

## Norway<sup>1</sup>

**IHF FOCUS: detainees rights; religious intolerance; ethnic and national minorities (indigenous peoples); intolerance, xenophobia, racial discrimination and hate speech; asylum seekers and immigrants; women's rights; rights of the mentally ill; trafficking in human beings.**

The conflict between freedom of speech and the right to protection from hate speech continued, as did international criticism of Norway's pre-trial detention practices. Patients' rights, especially those of psychiatric patients, remained vulnerable due to legislation and practice in the area of involuntary hospitalization and coercive treatment.

In line with the actions of many other states, in April 2002 the Norwegian parliament adopted amendments to the Norwegian Penal Code, introducing a prohibition against "terrorist acts." Many NGOs, along with some legal experts, including the public prosecutor, expressed concern that the "terrorist acts" were defined in an imprecise manner, which might result in suspects becoming the victims of arbitrary and politically motivated charges. It was also pointed out that the acts listed in the new "anti-terror paragraph" were already liable to criminal prosecution in Norway, and therefore the new provision was not strictly necessary.

On a more positive note in 2002 the Norwegian government granted the Norwegian Institute for Human Rights the status of a national human rights institution. As a national institution the center was charged with fostering greater awareness in the area of human rights and fundamental freedoms and with monitoring Norway's adherence to international human rights standards. The government also introduced legislation in June 2002 aimed at protecting the rights of detainees. While this was certainly a positive development, the amendment contained certain provisions, the practical effect of which remained uncertain.

### **Detainees' Rights**

Detainees' rights have been the subject of considerable attention in Norway during the last few years, partly because international monitoring bodies have criticized several aspects of Norway's treatment of persons in pre-trial detention.

The most severe criticism has been directed at the use of police cells for remand purposes and at the use of solitary confinement in relation to remand prisoners. Both the UN Committee on Human Rights and Norwegian NGOs have expressed concern about prolonged periods of pre-trial detention in some cases. The Norwegian government has implemented several measures aimed at answering this criticism.<sup>2</sup>

In June 2002 the Norwegian parliament adopted legislative amendments introducing maximum time limits for solitary confinement. According to the amendments the maximum period of permitted solitary confinement depended on the maximum term of imprisonment allowed for the crime with which the person had been charged. The amendments also specified that there was an absolute limit of 12 weeks.

The new legislation also reduced the time a person could be kept in remand custody without a renewed court decision, from four to two weeks. However the maximum time a person could be held in police detention without a court decision was increased from 24 to 72 hours. The logic behind this increase in the time limit for permitted police detention was that,

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<sup>1</sup> Based on the *Annual Report 2002* of the Norwegian Helsinki Committee.

<sup>2</sup> See previous IHF reports for details on these issues.

in giving the police more time to investigate cases before decisions need to be taken regarding further pre-trial detention, the legislation will reduce the number of court decisions ordering pre-trial detention and will thereby reduce the overall time persons spend in pre-trial detention.

There were mentally ill persons imprisoned in Norwegian prisons. Although there were almost no national statistics available, Norwegian authorities have recognized that a problem existed, in that many of these prisoners did not get the psychiatric care they needed. Only the most seriously ill prisoners were transferred to mental hospitals for treatment. Due to lack of resources they were often returned to prison prematurely and as a result of this they repetitively developed serious mental illnesses.

## **Religious Intolerance**

In a June 2000 report the UN Committee on the Rights of the Child expressed concern that changes in the religious education curriculum of primary and secondary schools may be discriminatory. The changes were introduced in 1997, but instead of offering students the possibility to choose between a Christian curriculum and a religiously neutral curriculum, one unified plan for all pupils was introduced. The fact that this curriculum became compulsory for all pupils and that it gave priority or focus to Christianity raised criticism from humanist and non-Christian religious groups.

Critics of the new curriculum argued that since, in a predominantly Christian school, it was impossible to guarantee the neutral instruction of religious matters, the removal of the right to exemption was a violation of the right of parents to control the religious education of their children. In 2000 Norwegian parents and a humanist organization, who sued the state on this issue, lost their case in the Court of Appeal. The case was then appealed to the Supreme Court. In August 2001 the Supreme Court unanimously rejected the appeal and in 2002 the case was submitted to the European Court of Human Rights.

## **Indigenous Peoples**

### *The Sami Minority*

The number of Sami people in Norway is estimated at between 40,000 and 45,000. Norway was the only country with an indigenous Sami population that had ratified the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent States. The main principle enshrined in the convention is the right of indigenous peoples to preserve and develop their own cultures, including maintaining control of the natural resources necessary for this purpose, and the obligation of the state authorities to support this work.

A deputy minister in the Norwegian Ministry of Local Government and Regional Affairs dealt specifically with Sami issues. In addition to participating freely in the national political process, the Norwegian Sami elected their own constituent assembly, the Sameting.

