

**Recommendations to the Government of Norway
on human rights at the United Nations in 2011
from the Norwegian NGO forum for Human Rights
on behalf of**

Amnesty International Norway
Church of Norway Council on Ecumenical and International Relations
Human Rights Committee of the Norwegian Bar Association
Human Rights House Foundation
Juss-Buss Law Students' Free Legal Aid Organization
Norwegian Children and Youth Council
Norwegian Helsinki Committee
Norwegian Human Rights Fund
Norwegian Mission to the East
Norwegian Support Committee for Western Sahara
Oslo Center for Peace and Human Rights
Save the Children Norway

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Thematic recommendations

Blasphemy laws

Laws that criminalize blasphemy have for a long time been defended by state authorities that claim they are needed in order to maintain social harmony among religious groups. These laws typically give rise to the violation, not the protection, of fundamental human rights, especially in countries with weak democracies, authoritarian systems and/or poorly functioning judiciaries.

These often vaguely worded and ill-defined laws limit freedom of expression and are frequently abused to silence dissidents, religious minorities and groups holding interpretations differing from the majority or state-sanctioned doctrine. There are numerous examples of how individuals have fabricated charges of blasphemy to settle petty disputes and how religious extremists have exploited such laws to justify violent attacks on religious minorities, fostering an environment of intolerance.

Two recent examples are the first Pakistani woman sentenced to death on blasphemy charges, the Christian Asia Bibi, and the 17 year old Pakistani Muslim student, Muhammed Samiullah, accused for the same crime and risking death penalty. Unfortunately this kind of law is in force also in Indonesia, a country known for its tolerance and religious pluralism. The Indonesian Constitutional court ruled in April 2010 that their blasphemy law, Article 156(A), was compatible with the constitutional guarantees of religious freedom. Followers of indigenous religions and Christians are among alleged blasphemers, but most often the accused are members of minority Islamic sects, as Ahmadiyyas, and journalists or political dissidents.

We also note with great concern that Ireland enacted a new blasphemy law in 2009, which entered into force in January 2010. In countries such as Greece, Poland and Germany blasphemy laws are still in use, while in Netherlands, they still exist but have not triggered prosecution for decades. We are worried that blasphemy laws in countries that claim to be democracies contribute to legitimize the existence of such laws in countries that lack proper safe guards, needed to prevent abuses against religious minorities and dissidents.

We call on the Norwegian government to:

- Urge all states to abolish their blasphemy laws.
- Raise their voice in different fora (general debates, agenda item 9 and UPR among others) concerning the great abuses of domestic blasphemy laws against religious minorities and dissidents. Countries need to be encouraged to combat the misuse of these laws and the impunity enjoyed by those who raise false charges and commit attacks on religious minorities, motivated by alleged blasphemy crimes.
- Give all the necessary support and protection to those who dare to defend victims of misuse of blasphemy laws and who advocate amendments and abolition of these laws.
- Use all relevant diplomatic tools within the UN-system to advance the work for true tolerance and reconciliation in areas with tensions between religious groups, in order to hinder the misuse of blasphemy laws as justification of discrimination and violent attacks on religious minorities.

Human Rights and Business

We welcome the work of the Special Representative of the Secretary-General (SRSG) on the issue of Human Rights and Transnational Corporations and other Business Enterprises, Professor John Ruggie, whose 'Protect, Respect and Remedy' Framework has significantly progressed the business and human rights debate. In his 2010 report to the UN Human Rights Council, Professor Ruggie, signalled an intention to develop guiding principles that will constitute the mandate's final report. He will also

present options and recommendations to the Council regarding possible successor initiatives to the mandate.

The 'Protect, Respect and Remedy' Framework is being used by a number of NGOs in their communication with and lobbying of states and corporate actors. On 22 November 2010, the SRSG posted online draft Guiding Principles for implementation of the Framework. While an important aspect of the SRSG's work, the draft Guiding Principles contain critical shortcomings that must be addressed. The Guiding Principles should clearly state that states should adopt and implement effective regulatory measures to prevent, put an end to and punish business abuses of human rights at home and in other countries, and to ensure the provision of effective remedies, including through engaging in international cooperation and assistance. Such guidance would be more consistent with the interpretation by UN treaty bodies of States' duties to prevent human rights abuses in other countries.

