



NORWAY

**SUBMISSION TO THE UN COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN**

84TH SESSION, 6-24 FEB 2023

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INTERNATIONAL**



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First published in 2023

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: EUR 36/6337/2023

Original language: English

amnesty.org



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INTRODUCTION

Amnesty International presents this submission to the UN Committee on the Elimination of Discrimination against Women in advance of the review of Norway's tenth periodic report on measures taken to implement the Convention on the Elimination of All Forms of Discrimination against Women (the Convention) in February 2023. The submission has a specific focus on sexual violence, including rape. It should not be seen as an exhaustive account of the organization's concerns on the wider topic of discrimination against women.

Norway has been praised as a "haven for gender equality" in the past,¹ and has taken several initiatives to advance women's rights over the years. Nevertheless, the prevalence of sexual violence, including rape, remains high. According to a 2014 study, there was no indication that rape against young women had decreased during the previous 50 years.² The number of rape survivors who see their perpetrator brought to justice remains low.³

Since 2012, several UN treaty bodies have expressed repeated and consistent concerns about Norway's failure to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for gender-based violence against women, including sexual violence. This Committee, as well as the Committee against Torture and the Human Rights Committee, have all pointed out the high incidence of gender-based violence against women in Norway and the societal and legal barriers faced by rape survivors seeking justice. These include a legal definition of rape that is still not centred on the principle of consent.⁴

Various treaty bodies also have presented recommendations to the Norwegian government on preventing and eliminating gender-based violence against women and girls and on ensuring that perpetrators of gender-based violence are brought to justice. A number of these recommendations have not been implemented by the Norwegian authorities, including the 2017 recommendation of this Committee to systematically implement gender training and capacity building for judges who hear criminal cases involving gender-based violence.⁵

RAPE AND SEXUAL VIOLENCE

Amnesty International's report *Time for change: Justice for rape survivors in the Nordic countries*⁶ reveals that flawed legislation and widespread harmful myths and gender stereotypes have resulted in endemic impunity for rape across the Nordic region. In the report's chapter on Norway, Amnesty International documents how rape survivors experience significant barriers to accessing justice, including the law which still falls short of international human rights standards. Many rapes are not reported to the police, and rape survivors who do turn to the police face a lengthy and often flawed process. Lack of capacity and weaknesses in police investigations mean that few reported rape cases result in successful prosecutions.⁷

¹ CEDAW, Norway called "haven for gender equality", as women's anti-discrimination committee examines reports on compliance with convention, Press release, 20 January 2003, accessible at <https://press.un.org/en/2003/wom1377.doc.htm>

² Thoresen and Hjemdal: Vold og voldtekt i Norge. NKVTS 2014, page 26

³ Amnesty International: *Time for Change. Justice for rape survivors in the Nordic countries* (EUR 01/0089/2019), 1 April 2019, Chapter 2.3.5, <https://www.amnesty.org/en/documents/eur01/0089/2019/en/>

⁴ Concluding observations of the Committee on the Elimination of Discrimination against Women: Norway, UN Doc. CEDAW/C/NOR/CO/8, 9 March 2012; UN Doc. CEDAW/C/NOR/CO/9, 22 November 2017; Committee against Torture, Concluding observations on the combined sixth and seventh periodic reports of Norway, UN Doc. CAT/C/NOR/CO/6-7 13 December 2012; UN Doc CAT/C/NOR/8 15 May 2018; Human Rights Committee, Concluding observations on the seventh periodic report of Norway, UN Doc CCPR/C/NOR/CO/7. See also CEDAW General Recommendation No. 35, Art. 24 b); Committee against Torture, General Recommendation No. 2 on the implementation of article 2 by States parties, Art. 18; Istanbul Convention Article 5(2).

⁵ UN Doc. CEDAW/C/NOR/CO/9, 22 November 2017, Art.25 c)

⁶ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited.

⁷ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.6.2.

PREVALENCE

The lack of population-based surveys conducted at regular intervals and relevant disaggregated statistical data makes it difficult to assess the prevalence and developing trends in the incidence of sexual violence in Norway. At present the only available national prevalence study on rape and sexual violence in Norway is one that dates from 2014, when the Norwegian Centre for Violence and Traumatic Stress Studies published the first, and so far only national study on the prevalence of rape and other sexual violence in Norway.⁸ The study concluded that almost one in 10 women in Norway have been the victim of “forcible rape”.⁹ Also 1.1% of the men included in the study have been the victim of forcible rape at least once in their lifetime. According to the study, there was no indication that the prevalence of rape had decreased over time, as younger women did not report fewer incidents of rape before the age of 18 compared to older women.¹⁰

