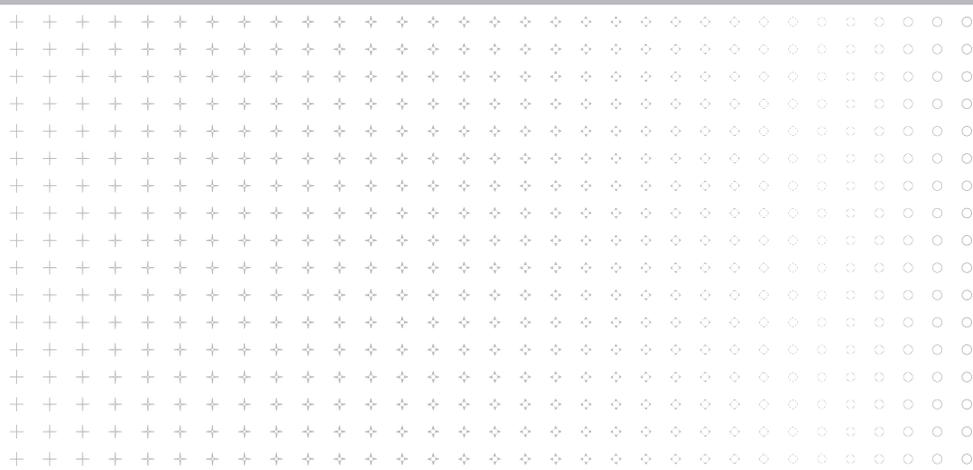


# The Equality and Anti-Discrimination Ombud's Report to the Pre-session of the CEDAW



Likestillings- og  
diskrimineringsombudet



# Contents

Introduction 5

1. Certain gender-blind practices of the 7  
Recommendation: 9

2. Gender equality 10  
Recommendation: 12

3. Government policies and measures do not sufficiently address the  
root causes of gender inequality 13  
Recommendations: 14  
Gender stereotypes and prejudices seen in conjunction with issue-specific articles and recommendations  
of CEDAW 15  
The rights of the girl child 15  
Violence against women and girls 15  
Recommendations: 19

4. The weaknesses of certain mechanisms aimed at the implementation  
of gender equality 20  
The public duty to promote gender equality 20  
Recommendations: 21  
The enforcement system 21  
Recommendations: 23  
Civil society 23  
Recommendation: 24

5. Inequality at work and balancing work and family 25  
Recommendation: 25  
Equal pay 25  
Recommendation: 26  
Use of part-time 27  
Recommendation: 27  
Use of positive discrimination – recruitment of women to male-dominated sectors, e.g. academia. 27  
Discrimination on the grounds of pregnancy and parental leave 28  
Recommendation: 28  
Parental leave – Article 11 No 2 (c) 28  
Recommendation: 29

6 Persistence of violence against women 30  
Recommendations: 32

# Introduction

This is a supplementary report to Norway's 8th official report to the CEDAW Committee. The Ombud has examined the challenges remaining in some of the areas specified in articles 6–16 of the CEDAW Convention in relation to which the Government has taken a number of actions. These actions are assessed in light of Norway's overall gender equality policy in an attempt to establish whether Norway complies with the core principles and obligations of States Parties enshrined in articles 1–5 of the CEDAW Convention. Among other things, the assessment is based on our experience of handling discrimination cases, our experience of monitoring and providing guidance on the duty to promote equality, and on our participation in public policy hearings and our consultations with women's organisations and other organisations that promote the rights of women.

Recommendations are made on the basis of our assessment. Norway's overall gender equality policy, which is based on a twofold strategy that combines gender mainstreaming with gender-specific actions, has succeeded to a certain extent in reducing discrimination against women and girls in some areas in Norway (as documented in Norway's 8th official report to the CEDAW Committee).

The Ombud would like to commend the Government of Norway for this. However, the Ombud would also like to take this opportunity to point out that sex and gender-based discrimination against women and girls still exists in Norway, and that it appears to be particularly resilient in relation to the right to freedom from violence, the right to the highest attainable standard of health and the right to employment.

This persistence of sex and gender-based discrimination against women and girls in various aspects of their lives stands in contradiction to the widespread notion that gender equality has been achieved in Norway.

The Ombud believes that certain government measures appear to be incapable of effectively addressing the needs of women and girls in general and, in particular, their needs in an intersectional perspective. (The same could be said about the specific needs of men in an intersectional perspective).

The Ombud wishes to bring the following issues to the attention of the Committee:

1. Certain gender-blind practices of the Government may fail to address the specific needs of women and girls (the CEDAW Convention, articles 1, 2).
2. Gender equality approaches that lack an intersectional perspective may fail to adequately address the specific needs of women

and girls. (CEDAW article 2, General recommendation No 28).

3. Government policies and measures do not sufficiently address the root causes of gender inequality (the CEDAW Convention, article 5)
4. The weaknesses of certain mechanisms aimed at the implementation of gender equality
5. Furthermore, the Ombud has looked at the following two areas in particular:
6. Inequality in working life and the work-family balance
7. The persistence of violence against women

# 1. Certain gender-blind practices of the Government may fail to address the specific needs of women and girls

The Act relating to crises centres (the Crisis Centre Act), which entered into force in 2010, is intended to provide shelter for battered persons subjected to domestic violence (i.e. for both men and women). The Act transfers responsibility for the administration of the crisis centres to the local authorities. Section 2 of the Crisis Centre Act prescribes that crisis centre services shall be offered to men and women separately, but does not specify this in more detail. Hence, it is up to the municipalities, depending on their financial situation and at their own discretion, to decide how to organise the provision of such accommodation for women and men. This has resulted in some crisis centres having accommodation for women and men at the same address. The Ombud is also aware that at least one crisis centre had a shared common room for men and women in 2010. This gender-blind practice does not take into consideration the specific needs of battered women and does not recognise that men and women may be subject to different forms of domestic violence and hence be affected very differently by this and other forms of gender-based violence.

In addition, gender blindness can have detrimental consequences for women and girls seen in an intersectional perspective. For instance, if the shelters begin to receive men and women together, women and girls from immigrant backgrounds (a large group of current users of shelters) may no longer feel that they can come to the shelters.

The Ombud takes a critical view of such co-location of crisis centre services. The Ombud therefore recommends that the Government make it clear to local authorities that that shelters must be separated physically and location-wise along gender lines. Furthermore, the Ombud recommends that this requirement be monitored in order to ensure compliance.

Another example is the proposed new comprehensive legal protection against discrimination. The Government is currently drafting a new Act that will provide comprehensive protection against discrimination. The work of drafting the new Act is based on a report from the 'Commission to propose comprehensive anti-discrimination legislation' (the Law Commission), included in Norwegian Official Report (NOU) 2009:14

(Annex 21 to the official report). At the present time, it is unclear what changes in protection against discrimination a new comprehensive Anti-Discrimination Act will entail, or how the Act will be worded, but the Commission's recommendations will serve as the basis for the Government's work on drafting the new Act. The Ombud is positive to a comprehensive Act, but would like to express some concerns relating to the Commission's recommendations. The Law Commission has proposed that all grounds for discrimination, including gender, be covered by one single equality act, and that the current Gender Equality Act be repealed.

