



NORWAY

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN

68TH SESSION, 23 OCTOBER-17 NOVEMBER 2017

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1. INTRODUCTION

Amnesty International presents this submission to the United Nations (UN) Committee on the Elimination of Discrimination against Women in advance of the review of Norway's ninth periodic report on measures taken to implement the Convention on the Elimination of All Forms of Discrimination against Women on 7 November 2017.

Amnesty International recognizes that Norway has taken measures to advance women's rights and gender equality, both in Norway and globally. It is a party to multiple human rights conventions that guarantee the human rights of women and girls, and has championed UN initiatives that aim to promote gender equality.

Despite these efforts, many women and girls in Norway continue to experience gender-based discrimination and violence. Amnesty International is concerned that Norway has failed to implement previous related recommendations issued by this Committee in 2012.¹

This document raises concerns related to lack of protection against gender-based violence, including rape and sexual violence. It also highlights the situation of sex workers in Norway, a marginalized group at heightened risk of a range of human rights abuses.

2. RAPE AND SEXUAL VIOLENCE

2.1 GENDER-BASED VIOLENCE AGAINST WOMEN

Amnesty International is concerned that gender-based violence, including rape and sexual violence, remains a widespread and serious violation of the rights and fundamental freedoms of women in Norway in breach of the Convention.²

In 2014, the Norwegian Centre for Violence and Traumatic Stress Studies published the first national prevalence study of rape in Norway. The report shows that almost one in ten women in Norway had been a victim of rape at least once in her lifetime.³ Nearly half of the respondents (49%) had been subjected to rape before the age of 18. Nothing indicates that the prevalence of rape has decreased over time, as younger women do not report fewer incidents of rape before the age of 18 compared to older women.⁴ Almost one third (29%) of women victims reported physical injury. Only 11% contacted health services afterwards.

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women 2012 ("Concluding Observations 2012").

Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-NOR-CO-8.pdf>.

² Case Closed. Rape and human rights in the Nordic countries. Summary report. Amnesty International 2010. Available at: <https://www.amnesty.org/en/documents/ACT77/001/2010/en/>.

³ Thoresen and Hjemdal: Vold og voldtekt i Norge. NKVTS 2014.

Available at: https://www.nkvts.no/content/uploads/2015/11/vold_og_voldtekt_i_norge.pdf.

⁴ Ibid p 70.

2.2 LACK OF PREVENTION AND AWARENESS-RAISING

Amnesty International is concerned that initiatives to prevent rape and sexual violence are not a priority in the public-school system in Norway. Education and awareness-raising is mainly carried out on a voluntary basis by non-governmental organizations.

Although the right to bodily integrity and freedom from sexual violence is a specified topic in the curriculum in primary and secondary school, a survey conducted by MMI for Amnesty International in 2013 showed that only 44% of students in the 18-29 age group had received such education.⁵ The lack of comprehensive sexual education was confirmed in a more recent survey conducted by Norstat for the Norwegian broadcasting company NRK, indicating that only 42% of students in the 17-19 age group had received information about the right to bodily integrity, rape and sexual violence as part of sexual education.⁶

2.3 LOW LEVEL OF REPORTING

Amnesty International is concerned that only a small number of rape cases come to the attention of the police.

According to the national prevalence study of rape in Norway, only one in ten female rape victims report rape to the police.⁷ At present, there is no evidence-based research that can identify the reasons behind this, but it is commonly assumed that stigma and the ineffectiveness of rape prosecutions are contributing factors.

The number of rape cases reported to the police has increased steadily over the years. The National Police Directorate statistics show that 1,663 cases of rape were reported to the police in 2016, an increase of nearly 22% since 2015.⁸ It is assumed this is due to an increased reporting rate rather than an increased incidence of rape, but there is little research-based knowledge to confirm this.

2.4 HIGH RATES OF ATTRITION

Amnesty International is concerned that weaknesses in police investigations result in a low level of prosecution in rape cases.