In line with earlier reports by the SRSG to the Human Rights Council, the Guiding Principles should state that the corporate responsibility to respect human rights exists independently of states' human rights obligations under national or international law, and that all business enterprises have the same responsibilities to respect all human rights irrespective of the country, sector, or specific context in which they operate. Businesses should be given clear guidance on the need and modalities to avoid contributing to human rights abuses committed by other actors whether at home or abroad. Proper consultation and engagement with local communities should be given a central place.

We call on the Norwegian government to contribute to Guiding Principles that:

- Provide clear recommendations to States consistent with internationally recognized human rights standards.
- Specifically address the governance gaps created by globalization.
- Be clearer on the human rights responsibilities of business enterprises.
- Provide more robust guidance on protecting and respecting the rights of women, children, Indigenous peoples, and human rights defenders.
- Provide more explicit recognition and greater consideration of the human right to an effective remedy of individuals and communities who have suffered business-related human rights abuses.

Caste discrimination

Caste discrimination is one of the most serious human rights problems in the world today, affecting an estimated 260 million people globally. The majority of victims of this form of discrimination live in South Asia where they are known as Dalits. The practice of treating them as 'untouchable' due to their inherited social status causes unacceptable suffering on a massive scale. Dalits are subjected to violence, abuse, exploitation and social exclusion and have limited access to land, employment, education and health care. The numerous human rights abuses they suffer are typically committed with impunity – and implementation of existing legislation is weak.

In recent years, a number of UN human rights bodies – including Special Procedures and treaty bodies - have addressed the issue of caste discrimination. The UN High Commissioner for Human Rights has called on the world community to 'tear down the wall of caste.' An international 'soft law' framework, the 'Draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent'¹ have been published, but not adopted, by the UN Human Rights Council.

¹ Discrimination based on work and descent is the UN terminology for caste discrimination

Nevertheless, much more needs to be done to ensure that caste discrimination is placed firmly on the international human rights agenda. The UN needs to take a more active role in the elimination of this form of discrimination, and the private sector can also contribute when dealing with caste-affected countries. Individual governments can ensure that this happens.

We call on the Norwegian government to:

- Express public support for the draft UN Principles and Guidelines, include them in statements at UN Human Rights Council sessions and work for their adoption by the same body.
- Urge other UN bodies – including Special Procedures and treaty bodies – to continue addressing caste discrimination where relevant.
- Push for the inclusion of caste discrimination as a main human rights issue during Universal Periodic Reviews of caste-affected countries as it was done recently in the case of Nepal. Other caste-affected countries include India, Pakistan, Bangladesh, Sri Lanka, Japan, Yemen, Mauritania and a number of other African states.
- Bring up the issue of caste discrimination in political and human rights dialogues with caste-affected countries.
- Promote the Ambedkar Principles² in international fora, especially in the UN Global Compact and ILO, and include the caste dimension in CSR policies.

Child rights

While entering as a member of the Human Rights Council the Norwegian Minister of Foreign Affairs declared that the Rights of the Child would be one of Norway's main priorities in the Council.

The Convention on the Rights of the Child is the only UN human rights treaty with a mandatory reporting procedure which does not have, in addition, an existing communications procedure. While children and their representatives can use the mechanisms established under other international instruments to pursue many of their rights, those instruments do not cover, separately or together, the full range and detail of rights in the UNCRC. Furthermore, current communications or complaints made on behalf of children to the other bodies will not be considered by a Committee with special expertise on children's rights.

In light of this it is highly regrettable and not in good keeping with the pledge to prioritize the rights of child in the Council, that the Norwegian government has not yet participated actively in the Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child and thus in the preparation of the proposal for a draft optional protocol as requested by the Human Rights Council resolution A/HRC/RES/11/1 and A/HRC/RES/13/3 and the latest discussions on the current draft A/HRC/WG.7/24.

