

## NORWAY

### CAT A/44/46 (1989)

76. The initial report of Norway (CAT/C/5/Add.3) was considered by the Committee at its 12<sup>th</sup> and 13<sup>th</sup> meetings, held on 19 April 1989 (CAT/C/SR.12-13).

77. The report was introduced by the representative of the State party who informed the Committee that, since the preparation of the report, the Government, in early 1989, had made a decision of principle that the main international instruments, in the field of human rights to which Norway was a party should be incorporated into Norwegian legislation. He further informed the Committee that investigative boards to handle allegations of offences by police officers and public prosecutors were now established in all parts of the country.

78. The Committee expressed the view that the report of Norway, although precise, was, however, rather brief, and that sufficient information had not been given to enable the members of the Committee to determine whether the Norwegian legislation was in conformity with the Convention. The Committee also expressed the view that, for it to be able to judge the report, the reporting State should provide the texts of the legislations and constitutional provisions mentioned in the report. The Committee wished to know in particular, the relation between the Norwegian domestic law and international Conventions.

79. Members of the Committee asked whether “torture” was defined in Norwegian legislation and whether it was envisaged to make torture a specific crime under the Norwegian penal law. It was also asked why the provisions of the Military Penal Code on superior orders, referred to in the report, also applied to civil offences. Further explanation was sought on the question of extraterritoriality of the crime of torture under Norwegian penal law.

80. Members of the Committee further asked whether information and instruments concerning human rights were given to police officers, soldiers and personnel of prisons and whether the police at the borders were given special instructions to be able to identify a victim of torture.

81. As regards the special investigation boards that investigated allegations of torture by the police officers or the public prosecutors, which had been mentioned by the representative of the reporting State in his introductory statement, members wanted to know who appointed the members of the boards and what their qualifications were and whether these boards were permanent or ad hoc. In addition, they wished to know whether these boards also investigated allegations of torture by the army and security officers. In that respect it was asked whether the investigation of alleged police brutality in Bergen, referred to in the report, had been concluded.

82. As regards article 3 of the Convention, members of the Committee asked whether under the new Aliens Act of 1988 an alien who was considered a threat to national security could be returned to his country even if there was the risk that he would be tortured or killed. Members of the

Committee expressed the view that the penalty of six months provided for by the Norwegian Penal Code was rather short for the crimes of torture, and in that regard asked whether the Norwegian Penal Code of 1902 provided sufficient protection against the phenomenon of torture.

83. Moreover, the Committee wished to know whether, in view of the fact that injury to victims of torture was not only limited to physical injury, but more often involved also mental and psychological damage, the rehabilitation scheme of Norway took into account these other elements and whether specialists in these fields were made available to victims of torture. Members of the Committee asked whether, in view of the narrowness of the compensation provisions in Norway, compensation was only limited to financial loss, or was mental rehabilitation also compensated.

84. In relation to article 14 of the Convention, information was sought as to whether only citizens of Norway can claim compensation for acts of torture or did non-citizens residents also have the same rights.

85. The representative of the reporting State, in responding to the questions raised by the members of the Committee, stated that the comments made by them would be taken into account in the preparation of the future reports of his country, not only under the Convention against Torture but also under other human rights instruments to which Norway was a party.

86. As regards the relation between international conventions and domestic law, the representative stated, that although in theory international law in general was not considered as part of Norwegian internal law, in practice Norwegian courts interpreted the latter in such a way as to avoid conflict with international norms. He explained that Norway was currently in the process of giving formal recognition to that situation, and it as likely that a special act of Parliament would be adopted for that purpose.

87. The representative stated that, since there was no definition of torture in Norwegian domestic law, all legal provisions referred to in the report would in principle be applicable to any forms of cruel, inhuman or degrading treatment or punishment. Although the Penal Code contained no provision dealing specifically with the crime of torture, section 232 provided that crimes involving injuries intentionally inflicted in a particularly painful way should carry a mandatory prison sentence of up to 21 years. He pointed out that that section had been applied in a number of cases during the war crimes trials after the Second World War. However, it had been rarely used since that time. He stated that the Norwegian Government considered that existing legislation was sufficient and had no plans to introduce any new measures specifically relating to torture. He stated that, since Norwegian penal law was based on the principle of individual responsibility, section 24 of the Military Penal Code, which provided that superior orders could not constitute the grounds for acquittal of the accused, was also applicable to civil offences. In relation to the jurisdiction of the army and the security forces, he explained that there was a clear distinction in Norway between the police and the military; security forces as such did not exist. Members of the army, in addition to being subject to the civil Penal Code, were also subject to the Military Penal Code, which had more far-reaching provisions. There was a special ombudsman for the armed forces who would be empowered to investigate allegations of torture, although he pointed out that he was not aware of any such allegations ever having been made. He explained that all military