According to the Commission's remit, it was to discuss and ensure that its recommendation for a new, comprehensive Anti-Discrimination Act was in line with the applicable European directive in the field. The Commission was also to report on Norway's international commitments. It was not directly stated in the Commission's remit that it was to ensure that its legislative proposals were in line with the CEDAW Convention, nor was such an assessment carried out. This is worrying, not least in light of the fact that some parts of the proposed act can, in our opinion, contribute to weakening the efforts against discrimination of women.

The Gender Equality Act that has applied in Norway since 1 January 1979 will disappear with the new comprehensive Anti-Discrimination Act proposed by the Commission. Section 1 of the current Gender Equality Act sets out the Act's purpose, stating that it shall promote gender equality and 'aims in particular at improving the position of women.' This wording has been deleted in the Commission's proposal for a new, comprehensive Anti-Discrimination Act.

Over time, the Gender Equality Act has become a well-established statute. If protection against discrimination on grounds of gender is incorporated in a new, comprehensive Act without retaining the 'statement of purpose', the Ombud sees a danger that the work against discrimination of women can be weakened. A neutral statement of purpose in a comprehensive Act will obscure the fact that, as a society,

Norway has not achieved full gender equality, and that discrimination has a gender perspective that still requires targeted efforts and measures aimed at improving the position of women in particular. A section setting out the purpose of the Act is an important interpretation element in connection with its enforcement, for example when assessing the legality of temporary special measures, and because it provides guidance on the authorities' and employers' statutory duty to actively promote gender equality. Changing the Act's 'statement of purpose' may therefore be of practical and not just symbolic importance.

**Recommendation:**

The State Party should ensure that gender-neutral law texts be reviewed in order to ensure that they do not in practice exclude or hinder gender-specific measures that are necessary to address specific problems of women and girls.

## 2. Gender equality approaches that lack an intersectional perspective may fail to adequately address the specific needs of women and girls

The following are some examples of persistent and significant intersectional challenges relating to violence suffered by particularly vulnerable women, despite general measures taken by the Government:

1. Women who live at crisis centres over extended periods of time have few accommodation alternatives. Statistics from Norwegian crisis centres show that women from ethnic minority backgrounds live at crisis centres for longer periods than ethnic Norwegian women<sup>1</sup>. That women are not given sufficient assistance to find suitable accommodation is unfortunate in relation to resettlement and integration. Statistics from Norwegian crisis centres in 2009 showed that, to a greater extent than women from non-minority backgrounds, women from ethnic minority backgrounds returned to their abuser after the end of their stay at a crisis centre<sup>2</sup>.
2. Today, very few services are available that address battered women with drugs and/or mental health-related problems in particular<sup>3</sup>. Ordinary crisis centre services are unsuitable for these women. The Committee on Violence against Women recommended in its report from 2003 (NOU 2003:31) that at least one separate emergency service for women with drug problems should be established in each region. The Ombud is aware that procedures are currently being drawn up. The Government must ensure, however, that the right to adapted crisis centre services becomes a reality.
3. In 2009, less than half of Norwegian crisis centres were adapted to the needs of women with disabilities<sup>4</sup>. The Government has

<sup>1</sup> While ethnic Norwegian women spent 22 days on average at crisis centres in 2009, 36 days was the average length of stay for ethnic minority women. Women who are victims of human trafficking stay longest at the crisis centres. The average length of stay for these women was 90 days according to the statistics from 2009 (Reports from the crisis centres, Sentio Research Norge 2009). In conversations with the Ombud, the ROSA project has stated that some of these women live at the crisis centres for several years.

<sup>2</sup> Reports from the crisis centres, Sentio Research Norge 2009.

<sup>3</sup> Violence survey among the women at Thereses Hus from 2004, and <http://www.krisesenter.com/pressemeldinger/kvinner-vold-rus-psykiatri.pdf>, and Tove Smaadah's speech at Stigamot and NKK's conference on rape in November 2010.

<sup>4</sup> A total of 24 out of 50 centres stated that they were adapted to the needs of women with dis-

provided the municipalities with information and made funding available<sup>5</sup>. There is reason to believe, however, that many of Norway's crisis centres are still not adapted to the needs of such women, and the Ombud questions whether the information given is sufficient to ensure that good crisis centre services are offered to women with disabilities<sup>6</sup>. Even though crisis centres are now a municipal responsibility, the Government is required to ensure that Norway fulfils its commitments under the CEDAW Convention.

4. Research shows that service providers who suspect that persons with intellectual disabilities are being sexually abused often do not report their suspicions<sup>7</sup>. Local government authorities had failed to notify the police about sexual abuse in 7 out of 15 cases reviewed by the newspaper *Dagbladet* in autumn 2010, despite having been notified or otherwise having grounds for suspecting such abuse<sup>8</sup>.
5. Research shows that reports of sexual abuse of persons with intellectual disabilities are sometimes given low priority and receive little attention from the police<sup>9</sup>. A number of such cases were dropped on the grounds that they are complex and rarely lead to a conviction. It has also been found that cognitive and communication problems relating to functional impairment weaken the credibility of the aggrieved parties. The Ombud has received a complaint that illustrates this problem. A case involving sexual abuse of a kindergarten-aged girl with cerebral palsy was dropped due to difficulties in communicating with the girl<sup>10</sup>.
6. Protection and services for women who are victims of trafficking are not provided unconditionally, but are provided in return for cooperation on prosecutions and for the women acting as witnesses in criminal cases. This instrumentalisation of women can be seen in a study<sup>11</sup> that, through interviews, documents and analyses the stories of twelve women from different countries who were trafficked into Norway.

Today's statutory framework relating to discrimination contains no

---

abilities. Seven of the centres are adapted to the needs of women with impaired sight, while five were adapted to women with impaired hearing. Nine centres stated that they were adapted to the needs of women with other types of disability. (Reports from the crisis centres, Sentio Research Norge 2009).

5 <http://www.regjeringen.no/upload/JD/Vedlegg/Handlingsplaner/Vendepunkt.pdf>

6 In 2009, seven per cent of crisis centre residents were women with disabilities. Among daily crisis centre users, six per cent stated that they had a disability. (Reports from the crisis centres 2009, Sentio Research Norge.)

7 Handegård og Olsen: Vanskelig å snakke om? Arbeidsmiljø og rettsikkerhet for utviklingshemmede i skjermede virksomheter. 2009 (Difficult to talk about? Working environment and legal protection for persons with intellectual disabilities in enterprises for the vocationally disabled.

8 The Government has decided, among other things on the basis of the series of articles in *Dagbladet*, to implement measures to improve legal protection for persons with intellectual disabilities.

