193. It is also the case that the applicant does not have the right to meet the decision-makers in the first instance (the Directorate of Immigration) either. The applicant might meet a low-ranking case worker if s/he also conducts the asylum interview; however, the applicant will normally never meet the advisor or sub director who formally decides the case. Since only 10 percent of the asylum seekers who launch an appeal to the Immigration Appeals Board are granted a meeting with the decision makers, this means that the vast majority of applicants never meet the persons deciding on their case either in the first or second instance.

Recommendations:

- There is a strong need for a strengthening of the legal safeguards for asylum seekers, particularly the right of asylum seekers to meet the actual decision maker(s) in person.
- Strengthening the legal safeguards should be a primary concern in the planned reform of the appeal process for asylum seekers and other migrants.

Breaching the UNHCR protection guidelines

194. In reference to the article 5 I D no. 1-3, point 134.

195. The major issue regarding breaching of the UNCHR protection guidelines:

- While Norway is increasingly breaching the UNHCR Protection Guidelines for different groups of asylum seekers, there is minimal openness about the basis for the differing views of the Norwegian Government.

196. Until 2005, the Ministry could only exercise power over the immigration authorities through changes in the Immigration Act and the Immigration Regulation. As stated in the official report, in 2005 the Ministry was given a much wider authority to issue general instructions to the Directorate of

Immigration (UDI) on interpretation of the law and exercise of judgment. The Ministry's instructions are public, but short and unsubstantiated. This is also the case when the Ministry instructs the Directorate of Immigration (the UDI) to breach the UNHCR protection guidelines.

197. For instance, the instructions from the Ministry to the Directorate of Immigration to restrict the decision practices for asylum seekers from Iraq and Somalia clearly go against the UNHCR guidelines for these groups of asylum seekers. However, the instructions from the Ministry are no more than one page in length; they do not refer at any point to the UNHCR guidance, and they contain no justification of the Ministry's differing view. Several organizations, among them Amnesty International Norway, have repeatedly asked the Norwegian Government to make public their justification for breaching the UNHCR Guidelines on asylum seekers from Iraq. No such justification has been published.

Recommendations:

- Good standards of Government would demand that instructions from the Ministry to the Directorate of Immigration are both public and substantiated, since they, as far as the UDI is concerned, have the authority of law.

Measures to combat forced marriage

198. In reference to article 5 I D no 4, point 143-144 in the state periodic report.

199. The two major issues involving forced marriage:

- Several of the measures that have been proposed in the government's third action plan against forced marriages (2008-2011) are a violation of basic human rights. An example is the proposal to raise the age limit for family reunification through marriage from 18 to 21 or even 24 years. It is not obvious that this will have any significant effect in combating forced marriages, but rather declare a whole group of people to be without legal capacity.
- The action plan seems to be in line with other more restrictive measures.

Indirect legislation

200. As indicated in the official report the Government has tightened the rules regarding subsistence requirements in the new Immigration Act (ref. pt. 158). These new requirements also revolve around measurements in order to combat forced marriage by requiring that the person in Norway should have gained a minimum of independence from his or her parents. As stated earlier, these restrictive measures go much longer than warranted by any fight against forced marriage, and rather are part of the general restrictive trend.

201. The question must therefore be asked as to whether this is real action against forced marriages or to limit family reunification from non Western countries

Mandatory interviews

202. On the 6th January 2006 a new law introduced a new mandatory interview scheme to counter forced marriages. The provision is that those who have married abroad with someone who lives in Norway should not be granted a residence permit before the spouse has returned to Norway and has been for an interview with immigration authorities. There is in the law made exceptions to the general rule if: a) the person was interviewed in Norway before the marriage was entered into, or
b) the applicant has the right to enter without a visa.

203. This may have unfortunate consequence for couples seeking love across national boundaries. This act is camouflaged as an action against forced marriages and takes resources away from other important work for the prevention of actually forced marriages.

Proposed measure:

- There has been too little emphasis on prevention and dialogue between parents and children in immigrant communities. It is important to solve the challenges with the group in question. To create a distance to the vulnerable group will not lead to any good solutions. Several immigrant organizations show good results from the preventive work against forced marriage, such as the Mira-Center. Mira-Center's information work is aimed at students, staff and parents at the schools, the religious institutions and the immigrant communities in general.
- It is important that targeted prevention efforts are not forgotten and that organizations working within this area receive adequate financial support.
- Also, there should be made bilateral agreements with the governments of the countries of origin to secure the legal rights of migrants and their families, particularly those who hold the dual nationalities. These bilateral agreements must contain a recognition of laws concerning marriage, divorce and child custody by both parties. If the court of the country of main residence makes a judgment, this should be respected in the other country. This will protect women and children who are victims of forced marriage or violence in the family to be sent back to the country of origin without any rights.

Undocumented migrants – the ‘undesirables’.

204. In reference to the article 5 I D no. 1, point 150.

205. The major issue involved regarding undocumented migrants

- Norway has developed a new underclass of undocumented migrants, while remaining staunchly opposed to any form of regularisation or amnesty, as have been carried out in many other European countries.

206. Norway has over the last few years developed an underclass of “paperless”, or undocumented migrants, composed of rejected asylum seekers, work migrants without a valid residence permits, and others. Many live under appalling conditions, and are often exploited on the labour market. In a modern welfare state such as Norway, they have clearly become the *pariah* case, the *undesirables*.

207. Statistics Norway has estimated that there are some 18 000 paperless foreign citizens in Norway. The number is small compared to many other European countries (and certainly compared to many African and Asian countries). However, they are met with a much more inflexible attitude from the Norwegian Government than is the case in many other countries.