personnel were given instruction in humanitarian law, which included the prohibition of torture. He stated that the translation of the handbook on police and human rights of the Council of Europe, referred to in the report, had not yet been completed, and for the present, the English version of the handbook was being used. He pointed out that Norway provided its police with no specific training in how to identify victims of torture. Where a medical examination was required, it was performed by a doctor.

88. In reply to the question about extraterritorial jurisdiction, he stated that the Norwegian Penal Code contained provisions on the subject that were perhaps the most far-reaching of any in the world. Even offences committed outside Norwegian territory by non-Norwegian courts, provided that the offender was present on Norwegian territory and that the offence was punishable either in the country where the act had been perpetrated or under Norwegian law.

89. The representative stated that the regulations governing the procedures of the special investigating boards required that at least two members of the board should be present at all interrogations, which ensured that no undue influence was exercised by the police. In that connection, any decision to instigate action against the police would be taken by the special investigating board or by the Director of Public Prosecutions. In response to the question regarding allegations of police brutality in the so-called Bergen case, he said that the investigative commission set up initially had not had concrete evidence before it. Although investigations had continued from November 1986 to June 1987, no further evidence had emerged, and the police officer brought to trial had been acquitted. The investigation was still continuing, because the prosecuting authorities now had reason to believe that false accusation had been made.

90. With regard to section 15 of the new Aliens Act, quoted in the report, dealing with protection against persecution, he stated that the contents of that section corresponded to the non-refoulement provision in article 33 of the 1951 United Nations Convention relating to the Status of Refugees. <sup>4/</sup> The last paragraph of the section contained the exact wording of article 33, paragraph 2, of the Convention, namely, the exclusion clauses, and would be applied accordingly. On the question about extradition, he said that sections 6 and 7 of the Extradition Act contained protection against persecution similar to that contained in section 15 of the Aliens Act.

91. The representative of the reporting State said that the Norwegian Penal Code, which dated from 1902, was not in need of updating. In fact, the Code, as it now stood, incorporated many amendments and it was kept under continuous review by a standing committee of experts whose task it was to propose any necessary changes.

92. In response to the question about compensation, he stated that compensation to victims of torture was payable initially under the scheme established by the Royal Decree of 1976, referred to in the report. He explained that the scheme applied to all cases where injury had been inflicted on Norwegian territory, regardless of the nationality of either victim or offender. In special cases,

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<sup>4/</sup> United Nations, Treaty Series, vol. 189, No. 2545, p. 150.

compensation could also be granted for injuries inflicted abroad if the victim was a resident in

Norway. As a general rule, compensation was not granted for non-economic damage, although the exception to that rule made in cases of rape would undoubtedly also be extended to cases of torture, should any arise. He further explained that in the later stages of any proceedings brought by torture victims, the court would be competent to order compensation to be paid for both economic and non-economic damage, and in the case of damage caused by a public official in the performance of his duties, the State would be considered liable.

93. Finally, the Committee thanked the Government of Norway and its representatives for the detailed information they had provided. It also stated that it would be useful information the Committee to have the text of the laws and regulations referred to in the report.

## **CAT A/48/44 (1993)**

63. The Committee considered the second periodic report of Norway (CAT/C/17/Add.1) at its 122<sup>nd</sup> and 123<sup>rd</sup> meetings, on 11 November 1992 (see CAT/C/SR.122 and 123).

64. In introducing the report, the representative of the State party indicated that the investigations of 368 alleged cases of large-scale police brutality in the city of Bergen, which had been discussed in May 1989 during the consideration by the Committee of the initial report of Norway, had resulted in only one charge; the investigation of more than 100 cases of alleged false accusations had resulted in 15 charges and 11 convictions, none of which had been appealed. No further information had been received concerning police brutality in Bergen.