9 Handegård og Olsen: (Vanskelig å snakke om? Arbeidsmiljø og rettsikkerhet for utviklingshemmede i skjermede virksomheter. 2009) (Difficult to talk about? Working environment and legal protection for persons with intellectual disabilities in enterprises for the vocationally disabled.

10 Ombudet's case no 10/2082

11 Rachel Eapen Paul and Lene Nilsen, Kriesesentersekretariatet and Stiftelsen Helse og rehabilitering 2009 "Challenging the Ad Hoc Norwegian Approach to Eliminate Trafficking in Women".

separate provisions on multiple or intersectional discrimination. Nor has such a provision been recommended in the proposal for a new, comprehensive Anti-Discrimination Act. The Ombud believes that this is unfortunate seen in light of Norway's obligations under the CEDAW Convention, including the obligation to ensure the legal recognition of (and policies and programmes addressing) intersecting forms of discrimination and its compounded negative impact on the women concerned (GR 28, section 18). The explicit inclusion of a prohibition on intersectional and multiple discrimination in the statutory framework will remove any doubts about the legal basis for considering the grounds together when enforcing the Act. At the same time it would make clear that multiple and intersectional discrimination is a problem that requires targeted measures.

### **Recommendation:**

The State Party should ensure that all measures (laws, policies, programmes), including the new Anti-Discrimination Act, should be designed in a manner that addresses necessary and relevant intersectional perspectives.

### **3. Government policies and measures do not sufficiently address the root causes of gender inequality**

Article 5 of the CEDAW Convention requires States Parties to take all appropriate measures to change the fundamental attitudes and stereotypes that can marginalise and cause discrimination against women and girls in public and private spheres. Moreover, as stated in General Recommendation No 28, paragraph 10, the obligation to eliminate harmful gender stereotypes is necessary to eliminate all forms of discrimination against women and girls<sup>1</sup>. Furthermore, subsection (f) of article 2 requires States Parties to 'take all appropriate measures, including legislation, to modify or abolish (...) customs and practices that constitute discrimination against women.' (emphasis added)

The former Commission on the Status of Women has defined stereotyping as one of three major obstacles<sup>2</sup> to reaching both de jure and de facto gender equality.

The persistence of (potentially harmful) gender stereotypes even in progressive societies (for example Norway) has been pointed out by Committee members and the former UN Special Rapporteur on Violence against Women, Yakin Ertürk<sup>3</sup>.

The Ombud acknowledges that gender equality policies have positively challenged traditional sex and gender roles in some areas, such as working life and education. However, the Ombud notes the almost complete absence of measures specifically designed to address increasing, media-driven harmful and wrongful stereotypes of the girl child. The Ombud is also concerned about the state's failure to specifically address the resilience and pervasiveness of harmful and wrongful gender stereotypes in its public policies, programmes and institutional frameworks.

Furthermore, the Ombud is concerned about the fact that gender stereotypes and prejudices are not addressed in the current Norwegian Gender Equality Act nor in the draft comprehensive act on discrimina-

<sup>1</sup> The committee on the elimination of discrimination against women, General Recommendation No 28, paragraph 10. For more on gender stereotyping and article 5, see also Rebecca J. Cook and Simone Cusack 2010 "Gender stereotyping, Transnational Legal Perspectives".

<sup>2</sup> Agreed Conclusions of the Commission on the Status of Women on the Critical Areas of Concern of the Beijing Platform for Action 1996 – 2009. United Nations 2010.

<sup>3</sup> Rebecca J Cook, Simone Cusack 2010 "Gender Stereotyping, Transnational Legal Perspectives".

tion proposed by the Law Commission<sup>4</sup>.

Not only explicit negative stereotypes but also apparently positive stereotypes and actions (benevolent sexism) can have a bearing on gender equality. Benevolent sexism often sustains and adds to the social and cultural pressure on women and girls to behave according to prescriptive female stereotypes. In addition, benevolent sexism serves to mask the prevailing privileges enjoyed by boys and men by suggesting that women's choices are based on their inherent (positive) qualities, rather than on limiting gender stereotypes or a lack of opportunities due to gender inequality. Research<sup>5</sup> suggests that the presence of benevolent sexism, and its manifestations through gender stereotyping, is more easily co-opted by both men and women because it communicates positive gender values, however prescriptive, rather than hostile and malevolent gender values.

The Ombud finds it disconcerting that the state fails to more systematically address the discrepancy between ideals of gender equality, on the one hand, and the omnipresence of harmful and wrongful media-driven gender stereotypes and prejudices, on the other.

In this context, the Ombud is concerned about the lack of research on whether the omnipresence of media-driven hyper-sexualised and commoditised representations of girls and women facilitates gender discrimination of a more hostile and violent nature, especially among young people.

These are questions and fields of interest that beg for more government attention and initiatives in line with the intentions of CEDAW's article 5.

### **Recommendations:**

- The State Party should initiate more comprehensive research on the various uses and effects of existing media-driven gender stereotypes and prejudices.
- The State Party should establish a dialogue between the State and all relevant actors to review and counteract, within the framework of freedom of expression, harmful and wrongful media-driven gender stereotypes, prejudices and violence.
- The State Party should consider incorporating into existing legislation, or adding to the proposed new anti-discrimination legislation, in accordance with Article 5, a provision that addresses wrongful and harmful gender stereotyping.

<sup>4</sup> Norwegian Official Report 2009:14

<sup>5</sup> Ibid

## Gender stereotypes and prejudices seen in conjunction with issue-specific articles and recommendations of CEDAW

### THE RIGHTS OF THE GIRL CHILD

When addressing issues relating to the rights of the girl child, current discourses in Norway tend to revolve around issues of diversity and immigration, and particularly on female genital mutilation (FGM), forced marriages and the hijab<sup>6</sup>. A case in point is the ongoing public debate about whether girls should be allowed to wear the hijab at school, at the same time as there is little or no public debate about the current trend of media-driven sexualisation and objectification of young girls<sup>7</sup>, and the overwhelming amount of easily accessible child pornography.

Considering the embeddedness of (potentially) harmful media-driven gender stereotypes, it is reasonable to assume that young people will identify as easily or more easily with media-driven gender stereotypes as with government policy or an ideology of gender equality. With the combined commercialisation and sexualisation of girls in mind, the state needs to adopt a comprehensive strategy to combat gender stereotypes<sup>8</sup>. In order to eliminate discrimination against the girl child, this approach should include all harmful cultural practices, including those associated with the majority culture, such as potentially harmful media-driven gender stereotyping and its effects on the level of individual gendered practices.

### VIOLENCE AGAINST WOMEN AND GIRLS

In Norway, despite our advances with regard to gender equality in general, violence is still a significant obstacle to gender equality. Research is needed on the root causes of violence against girls and women, including the degree to which stereotypes are a factor.