The legal status of the Sami has improved considerably during recent decades. The Sami peoples' right to use land and water resources according to their own cultural traditions was not, however, as of 2002, enshrined and defined in national Norwegian laws. Procedures regarding questions of how to involve the Sami people in procedures related to resource management in the Sami areas were under discussion and the issue remained controversial in Norway in 2002.

## **Intolerance, Xenophobia, Racial Discrimination and Hate Speech**

There was very little data available in Norway documenting how much racial discrimination occurred. However, reports from the Center Against Ethnic Discrimination suggested that such discrimination was widespread in 2002 both in the housing market and in the labor market, as well as in other spheres of society.

In 2000 the UN Committee on the Elimination of Racial Discrimination (CERD) recommended that Norway review its procedure for monitoring racist incidents. In response Norway's chief prosecutor instructed state prosecutors to report all allegations of racial discrimination. In 2001, 82 incidents of racism were reported to the police. This number was three times higher than the number reported in 2000. Experts maintain that this increase was not due to a rise in the number of racist incidents but rather that there was now increased public awareness of the problem. Of the 82 cases reported, only nine resulted in indictment of the suspects.

CERD also criticized the Norwegian government for not providing ethnic minorities with sufficient legal protection. In July 2002 a government working-group finished a proposal for a new law on ethnic discrimination. The proposal will be discussed in parliament in 2003. The Norwegian government also presented a new plan of action against ethnic discrimination as a follow up to the plan of action initiated in 1998.

In 2001 the European Commission against Racism and Intolerance (ECRI) expressed concern that under Norwegian discrimination legislation placed the burden of proof heavily on the victim and that Norwegian police did not follow up most complaints about racism and discrimination. The situation remained the same in 2002.

- In December 2002, two neo-nazis were convicted of murdering a 15-year old boy with an African father. The incident, which took place in 2001, was the first clear case of murder on purely racist grounds in Norway, and received considerable media attention and was the subject of extensive public debate. In its verdict, the court considered the racial motivation behind the murder to constitute an aggravating circumstance. The two perpetrators received a 17-year and 18-year sentence.

In response to the outcry, which followed the murder, the Norwegian government established a panel of experts charged with formulating ways of strengthening Norway's anti-racism laws. The panel's recommendations, which included a ban on the public display of racist and nazi symbols, were still under consideration as of the end of 2002.

The Norwegian Criminal Code included prohibitions against hate speech. However the concern was raised that the Norwegian justice system over-protected the freedom of speech at the expense of the right to protection against hate speech in cases where these rights are conflicting. In its 2001 comments to the Norwegian government, CERD emphasized that "prohibition of the dissemination of all ideas based upon racial superiority...is compatible with the right to freedom of speech."

The conflict between the freedom of speech and Norway's obligation to fight racism remained a hot-topic of discussion in 2002. Two court decisions in particular contributed to this.

- In April, the leader of a nationalist group was sentenced to unconditional imprisonment (35 days) for having distributed, over the Internet and through the print media, strongly depreciatory remarks about minority groups in general and about Jews in particular. According to the court the remarks expressed hate and promoted persecution. This was the first time a person was sentenced to unconditional prison

term on charges of hate speech, and as such the decision was considered to be a step forward in the fight against racism. The verdict was issued in the district court and was not appealed.

- In December, the Supreme Court found the former leader of a neo-nazi group not guilty of similar charges. During a march in remembrance of Rudolf Hess, the accused stated that: “Every day immigrants rob, rape and kill Norwegians, every day our people and our country are plundered and destroyed by Jews, who are sucking out the resources of our country and replace them with immorality and un-Norwegian thought.” In its decision to acquit the defendant the majority of the Supreme Court held that his statement concerning the Jewish community did not involve a direct call for discriminatory acts and that mere expressions of nazi sentiment must be tolerated, since Norwegian law does not prohibit the functioning of nazi organizations. Six of the court members dissented on this point, arguing that due to the context in which the statement was given, the statement could be considered a threat towards a particular group. There was consensus among all members of the court that the statement concerning immigrants was part of public debate about immigration and hence protected by the right to freedom of expression. Several NGOs working against discrimination characterized the verdict as “deeply unfortunate” and as a violation of the right to protection from hate speech.

### **Asylum Seekers and Immigrants**

Annual surveys undertaken by Statistics Norway demonstrated that Norwegian attitudes towards immigration and immigration policy have improved somewhat over the last decade. According to a survey completed in December 2002, an overwhelming majority of the Norwegian population had a positive attitude towards immigrants. However one exception to this trend was the prevailing public attitude towards the necessary criteria, which foreigners had to satisfy in order to obtain a residence permit in Norway. Fifty-five percent of Norwegians believed that it should be harder than it was for refugees to obtain a residence permit. Only 5% of the population believed that it should be easier.