65. Members of the Committee commended the Norwegian Government on the quality of its report, which had been submitted with punctuality and could serve as a model for the reports to be submitted by other States. They also noted with satisfaction Norway's support for the United Nations Voluntary Fund for Victims of Torture and the principle of preventive country visits, as contained in the draft optional protocol to the Convention which was under elaboration in a working group of the Commission on Human Rights.

66. Generally, members of the Committee felt that some clarification was necessary with regard to the incorporation of the Convention in domestic law and the implementation in practice of its provisions. They noted that Norway had a dualistic relationship between domestic law and international law, but it was not clear which legal provision took precedence and whether the Convention had actually been incorporated into domestic legislation. From the information provided, it appeared that the Convention was not a formal part of domestic law but that Norwegian courts were able to refer to international treaties in applying domestic law. Members of the Committee observed, in this connection, that the fact that Norwegian legislation did not contain a definition of torture automatically gave rise to problems with regard to the implementation of the provisions of the Convention. They therefore expressed the hope that the Norwegian authorities would reconsider their position that the term "torture or cruel, inhuman or degrading treatment or punishment" did not need to be incorporated into the country's legislation. In this regard, they wished to know what progress had been made by the Norwegian expert committee, which had been mentioned during the consideration of Norway's initial report, whose mandate was to make proposals on the way in which the major international human rights instruments could be incorporated into Norwegian legislation.

67. With regard to article 2 of the Convention, further information was requested on the authority deciding in Norway about deprivation of liberty and on the lawful period during which a person might be held in custody without being brought before a court.

68. With reference to article 3 of the Convention, members of the Committee requested information on how the 1988 Immigration Act actually worked and asked, in particular, whether foreigners, especially refugees, could be denied entry to Norway by the border police and turned back and what recourse procedure was available to them. Clarification was also sought about the

indication in the report that extradition could also take place outside bilateral or multilateral agreements.

69. In connection with article 4 of the Convention, it was recalled that each State party should ensure that all acts of torture are offences under its criminal law and clarification was requested on the extent to which Norway was complying with that requirement and how it dealt with the question of mental torture.

70. Referring to article 5 of the Convention, members of the Committee wished to have some clarification on whether Norway had a system of universal jurisdiction for persons who committed torture and whether it allowed convicted persons, subject to certain conditions, to serve their sentence in their home countries, as provided for by the European Convention on the Transfer of Sentenced Persons.

71. Clarification was also requested on specific legal measures taken by Norway to implement fully articles 6, 7, 8 and 9 of the Convention.

72. In connection with article 10 of the Convention, members of the Committee recalled that training programmes were necessary not only for doctors, but also for other health personnel at all levels who had a key role to play in combatting torture. It was also asked whether law faculties offered special courses which dealt with torture as a global phenomenon and approached it from the standpoint of international and domestic legislation.

73. Turning to article 11 of the Convention, members of the Committee congratulated Norway on its rules and practices with regard to the custody of persons in detention and the treatment of prisoners and requested further information on the provisions contained in the Prosecution Instructions.

74. In connection with article 12 of the Convention, members of the Committee asked for additional information on the nature of the cases referred to the “special investigative bodies” which were independent of the police and the prosecuting authority. They also asked how the special investigative bodies were set up, by whom, what their prerogatives were, why they were needed and what the role of the public prosecutors was. Members of the Committee noted that only 20 cases relating to the use of force by the police had been subjected to special investigation in Norway during the period 1988-1990 and asked for additional information in that regard. They wished to know, in particular, whether there were districts where such incidents were more common than elsewhere and whether foreigners were involved to any significant extent. With regard to the investigation of alleged police brutality in Bergen in May 1989, which had resulted in the indictment of 15 persons for having made false accusations against the police, members of the Committee wished to know whether it had been proved beyond any reasonable doubt that the persons prosecuted had intended to discredit members of the police force and what penalties had been imposed on those found guilty. Clarification was also requested on the position of the Norwegian authorities with regard to the views of Amnesty International in this matter.

75. With regard to article 14 of the Convention, members of the Committee noted that Norwegian

legislation provided for financial compensation only, and in a limited amount, to victims of violence and that compensation was not granted for injury of a non-economic nature. They observed that those provisions did not meet all the requirements for compensation of victims of torture established by the Convention.

76. In connection with article 15 of the Convention, clarification was requested on whether testimonies obtained unlawfully could be admitted as evidence.