Rape is subject to public prosecution in Norway, but around 80% of reported rape cases are closed by the police and never reach the courts. A 2015 evaluation by the National Criminal Investigation Service, Kripos, showed that four in ten investigations of reported sexual offences are of low or very low quality and effectiveness. The most common investigatory deficiencies identified were low efficiency, omissions of necessary investigatory steps and poor quality of written materials. Over 70% of solved cases were found to have been investigated with very high or high quality and efficiency, compared to 49% of unsolved cases.⁹

Norway's Director of Public Prosecutions has recently reviewed the quality of investigations in 275 nationally reported rape cases. The review concluded that there is considerable room for improvement to the quality of police investigations, and pointed especially at weaknesses in their initial phase, where the necessary steps to secure evidence are not always taken. It found that in 20% of cases reviewed, relevant evidence from mobile phones was not secured. In 21% of the cases, photos from the crime scene were not taken. In one in three cases, no written mandates to experts were prepared for the forensic investigation, despite the obligation prosecuting authorities have to provide these under the Criminal Procedure Act (§142a and

⁵ IPSOS MMI: en undersøkelse om voldtekt. Survey commissioned by Amnesty International 2013.

Available at: <https://www.amnesty.no/aktuelt/flere-nyheter/skolen-svokter-i-kampen-mot-voldtekt-0>.

⁶ https://www.nrk.no/norge/unge-misfornoyde-med-seksualundervisninga_-_laerer-ikke-om-voldtekt-pa-skolen-1.13503309.

⁷ Thoresen and Hjemdal: Vold og voldtekt i Norge. NKVTS 2014.

Available at: https://www.nkvts.no/content/uploads/2015/11/vold_og_voldtekt_i_norge.pdf

⁸ Criminal Statistics 2016. Available at: <https://www.politi.no/globalassets/dokumenter/01-rapporter-statistikk-og-analyse/strasak/2016/strasak-2016-3.pdf>.

⁹ Evaluering av politiets arbeid med seksuelle overgrep. Kripos 2015.

Available at: <https://evalueringsportalen.no/evaluering/evaluering-av-politiets-arbeid-med-seksuelle-overgrep>

§148).¹⁰ The review found that the use of coercive measures was rarely considered, even though it was a relevant factor in 63% of the cases. In 20% of the cases, additional witnesses should have been questioned.¹¹

2.5 PREJUDICE AND ASSESSMENTS OF CREDIBILITY IN COURT

Amnesty International is concerned that rape myths and stereotypical notions about female and male sexuality amongst judges and jurors contribute to a high percentage of acquittals in rape cases.

30% or almost every third rape case in Norway ends with an acquittal in court.¹² In cases of other violent crimes, the acquittal rate is 6.7%.¹³ Despite the CEDAW Committee's 2012 recommendation,¹⁴ there is still no systematic training of judges and jurors to counter prejudice and rape myths.

A survey commissioned by Amnesty International in 2013 confirmed the prevalence of rape myths in Norwegian society. It revealed that one in four people in Norway considered the woman partially responsible for having been a victim of rape if she consented to join a man to an after-party, while 28% of male respondents believed this to be the case if she had openly flirted with a man.¹⁵

Similar attitudes are also found among jurors and judges. According to a 2014 survey, one in ten judges agreed with statements such as: "Many women report falsely because they regret having had sex" and "Any woman who arouses a man sexually but who does not really want sex has to accept the consequences."¹⁶ These attitudes may lead to judgments in rape cases being affected by prejudice and perceptions of "morality", rather than being based on objective assessments of facts, and can be a contributing factor to acquittals.¹⁷

2.6 LEGAL DEFICIENCIES

Amnesty International is concerned that many rapes remain unpunished because Norwegian law is not in accordance with international human rights standards.

The Norwegian Penal Code does not define rape by the absence of consent, but rather, as sexual intercourse or acts similar to sexual intercourse obtained by means of violence or threats of violence, or with a person who is unconscious or for other reasons unable to oppose the act.¹⁸

In 2012, the CEDAW Committee expressed concern about the requirement for the use or threats of force in the Penal Code's definition of rape. One of the clear recommendations in the 2012 Concluding Observations was to adopt a legal definition of rape which places the absence of consent at its centre, in line with the Committee's General Recommendation No. 19 and the *Vertido* case.¹⁹ Regrettably, little has changed since 2012.

¹⁰ Criminal Procedure Act 1981, available at: https://lovdata.no/dokument/NL/lov/1981-05-22-25/KAPITTEL_3-2#KAPITTEL_3-2.