We call on Norwegian government to:

- Support an individual communications procedure to the UNCRC, and actively participate in strengthening the current draft text, in particular to include the possibility of collective complaints.
- Once the third Optional Protocol to the UNCRC is adopted, sign and ratify it, promote rapid ratification by other States Parties and work to ensure that adequate resources are provided to support the Committee on the Rights of the Child in responding to complaints.
- Always include advance and oral questions on violations of children's human rights in the examination of all States in the Universal Periodic Review.

² IDSN's guidelines to address caste discrimination in the private sector
http://idsn.org/fileadmin/user_folder/pdf/New_files/IDSN/Ambedkar_Principles_brochure.pdf

Rights to water and sanitation

On 30 September 2010, the UN Human Rights Council adopted a resolution³ which “Affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living.” For the 16th session of the Council, the right to water and sanitation will again be on its agenda. The resolution from the 15th session uses the term ‘right to drinking water.’ A new resolution at the 16th session should simply refer to the right to water or the right to safe water. The term ‘drinking water’ refers to water that is suitable to drink, regardless of the purpose to which it is used. However, ‘drinking water’ may be misunderstood in practice as referring only to water for drinking, and not including other uses such as washing. It is important to articulate the right to water in a clear manner.

It is also necessary to be explicit that the rights to water and sanitation refer to two rights: a right to water and a right to sanitation. The resolution should therefore refer to these rights in the plural. Such a formulation would be more legally accurate, but would also have the practical benefit of giving more attention to the right to sanitation. Many national and international programmes to promote ‘water and sanitation’ often tend to ignore the latter. There is increasing consensus in the development community that sanitation deserves special attention, as recognised by the UN when it named 2008 the year of sanitation, and organised a series of regional meetings on sanitation.

We appreciate the work of the UN Independent Expert on human rights obligations related to safe drinking water and sanitation and call for the mandate to be renewed, however we recommend to term the mandate holder as Special Rapporteur.

We call on the Norwegian government to promote a resolution at the Human Rights Council that:

- Consistently refers to the rights to water and sanitation, including in the title of the resolution.
- Renews for three years the mandate of the UN Independent Expert on human rights obligations related to safe drinking water and sanitation, and amends the title of the mandate to ‘Special Rapporteur on the rights to water and sanitation’.
- Re-affirms that the rights to water and sanitation are derived from the right to an adequate standard of living and inextricably related to the rights to life and health.
- Affirms states obligations to realize the rights of every person to sufficient, safe, affordable and accessible water and sanitation.

We also call on the Norwegian government to:

- Ratify the Optional Protocol to the UN Convention on Economic, Social and Cultural Rights and support the development of an Optional Protocol for a complaints procedure to the Convention on the Rights of the Child, which also includes the right to water.

Country recommendations

Belarus

The 19 December 2010 Presidential elections culminated in unprecedented repression of opposition leaders, activists, journalists, human rights defenders and ordinary citizens of Belarus. Incumbent president Aleksandr Lukashenko declared himself the winner of the elections with 79.7 % of the vote, granting him a fourth term as the president of the republic. More than 10 000 citizens protested on

³ A/HRC/RES/15/9. The resolution is available at:
http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/15/9

the evening of 19th December against what is perceived by national and international observers as unfair and falsified elections. The same night, at least 639 participants of at the protest rally were beaten and detained, and later convicted to administrative penalties. Hundreds served up to 15 days of detention. At present, 42 political leaders are accused and 12 more suspected in criminal cases of participating in or organizing mass riots, risking up to 15 years in prison. Among them are six of the ten presidential candidates as well as other political leaders and journalists. Belarusian authorities show a total disregard for the right to defense of the detainees, who are isolated in KGB prison facilities or forced to house arrest without access to the outside world, including their lawyers.

A climate of fear has spread throughout Belarus. Human Rights defenders, including NGO activists, journalists, lawyers and other individuals, who are addressing the repression are harassed by police interrogations, illegal searches and confiscation of property. It is particularly worrying that the activity of unregistered NGOs in Belarus is criminalized as authorities systematically prevent human rights NGOs from registering.

Belarus has accepted a Universal Periodic Review recommendation from Norway to “extend full cooperation to the United Nations special procedures”⁴ but has for instance not invited the Special Rapporteur on human rights defenders, despite numerous requests.