208. We refer to The European Commission against Racism and Intolerance (ECRI) most recent report on Norway:²⁶

“Irregular immigrants are obviously not registered in the CPR. Statistics Norway has lately done an attempt to find a method to estimate the number of irregular/undocumented migrants (Zhang 2008). The study found that the irregular residents population of non-EU origin is estimated to be 18 196 by 1.1.2006. This constituted 0.39% of the official population of Norway in 2005. The estimated lower and upper bounds of a 95% confidence interval are 10 460 and 31 917 respectively. Of the estimated total irregular residents, 12 325 were previous asylum seekers, and the rest, 5871, were persons that had never applied for asylum”.

²⁶ ECRI Report on Norway (Fourth Monitoring Cycle). Adopted on 20 June 2008, published on 24 February 2009.

209. With the exception of families with children, there has been no form of amnesty in Norway for this group, and there is no mechanism that legalizes their stay after some period of time. The longest period anyone has stayed paperless in Norway is 16-17 years. ECRI has in their last two reports on Norway, most recently in 2009, strongly recommended that Norway take appropriate measures:

In its third report, ECRI recommended that the Norwegian authorities address the situation of non-citizens who could not be returned to their countries of origin for practical reasons and therefore lived in Norway without legal status. It is difficult to establish the number of people in this category, which include rejected asylum seekers, irregular migrants and persons who remained in Norway after their permits expired. ECRI understands that between 2000 and 2006, approximately 22 000 asylum seekers had left the reception centres without the Directorate of Immigration being in a position to account for them. However, many are thought to have left the country and a commonly-used estimate sets the number at around 10 000 for the whole group.”

Since they cannot legally work, many of these persons are reportedly employed illegally, usually under very disadvantageous conditions. They also have no access to health services other than emergency services. In the case of rejected asylum seekers, ECRI notes that after they were denied accommodation in reception centres for asylum seekers in January 2004 and a number of them were left destitute as a result, these persons can now be accommodated in two temporary reception centres, where they also receive a small weekly allowance. ECRI notes that the LDO [the Equality and Anti-discrimination Ombud] has received a number of complaints from persons accommodated in the temporary reception centres about the conditions there.”

In its third report, ECRI recommended that the Norwegian authorities consider the establishment of procedures which would enable non-citizens who cannot be returned to their countries of origin for practical reasons to gain legal status. The Norwegian authorities have stressed that their position, as also reflected in regulations introduced in June 2007 and the new Immigration Act, is that special regulatory provisions allowing for individual access to residence permits can only be envisaged for those who co-operate on being returned, while for the others the principle should remain that no such permits shall be granted. However, it has been stressed that it proves very difficult in practice for the person concerned to provide proof of such co-operation. More generally, it has been highlighted that a number of these persons have now been living in Norway for many years.”

“ECRI strongly recommends that the Norwegian authorities facilitate access to residence permits for non-citizens who cannot be returned to their country of origin for practical reasons.”

Health care for undocumented migrants

210. With reference to Concluding Observations 32 from the last CERD report on Norway, it is a serious concern that the Norwegian Government does not recognize its responsibility to give proper health care to this group. Only what is classified as “necessary” health care is given; this generally comprises the most basic services, such as emergency care (a car accident) or life threatening deceases.

211. February 2010, the Norwegian Government decided to expand the coverage somewhat, so that 1) children and 2) pregnant women will be granted more or less full access to health care. Women who so wish will also be entitled to abortion, and mentally unstable persons who pose a danger to society get the right to psychiatric treatment.

While this is a positive step, unfortunately it only touches the surface. Chronic illnesses/pain and in many cases severe psychological problems will still often fall outside the scope of the state services available to the paperless.

212. The situation is so serious that the Norwegian Red Cross and the Church City Mission autumn 2009 established a health clinic for undocumented migrants – an unusual step within the modern Norwegian welfare state, and a testimony to the low status of the paperless also in the eyes of the Norwegian Government.

Recommendations:

- We echo ECRI's recommendation. There is a dire need for a legalization mechanism that would end the unacceptable, dead-locked situations many undocumented migrants find themselves in, year after year.
- With reference to Concluding Observations 32 from the last CERD report on Norway Strong humanitarian concerns demand that the Norwegian state recognize its responsibility for health care for undocumented migrants.

Living conditions and everyday life

Housing and living conditions

213. In reference to article 5 I E, 147-148, point 147-148 in the state periodic report.

The condition of the housing market

214. The major issue involving housing and living conditions

- Labour immigrants experience more often than the general population illegal and/or unfair tenancy conditions/lease.

215. The housing market in Norway is deregulated and privatized. In Norway, only one of five properties is for rental, and an estimated 15% of these are public rental housing. The other rental properties are rented on the open market. Two out of three homes are rented out by private households, who generally has from one to three rental units, often integrated in their own home (sokkelbolig/part of the house, aka "granny-flat"). Almost no new rental housing is being built, and increasing demand has led to a marked increase in rental prices, especially in cities and pressured areas.

216. In recent years there has been high and rising labour immigration to Norway. Labour immigrants often only stay in Norway for a limited time and for a majority it is neither desirable nor practical to invest in their own house.

217. The Tenant's Association (Leieboerforeningen), an interest group that, among other things, provides legal assistance and counselling to tenants, has direct experience that there are few migrant workers who complain of illegal and unfair tenancy conditions/lease. This is due to both lack of knowledge of rights and obligations, and that housing and employment are linked closely with each other. Often the employer acts as the landlord or the person who conveys property, and in many cases labour immigrants do not dare to address this contentious relationship for fear of losing their work.

218. The Tenant's Association has, through collaboration with the Catholic Church in Norway and through individual cases, found that migrant workers often live in homes that are severely

overcrowded and of a low standard and have to pay an unreasonably high rent. Often the homes are not approved for rental or residential use. The regulations provided by the Norwegian Tenancy Act do not appear to apply to labour immigrants.

219. An extreme result of this situation is several fatal fires. In the last six months, nine Polish workers died in two fires. The housing involved seems to have had poor standards and poor or no fire protection. Recently, the police in Buskerud County closed a barn which was home to sixty Polish workers which had no escape routes or fire alarm.