Furthermore, it is important to identify and address how gender stereotypes and prejudices influence perceptions of the victim and of the perpetrator and of where and how violence takes place. Prejudices and stereotypes are manifested in public discourses about rape and other forms of violence, through categories such as 'deserving' and 'undeserving' victims, the 'likely' and the 'unlikely' perpetrator, and whether accusations are real or false. (See below for a more de-

<sup>6</sup> Anne-Jorunn Berg, Anne Britt Flemmen, Berit Gullikstad (eds.) 2010 "Likestilte norskheter. Om kjønn og etnisitet" ("Norwegian equalities. About gender and ethnicity").

Mari Teigen, Institute for social research, 2009 "The 'Crisis' of Gender Equality".

<sup>7</sup> Borg, Elin 2006, National institute for consumer research, 4-2006. "Barndommens små voksne: En undersøkelse av barnemoten og den visuelle framstillingen av barn i H&M-katalogen 1987-2004" ("Childhood's little adults. A study of children's fashion and the visual presentation of children in H&M catalogues 1987-2004"). Based on an analysis of the portrayal of children in H&M's mail order catalogue 1987-2004, the researcher concludes as follows: 'The findings suggest that childhood as a phenomenon has changed during the period, and that the status of gender equality has had a setback with the growing gender differences.'

<sup>8</sup> See General recommendation No 28 on the core obligations of states parties under article 2 of the CEDAW Convention, the nature and scope of obligations of states parties.

tailed account of attitudes and prosecutorial practices). In addition to gender, these discourses are also characterised by widely held ethnic stereotypes and prejudices, which often result in an 'othering' when assigning responsibility for the prevalence of harassment and violence against women and girls in Norway. A case in point is how public discourses about rape focus on the least prevalent type of rape, i.e. where the assault takes place outdoors and the perpetrator is unknown to the victim. In most of the reported incidents of this type of assault, the perpetrator is an immigrant.

However, research shows that the most common perpetrator of rape is a young white male who knows the victim, and the rape usually takes place in a private home. Hence, in order to combat this form of violence, it is necessary to understand what causes boys and young men to sexually harass and abuse girls and women to whom they have prior or present relations (e.g. so called date-rape and peer-rape)<sup>9</sup>.

The following are some examples of possible negative consequences of gender stereotypes in relation to violence against women :

a) Stereotypical perceptions can lead to violence against women

A Norwegian study of experiences of violence and sexual abuse among youth in Oslo<sup>10</sup> found widespread acceptance of the absence of mutual consent in sexual relations among young people. Based on the qualitative material in the report, the researchers conclude that boys in particular need to be more aware of their attitudes to mutual agreement and respect in sexual relationships. It is therefore necessary to identify the reasons why boys in particular do not see a need for mutual consent in their sexual relations with girls. Since these practices and attitudes relate to cultural conceptions of women and men, and the relationship between the two, it would seem necessary to pay closer attention to agents that provide young people with dominant – and potentially harmful – gender stereotypes, such as advertising, popular culture and the media.

b) Stereotypical perceptions about what constitutes culpable rape can influence the number of complaints

Studies show that young girls do not themselves define abuse committed against them as rape, even though the abuse comes under the scope of the legal concept of rape. This applies in particular where the abuse is drug-related or committed by a former or current partner<sup>11</sup>. The Ombud is worried that the low number of reported rape cases may be related to such perceptions, among other things. In 2010, 938 cases of rape were reported to the police. This is slightly fewer than the

9 Norwegian Official Report 2008:4 Fra ord til handling (From words to action – in Norwegian only)  
10 Svein Mossige, Grete Dyb (eds.) NOVA- Norwegian Social Research. 2009, "Experiences of violence and sexual abuse among youth in Oslo"

11 Stefansen K. and Smette "Det var ikke en voldtekt, mer et overgrep..." Kvinners fortolkning av seksuelle overgrepsopplevelser. ("It was not a rape, but an attack..." Women's translation of their experience of sexual abuse..) I Tidsskrift for Samfunnsforskning, no 1 2006 (p. 33–56).

year before, when 998 cases of rape were reported. Even though the number of reported cases in the past four years has been higher than before, the number is still very low. The Rape Committee, which was appointed in 2006, estimates that there are between 8,000 and 16,000 cases of rape and attempted rape in Norway every year, and that only between 6 and 12% of all cases of rape and attempted rape are reported to the police<sup>12</sup>.

The Ombud would also like to draw the CEDAW Committee's attention to the fact that the number of indictments and convictions in rape cases remains very low. Charges are brought in approximately 20% of all reported cases of rape.<sup>13</sup> Half of these result in convictions.

c) Stereotypical perceptions can influence the courts in their consideration of rape cases.

In 2000, the provision in Section 192 of the General Civil Penal Code was amended to include rape against a defenceless person. Since 2000, a person can be convicted of rape even though violence or threats were not used. According to a report from the Director General of Public Prosecutions, it is a commonly held view among jury members that rape is something that is committed by unknown persons and through the use of extensive force.<sup>14</sup><sup>15</sup> The Ombud is concerned that such attitudes influence the courts in their consideration of rape cases.

Studies of Supreme Court case law concerning violations of the General Civil Penal Code Section 192 first paragraph letter (b) (rape of a defenceless person) show that the courts have very often contrasted this type of rape with what they call 'traditional rape.' It also appears that the absence of violence and threats almost automatically results in the courts considering defenceless rapes as belonging to the provision's 'lower tier'.<sup>16</sup> In the Ombud's opinion, this can be seen as reluctance to describe cases of rapes where there are no elements of violence and threats as 'genuine' cases of rape. This has had very unfortunate effects in relation to sentencing, and split sentences (partly suspended and partly unconditional) have been used extensively in these cases. The result is that the unconditional part of the sentence is now well under the minimum sentence, which, until recently, was two years.<sup>17</sup>

<sup>12</sup> Norwegian Official Report 2008:4 Fra ord til handling (From words to action – in Norwegian only) p. 39

<sup>13</sup> Norwegian Official Report 2008:4 Fra ord til handling (From words to action) p. 43

<sup>14</sup> Ertzeid, A.M. "Straffeloven § 192 om voldtekt – et supplement til pensum i spesiell strafferett". ("Criminal Act § 192 on rape – a supplement to the curriculum in special criminal law"). Jussens Venner

06/2006 (s. 337–370)

<sup>15</sup> The Director General of Public Prosecutions' report no 1 2007 "A study of the quality of indictment decisions in rape cases that resulted in acquittal etc." p. 6.

<sup>16</sup> Ballangrud, A.J. En analyse av straffeloven §§ 192 og 193 og den tilhørende rettspraksis. (An analyses of Criminal Act §§ 192 and 193 and the corresponding jurisprudence). Kvinnerettslig skriftserie 71/2007

<sup>17</sup> The average sentence for rape involving sexual intercourse committed by violence/threats to this date has been just above two and a half years (two years and eight to nine months), cf. Prp 97 L (2009–2010)

In 2010, however, the sentences for rape were increased. The minimum sentence for rape involving sexual intercourse was increased from two to three years. It is also stated that sentences for defenceless persons in particular must be increased. The Ombud commends the government for its actions, but still believes that it is important to keep a critical eye on how the new sentencing provisions will be followed up by the courts.