77. In his reply, the representative of the State party provided detailed information about the dualistic system in force in his country, according to which a special act was required before an international instrument became applicable in Norway. He also informed the Committee about different legal approaches recently developed by Norwegian jurists with regard to the application of international human rights instruments in domestic law. The Committee set up in 1989 to study this question had not yet submitted its report. It appeared, however, that it would propose that a number of human rights instruments should be incorporated into Norwegian law and that a high rank should be given to them in the hierarchy of legal provisions. The representative also pointed out that some provisions of the Penal Code were fully applicable to the acts referred to in article 1 of the Convention.

78. In connection with article 2 of the Convention, the representative indicated that, according to section 183 of the Criminal Procedure Act, a detained person must be brought before a judge on the day following his arrest.

79. Referring to article 3 of the Convention, the representative stated that the case of any foreigner requesting asylum at the border or invoking certain rules of humanitarian protection was referred to the Director of the Immigration Services; in any event, an asylum-seeker would not be turned back at the border. A residence permit could also be issued for humanitarian reasons. In addition, Norway had a list of countries to which foreign nationals must not be sent back. Extradition could be granted to countries with which Norway had not concluded treaties but, in such cases, it was subject to specific requirements and a final decision by the Minister for Justice.

80. With regard to article 4 of the Convention, the representative pointed out that Norwegian law made no distinction between moral and physical harm.

81. Turning to article 5 of the Convention, the representative stated that, in general, Norway implemented the principle of universal jurisdiction which was applicable to acts of torture committed abroad by Norwegian nationals, as well as to acts committed abroad by foreigners. If a person who had committed an act of torture was in danger of ill-treatment or the death penalty if he was extradited, he would be tried in Norway. The Minister for Justice had recommended that the Parliament should ratify the European Convention on the Transfer of Sentenced Persons.

82. In connection with article 10 of the Convention, the representative mentioned that the Norwegian authorities had established a fruitful dialogue with the Norwegian Medical Association, which was particularly interested in medical ethics and torture. No special instruction on torture was provided in law faculties but, in human rights courses, considerable attention was paid to

United Nations conventions.

83. Referring to article 12 of the Convention, the representative explained that the investigative body set up in connection with the alleged police brutality in the city of Bergen was responsible for investigating acts committed by members of the police or prosecution bodies in the exercise of their functions. It conducted the investigation, while the public prosecutor was responsible for bringing charges. It was presided over by a judge and has been set up to ensure that abuses by the police were investigated impartially and independently of the various police forces. Once the investigation had been completed, justice followed its normal course. He also stated that there were no statistics on foreigners who might have been subjected to police brutality or on the conduct of the police in urban as opposed to rural areas and that sufficient evidence against 11 of the 15 persons charged with false accusations against the police in Bergen had been established by the jury. The views of Amnesty International in this matter had been brought to the attention of the Ministry of Justice and the Ministry of Foreign Affairs.

84. With regard to article 14 of the Convention, the representative explained in detail the compensation procedures available in Norway, which consisted of various mechanisms for both economic and non-economic losses. Claims for compensation could be linked with a criminal action and the amount of compensation was determined by the courts. The system for compensation by the State came into play when the offender was insolvent. The State was held responsible for unlawful injury caused by its agents and, in case of acts of torture committed by public officials, the amount of compensation would not be limited to NKr 150,000.

85. Referring to article 15 of the Convention, the representative stressed that no testimony obtained unlawfully was admissible, although there was no specific legislation on the matter.

#### Conclusions and recommendations

86. The Committee expressed the view that the second periodic report of Norway, which had been submitted punctually, showed what progress had been made in the implementation of the Convention in Norway since the Committee had dealt with the initial report in April 1989. Apart from a few points which had been cleared up during the discussion, the Committee felt that the only problem was the relationship between international law and, in particular, the Convention against Torture and Norwegian domestic law.

87. The Committee recommended that Norway should include a definition of torture in its domestic law and that it should explicitly characterize torture as a crime; that would make it possible to solve problems relating to universal jurisdiction. Another solution, equally acceptable, would be to make the Convention part of Norwegian domestic law.



## **CAT A/53/44 (1998)**

149. The Committee considered the third periodic report of Norway (CAT/C/34/Add.8) at its 322<sup>nd</sup> and 323<sup>rd</sup> meetings, held on 6 May 1998 (CAT/C/SR.322 and 323), and adopted the following conclusions and recommendations.