We call on the Norwegian Government to

- Call for and promote a country resolution and the reestablishment of a Human Rights Council special procedures mandate on human rights in Belarus to, inter alia, report on the events of 19 December 2010 and the acts of repression that has followed; and call on Belarus to extend full cooperation to all UN human rights special procedures.
- Demand from Belarusian authorities the immediate release of all detainees held in the aftermath of the 19 December events and a total end to the wave of arrests of human rights activists, lawyers and journalists.
- Urgently demand that Belarusian authorities allow lawyers to meet with their clients, and allow those detained and in house arrest access to medical assistance.
- Call for new and fair elections in Belarus.
- Use all political and diplomatic tools at its disposal to promote the legalization of NGOs and religious communities in Belarus, as well as the abolition of art. 193.1 of the criminal code which is currently criminalizing non-registered NGOs and religious organizations.

Democratic Republic of Congo

Serious human rights violations, including war crimes and crimes against humanity, continue to be committed in the conflict zones of eastern DRC by both government forces and armed groups. These include unlawful killings, recruitment and use of children, abductions, pillaging and deliberate attacks against civilian populations and humanitarian agencies. Many of these abuses have been attributed to foreign armed groups, including the FDLR2 and LRA3, acting in reprisal for government military offensives against them.

High levels of rape and other forms of sexual violence continue to be reported across the country, particularly in the east, as part of a broader pattern of violence and discrimination against women and girls. Soldiers and police, as well as Congolese and foreign armed groups, are among the main perpetrators. An increasing number of rapes by civilians is also reported. Many rapes, notably those committed by armed groups, have involved genital mutilation or other extreme brutality. A number of armed groups have abducted women and girls and abused them as sex slaves. Few perpetrators of

⁴ At the Human Rights Council’s Universal Periodic Review of Belarus on 12 May 2010, recommendation 97.14.

sexual violence have been brought to justice. Rape survivors continue to be stigmatized, suffering social and economic exclusion, and few have access to adequate medical and psycho-social care.

A number of factors underpin the persistence of gross human rights violations throughout the country. Impunity is a major obstacle, as is the slow progress by the government to reform and train the security forces to a standard that would enable them to protect civilians effectively and to act in compliance with the DRC's human rights obligations. Victims of human rights abuse almost universally lack access to justice, medical care and reparations and redress. Government indifference to human rights issues is a major problem.

The justice system does not have sufficient capacity to ensure accountability and redress for human rights violations in an impartial and consistent manner. The national justice system is under-resourced, inaccessible to the majority of the population, lacks independence and is dominated by the military judiciary which retains jurisdiction over a range of non-military offences. Many trials are summary and fail to meet minimum fair trial standards.

We call on the Norwegian government to:

- Demand that individuals, including members of the FARDC, police and intelligence services, suspected of committing crimes under international law or other serious human rights abuse are brought to justice in fair trials that exclude the death penalty.
- Support a programme of reform and rehabilitation of the justice system to enable it to effectively investigate and prosecute violations of human rights.
- Encourage the establishment of an independent transitional justice mechanism, in consultation with national and international bodies, to address grave human rights violations committed in the DRC since 1993.
- Promote the protection of all victims of sexual violence to enjoy equal and effective protection under the law and have equal access to justice.
- Support the establishment of emergency programmes of appropriate medical and psycho-social care for rape survivors, which should be free of charge.
- Ensure the development of effective mechanisms, in consultation with groups representing women's interests, to prevent violence against women and girls, to facilitate prosecution of perpetrators and to provide full reparation for victims and survivors, in line with UN Security Council resolutions 1325 and 1820.

Egypt

At the time of writing, Egypt is facing a process of great change and instability. The outcome of the military takeover is not yet clear and the Egyptian society faces several challenges that need to be addressed in a proper and effective way in order to secure a constructive and meaningful transition to democracy, rule of law and respect for human rights.

One formidable challenge is the discrimination and marginalization of minorities in Egypt, such as Copts, Shiites, Baha'is, Nubians, and Sinai Bedouins. Religious minorities experience great difficulties in obtaining building and reparation permits of their places of worship; the marriage of Baha'is is not recognized and Baha'i followers are often monitored; converts from Islam risk state harassment and changing their religious identities on the official ID-card is almost impossible. In addition, religious minorities face discrimination in employment and lack equal opportunities.