17, 480 people applied for asylum in Norway in 2002. This marked an increase of 18% in comparison to 2001 statistics. 21% of these asylum seekers were permitted to stay in Norway on humanitarian grounds, but only 1.9 % of applicants were granted asylum.

Norwegian NGOs have repeatedly criticized the government for interpreting the 1951 UN Convention restrictively when assessing applications for asylum, and for granting subsidiary protection to persons actually entitled to asylum. In 1998 the government introduced guidelines, specifying that persons fleeing persecution based on gender, sexual orientation or religion should be granted asylum and that the definition of refugees should include individuals persecuted by non-state actors. Concerns have been raised that in practice these guidelines were not always adhered to and critics also alluded to the fact that statistics on this disparity were not available. In 2002 the immigration authorities initiated an evaluation of their practice.

In 2001 the Norwegian government established accelerated procedures for processing so-called “manifestly unfounded” applications for asylum. Such procedures were aimed at combating the delay involved in the application process. This delay was a serious problem and indeed some asylum seekers had to wait longer than a year for a decision. In April 2002 the parliamentary ombudsperson claimed that such delays constituted a violation of the right to family life.

In 2002, 894 unaccompanied minors applied for asylum in Norway. This figure

marked an increase of 64 % in comparison with the 2001 statistics. Concern was expressed that these children often spent prolonged periods in reception centers waiting to be resettled in a municipality. According to the immigration authorities, a waiting period of 9-12 months was not unusual.

The Norwegian Helsinki Committee (NHC) and other human right organizations criticized the Norwegian government for risking so-called “chain-refoulement” by returning asylum seekers to countries where proper processing of their asylum applications was not guaranteed.

- Since 2000 hundreds of Chechen asylum seekers have arrived in Norway from Russia on Greek visas. In 2001 Norwegian immigration authorities started deporting these persons to Greece with reference to the principle “first country of asylum,” as found in the Dublin Convention. These deportations were halted temporarily in January 2002 after the NHC forwarded information that Chechen families with minors were held in detention for up to three months upon their arrival in Greece, and in some cases asked, without access to interpreter, to waive their right to seek asylum. After a woman and her three children were released from detention and granted asylum in Greece, the Norwegian authorities resumed the deportations. The NHC argued that the release of this family should not be viewed as a guarantee that other Chechen asylum seekers would get satisfactory treatment, and appealed to the Norwegian government to halt the deportations. After a fact-finding mission of the NHC to Greece in June 2002, deportations were again temporarily stopped, however they resumed once again after a couple of weeks. The Norwegian deportation policy was premised on the assumption that the asylum seekers were being treated in a satisfactory manner by the Greek authorities. Throughout 2002 the NHC continued to document the fact that asylum seekers, including minors and sick people, were, upon arrival in Greece, often detained by the Greek authorities or simply left on the streets and that some attempts were made to return asylum seekers to Russia without individual consideration of their applications.<sup>3</sup>

In 2002 the Norwegian government announced intentions of making the right to family reunification, for persons granted residence permits on humanitarian grounds, a conditional right. According to the government proposal, the right to family reunification will only be granted to those who are in paid employment, thereby ensuring their ability to take care of their family. In 2002, 14,200 persons received residence permits under the right to family reunification with a person granted residence in Norway on humanitarian grounds.

The 2002 amendments to the Penal Code, which prohibited terrorist acts, were followed by amendments to the Aliens Act allowing the expulsion of people with Norwegian residence permits, if they were suspected of acting in breach of the new anti-terror legislation. The human rights community in Norway argued that such decisions should only be taken by a judicial authority and not by administrative bodies.

There was one case of attempted expulsion and persecution of persons with refugee status.

- In September, the Dutch authorities in Amsterdam arrested Mullah Krekar, a Kurd from Northern Iraq, living in Norway as a refugee since 1991. He was arrested on the basis of an extradition request from Jordanian authorities under drug trafficking charges. Mullah Krekar was the head of Ansar-al-Islam, an armed Sunni Islamist group in Northern Iraq. International media and human rights organizations had

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<sup>3</sup> The work of the Norwegian Helsinki Committee concerning Chechen asylum seekers was carried out in cooperation with Greek Helsinki Minortor.

reported that the group was responsible for serious human rights violations and it was alleged that there were connections between Ansar-al-Islam and Al-Quaida. Mullah Krekear denied these allegations. Dutch authorities decided to reject the Jordanian extradition request, and instead sent Krekear back to Norway. The Norwegian authorities did not detain him, but stated that they would consider canceling his asylum status and expel him from Norway. The immigration authorities referred to documentation, which indicated that Mullah Krekear had visited Iraq several times after he had received refugee status in Norway. The authorities claimed that such visits could constitute a violation of Norwegian immigration laws and might indicate that Krekear was not actually in need of international protection. The authorities also maintained that he could be expelled from Norway because he represented a danger to the security of the nation. The NHC and other human rights NGOs argued that the accusations of serious human rights violations against Ansar-al-Islam should be investigated, and if necessary, Mullah Krekear, should be persecuted for crimes under international laws in Norway. The NHC also reminded the Norwegian government of its duty, under international law and practice, not to violate the principle of *non-refoulement*.