### 1. Introduction

150. The third periodic report of Norway was submitted on 6 February 1997. It conformed fully with the requirements laid down in the Committee's reporting guidelines. It provided information, article by article, on new measures to implement the Convention taken since the submission of its last report and answered questions raised during the discussion of the second periodic report. The Committee also thanks the delegation for its oral information and its frank and precise replies to the questions raised by members of the Committee.

### 2. Positive aspects

151. Norway continues to do its utmost to secure respect for human rights, including the prohibition of torture, in law and in practice, *inter alia*, with the creation and constant development of special bodies such as Special Investigation Bodies.

152. Norway has made a generous donation to the United Nations Voluntary Fund for the Victims of Torture.

### 3. Subjects of concern

153. The Committee is concerned over the fact that Norway has not yet introduced the offence of torture into its penal system, including a definition of torture in conformity with article 1 of the Convention.

154. The Committee is concerned about the institution of solitary confinement, particularly as a preventive measure during pre-trial detention.

### 4. Recommendations

155. The Committee reiterates the recommendation it made during its consideration of the initial and second periodic report of Norway, that the State party should incorporate into its domestic law provisions on the crime of torture, in conformity with article 1 of the Convention.

156. Except in exceptional circumstances, *inter alia*, when the safety of persons or property is involved, the Committee recommends that the use of solitary confinement should be abolished, particularly during pre-trial detention, or at least that it should be strictly and specifically regulated by law and that judicial supervision should be strengthened.

## **CAT A/57/44 (2002)**

81. The Committee considered the fourth periodic report of Norway (CAT/C/55/Add.4) at its 511th, 514th and 519th meetings, on 6, 7 and 10 May 2002 (CAT/C/SR.511, 514 and 519), and adopted the following conclusions and recommendations.

### **A. Introduction**

82. The Committee welcomes the fourth periodic report of Norway, which was submitted on time and is in full conformity with the guidelines of the Committee for the preparation of State party periodic reports. The Committee compliments the State party for ensuring periodicity of reports in a timely manner and welcomes the fruitful and constructive dialogue with the State party.

### **B. Positive aspects**

83. The Committee commends the State party for maintaining a high level of respect for human rights in general and for the positive record in the implementation of the provisions of the Convention.

84. The Committee notes with satisfaction:

(a) The adoption of a Plan of Action for Human Rights for the period 2000-2004, as part of the follow-up to the 1993 World Conference on Human Rights, indicating, inter alia, measures aiming at the further implementation of the Convention in Norwegian legislation;

(b) The issuance of guidelines on the notification of arrest to relatives and lawyers, as well as concerning the right to access to health care for persons in police custody;

(c) The proposal to incorporate a new provision into the Penal Code that will prohibit and penalize torture, in conformity with article 1 of the Convention;

(d) The proposals made for an amendment to the Criminal Procedure Act to reduce the overall use of solitary confinement and to strengthen its judicial supervision by means of legal regulation and limitation;

(e) The research undertaken to evaluate the quality of investigations carried out by the Special Investigative Bodies;

(f) The regularity and generosity of donations made by the State party to the United Nations Voluntary Fund for Victims of Torture;

(g) The high percentage of women among members of the judiciary, police force and prison staff.

C. Subjects of concern

85. The Committee continues to be concerned about the use of pre-trial solitary confinement.

D. Recommendations

86. The Committee recommends that:

(a) Appropriate legislation introducing the offence of torture into the Norwegian penal system in conformity with article 1 of the Convention be enacted, in accordance with the above-mentioned proposal. It requests that information in this regard be included in the next periodic report of Norway;

(b) Information on steps taken to respond to the Committee's ongoing concern about the use of pre-trial solitary confinement be included in the State party's next periodic report;

(c) Information on the outcome of the proposals for amendments to the Criminal Procedure Act on the issue of solitary confinement be included in the State party's next periodic report;

(d) Information on the proposed amendments to the Alien Act on the basis of Security Council resolution 1373 (2001) on international cooperation to combat threats to international peace and security caused by terrorist acts also be included in Norway's next periodic report;

(e) The Committee's conclusions and recommendations be widely disseminated in the country in all appropriate languages.