220. The Tenant's Associations believes that there is extensive discrimination against migrant workers in the housing market in Norway and the Norwegian authorities are not doing enough to prevent such discrimination.

We echo The Tenant's Associations recommendations:

1) *Better knowledge:*

There is currently little knowledge about migrant workers and living conditions. There is a need for a broad survey of living conditions for migrant workers in Norway. Such mapping will provide valuable knowledge and identify whether there is a need to develop special measures to secure and safe working immigrants' housing situation.

2) *Existing laws and regulations:*

Current legislation is not able to prevent discriminatory behaviour towards labour immigrants. It is therefore needed, regardless of the survey mentioned above, to implement changes through preparation of clearer rules and guidelines for approval and control of rental housing with particular regard to increasing fire safety. Furthermore, tenant rights should be closer related to working conditions.

The labour market situation for immigrants

221. In reference to article 5 I E, no. 4, point 150-166 in the state periodic report, and The Committee's Concluding Observations Paragraph 20.

222. The major issues involving the labour market for immigrants

- Unemployment among immigrants is high compared to total unemployment rate. The total unemployment rate in Norway is low, and on average has been below four percent during the last decade. However, unemployment among immigrants is quite different. The unemployment rate for immigrants has been more than twice as high over the same time period. This marked variation does not appear to be lessening.²⁷
- Immigrants are not only less active in the job market. They are also more likely to have part time jobs, less secure terms of employment and jobs that may affect their health, physically as well as mentally (National Institute of Occupational Health). Times of recession can lead to indirect discrimination on the job market and make it even harder for those already excluded to compete for jobs as seniority is the main criteria used when employers are forced to down-size the workforce.
- Developing skills and competence may be an important way forward but reports indicate that youths and workers with immigrant backgrounds are reluctant to take education for fear that it will not pay off later, as there have been several cases in the media about immigrants with higher education having to accept jobs that they are overqualified for. There is however no systematic monitoring of this.

²⁷ Statistic Norway (SSB) 2009: "Arbeidsledighet blant innvandrere - en prognosemodell" (Unemployment among immigrants - a forecast model), page. 3.

- There is no data collection and monitoring of immigrants position in the labour market. Employers' duty of activity and reporting under the Discrimination Act does not cover reporting staff with regards to ethnicity.
- High command of Norwegian language as a required qualification for employment is sometimes abused, so that language is used to screen applicants of non-Norwegian background.

223. The CERD Committee recommends that the State takes more effective measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects. The Committee also recommends that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market must be fully implemented in practice and that further measures be taken to reduce unemployment among immigrants.

Unemployment affects immigrants from Africa and Asia especially hard

224. Immigrants generally have lower employment and higher unemployment than the population as a whole. Figures from Statistics Norway (SSB) show that the registered unemployment among resident immigrants rose from 4.7 percent in November 2008 to 6.8 percent in November 2009, compared with 2.2 percent among ethnic Norwegians. The largest share of unemployment is found among immigrants from non-Western countries, where unemployment rates vary between 6 and 12 percent depending on country of origin. For immigrant from African the unemployment over the past decade was on average 16%, for immigrants from Asia and Eastern-Europe outside EU app. 10%, while for immigrants from Scandinavian countries the rate is almost the same as for Norwegians.

225. Experience shows that during a recession new immigrants struggle more than other groups to get a foot in the labour market. This has long-term effects on their opportunities for self-sufficiency.

226. Many immigrants lack social networks, connections and references and employees may hesitate to employ immigrants because of uncertainty about the immigrants' skills. The state must take responsibility and provide information, promote "awareness rising" about prejudices and facilitate exchange of good business practice among employers.

Immigrants experience of the job market

227. Immigrants experience generally poorer psychosocial work environments, report a higher incidence of mechanical exposures and report nearly three times greater occurrence of accidents than the entire working population. They are less likely to be in control of how they work, they report a higher incidence of harassment and teasing, and they experience to a much greater extent their work as a mental strain. These findings were revealed in a new report done by the National Institute of Occupational Health in 2009²⁸. This shows major differences between welfare and work among immigrants and the economically active population at large, even when they have the same job. One of the problems is that immigrants are more often temporary employees and therefore have an uncertain working experience.

228. Mismatch between education and occupation may also lead to a feeling of worse well-being. Immigrants and Norwegian-born with immigrant parents are far more likely than others to be in jobs that do not match their education and qualifications. Immigrants are six times as likely as native Norwegians to be in jobs that require no educational qualifications. New figures from The Directorate of Integration and Diversity (IMDi) show that 52 percent of all non-western immigrants with higher education have jobs they are overqualified for. In the population as a whole the figure is 18 percent.

²⁸ The National Institute of Occupational Health 2009: "Arbeidsmiljø blant innvandrere" (Working environment among immigrants).

This may lead students to be sceptical about going into higher education because of their uncertainty about job prospects.

Unemployment and affect on mental health

229. Unemployment has consequences both for living conditions and mental health. Those who are without a job are three or four times more likely to have significant mental health problems than those who are employed.

230. Long-term unemployment is particularly stressful for mental health. The Norwegian Council for Mental Health (NCMH)²⁹ points out that long-term unemployment may lead to several psychiatric disorders, in particular anxiety and depression. This is because unemployment threatens the experience of a meaningful life, self-esteem and daily interactions with others. In times of economic setbacks immigrants and ethnic minorities are harder hit because of their skin colour, religious affiliation or ethnic origin.

Lack of monitoring and systematic collection of data.

231. Statistics Norway systematically produce statistics on the percentage of persons with an immigrant background in the government and private sector (ref. State report point 160). These statistics do not cover factors like level of employment, permanency in employment, wage level etc. There is very little capturing of equality data within the workplaces regarding where people of immigrant or ethnic minority background are employed, on what level, to what extent their job match their education, or on equal pay. Some research has been conducted, producing some information. Many cases have been published in newspapers and other media, providing anecdotal evidence on difficulties in achieving a job matching education for persons with immigrant background.