### **Rights of the Mentally Ill**

It was reported that during the first half of 2002, 45% of Norwegian psychiatric hospitalizations were involuntary.<sup>4</sup> This number was very high in comparison with other European states. It was often contended that the underlying reason was a serious lack of resources in the Norwegian health care system for mentally ill persons. Many people were refused treatment in early phases of illness, only to be hospitalized involuntarily when their condition had deteriorated.

In some cases patients who sought treatment were hospitalized involuntarily because this was the only way in which the overcrowded psychiatric hospitals would accept them. It was also contended that the high number of involuntary hospitalizations was due to cultural factors and to legal provisions, which allowed the hospitalization even when the people did not constitute an imminent threat to themselves or to others. According to the so-called “treatment criterion” in Norwegian legislation, involuntary hospitalization was justified if it was seen as the only way of ensuring the healing, or improvement, of the person’s mental condition. This criterion contradicted international standards, which restrict compulsory admission to cases characterized by a “serious danger to the patient or to the persons” or “where the absence of placement could lead to a deterioration or prevent the patient from receiving appropriate treatment.”

The frequent use of coercive treatment in Norwegian psychiatric facilities, the reliance on chemical drugs and mechanical means of coercion and the frequency of resort to isolation continued to be criticized in 2002. Despite the insufficient availability of statistics on this topic, there was general consensus that coercive treatment was used excessively in Norwegian mental hospitals.

In 2001 a new law regulating the coercive treatment and involuntary hospitalization of mentally ill persons came into force. The new law permitted the use of coercive treatment outside of hospitals. Under the new law, and in contradiction with Council of Europe recommendations, it was not mandatory that “in the event of compulsory admission, the decision regarding placement in a psychiatric institution must be taken by a judge.” This law has been criticized for weakening the legal protection of patients and for limiting their rights

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<sup>4</sup> This number was provided by SINTEF, the Foundation for Scientific and Industrial Research at the Norwegian Institute for Technology.

to receive visitors and to send and receive mail.

Dementia patients were also often subjected to involuntary treatment. In 2001 it was reported that such treatment was used against one in three patients in Norwegian nursing homes. In the same report it was noted that there was a serious need for the enactment of laws, which would regulate this practice.<sup>5</sup>

In 2002 the Norwegian Ministry of Social Affairs proposed a new law, regulating the coercive treatment of dementia patients. Although the proposed law aimed to reduce the amount of involuntary treatment taking place in Norwegian medical facilities, many organizations, including the Norwegian Institute for Human Rights, expressed concern that due to the current lack of health care resources, the proposed law will, in fact, only serve to further legitimize and increase the use of involuntary treatment.

### **Women's Rights**

Violence against women, including domestic violence, continued to constitute a problem in Norway in 2002. When considering Norway's fifth and sixth report, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed its concern that an extremely low percentage of rapes reported to the police resulted in trials and convictions. CEDAW also noted that Norwegian police and public prosecutors dismissed an increasing number of such cases.<sup>6</sup> CEDAW expressed concern that a predominant and growing number of women who sought refuge in shelters for battered women were migrants, and that migrant, refugee and minority women faced multiple discrimination in respect to their access to education, employment, health care and exposure to violence.

Since 2000, the Norwegian government has introduced plans of action against domestic violence, female genital mutilation and forced marriages. The issue of "honor killings" received much public attention in Norway at the beginning of 2002 after a woman of Kurdish origin, living in Sweden, was killed by her own father, because she had allegedly "shamed" her family by marrying an ethnic Swede.

In 2002 the Norwegian government issued a directive, ordering firms to ensure that at least 40% of board members were women. Although Norway prided itself on being one of the world's most egalitarian societies, women constituted a mere 7 % of the boardroom elite in 2002.

### **Trafficking in Human Beings**

Norway was known to be a destination country for victims of trafficking, mainly for sexual exploitation. However, statistical and systematic knowledge about the scope of the problem was lacking.

In 2002 there was increased attention about trafficking in the media and in public debate. Norway signed the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and proposed criminalizing all aspects of trafficking. The government also started preparing a Plan of Action against trafficking.

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<sup>5</sup> Report by the National Center of Expertise for Age-Related Dementia.

<sup>6</sup> CEDAW/C/2003/I/CPR.3/Add.2/Rev.1. In 2000, 555 rapes were reported, but there were only 25 convictions.