This lack of information is in breach of Norway’s human rights obligation to ensure data collection and research on all forms of gender-based violence against women, clearly set out in the Istanbul Convention and by the CEDAW Committee.¹¹

LOW LEVELS OF REPORTING

According to the national prevalence study of rape in Norway, only one in 10 women victims reported the rape crime to the police.¹² Several of the rape survivors interviewed by Amnesty International decided not to report the rape to the police. They took a number of issues into consideration before taking this decision, including the probability of getting a conviction. Many survivors in addition blamed themselves. This also contributed to a reluctance to report.¹³

⁸ Thoresen and Hjemdal: Vold og voldtekt i Norge, NKVTS 2014. This is a cross-sectional study on the prevalence of violence in intimate relations and sexual violence in Norway, based on structured phone interviews with men and women from 18 to 75 years of age, conducted in the spring of 2013. Altogether, 2,435 women and 2,092 men participated. Accessible at: <https://www.nkvts.no/rapport/vold-og-voldtekt-i-norge-en-nasional-forekomststudie-av-vold-i-et-livsloppsperspektiv/>

⁹ Rape of a person in a helpless state is not included in this figure. Questions related to rape in the study were: Has somebody ever forced you to have intercourse vaginal/oral/anal through the use of force and/or threats? The statistics on the prevalence of rape therefore only measures the prevalence of forcible rape. Thoresen and Hjemdal: Vold og voldtekt i Norge, NKVTS 2014, Addendum 3.

¹⁰ Thoresen and Hjemdal: Vold og voldtekt i Norge. NKVTS 2014, page 26.

¹¹ Istanbul Convention Article 11; CEDAW General recommendation No. 35.

¹² Thoresen and Hjemdal: Vold og voldtekt i Norge, NKVTS 2014, page 24.

¹³ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.5.

HIGH RATES OF ATTRITION

According to data from Statistics Norway, the national statistical institute of Norway, between 68% and 78% of rape cases reported to the police between 2019 and 2021 were closed by the public prosecutor and never reached the courts.¹⁴

Table 1: Rape Crimes in Norway. Number of reports, victims, investigations, prosecutions, and convictions

Year	Rape reported ¹⁵	Number of victims ¹⁶	Rape cases investigated ¹⁷	Rape cases closed ¹⁸	Persons charged with rape ¹⁹	Persons sanctioned for rape ²⁰
2019	1,431	1,367 [1,297 f/ 70 m]	1,305	1,079	234 [232 m/ 2f]	96 [m]
2020	1,418	1,345 [1,269 f/ 76 m]	1,333	1,106	230 [227 m/ 3f]	100 [m]
2021	1,575	1,499 [1,418 f/ 81 m]	1,290	1,067	232 [228 m/ 4f]	104 [m]

Amnesty International's research documents how some of the reported rape cases are closed because of the way the crime of rape is defined in the law.²¹ Contrary to international human right standards which set out a consent-based definition of rape, the Norwegian Penal Code defines the crime of rape with a limited set of qualifying circumstances revoking consent. Consequently, the judicial system is required to focus on the qualifying circumstances set out in law, rather than to assess the woman's free will in the context of the surrounding circumstances. The law as it is currently framed limits the rape victim's access to justice and reparation and, more broadly, negatively affects the wider understanding in society of what constitutes rape.²²

In addition, there is considerable room for improvement in the quality of police investigations specifically regarding cases of rape. In 2017, Norway's Director of Public Prosecutions published a national review on the quality of the investigations in 275 rape cases reported around the country in 2016.²³ The review pointed especially to weaknesses in the initial phase of police investigations where necessary steps to secure evidence had not always been taken.

Amnesty International's research, including interviews with rape survivors, police investigators and prosecuting authorities, confirm these findings. The lack of a thorough and timely police investigation can result in cases being closed, and women who have experienced a serious human rights violation being deprived of their right to justice and reparation.²⁴

It is not possible to determine from the official crime statistics how many rape survivors see their cases tried in court, or how many of the reported rape cases end in a conviction. The statistics on criminal sanctions can include persons who may have been convicted of several rapes, and persons who may have been

¹⁴ The table is compiled on the basis of criminal statistics from Statistics Norway, the national statistical institute of Norway. Statutory rape, that is the rape of a minor below the age of 14 (Section 299 of the Penal Code) and aggravated rape (Section 293 and Section 301 of the Penal Code) is not included in this compilation.

¹⁵ Statistics Norway, <https://www.ssb.no/statbank/table/08484/>

¹⁶ Statistics Norway, <https://www.ssb.no/statbank/table/08638/>

¹⁷ Statistics Norway, <https://www.ssb.no/statbank/table/09406/>

¹⁸ Statistics Norway, <https://www.ssb.no/statbank/table/09405/>

¹⁹ Statistics Norway, <https://www.ssb.no/statbank/table/09411/>

²⁰ Statistics Norway, <https://www.ssb.no/statbank/table/13724/>

²¹ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.6.1.