The attitudes of professional and lay judges to "deserving" and "undeserving" victims or 'genuine' and 'non-genuine' cases of rape can lead to acquittals. These attitudes can also result in the fact that assaults that are actually intentional rape are judged pursuant to other and more lenient penal provisions. A possible example of this in rape cases is where cases of rape with intent are dealt with as cases of grossly negligent rape. Methodologically, it is difficult to prove that more lenient sentencing provisions are actually applied. Simply reading through the judgments does not indicate whether the alternative to returning a verdict of grossly negligent rape would have been acquittal.<sup>18</sup> However, in some judgments, the facts are described in such a manner that everything points to the rape having been committed with intent. Sentences for grossly negligent rape are nevertheless imposed.<sup>19</sup>

Another example of the application of milder penal provisions is in connection with rape committed against intellectually disabled persons. A review of the case law relating to violations of the General Civil Penal Code Section 193 second paragraph ('sexual activity by exploiting a person's mental illness or mental retardation') shows that, in certain cases, the courts have imposed sentences for exploitation, regardless of the fact that the relationship clearly falls within the scope of the rape provision.<sup>20</sup>

The review does not draw any conclusion as to why more lenient penal provisions are applied. However, the natural conclusion would be that attitudes to what constitutes rape and what constitutes a rape victim play a role.

18 Hennum, R.H. Kritisk juss 2009 no 1 (pp. 50-59). "Virker bestemmelsen om grovt uaktsom voldtekt?" ("Does the provision on grossly negligent rape work?").

19 Rt. 2006 p 471, LA 2006-91599, LG 2007-80440. In these cases, the jury answered 'no' to the question of rape with intent and 'yes' to the question of grossly negligent rape.

20 Ballangrud, A.J 2007. Of 24 judgments involving section 193, seven judgments were criticised. The offences were committed through the use of violence in two of the cases, but they were nevertheless not dealt with as rape. In five cases, the aggrieved parties were defenceless, but the perpetrators were nevertheless not sentenced pursuant to the provision that prohibits sexual intercourse with defenceless persons. Since 2001, sexual intercourse with defenceless persons has been defined as and shall be punished as rape. Three of the cases in the material were tried after the amendment entered into force. In total, the review showed that five of the 25 cases should have been sentenced as rape. This issue is also raised in Proposition no 22 to the Odelsting (2008-2009), and, in the Government's proposed new civil penal code, it is explicitly stated that the exploitation provision shall not be used if the conditions of the rape provision are met. The Ombud greatly appreciates the legislator's willingness to do something about this problem. It is important to ensure that the courts comply with this. The Ombud believes that the above examples show that there are reasons to be concerned that society's attitudes to rape are reflected in judgments in rape cases, and that these attitudes lead to victims' legal protection not being good enough.

**Recommendations:**

- The State Party should initiate research on the root causes of violence against women and girls, including the extent to which stereotypes are a factor.
- The State Party should follow up the Rape Committee's recommendation to raise the competence of the judiciary.
- The State Party should initiate specific measures to increase people's awareness of what constitutes rape.
- The State Party should initiate regular reviews of rape cases. In addition to a review of the sentencing, any unintended consequences, such as the application of more lenient penal provisions and acquittal, should be focused on in particular.
- The State Party should devote particular attention to how rape cases are dealt with in following up the report on the jury system, which will be presented in June 2011.

## 4. The weaknesses of certain mechanisms aimed at the implementation of gender equality

### The public duty to promote gender equality

Paragraph 1a of the Gender Equality Act requires all government authorities to make active, targeted and systematic efforts to promote gender equality in all aspects of society. Government authorities have this obligation both in their capacities as public employers and as exercisers of authority (i.e. as service providers, appropriators of funds, policy-makers and as enactors of rules, regulations and ordinances). [These capacities are hereafter collectively referred to as 'exerciser of authority'.]

Unfortunately, the preparatory works to the Gender Equality Act do not sufficiently specify the contents of this positive duty beyond simply stating that it involves the implementation of specific measures and the pursuit of a planned and conscious strategy.

This lack of specification has been criticised by the Ombud,<sup>1</sup> by researchers<sup>2</sup> and by the Law Commission that in 2009 proposed new comprehensive legislation against discrimination. The Law Commission stated:

'The Commission has ... reason to believe that there is great uncertainty and confusion today regarding the contents of the positive duty to promote equality. This uncertainty can in turn weaken the effectiveness of the duty. Specification of the positive duty can create greater clarity regarding its contents. The Commission is of the opinion that this is a weighty justification for specifying the contents of the law in greater detail.'

Although the Law Commission then went on to propose an in-depth specification of the positive duty with respect to employers, it failed to propose any specification of the duty government authorities have in their capacity as exerciser of authority. In this sense, the Commission failed to follow up its own critique of the inadequacy of the legislation as it stands today. Furthermore, the Law Commission proposed that

<sup>1</sup> See the Ombud's response of 18 December 2009 (pages 23–29) to the Government's consultation on the report of the Law Commission (NOU 2009: 14).

<sup>2</sup> See for example: Ronald Craig, 'Systemic Discrimination in Employment and the Promotion of Ethnic Equality' (Leiden: Martinus Nijhoff Publishing, 2007), pages 270–272.

there should be no reporting obligation for government authorities in their capacity as exercisers of authority. Although the current Gender Equality Act contains a reporting obligation (regarding the duty to promote equality) for all employers – both public and private – it has been unclear until recently whether there is also a reporting obligation for government authorities in their role as exerciser of authority. In September 2010, the Ministry of Justice decided that the Act should be interpreted to mean that no such reporting obligation is imposed on the authorities.

From 2007 to 2009, the Ombud carried out reviews and monitoring of 86 local authorities' compliance with their reporting obligations under the positive duty – in their capacity as public employers. The results of this monitoring were published in the Ombud's report: 'Three Years of Monitoring of Local Government Reports on Gender Equality'. In this report, the Ombud summarises its findings and states that the Ombud's impression is that, in general, the promotion of gender equality has low priority in local government. Although this finding was specifically related to government authorities' promotion of equality in their capacity as public employers, there is little to indicate that this situation is any different as regards their promotion of gender equality in their role as service providers, policy makers etc. The Ombud believes that the greater specification proposed by the Law Commission with respect to employers is equally relevant to the positive duty of government authorities in their role as exercisers of authority.

The Ombud believes this obligation has a clear potential to become an effective policy instrument in combating and preventing structural discrimination. The obligation can provide a framework for handling other mainstreaming measures, for example gender impact assessments, and gender budgeting.