¹¹ Riksadvokaten 1/2017: Statsadvokatenes kvalitetsundersøkelse 2016 voldtekt og mishandling av nærstående Available at: <http://riksadvokaten.no/filestore/Dokumenter/2017/Kvalitetsundersøkelsen.pdf>.

¹² KRIPOS: Voldtektssituasjonen 2014.

¹³ <http://www.vg.no/nyheter/innenriks/voldtekt/en-av-tre-voldtektssaker-ender-med-frifinnelse-i-retten/a/23764437/>.

¹⁴ Concluding Observations 2012, para 12(b).

¹⁵ IPSOS MMI: en undersøkelse om voldtekt. Survey commissioned by Amnesty International 2013.

Available at: <https://www.amnesty.no/aktuelt/flere-nyheter/skolen-sviker-i-kampen-mot-voldtekt-0>

¹⁶ 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. Available at: http://www.psykologtidsskriftet.no/index.php?seks_id=413199&a=4

¹⁷ Statement from researcher and former judge Lars Jonas Nygård.

Available at: <http://www.tv2.no/a/8503599/>.

¹⁸ General Penal Code 2005, §291.

Available at: https://lovdata.no/dokument/NL/lov/2005-05-20-28/KAPITTEL_2-11#KAPITTEL_2-11.

¹⁹ Concluding Observations 2012, paras 23-24.

In 2013, the Ministry of Justice and Public Security presented a White Paper proposing a possible change to a consent-based definition of rape in the Penal Code²⁰. In 2016, in response to a question from Amnesty International regarding progress on this suggested legislative change, former Minister of Justice and Public Security Anders Anundsen stated that such a change would require further consideration. The process has since stalled.²¹

2.7 LACK OF POLITICAL PRIORITY

Amnesty International is concerned about the lack of governmental action against rape and sexual violence, clearly demonstrated by the fact that the last governmental Plan of Action against Rape and Sexual Violence 2012-2014 has still not been replaced. This was raised as a serious concern by several parties in Parliament in June 2017, resulting in the Parliament's decision instructing the Government to develop a National Plan of Action against Rape and Sexual Violence.²²

3. THE HUMAN RIGHT SITUATION OF SEX WORKERS

3.1 PENALISATION OF SEX WORKERS

In 2009, Norway became the third country in the Nordic region to make buying sex a criminal offence, an approach that has been termed “The Nordic Model”. While it does not have a confirmed definition, it can be broadly described as comprising three legal features:

- It makes buying sex a crime punishable primarily through fines;
- It removes laws that criminalize the direct act of selling sex;
- It criminalizes the organization and/or promotion of selling sex through a variety of different criminal offences.²³

In a 2016 report “The Human Cost of Crushing the Market”, Amnesty International found evidence of human rights abuses against people who sell sex in Norway that are compounded by and, in some cases, directly caused by the legal framework.²⁴

The claims that individual sex workers are not criminalized or penalized under the “Nordic Model” in Norway and that the level of harm that sex workers experience is reduced are not being realized on the ground.

²⁰ Høring – endringer i straffeloven 1902 og straffeloven 2005 (personforfølgelse, voldtekt og andre seksuelle overgrep, formidling av prostitusjon, forberedelse til tvangsekteskap, foreldelsesregler mv.) JBD 2013. Available at: <https://www.regjeringen.no/no/dokumenter/horing--endringer-i-straffeloven-1902-og/id714312/>.

²¹ Ibid.

²² <https://www.stortinget.no/globalassets/pdf/representantforslag/2016-2017/dok8-201617-127s.pdf>.

²³ General Penal Code of Norway 2005, §§ 315-316. Available at: https://lovdata.no/dokument/NL/lov/2005-05-20-28/KAPITTEL_2-11#KAPITTEL_2-11.

²⁴ “Norway: The human cost of “crushing” the market. The criminalization of sex work in Norway.” Amnesty International 2016. Available at: <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>.

Amnesty International found evidence that many sex workers remain subject to a high level of policing and are being targeted and penalized by police in multiple, intersecting ways.