²² *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.6.

²³ Riksadvokaten 1/2017: Statsadvokatenes kvalitetsundersøkelse 2016 - voldtekt og mishandling av nærstående.

Accessible at: <https://www.riksadvokaten.no/wp-content/uploads/2017/10/Kvalitetsunders%C3%B8kelsen.pdf>

²⁴ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.6.

convicted of rape of the same person. In addition, rape may be reported one year, while the investigation and/or the decision to prosecute and/or the court decision are taken the year after or several years later. Amnesty International considers this to be a shortcoming of the present data collection system which relevant authorities should promptly address.

LEGAL DEFICIENCIES

The Istanbul Convention, to which Norway is a state party, states that the legal definition of rape must be based on lack of consent, rather than on the use of force or threats by the perpetrator, or by the victim's resistance. Despite this, the current definition of rape in Section 291 of Norway's Penal Code is not centred on the lack of consent. The law focuses on the use of physical violence, threatening behaviour, or the victim's "helpless" state, rather than on the absence of consent and whether the right to sexual autonomy and physical integrity is safeguarded.²⁵ This obliges the police as well as the prosecuting authorities and the courts to focus on the qualifying circumstances set by the law, rather than to whether the victim exercised free will and whether a perpetrator could or should have been aware of the lack of the victim's voluntary participation as required by international and regional standards. As a result, the law limits rape survivors' access to justice and reparation.²⁶

In November 2022, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its first baseline evaluation report on Norway's implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). GREVIO noted with concern that the offence of rape is not exclusively based on the lack of consent and concluded that not all forms of sexual violence are criminalised in Norway. GREVIO urged the Norwegian authorities to amend the criminal legislation on sexual violence and rape to ensure that provisions are firmly rooted in the lack of freely given consent as required by the Istanbul Convention.²⁷

In March 2021, former Minister of Justice Monica Mæland commissioned the Penal Code Council²⁸ to review the Penal Code's chapter on sexual offences and to consider "alternatives to the present rape legislation". After the parliamentary elections in the autumn of 2021, the Council's mandate was expanded through a reference in the political manifesto of the new government where the government stated that it will present an amendment to the Penal Code to make clear that sex without consent is prohibited and defined as rape.²⁹ The Penal Code Council presented its proposed revision of the Penal Code in an Official Norwegian Report on December 19th 2022.³⁰

In this Official Norwegian Report, the Penal Code Council proposes to replace present Section 291 on rape with a new Section 294 on sexual assault without consent. Regrettably, this proposal would not bring the Norwegian Penal Code in line with international human right standards, as the suggested new provision on sexual assault is not centred around the lack of freely given consent. Instead, sexual assault is still tied to the use of force or threats, with a person who has resisted the act by actions or words, or with a person who is incapable of resisting the act. In addition, the proposed revision maintains a divide between the crime of sexual assault without consent in a new Section 294, and the crime of sexual assault by exploitation where unequal power dynamics between the perpetrator and the victim seriously hinder the ability of the victim to give informed consent in a new Section 293. The crime of sexual assault by exploitation is punishable with lesser sanctions compared to the crime of sexual assault without consent. This division creates a hierarchy of victims based on their characteristics such as age, disability, dependence, and others, and is as such contrary to both the Convention on the Elimination of All Forms of Discrimination against Women as well as the Istanbul Convention.³¹

²⁵ The Norwegian Penal Code. Accessible at: https://lovdata.no/dokument/NLE/lov/2005-05-20-28/KAPITTEL_2#KAPITTEL_2

²⁶ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.4.

²⁷ GREVIO: Baseline Evaluation Report Norway, 2022, para 184-190. Accessible at: <https://rm.coe.int/grevio-inf-2022-30-report-norway-eng-pour-publication/1680a923f8>

²⁸ The Penal Code Council is a permanent expert council on criminal law issues. The Council analyses and presents proposals for amendments to the Penal Code commissioned by the Ministry of Justice and Public Security. The Council has made a wide range of recommendations on amendments to the Penal Code, most of which have been used as a basis for new legislation.

²⁹ Hurdalsplattformen 2021-2025 page 65. Accessible at: <https://www.regjeringen.no/no/dokumenter/hurdalsplattformen/id2877252/>

³⁰ Norwegian Ministry of Justice and Public Security: NOU 2022:21 - Strafferettslig vern av den seksuelle selvbestemmelsesretten — Forslag til reform av straffeloven kapittel 26. Accessible at: [NOU 2022: 21 - regjeringen.no](https://www.regjeringen.no/no/dokumenter/nou202221)

³¹ GREVIO: Baseline Evaluation Report Norway, 2022, para 189-190.