### **Recommendations:**

The State Party should consider increasing the effectiveness of the positive duty to promote gender equality (imposed on government authorities in their capacity as exercisers of authority) by specifying the contents of the duty in greater detail. Furthermore, in light of the persistence of violence against women and the prevalence of gender stereotypes, the State Party should consider that the positive duty specifically state that government authorities must also make active, targeted and systematic efforts to address these two issues. The State Party should also consider that all government authorities should have a reporting obligation in their capacity as exercisers of authority.

### **THE ENFORCEMENT SYSTEM**

When drafting its anti-discrimination legislation, the Norwegian leg-

islator intended to make justice against discrimination easily accessible. Hence the establishment of the Equality and Anti-Discrimination Ombud and its appeal board, the Equality and Anti-Discrimination Tribunal, where the procedure is simple and free of charge and the parties can submit and argue their case themselves without a lawyer being required. This was intended to be an easy alternative to taking a case to court.

However, the Ombud and the Tribunal lack the power to order financial compensation. At the same time, however, it is these institutions that decide the overwhelming majority of discrimination cases, not the courts. Between 1985 and 2008, a total of 28 cases on gender-based discrimination were judged in court (out of 45 discrimination cases in total).<sup>3</sup> However, high lawyers' fees are a deterrent for most claimants, and this is coupled with the risk of losing a discrimination case in court with the result that the losing party must cover the opposing party's legal costs.

The Ombud's own analysis of complaint cases shows that the parties often arrive at an amicable solution after the Ombud has considered the case.<sup>4</sup> In our opinion, the availability of meaningful remedies under the present system relies too much on the willingness of the parties to find a satisfactory settlement, disregarding the fact the aggrieved woman may find herself in a weaker bargaining position than the employer and/or lack the necessary resources to obtain full satisfaction. The Ombud recommends as an appropriate measure that the Tribunal be given power to award financial compensation in discrimination cases in the workplace. This will provide more effective protection against discrimination.

The Ombud's statements are not legally binding, but the system is based on the presumption that the Ombud and the Tribunal's opinions will be complied with.<sup>5</sup> In certain cases, however, the Ombud finds that the authorities do not comply with the Ombud and the Tribunal's opinions.<sup>6</sup> The Ombud believes that this can contribute to undermining the authority of the enforcement system and weaken the effectiveness of protection against discrimination.

Another problem with the existing enforcement mechanism is that not all women benefit from it in practice. Based on the Ombud's case administration work, we have observed that women from minority backgrounds make much less use of their rights to file a complaint against discrimination than other groups. The overwhelming majority

3 Advokatfirmaet Frøland Co DA MNA Report – Judicial practice concerning discrimination legislation – submitted to the Anti-Discrimination Law Commission – the Ministry of Children, Equality and Social Inclusion – 4 August 2008.

4 The Equality and Anti-Discrimination Ombud's complaints cases 2007–2010 concerning selected grounds for discrimination and areas.

5 See, among others, the Parliamentary Ombudsman's Annual Report for 1995, p 105.

6 The Ombud's cases 06/327, 07/990, 08/1528

of complaints regarding gender discrimination handled by the Ombud, (especially discrimination due to pregnancy or taking parental leave) are filed by women with Norwegian backgrounds. On the other hand, the majority of the complaints regarding ethnic discrimination are filed by men from minority backgrounds.

The enforcement system is unsatisfactory with respect to sexual harassment cases. It follows from the Gender Equality Act section 8 (a) that sexual harassment is prohibited, and that this prohibition shall be enforced by the courts. The Law Commission has recommended that this arrangement be retained.

In the Ombud's opinion, it can be questioned whether the current system is good enough, because the risk involved in bringing a lawsuit is high. There is almost no case law in the area, as almost no cases are brought before the courts and the costs of legal proceedings are high. The Ombud believes there is reason for concern about whether women who are subjected to sexual harassment have adequate legal protection in Norway.

#### **RECOMMENDATIONS:**

The State Party should consider as an appropriate measure that the Tribunal be given the authority to award financial compensation in discrimination cases in the workplace.

The State Party should assess an alternative low threshold system for the prosecution of cases involving sexual harassment.

#### **Civil society**

Paragraph 27 of General Recommendations 28 stresses states' obligation to ensure women's non-governmental organisations' participation in the implementation of gender equality policy. To this end, resources must be devoted to ensuring that human rights and non-governmental women's organisations are well-informed, adequately consulted and generally able to play an active role in the initial and subsequent development of the policy.

During the last two decades, there has been a movement away from state-feminism, which was characterised by a dynamic relationship between the state and non-governmental women's organisations. Due to a lack of resources, the present situation is characterised by a more top-down development of gender equality policies, on the one hand, and marginalisation of the women's movement, on the other<sup>7</sup>.

For example, the health services offer vaginal inspections for young girls from specific countries as a measure aimed at preventing and eliminating female genital mutilation. It has been decided that

healthcare centres and school health services shall offer parents and girls with backgrounds from relevant countries an opportunity to talk about female genital mutilation, and that girls with a background from countries where female genital mutilation is widespread shall be offered a gynaecological examination. The Ombud believes that it is questionable whether this scheme is perceived as a voluntary arrangement and sees a danger that these measures can contribute to further stigmatising certain groups. In the Ombud's opinion, this is an example of an area where it would be useful to have a close dialogue with the groups it is assumed will be affected when measures are developed. Including civil society could increase knowledge about the need for measures and result in better targeted measures and more support for the measures that are introduced.

**RECOMMENDATION:**

The State Party should revitalise the role of civil society in setting the agenda for gender equality in order to ensure a properly informed gender policy based on bottom-up processes.

## 5. Inequality at work and balancing work and family

The Ombud refers to the CEDAW Committee's concluding comments Nos 25 and 26 on Norway's seventh periodic report, in which the committee expresses concern about the less advantageous position of women in the labour market and recommends that the State Party continue its work on problems relating, among other things, to equal pay, the use of part-time employment and a more equal division of care functions. As documented in the state's report, there are still major challenges in these areas.

An important tool for promoting equality in employment is the employers' statutory positive duty to promote gender equality. Under existing legislation, there is also a reporting obligation connected to this duty. The reports are accessible to the public. The Law Commission has proposed that this reporting obligation be replaced by an internal documentation process that will not be available to the public. This proposal may weaken the employer's accountability and transparency (both internal and external) with respect to its positive duty to promote gender equality.

### Recommendation:

The State Party should ensure that the reports relating to the positive duty continue to be accessible to the public.

### Equal pay

There is currently a 15% pay gap between women and men.<sup>8</sup> The less advantageous position of women in the labour market is largely due to structural factors. The lower status of vocations dominated by women is an important explanation.<sup>9</sup> Historically speaking, women have been in a poorer negotiating position than men and the perception that women could be fully or partially supported by their husbands has prevailed. The gender pay gap has remained stable for many years despite the fact that the authorities have focused on the problem.