Oslo police have over the last decade adopted a “preventative policing” approach to sex work which involves the enforcement of lower level offences as “stress methods” to disrupt, destabilize and increase the pressure on those operating in the sex sector. These methods include intensive enforcement of a variety of laws including the ban on purchasing sex or other laws on sex work, specifically the laws on “promotion” of sex work, public nuisance and immigration.²⁵

This has resulted in sex workers being penalized in a range of ways, including through eviction from their homes. The law against the “promotion of sex work” makes it an offence to let premises where sex is sold.²⁶ Amnesty International found that targeted enforcement of this law has resulted in many sex workers being forcibly evicted from their homes by landlords, who were, in effect, required to evict by police.²⁷ According to figures provided by Chief Inspector Rune Swahn of the Organized Crime Section of the Oslo police district, around 400 apartments that were used for sex work were emptied by the police in Oslo between 2007 and 2014.²⁸

A 2008 study estimated around 70% of women selling sex in Norway were migrants.²⁹ Amnesty International found evidence that discretionary immigration provisions are being enforced rigorously and in a targeted way against migrant women who sell sex, resulting, in some instances, in their rapid deportation from Norway.

The threat and impact of forced eviction, deportation and loss of livelihood to people who sell sex far exceed the implications of the 15,000 to 25,000 kroner (approx. USD 1,700–2,850) fines for buyers. The criminalization of sex work in Norway and the reluctance it creates among many sex workers to report crime to police are also creating a situation whereby perpetrators of violence against sex workers, including abusive clients, enjoy relative impunity for serious criminal offences.³⁰

3.2 HIGH LEVELS OF VIOLENCE

Amnesty International is concerned that sex workers are at high risk of violence and abuse in Norway.

The violence sex workers encounter comes from a range of perpetrators, including clients, members of the general public, third parties involved in sex work, as well as organized gangs who prey on them, capitalizing on their isolation and marginalized status. Many sex workers, depending on their circumstances, risk eviction, police surveillance, loss of livelihood and/or deportation if they engage with police. Many of the women interviewed by Amnesty International reported being extremely reluctant to report crimes to police.³¹

3.3 SEX WORKERS’ SAFETY COMPROMISED

Amnesty International is concerned that many of the actions that sex workers themselves take to increase their safety are being compromised.

Street-based sex workers identified going to a buyer’s home as carrying a significant risk. However, most of the women interviewed by Amnesty International reported being asked to visit buyers’ homes to protect the buyers from detection by police. None of the street-based workers Amnesty spoke with owned their own

²⁵ S Ø Jahnsen, “Innestengt eller Utestengt? Norsk prostitusjonspolitikk og kampen mot menneskehandel”, PhD thesis, Sosiologisk Institutt, Universitet i Bergen, 2014.

²⁶ Section 315 of the Norwegian Penal Code, makes the “promotion” of prostitution illegal. Available at: <https://lovdata.no/dokument/NL/lov/2005-05-20-28>.

²⁷ “Norway: The human cost of “crushing” the market. The criminalization of sex work in Norway” p34-35. Amnesty International 2016. Available at: <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>

²⁸ VG Nyheter, “Politiet: Sexkjøpsloven avgjørende for pågripelse av storhallik”, 12 August 2014. Available at: www.vg.no/nyheter/innenriks/prostitusjon/politiet-sexkjoeopsloven-avgjoerende-for-paagripelse-av-storhallik/a/23271974/ [Last accessed May 2016].

²⁹ M-L. Skilbrei and M. Tveit, Mangfoldig Marked: Prostitusjonens omfang, innhold og organisering, Fafo, 2008, Available at: <https://www.regjeringen.no/no/dokumenter/mangfoldig-marked-prostitusjonens-omfang/id538792/>.

³⁰ “Norway: The human cost of “crushing” the market. The criminalization of sex work in Norway.” Amnesty International 2016. Available at: <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>.

³¹ Ibid pp 28-51.

properties and were most vulnerable to eviction if the police identified that they took buyers to their own homes.

Social service providers and police informed Amnesty International that the “promotion” law is being interpreted as applying to the use of hotel rooms, meaning that hotels can be held liable for “promotion” if sex work occurs on their premises. Almost all of the migrant sex workers interviewed by Amnesty International reported being profiled by and/or excluded from hotels.