232. All in all there is enough information to conclude that there is a lack of equal opportunities, and that discrimination takes place both at hiring point and when it comes to career opportunities. Several measures have been designed and implemented to increase the level of employment and to promote non-discrimination on the labour market. It is a problem that with no systematic data collection on the situation there is a risk that the focus of the measures might be wrong, targeting too broadly or not targeting at all, leading to substantial public investment with poor results. This in turn leads to a weakening of trust in public authorities and policies.

233. The Norwegian Gender Equality Act prohibits discrimination on grounds of gender in all areas of society. The duties and obligations stated in the Gender Equality Act, the Anti-Discrimination Act and the Anti-Discrimination and Accessibility Act state that Norwegian public authorities are obliged—in all areas of society—to take active steps to promote and advance equality on the grounds of gender, ethnicity and disability. These acts also imply a duty on public and private employers to report annually on what kind of active steps they have taken to advance the company's status regarding gender equality, ethnicity and disability. In addition enterprises are required to submit an annual report giving an account of the gender equality situation within their organisation.

234. Reporting on status will improve awareness against discrimination, and stimulate a more conscious Human Resource policy on behalf of the employers as well as the employees' organisations. According to findings by The Equality and Anti-Discrimination Ombud/LDO (ref. lecture by senior advisor Claus Jervell at the seminar Tools for Equality³⁰) registration and reporting of employee's gender is improving the gender wage equality, and that when registration and reporting is stopped the situation is likely to slid back to the previous state. We would therefore like to see a similar reporting

²⁹ In the IMDI report: "Integreringskart 2009 – Integrering i økonomiske nedgangstider" (Integration map 2009 - Integration in times of economic recession), page 167.

³⁰ See The Norwegian Centre Against Racism web page:
<http://www.antirasistisk-senter.no/multimedia.152435.no.html>

on ethnicity, taking into account the challenges of complying with the Data Protection Act and the need for sensitivity.

235. IMDi also reports³¹ that there is still a need for more knowledge about which groups are most vulnerable and why this is in order to ensure precise, effective and innovative measures. This includes a need for better understanding about the extent of discrimination and its impact on employment and unemployment developments. There is also considerable uncertainty associated with any analysis of immigrants' education and levels of skills, due to insufficient registration of education and work experience.

236. Referring to Norway's draft 5th periodic report submitted to the International Covenant on Economic, Social and Cultural Rights we are pleased to see that the Government has taken an initiative to establish a forum for equality data. This forum is to find out what type of data can serve as indicators of equality and discrimination, and to assess how enterprises can retrieve information on the proportion of immigrants employed by the enterprise. This is a positive step that we welcome, and we hope this leads to building routines for gathering statistical data upon which a more focused measures and actions can be taken. There question of benchmarking – what are the concrete goals we are aiming at – also needs to be addressed.

Language as basis for discrimination

237. Sufficient command of Norwegian language as criteria for employment is abused by some employers, as a way of refusing job-seekers of immigrant background. This is discriminatory if language requirement cannot be substantiated. We also refer to pt. 64.

238. The *present Anti-discrimination Act* prohibits discrimination on the basis of *ethnicity, national origin, descent, skin colour, language, religion or belief*. In the draft comprehensive new statute prohibiting discrimination language is omitted. In the draft *comprehensive Anti-Discrimination Act* currently on the table of the Ministry of Children, Equality and Social Inclusion proposes that the grounds of discrimination in the new act be *gender, pregnancy, a leave of absence due to the birth or adoption of a child, ethnicity, disability, sexual orientation, religion, belief, political views and age*, thus leaving out language. This will leave job-seekers with non-Norwegian background with lack of protection against discrimination when they are looking for work.

Recommendations:

- The State should work to ensure that immigrants should be supported to go for jobs where they are qualified and do not end up in low-paid, low status, low skill employment simply because of their circumstances. We echo Statistics Norway (SSB) in that many economically inactive immigrants would like to work, but fail to apply for work - often because of discouragement. SSB recommend measures that make it easier to enter and participate in the labour market. These measures must also be directed towards those who are outside the labour force (especially women). Increased employment of women will make immigrant families less vulnerable.
- We urge the government's forum for equality data to carry out an assessment of how enterprises can retrieve information on the proportion of immigrants employed by the enterprise in time to provide guidelines for the regulations on the Duty of Activity and Reporting under the Anti-Discrimination Act. The data should not only cover the proportion on a general level, but also information on which level in the enterprise the immigrants and their descendants are employed, how many are on part time/full time, contracts limited in time etc. This should be included in the duty and obligations under the regulations to the Anti-Discrimination Act.

³¹ The Directorate of Integration and Diversity (IMDi): "Integreringskart 2009 – Integrering i økonomiske nedgangstider" (Integration map 2009 - Integration in times of economic recession).

- We strongly recommend that language is maintained as a ground for discrimination in the comprehensive new statute prohibiting discrimination.

Equality in health service and municipal health and care services

239. In reference to article 5 I E, no. 4, point 169-174 in the state periodic report.

240. Several reports³² have documented disparities and inequalities in health outcomes for ethnic minorities. These reports present different areas of concern, including vulnerability to diabetes, cardiovascular disease and higher frequency of mental health problems (around three times more than the ethnic Norwegian population).

241. These challenges need to be met with concerted action on the part of national, regional and local authorities, through implementing targeted measures to remedy disparities. A circular letter from the Norwegian Directorate on Health (2010)³³ on the main health priorities in 2010 briefly addresses minority health issues, i.e. interpretation and female genital mutilation.

242. The circular letter addresses municipalities, regional governors, regional health enterprises and counties and contains the main priorities of the Government that the receivers are meant to implement. It is therefore worrying that minority health is barely mentioned (page 33) and the single issue that seems to be of priority is genital mutilation. There is a need for a systematic, overarching plan to reduce health inequalities with targeted measures to address these problems, more resources devoted to the area of preventative health among ethnic minority groups and greater emphasis on health information.