In the Ombud's experience, the equal pay provision in the Gender Equality Act alone is not enough to close the gap between women and men's pay. The general gender pay gap has not been reduced during the period since the provision was adopted, and nor has there been any change since the provision was tightened in 2002. The Ombud's

8 Report No 6 to the Storting (2010–2011) Gender equality for equal pay.

9 Ibid

experience of individual cases shows that the rule does little to uncover pay discrimination. Few pay discrimination complaints succeed. Since the Equality and Anti-discrimination Tribunal was established in 2006, a breach of the equal pay provision has been found in one of the 12 cases heard by the Tribunal.

One weakness of the law is that employees do not have access to information about their colleagues' pay. The Anti-Discrimination Law Commission recommends that trade union representatives and safety delegates be given access to information about employees' pay. The Ombud believes that this right should not be contingent on the employee being a trade union member or depend on whether the workplace has a safety delegate. In order to more effectively protect against discrimination, all employees should have access to such information. The Ombud welcomes the fact the government will secure statistics on wages based on gender and position level within an organization, and that, where there is ground for suspicion of discrimination, employers will have to disclose salaries.<sup>10</sup> As things stand today, it may be purely by chance that an employee becomes aware of existing pay differences that can present a breach of Section 5 of the Gender Equality Act. Cases are only brought before the Ombud when the complainant is reasonably certain that he/she is paid less than a colleague of the opposite gender.

The Ombud would also like to point out that the equal pay provision, as opposed to the CEDAW Convention, only applies when comparing employees in the same enterprise. Hence, the provision is not suited to reducing pay differences between different enterprises and sectors. Ensuring equal pay within the same enterprise is not enough if we are to fulfil our commitments under the CEDAW Convention. Other policy instruments must therefore be introduced.

The CEDAW Committee has previously recommended using work assessment tools to facilitate comparison of the work of men and women across sectors and across types of occupation. These tools are very little used, even though they could be an important means of preventing pay being determined on the basis of stereotypical ideas about the value of women's work versus men's work. Such a tool would not least be important in the local and central government sectors, which employ very many women.

#### **RECOMMENDATION:**

The State Party should ensure that the positive duty to actively promote gender equality be specified in greater detail in order to become a more important tool in the efforts to ensure equal pay. In that connection the State Party should consider specifying the use of work assessment tools and also the provision of such tools for private parties.

## Use of part-time

Of all women in employment, 41% work part-time, compared with 14% of all men. This difference has remained stable for the past ten years.

Ten per cent of women and men who work part-time do so involuntarily, according to Statistics Norway (SSB). The criteria for being defined as under-employed in SSB's official Norwegian statistics are more stringent than in EU countries. The definition used by SSB probably means that a great number of cases go unrecorded. In order to be classified as under-employed, a part-time employee must have given notice that he/she would like to work longer hours, must have requested longer hours and must be available to start working longer hours at relatively short notice.

It is much rarer for men in female-dominated occupations to find themselves in a situation where they work part-time without being able to work the hours they want (e.g. in COOP stores men and women have different opportunities with respect to working hours : men work in building materials while women work in groceries). Men work full-time, while women are often involuntarily employed part-time, cf. the survey carried out by 'Handel og Kontor', the Norwegian trade union for shop and office workers. Differences in the way work is organised in typically male and female-dominated workplaces may reflect the stereotypical view that it is less important that women work full-time than men.

### RECOMMENDATIONS:

- The State Party should consider making the right to work full-time statutory. Part-time work should be an option, full-time should be a right.
- The State Party should also improve the statistical basis for recording involuntary part-time work and consider harmonising the Norwegian definitions with those of the EU.

### Use of positive discrimination – recruitment of women to male-dominated sectors, e.g. academia.

As opposed to EU law, which only allows for the use of a moderate quota system, the CEDAW Convention allows for the use of a radical quota system as a temporary measure in order to promote gender equality. The CEDAW Convention is incorporated into the Human Rights Act and takes precedence in the event of a conflict with formal Norwegian legislation. In the same way, the EEA Agreement takes precedence over Norwegian law in the event of a conflict, cf. the EEA Act Section 2. Directive 2002/73/EEA also includes a direct reference to the CEDAW Convention. This can make it difficult for the state and enterprises to know which measures it is lawful to implement. The Ombud believes that it would be advantageous if the authorities looked into this issue in more detail, for example in connection with the Government's preparation of the new comprehensive legislation against discrimination.

## **Discrimination on the grounds of pregnancy and parental leave**

Discrimination on grounds of pregnancy or parental leave is strictly forbidden under the Gender Equality Act. In 2010, a prohibition on asking questions about pregnancy and family planning was incorporated into the Gender Equality Act. The Ombud is satisfied that this legal loophole has been removed. Despite good legal protection, cases concerning discrimination on the grounds of pregnancy/parental leave account for a considerable proportion of work-related complaints received by the Ombud, and it is in this area the Ombud receives most complaints and queries. This type of discrimination often has serious consequences for the person concerned, such as dismissal or being passed over for a job. In the Ombud's experience, some employers seem to believe it is reasonable to give negative weight to the practical and financial consequences of (expected) absence resulting from pregnancy/parental leave. This is why the Ombud believes that attitude-changing measures and increased awareness of the prohibition on discrimination are required. Accordingly the Ombud is pleased with the fact that the government considers the need for specifying in the text of the law the various rights that employees are entitled to, while being on parental leave and thereafter<sup>11</sup>.

A study has demonstrated<sup>12</sup> that when women become pregnant and take parental leave, this has negative consequences for their work situation. The poor treatment of these women appears to have more to do with a lack of systematic personnel work and ad hoc solutions on the part of management than with intentional discrimination. It may therefore be necessary to specify the duty to actively promote equality in order to highlight the problems surrounding pregnancy and parental leave.

### **RECOMMENDATION:**

The State Party should continue to focus on discrimination on the grounds of pregnancy. Relevant measures might be: The specification of the employer's positive duty to include measures designed to change attitudes and increase awareness about the unlawfulness of discrimination on grounds of pregnancy.

### **Parental leave – Article 11 No 2 (c)**

Under the law, nine weeks of the parental leave are reserved for mothers (three weeks before giving birth and six weeks after). The period reserved for men is ten weeks (the so-called 'father quota'). The father quota will be increased to 12 weeks with effect from 1 July 2011.

This means that women will have less formal protection under Section 3 second paragraph No 2 of the Gender Equality Act, which states

<sup>11</sup> IBID

<sup>12</sup> AFI 2/2008 "Erfaringer med og konsekvenser av graviditet og uttak av foreldrepermisjon i norsk arbeidsliv" ("Experience and consequences of pregnancy and taking parental leave in Norwegian workplaces" – in Norwegian only),.

that 'direct discrimination means acts that (...) place a woman or a man in a poorer position than he/she would otherwise have been in as a result of the utilisation of a right to take leave reserved for the mother or father.' Discrimination on the grounds of parental leave over and above the statutory period reserved for each parent is deemed to be indirect discrimination, and legal protection against indirect discrimination is weaker than in cases involving direct discrimination. Individual cases have made it clear to the Ombud that the difference in the statutory period reserved for each parent has unfortunate consequences for women. The Government has stated that it wishes to change this in the long term, by dividing the parental leave period into three equal parts. However, the Ombud would like to point out that discrimination is currently taking place and that it is unclear when this change will be introduced, if at all.