RAPE MYTHS AND ASSESSMENT OF CREDIBILITY IN COURT

A study published in 2014 exploring the acceptance of rape myths and sexism among 48 court judges and 243 lay judges in Norwegian courts found a lower level of acceptance of rape myths among male judges than in a comparable representative reference group of ordinary citizens.³² Nevertheless, worryingly one in 10 judges who responded to the survey agreed with statements such as: "Many women report falsely because they regret having had sex" (11.6%) and "In most rape cases, it is not the man's intention to rape, but he can't control his sexual desires". Such attitudes may pose an obstacle to access to justice by victims and be a contributing factor to the high level of acquittals in rape cases. One of the measures suggested by the researchers to avoid rape myths from affecting the assessments of evidence in a rape case was the systematic training of judges.³³

LACK OF TRAINING FOR JUDGES

Members of the judiciary in Norway are generalists who are expected to handle any type of crime. There is considerable resistance to the notion that the handling of sexual offences differs from the handling of other serious crimes and that training is needed to counter rape myths and gendered stereotypes which might affect the assessment of evidence.³⁴

Despite several UN recommendations, the Norwegian authorities have still not taken any initiatives to ensure that both professional and lay judges receive suitable training to address gender stereotypes and bias in the judicial process. This includes a strong recommendation from the CEDAW Committee to systematically implement gender training and capacity building for judges in criminal cases involving gender-based violence.³⁵

ACCESS TO SEXUAL ASSAULT CENTRES

At present, there are 24 government-funded sexual assault centres in Norway, at least one in each county.³⁶ The sexual assault centres are based on a holistic approach to the treatment of victims of rape and other sexual violence and provide comprehensive services, including medical treatment, psychosocial counselling and forensic examination. Several centres also offer both medical and psychosocial follow-up. Due to a scattered population, the number of cases at the sexual assault centres varies from 25 to 600 cases a year.

However, the quality of the forensic examination and documentation provided by the different sexual assault centres is a source of concern. Some sexual assault centres provide comprehensive and accessible statements while others deliver quite meagre documentation.³⁷ These regional differences in the quality of forensic examination and medical documentation can have legal consequences for criminal prosecutions.³⁸

RECOMMENDATIONS

Amnesty International recommends that the Norwegian authorities put in place comprehensive measures to ensure compliance with their obligations under international law to prevent and address violence against women and girls, including rape and other sexual violence, and ensure that perpetrators of gender-based violence are prosecuted and punished commensurate with the gravity of their crimes. To this end, authorities must, inter alia:

³² Mons Bendixen, Siri Helle, Tor Langbach, Kirsten Rasmussen: Voldtektsmyter og kjønnsjåvinisme blant norske lekdommere og fagdommere. Tidsskrift for Norsk Psykologforening, Vol 51, nummer 1 2014. Accessible at: www.psykologtidsskriftet.no/index.php?seks_id=413199&a=4

³³ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.7.

³⁴ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.7.

³⁵ CEDAW Committee, Concluding observations on the ninth periodic report of Norway 2017, Article 25 (c)

³⁶ Hjelpetilbud ved vold, seksuelle overgrep og voldtekt: Accessible at: <https://dinutvei.no/alle-hjelpetilbud/>

³⁷ *Time for Change. Justice for rape survivors in the Nordic countries*, previously cited, Chapter 2.8.

³⁸ Ann Kristin Eide i samarbeid med Gunn Elin Fedreheim, Hege Gjertsen og Annelin Gustavsen. En evaluering av overgrepsmottakene.NF-rapport 11/2012, p. 76, Accessible at: [Evaluering av overgrepsmottakene 2012 \(studylib.net\)](http://studylib.net/Evaluering_av_overgrepsmottakene_2012)

- (a) Urgently adopt a legal definition of rape in the Penal Code that places the lack of consent assessed in the context of the surrounding circumstances at its centre, in line with international and regional standards. The law should clearly state that consent cannot be presumed;
- (b) Ensure that specialized training in sexual crimes is made mandatory for judges who handle sexual crimes;
- (c) Ensure sufficient resources and ongoing capacity building for the police, the public prosecution services, and the courts to deal with rape cases sensitively, efficiently and without undue delay;
- (d) Ensure accessible, current, and disaggregated crime statistics on the status of accountability for rape;
- (e) Support research on all forms of sexual violence, including rape, in order to study its root causes and effects, incidences and prevalence rates. Conduct population-based surveys at regular intervals to assess the prevalence of and trends in rape and other forms of sexual violence;
- (f) Adopt an up-to-date National plan of action against rape and sexual violence, following meaningful consultations with rape survivors, experts, and the civil society.

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