243. Statistics Norway in 2008 presented a report regarding the health situation in ten immigrant groups³⁴. This report is based on interviews regarding self reported health indicators. In many respects, the minority population resembles the ethnic Norwegian profile. However, there are some significant differences in the area of self-reported mental health. 9% of ethnic Norwegians report mental health problems while 27% of ethnic minorities say they have such problems. Women and older persons in the minority population have greater problems on average.

244. Within somatic health, some of the major challenges are high blood pressure and diabetes, obesity, nutrition and dental health problems, particularly for children. The high occurrence of high blood pressure and diabetes in the South Asian minority groups is well documented in many countries. Vitamin D deficiency is a typical problem in the area of nutrition.

Inadequate use of interpreters and potential health hazards

245. PMV also questions the issue of communication in the health sector. This concerns both the use of interpretation and about patients and doctors communication on health. PMV's experience confirms what some reports state, namely there is an underuse of interpreters, and that ad hoc interpreters are used instead of professionals, i.e. spouses and family members. PMV also has

³² The Norwegian Medical Association 2008: "Likeverdige helsetjeneste? – Om helsetjenesten til ikke-vestlige innvandrere" (Equal health care? - About the health of non-western immigrants).
Norwegian Directorate on Health 2009: "Migrasjon og helse - utfordringer og utviklingstrekk" (Migration and health - challenges and trends).

HUBRO (The Oslo Health Study) 2008: "The Oslo Immigrant Health Profile".

³³ "Nasjonale mål og hovedprioriteringer for 2010", (National goals and main priorities for 2010).

³⁴ Statistics Norway 2008: "Innvandrerens helse 2005/2006" (Immigrant's health 2005/2006).

experience of cases where patients speak minimal Norwegian, but their ability to understand medical professionals has been overestimated. PMV has many users who have been to health check-ups and treatments but have not understood what was been said and were not offered interpreters³⁵.

246. PMV echoes the Norwegian Medical Association in their view that some health professionals fail to take into account the different cultural perceptions of causes of disease which is crucial to how a person relates to health, illness and various health problems. This can lead to misinformation, misunderstanding and at worst incorrect treatment. The worst case scenario is that inadequate communication can have fatal consequences. A research project from 2007³⁶ presented findings showing a high frequency of stillbirths among non-western minority women in Oslo and surrounding areas. In nearly half of the cases communication problems were documented, but an interpreter was used in only 29% of these cases.

247. Interpretation problems are acknowledged to be a problem by authorities, and many examples have been taken up in the media and by various studies. However, more decisive action needs to be taken to improve existing systems for interpretation, raising health professionals' awareness about using interpreters and training interpreters so as to increase the pool of available professional interpreters.

Recommendations:

- The authorities must recognise and address health issues in the minority population that need the same focus, priority, and resources that is given to other areas (such as genital mutilation). This regards the following areas in particular:
 - Safeguarding quality standard interpretation service for reproductive health, mother and child health care, monitoring and implementing measures addressing the need for adequate information and treatment of diabetes nutrition and cardiovascular disease
 - Mental health care
 - There is a need for further investigation about disability within the immigrant population. This is an under-documented area.

Language tuition

248. In reference to the article 5 I E, no.5, point 190 in the state periodic report.

249. Mother tongue tuition is by law in Norway restricted and connected to low ability in Norwegian. There is no right to mother tongue tuition unless there is a need for adapted education in Norwegian. Article 29 in The Convention of the Rights of the Children says that the aim of education is to develop respect for identity, language and values.

Recommendations:

It is important that Norwegian education authorities offer better opportunities for those who need it to get tuition in their mother tongue, and not only as a tool to learn Norwegian.

Roma and Romani People

250. In reference to the article 5 I E, no.5, point 209-211 in the state periodic report.

³⁵ PMV annual report, 2009.

³⁶ Saastad E, Vangen S, Frøen JF, 2007: "Suboptimal care in stillbirths – a retrospective audit study".

251. The Romani people / Travellers were subject to intense assimilative policies during much of the 20th century. Measures included removing children from their parents in order to alienate them from Romani culture and language, pressuring families to live in a labour camp to be trained in Norwegian culture and agricultural skills (“Svanviken Labour Colony”), enforced sterilization, a prohibition on owning horses and several other measures targeting particular features of Romani culture.

252. Since the 1970s, Norwegian authorities have reoriented their policies. An important breakthrough was granting the Romani people status as a national minority, as a result of Norway ratifying in 1999 the Council of Europe Framework Convention on Protection of National Minorities. Representatives of Norwegian governments have officially apologized for the abusive policies of the past.

253. However important challenges remain. Even though policies have shifted and supportive measures have been put in place, the future survival of the Romani culture and language in Norway remains uncertain.

254. A positive step was taken when The Stoltenberg II Government in November 2009 announced that it would establish a committee to investigate past policies and their consequences for the Romani people.

255. Projects now exist to increase the capacity and readiness of Norwegian preschools and schools to facilitate education that meets the special needs of Romani children. Work by *Queen Maud University College: Early Childhood Education* and *Sør-Trøndelag University College* in cooperation with Taternes landsforening (“The National Association of Travellers”) ended in 2009. The partners have proposed ambitious follow-up projects aiming at developing nation-wide competence and capacity to facilitate culturally sensitive education, and to invite Romani parents to send their children to preschools. It remains unclear how far Norwegian educational authorities will support this and other follow-up work.

256. In a report from 2009; “Norsk romani-/taterpolitikk: fortid, nåtid, fremtid” (“Norwegian Romani/Travellers policies: past, current, future”),³⁷ The Norwegian Helsinki Committee (NHC) argued for a need to strengthen current policies and devote more resources to supportive measures.