According to the Government, the length of leave taken by parents and the proportion taken by each of them is largely dependent on the rules for parental leave benefits. In 2009, fathers took 11.6% of the parental leave, while mothers took 88.4%. The current parental leave scheme seems to have been based on the view that the mother is the child's primary care person. The child's father earns parental benefits independently through his work. However, the father can only receive parental benefit if the mother starts working, studying etc. The same activity requirement is not made of the father for the mother to receive parental benefit. Furthermore, the amount of the father's parental benefit depends to some extent on the mother's percentage of a full-time position.

The current income ceiling for calculating parental benefits can also lead to fewer men taking parental leave, since men earn more on average than women. Raising this ceiling may contribute to more men taking parental leave over and above the statutory period.

**RECOMMENDATION:**

The State Party should ensure that the shortcomings of the parental leave scheme should be remedied so that the legislation does not prevent the parents from taking equal amounts of parental leave.

## 6 Persistence of violence against women

Today, the Gender Equality Act applies to all areas of society, including families and personal relationships, but the Ombud does not enforce the law in the latter areas. The courts can enforce these provisions, however. In the Ombud's view, the fact that the act applies to families and personal relationships also has an important symbolic function in that it draws attention to gender equality as a fundamental principle that applies in all situations. It also legitimises the Ombud's role as a driving force in promoting gender equality and combating, for example, violence in close relationships. The scope of the act also clarifies the duty of public authorities to make active, targeted and planned efforts to promote gender equality 'in all sectors of society', cf. Section 1 (a) of the Gender Equality Act, which also applies to family life and close relationships. Not least because of the persistent problem of violence in close relationships in Norway, the Ombud is concerned about the proposal from the Anti-Discrimination Law Commission to exclude family life and personal relationships from the scope of the act. The Ombud believes that this proposal can weaken the efforts against discrimination of women.

In the Ombud's opinion, as underlined in No. 4, it would also have been an advantage if the Gender Equality Act identified violence against women as an explicit area for the authorities' duty to actively promote gender equality.

The following are examples of weaknesses relating to measures to combat domestic violence:

- **New model for financing crisis centres can result in a reduction of the services offered and poorer protection against violence.**

A consequence of the new Act relating to municipal crisis centre services (the Crisis Centre Act) is that, as from 2011, the crisis centres are funded by the municipalities alone, so that state grants for the crisis centres are incorporated into municipal budgets. As from 2011, this means that the crisis centres (previously funded 80% by state grants and 20% by the municipality) are no longer funded by earmarked state grants. As the municipalities have been made responsible for the funding, the crisis centres must now compete with other statutory municipal measures and follow ordinary allocation criteria. This form of funding has resulted in a much poorer financial situation for many crisis centres. The Ombud fears that this form of funding can lead to large staff cuts at many crisis centres and that some of them may have to close down. Women from ethnic minority backgrounds are overrepresented among crisis centre users. The Ombud therefore fears that the legal protection of ethnic minority women in particular will be weak-

ened as a result of the amendment.

- **The police's family violence coordinator does not function as intended**

The family violence coordinator scheme was established in 2002. According to the Government's plan of action, *Vendepunkt* (Turning point – in Norwegian only) (2008–2011), every police district must have at least one family violence coordinator in a full-time position. A telephone survey recently conducted by an organisation providing legal advice to women (Juridisk rådgivning for kvinner – JURK) showed that 19 of 28 police districts (including Svalbard) had not satisfied this requirement.

- **Inadequate coordination of public services weakens the rights of victims of violence**

Access to public services and people who can help is necessary for women who are victims of violence. The rights of these women are formally protected by Norwegian law. However, on the basis of various reports and the Ombud's experience of individual cases, the Ombud has noted that women who are victims of violence have difficulties accessing the services to which they are entitled. The Ombud believes that, among other things, this is due to inadequate coordination of these women's rights and the official services to which they are entitled.

One report showed that a single woman at risk of violence was in touch with somewhere between eight and 26 offices/services, and that the number of contact persons was even greater. The survey showed that, to a greater extent than ethnic Norwegian women, women from ethnic minority backgrounds needed practical assistance and referral to other parts of the system.<sup>13</sup> Ethnic minority women are therefore affected particularly strongly by the lack of coordination.<sup>14</sup> The Government recognises that the lack of coordination of public services and systems is a problem. In *Vendepunkt* (Turning Point), the Government's action plan, it has identified a separate goal of improving competence in collaboration and knowledge of the public services. The action plan is designed to contribute to 'the development of holistic, accessible and professionally satisfactory services for victims of violence, children exposed to violence and perpetrators of violence'. (*Vendepunkt* page 13). However, the Ombud cannot see that the action plan contains any specific measures to ensure that services are coordinated.

The Crisis Centre Act entered into force on 1 January 2010. Pursuant to

<sup>13</sup> Tina S. Nordstrøm and Marte Johansen in *Kritisk Juss* 2011 pages 1–6: "Politiets familievoldskordinator – en ordning som ser bra ut på papiret, men hva gir den i praksis?" ("The police's family violence coordinator – a scheme that looks good on paper, but what are the practical results?" – in Norwegian only).

<sup>14</sup> Nilsen Sigrun and Prøis Lisa Ormset, Oslo Crisis Centre 2002. "Fra krisesenter til eget lokalmiljø" ("From crisis centre to the local community" – in Norwegian only).

Section 4 of the Act, the municipalities are responsible for ensuring that victims of violence are offered coordinated assistance. This duty also follows from other statutes, for example, the Social Services Act and the Child Welfare Act. No recent statistics or reports are available to show whether the Crisis Centre Act has resulted in more coordinated assistance being provided for victims of violence. However, based on conversations with the Crisis Centre secretariat and on insight into an individual case, the Ombud's understanding is that the situation has not improved since the Crisis Centre Act entered into force. There is still a wide gap between the formal and the actual rights of victims of violence.

### **Recommendations:**

- The State Party should ensure that interdisciplinary measures are established to deal with violence in close relationships in each municipality, and to consider the introduction of a municipal family violence coordinator who, among other things, can liaise with the police in individual cases.
- The State Party should ensure that the police's family violence coordinators function as intended.
- The State Party should ensure adequate and more predictable funding for Norwegian crisis centres.



Likestillings- og  
diskrimineringsombudet

Mariboestgt. 13, 4 etg  
Postboks 8048 Dep  
N-0031 Oslo

Telefon: 23 15 73 00  
Telefaks: 23 15 73 01  
post@LDO.no

[www.LDO.no](http://www.LDO.no)

ISBN 978-82-92852-44-6