Nearly all of the sex workers Amnesty spoke to, regardless of the location they sold sex from, identified being able to work with others as a means to increase safety. However, the definition of “promotion” under the law is broad enough to criminalize sex workers working together or with any other person, such as a cleaner, receptionist or security guard.³²

3.4 INEFFECTIVE TRAFFICKING RESPONSE

Amnesty International is concerned that both sex workers and victims of trafficking are negatively impacted by police crackdowns on the sex work market.

The Norwegian government has adopted an approach to prevent human trafficking which focuses on reduction/eradication of the commercial sex market. The scale and forms of punitive intervention in the commercial sex market are compromising the safety of many people who sell sex, and are directly contributing to violations of their human rights. At the same time, the evidence relied upon by the Norwegian authorities to justify punitive crackdowns as effective anti-trafficking efforts is fundamentally weak.³³

The enforcement of the legal framework and “preventative policing” approaches to sex work are increasing the vulnerability of people who sell sex in Norway, placing them at increased risk of exploitation. The strategic deportation of many migrant women who sell sex, some of whom may be victims of trafficking, also leads to failures in the detection of trafficking and identification of victims and leaves individuals at risk of re-trafficking. The crude measurement of success that Norway is applying to its anti-trafficking work – namely, an overall reduction in the commercial sex market – means that Norway can in effect claim success for deporting trafficking victims to other countries.

It also means that perpetrators in these cases are not brought to justice. Out of 280 reported cases of trafficking into the sex sector in Norway between 2006 and 2014, only 32 have resulted in the successful conviction of perpetrators. In Oslo, the annual rate of conviction has ranged between zero (in 2010, 2012 and 2014) and three (in 2011).³⁴

4. RECOMMENDATIONS

4.1 REGARDING RAPE AND SEXUAL VIOLENCE

Amnesty International recommends that Norwegian authorities put in place comprehensive measures to prevent and address violence against women and girls, including rape and sexual violence, and ensure that perpetrators of gender-based violence are prosecuted and punished commensurate with the gravity of their crimes through, inter alia:

³² Ibid pp 52-60.

³³ “Norway: The human cost of “crushing” the market. The criminalization of sexwork in Norway” pp 70-86. Amnesty International 2016. Available at: <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>.

³⁴ Rapport fra Koordineringsenheden for Ofre for Menneskehandel 2015 Available at: <https://politi.no/globalassets/03-rad-og-forebygging/menneskehandel/kom-tilstandsrapport-2015.pdf>.

- (a) Urgently adopting a legal definition of rape in the Penal Code which places the absence of consent at its centre;
- (b) Training judges and jurors about gender based violence against women, including rape and sexual violence;
- (c) Prioritising preventive work against rape and sexual violence at all levels in schools, including in the school curriculum;
- (d) Strengthening investigative capacity of police and prosecutors in all forms of gender based violence;
- (e) Analysing statistics on attrition rates, as well as conducting in-depth, evidence-based research on their roots causes and addressing them;
- (f) Adopting an up-to-date National Plan of Action against Rape and Sexual Violence following meaningful consultations with experts and the civil society.

4.2 REGARDING THE HUMAN RIGHTS SITUATION OF SEX WORKERS

Amnesty International also recommends that Norwegian authorities place the protection of the human rights of all people who sell sex at the centre of its responses to commercial sex, through, inter alia:

- (a) Undertaking a programme of legal reform that decriminalizes adult consensual sex work, and ensures legal protections from exploitation for people who sell sex in compliance with international human rights standards;
- (b) Issuing a White Paper which makes recommendations on the establishment of a legislative, policy and regulatory framework that realizes the human rights of people who sell sex in Norway;
- (c) Placing the realization of human rights at the centre of all efforts to combat trafficking, and prioritizing prevention, protection of victims and prosecution of perpetrators in line with Norway's international obligations;
- (d) Revising the immigration policy to ensure that laws and policies on the deportation of migrants are not being applied in a discriminatory way; act as a deterrent for the reporting of crimes by migrants, refugees or asylum seekers; or undermine efforts to prevent human trafficking, identify or protect victims or prosecute perpetrators
- (e) Funding long-term research that provides evidence-based knowledge about the living conditions of sex workers in Norway;
- (f) The immediate cessation of the use of the "stress method" policing practices against people who sell sex in Norway.

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