Recommendations:

- Establish an official commission to investigate past abuses and their consequences for the people;
- Strengthen education in Norwegian preschools and schools to make the history and culture of the Romani people better known, as well as to adapt education to Romani culture for those children who belong to the people;
- Develop measures to increase protection against discrimination. The Romani people still meet negative attitudes (“stereotypes”) among the majority population, and may experience discrimination in public schools, labour marked, camping sites, etc. The Equality and Anti-Discrimination Ombud already plays an important role in fighting such discrimination. Other state organs, such as police, schools and Child Welfare should learn from this and increase their efforts to embed practices that respect the rights of Romani people and prevent discrimination.

In order to implement Norway’s international minority rights and human rights obligations, Norwegian authorities should set ambitious goals for policies on these issues and ensure that authorities on all levels, including municipal authorities, implement these policies.

³⁷ The report is available in Norwegian only, http://www.nhc.no/php/files/documents/Tema/MRnorge/romanirapport_final_version.pdf.

Students of immigrant origin in upper secondary and higher education

257. In reference to the article 5 I E, no.5, point 192-205 in the state periodic report.

258. Bilingual bachelor programs are now offered by nine university colleges. That is a very good initiative, but it is a problem that these qualified teachers have difficulties in competing on the labour market in getting teaching jobs.

Discrimination from public officials and service personnel

259. In reference to the article 5 I E, no. 7, point 229-230 in the state periodic report.

260. Data collected during the period 2005 / 2006 by Statistics Norway shows that 50% of the immigration population have experienced discrimination in one or more of the following areas: the labour market, the housing market, bars and restaurants, the education system and the health care system.

261. In cases of encounters with the police in Norway three groups in particular reported that they feel discriminated against because of their ethnic background³⁸:

1: Young people from minority backgrounds living in urban areas felt they were being unnecessarily singled out for identity checks or visitation for weapons;

2: People from minority backgrounds who are wrongly detained and searched as suspects during police searches for reported perpetrators;

3: Norwegian citizens with minority backgrounds who are subject to immigration controls, because they "look like" foreigners.

262. We focus in the following sections on some examples of ethnic discrimination which have received intense media attention along with some less well-known cases reported by NGOs. All cases deal with situations where people with an immigrant background have been denied basic rights. All of the cases have led in various ways to increased mistrust of public officials and service personnel among the immigrant population.

263. The public debate about ethnic discrimination and racism has tended to make things worse rather than better. The side effects of these debates have been that the real issue at hand has been overlooked: where do we find racism and how can we fight it? To a large extent the media has personified the problem and focused on individuals who were either to blame for racism or victims of racism, instead of looking at overall structures. Institutionalized racism, which is sometimes called everyday racism in the Norwegian media, has lost focus. Institutionalized racism can be defined as:

*“The collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people”.*³⁹

³⁸ Police Directorate's report "Registrering og dokumentasjon i forbindelse med politikontroller" (Registration and documentation relating to police checks), 2003.

³⁹ House of Commons Homes Affairs, 2009: "The Macpherson Report – Ten years on". Page 6.

264. In one of the media cases, mentioned below, two of the accused men were acquitted of all charges of racism. When these men were acquitted, the fight against racism seemed to lose its battleground and the debate about racism died down. The word racism itself became extremely problematic and even the Government is now afraid to use the term. Thus the latest action plan against racism was published in 2009 under the name: "Action plan to promote equality and prevent ethnic discrimination", instead of "Action plan against racism and discrimination" as it was called in 2002.

265. For more thorough descriptions of case 1-3, see appendix II.

Case 1: The man who died while being held down by the police

266. Eugene Obiora (48) died during a police arrest at a social services office in Trondheim 7. September 2006. He was there to complain against being denied social welfare. One of the arresting officers then held Obiora in a strangle hold while pressing his back to the ground in order to hold him still and handcuff him. Shortly thereafter Obiora lost consciousness and was subsequently transported to the local hospital by the police. He was there pronounced dead despite resuscitation attempts.

Case 2: Ambulance personnel and the family father that almost died

267. In august 2007 Ali Farah (37) was knocked down in "Sofienbergparken" after some disagreement with a gang of boys who played soccer near his family and their 7-month-old baby. He landed face-down on the concrete and lost his consciousness in about 3-4 minutes. When the ambulance personnel arrived at the place they refused to take him with them because he urinated on them and the ambulance. He was instead forced to take a taxi to the emergency room. The doctor there confirmed that Ali Farah had intracranial bleeding, but despite this it took two hours before he arrived at Ullevål University Hospital. It happened after several reminders and a direct confrontation between the ambulance center (AMK) and a nurse at the Oslo emergency ward. Seven hours went from the incident in the park until Ali Farah was operated. He was in a coma for several days and also got meningitis during this period, but luckily survived.

The case got massive publicity and a survey later showed that three out of five Norwegians believe an ethnic Norwegian would have been treated differently by the ambulance personnel than Ali Farah. As much as 60 percent of the respondents who lived in Oslo responded that their confidence in the ambulance personnel was weakened. But most seriously was the mistrust that arose among the immigrant population. *If this is not racism, what then is racism?*

Case 3: AMK and the grandmother who died

268. AMK stand for Acute Medical Communications Central and is part of the Medical emergency service. They are often staffed by nurses and ambulance coordinators (skilled workers, ambulance personnel), but despite educated staff, in January 2010 a Turkish woman (63) died of heart failure while she waited for an ambulance on Tøyen in Oslo. The family called AMK nine times and pleaded for an ambulance, but instead of getting an ambulance immediately, the AMK-central started a heated argument with the family over the phone. It ended up with AMK asking the police for backup, but also managed to add: *"Most likely, this is a trifle."* The police were the first to arrive because the ambulance personnel felt threatened by the family and were waiting around the corner until the police arrived.

At 11:54, she was pronounced dead due to heart failure; 23 minutes after the AMK-centre had received the first message. The log over the conversation can be read in appendix III.

The following case shortly summarized did not receive any media attention.

Case 4: The Roma family that experienced discrimination and nothing was done

269. In June 2007 a Roma family was denied access to the Ekeberg Camping Ground in Oslo. The daily manager claimed that the family had previously caused trouble. The family in question had not been to the camping site in about eight years and is unable to understand the accusation. Later, when the case was reported to The Equality and Anti-Discrimination Ombud (LDO), it was dismissed and

sent to The Equality- and Anti-Discrimination Committee. Ekeberg Camping claimed that the reason that the family was denied access was due to an invalid ID, but it turned out that the identity card provided was issued by Postbanken and could be used to withdraw cash. The Committee however did not find that there was enough evidence to continue with the matter and finally dismissed the case. The case was dismissed even though several cases have been reported to LDO about ethnic discrimination on campsites. LDO have themselves pronounced that they “*will stop the discrimination of Gypsies on campsites*”, but so far no active measures have been taken to prevent this kind of discrimination.

Case 5: The man who experienced discrimination and was punished for it

270. “Kuang” (51) was on 28 February 2009 evicted from a pub without an adequate explanation. When he refused to leave and repeatedly asked the staff why he was kicked out the police was called and he was taken outside. “Kuang” asked the police officer why he was being evicted, but was told to keep his mouth shut. Out on the street the police officers checked his driver license and hand cuffed him, before taking him to the police station. He was put in detention and refused to call his family. He was not released until the next morning and received a fine of NOK 9000. “Kuang” refused to pay and the case went to court where his fine was raised to NOK 10 500. “Kuang” claims he had only had two beers and was not drunk. He only wanted to know why the pub wanted to kick him out since he clearly was not disturbing the peace. This is one of many similar cases.

Case 6: Situational testing of bars and clubs in Oslo

271. Immigrant youth in Oslo complain about discrimination in bars and clubs in Oslo. These complaints are rarely reported to the police, to The Equality Anti-discrimination Ombud or to the bars and clubs as the youth share a feeling that complaining will not help. The Norwegian Centre against Racism staged a test of five clubs in Oslo in February 2010. The groups of immigrant youth were rejected in three of five clubs while the groups of ethnic Norwegian youth who stood in the same lines were admitted with no questions asked. The testing received media attention and some of the youth who took part in the testing have started their own initiative where they collect cases from youth who have been denied admission to bars, clubs and restaurants. The Equality- and Anti-Discrimination Ombud has started a project on discrimination in bars and clubs and this is a focus area for 2010.

Our recommendations

- An increase in informal and easy access counselling services for victims of discrimination.
- An increased knowledge of racism at all levels of the court system and in the education of lawyers.
- Systematic anti-discrimination work in all public offices.
- More focus and knowledge regarding the kinds of discrimination the Norwegian Roma communities experience.
- An increased awareness about discrimination against Roma people on camping sites.
- More research on discrimination in bars and clubs in order to gain more knowledge about the extent of the problem.
- An increased focus on discrimination in bars and clubs within the police - both in the education and in the police force.

Religious Headgear: The Hijab in the Police Force and in the Courts

272. In reference to the article 5 II BC, point 244-245 in the state periodic report.

273. The right to wear the hijab has become an important issue:

- The hijab debate started with a proposal to ban hijabs and other religious headgear with police uniform.

- The debate has sparked anti-Muslim feelings among the public and fed the growing Islamophobia in Norway.
- After the media debate several Muslim women being attacked verbally and physically for wearing the hijab.
- The debate has led to a polarization of the Muslim population on the one side and mainstream society on the other.

274. This issue arose with a letter from a Norwegian Muslim woman to the Norwegian Police University College. She wanted to know if she could wear a hijab with the police uniform. The Police University College looked into practices in other countries and safety issues concerning wearing a hijab with the uniform and concluded that a hijab especially adapted to the uniform could be worn. This decision was also based on earlier cases tried by The Equality- and Anti-discrimination Ombud in workplaces, where a ban on hijabs only can be accepted if there are safety and health risks. Hijab and other religious headgear have been allowed in the Norwegian army since the 1980s. The Ministry of Justice followed the recommendations from the Police University College. This sparked a heated debate about the role of Norwegian Muslims in the society, with a number of hateful verbal and some physical attacks on Norwegian Muslims. Only a small proportion of the debate dealt with actual uniform regulations. The result of the debate was that the Ministry of Justice withdrew the right to wear a hijab with the police uniform.

275. The Equality- and Anti-discrimination Ombud, the Mira-center, the Norwegian Center against Racism and several other NGOs and Muslim spokespersons spoke strongly against a ban on hijabs with uniforms. This was based on the Anti Discrimination Act (Diskrimineringsloven) and on the polarizing nature of the debate. The Ombud also reported The Ministry of Justice for breaching The Anti Discrimination Act.

276. As a result of the heated debates Oslo Sporveier and The Norwegian Customs (Tollvesenet) withdrew their plans to make hijabs adapted to their uniforms. Although the Oslo Sporveier already have drivers who use the hijab and turban, there were protests when it was proposed to be included as part of the uniform. The hijab debate also paved the way for a discussion on banning hijbas from schools and discussions on banning niqab and burka from the public sphere.

277. The Norwegian Center against Racism has been very critical to the fact that the Equality Act, the Anti-Discrimination Act and the right to freedom of religion rarely are mentioned in any of the governmental responses. It is especially alarming that the courts do not refer to these laws and fundamental rights. A proposal from the National Court Administration to ban religious and political headgear worn by judges has been circulated for consultation among civil society and official institutions. The majority of the responses are positive to a ban.

278. An important principle of equality ensures that no woman should be forced to put on clothes or forced to take them off. Although we need to see the difference between enforcement and choice, we also need to come to terms with the fact that most women wearing hijab have themselves made a conscious decision to do so.

Discrimination and physical attacks

279. Another result of the 'hijab debate' NGOs and The Equality and Anti-Discrimination Ombud have received an increased amount of complaints about discrimination based on hijab. One case involved a woman who was employed in a clothing store, but was laid off due to pressure from the manager. She was told that her hijab did not fit the stores' profile. The court later upheld the plaintiff's claim that the employer broke both the discrimination and equality act when she had to choose between wearing hijab or keeping her job.

280. The Norwegian Center against Racism has had informal conversations with young women who have applied for work in regular shops and have been turned down because of their hijab. These

women are reluctant to contact The Equality and Anti-Discrimination Ombud and could use a more informal and easy access counselling service. There have also been reports in the press about violent attacks on women wearing hijab. A woman in Trondheim experienced that her hijab was attempted torn off accompanied with verbal abuse in the middle of the day without any reaction from passersby. Another woman in Stavanger experienced verbal abuse for wearing the hijab and was later chased away by dogs.

Anti Muslim feeling and growing Islamophobia

281. These types of debates and incidents undermine the role of Muslim women in Norwegian society. Muslim women are discussed as objects and made into passive victims. Their choice to use the hijab alienates them and the polarizing debate creates a clear distinction between Muslims on the one side and the mainstream society on the other. The whole debate has increased anti Muslim feelings among the Norwegian public and the growing Islamophobia has been visible in the debate.

Recommendations:

- Norway is committed to the international human rights conventions on the right to work, freedom of religion and protection against discrimination, and this clearly includes women wearing the hijab. A ban on the hijab would also refuse some Muslim women's right to practice their religion. Therefore, the state must ensure that policy making is not restricting people's right to express their identity.
- A ban on the hijab with police uniforms and among judges is discriminatory and will decrease some Muslim women's access to work and education. A ban would thus be in conflict with minority women's right to work and education and the Government must make decisions that promote integration and equality, without denying certain groups their right to practice their religion as well as taking an active part in the public life in Norway.
- An important principle of equality ensures that no woman should be forced to put on clothes or forced to take them off. Although we need to see the difference between enforcement and choice, we also need to come to terms with the fact that most women wearing hijab have themselves made a conscious decision to do so.
- Every woman has the right to decide over her own body, and it involves how she chooses to dress.
- A more informal and easy access counselling service must be established to work with women that experience discrimination in work life due to wearing the hijab.

Article 6: Ensure everyone under the state's jurisdiction effective protection and remedies for any racial discriminatory action

Funding does not furbish the organisations to meet the challenges

282. In reference to article 6A, no.2

283. Referring to the state report point 252-255, changes in the Criminal Procedure Act that seek to "strengthen the position of victims in penal proceedings, inter alia by expanding the right to counsel

for victims of crimes and improving the duty of the police and prosecuting authority to inform victims during the investigation of the crime”.

284. There are several obstacles to ensuring good access to justice and achieving reparation and satisfaction for racial discrimination:

Access to legal aid and access to *affordable* legal aid.

285. Legal aid is expensive. The threshold is high for people who are without economic means, and who have weaker networks and less general knowledge about the judicial system. This puts these victims in a marginalised position in regard to access to justice. Preparing a case that involves persons who are victims of racial discrimination takes more time, because it involves language barriers, cultural differences and it requires a thorough understanding of the issue of discrimination on the part of the institution and persons offering aid.

286. In cases of discrimination at bars and clubs (referring to pt. 270) a particular problem arises: if someone complains about being refused entrance or service, this often results in argument, and sometimes the police will be called in. Experience shows that on a police officer's arrival they see their job as first and foremost to quieten down the situation. They will therefore ask the person who claims to have been discriminated against to leave, and usually show little understanding of the nature of the discrimination. To the person in question this feels like adding insult to injury.

287. The likelihood that the person who has been discriminated against will be supported by witnesses is low. People who may have witnessed the situation may well have left the premises upon the police arriving, or they would not want to have their night out spoiled by being involved in a police case.

288. Complaints are not raised against private persons, but against businesses and employers, with resources, networks, knowledge about legal system and the means to hire lawyers and sometimes employ in-house legal expertise. The Equality and Anti-Discrimination Ombud (LDO) have stated that the cases they hear are usually stronger if there is proper legal representation by a lawyer or an advisory organization. Individuals cannot always get this support.

289. Individuals often do not have access to legal advice or representation, and persons with little knowledge of the law and the judicial system, lacking in economic means and without network, is even less likely to be able to access this kind of support.

290. As pointed to earlier in this report (ref. Pt. 83 and 90) few cases are being tried in court, because they are dismissed. This may indicate that the judicial system does not prioritize these cases, and also that individuals experiencing discrimination have less chance for their cases to be tried.

291. Funding for special interest organisations is one way of alleviating this situation. As mentioned in the state report the Ministry of Justice is providing 300 000 NOK in funds to two organisations (Norwegian Organisation for Asylum Seekers/NOAS and Institution against Public Discrimination/OMOD) earmarked legal aid. The Norwegian Centre against Racism receives 150 000 NOK annually from municipality of Oslo for the same purpose.

292. The funds allotted for this purpose is far too little to make have much effect. According to statistics from Norwegian Association of Lawyers (Wage statistics 2008) a legal professional who completed the education in 2008 has an average salary of 365 000 NOK annually. With taxes and social benefits this amounts to app. 460 000 NOK annually. As NOAS handle cases and give advice

on cases relating to the Immigration Act, not the Anti-discrimination Act, this leaves 450 000 NOK allotted to legal advice in cases of discrimination.

Recommendation

- We argue that in order to improve access to justice for people who experience discrimination on grounds of ethnicity, skin colour etc, proper funding for organisations with experience in the field and knowledge of the issue of discrimination must be prioritized. Funding must be raised from a symbolic level to a level where advisors with legal expertise as well as with thorough knowledge of the issue of discrimination can be employed by these organisations.