In recent years we have seen a rise in sectarian tensions and violence, targeting mostly the Coptic minority. Examples of this are the shooting deaths of 6 churchgoers in Naga Hammadi 6 January 2010 and the bombing of a church in Alexandria 31 December 2010. The Egyptian Initiative for Personal Rights reported that some of the sectarian attacks have been committed with the knowledge and/or

complicity of local authorities. Often investigation and legal prosecution is inadequate and fails to fully restore justice.

Therefore, we call on the Norwegian government to use all diplomatic tools available within the UN-system in order to:

- Ensure an open and transparent process in which a new Egyptian constitution and legal framework are drawn up, guaranteeing all Egyptians, minorities included, fundamental human rights and equality and assist the Egyptian power holders in securing adequate implementation systems of human rights obligations.
- Ensure that all political groups and minorities are represented and involved in the dialogue and transition negotiations; and that they are given reasonable and fair access to media and equal opportunities in a free and fair upcoming election process.
- Ensure UN-assistance to the new Egyptian power holders to help them properly address the root causes of the increased violence against religious minorities. Extra attention should be paid to the use of disinformation in media and educational curricula and the defective and biased way security authorities handle and investigate cases of sectarian violence.
- Encourage Egypt to abolish the religious designation on mandatory ID-cards. Barring this, authorities should eliminate the legal impediments to changing ones religious identity on ID-cards.
- Encourage Egypt to invite the Special Rapporteur on Freedom of Religion or Belief.

Turkmenistan

The human rights situation in Turkmenistan is not improving, despite promises made by President Gurbanguly Berdymukhamedov. Human rights violations are still numerous, widespread, systemic in character, and purposefully supported by the authorities. The practice of collective punishment is widespread, and is now increasingly including exiles in European countries. For instance, one Turkmen exile in Europe received concrete warnings that his life would be in danger at the hands of the Turkmen security services in Austria, his country of political refuge. Staff members of the Turkmen Radio Free Europe based in Prague, have learned that their family members in Turkmenistan are subject to threats and are being fired from their jobs. The situation has in fact deteriorated.

The only visit by a UN Human Rights Mechanism to Turkmenistan has been by Asma Jahangir, the UN Special Rapporteur on freedom of religion or belief, who was allowed to enter the country only in September 2008, 5 years after her first request was submitted. She reported concerns about the imposition of legal or policy restrictions by the authorities of Turkmenistan on registration, places of worship, religious material, religious education and proselytism. Requests from other UN Human Rights Special Procedures from 2003, 2004, 2006 and 2007 remain without a response. This demonstrates clearly how promises undertaken by Turkmen authorities are not adhered to in practice. Other international NGOs are not allowed entry to the country and even the strictly humanitarian organisation Médecins Sans Frontières (MSF) was forced to close down its activities in the country in December 2009.

Without the possibility for international human rights organisations and Special Procedures to enter the country, or for local civil society organisations to operate freely, the numerous violations continue without attention.

We call on the Norwegian government to urge the Turkmen government to:

- Allow access to Turkmenistan to international civil society and human rights organisations, in particular to the Special Procedures of the UN Human Rights Council.

- Stop the practice of collective punishment, immediately and unconditionally release all those family members who are imprisoned for this reason and lift the practice of black lists limiting the freedom of movement of Turkmenistan's citizens.
- Guarantee freedom of association by ensuring the possibility for the formation and independent operation of NGOs and trade unions, and to revise the existing NGO law to this effect.
- Create standards to guarantee economic transparency, in particular ensuring public access to information on the return of finances from the sale of energy resources and the creation of mechanisms to influence the use of this revenue.

Western Sahara

Freedom of expression for Saharawis is severely curtailed. Foreign delegations are told by Moroccan authorities that it is not allowed to speak with Saharawis. Journalists and foreign delegations are either denied entry or forced to leave. Freedoms of assembly and of association are severely impeded, as documented in comprehensive reports by Human Rights Watch, Amnesty International and others.

As there is no international presence to monitor and protect against human rights abuses, the Saharawis in Western Sahara are highly vulnerable faced with the web of control exercised by Morocco. There are, however, signs of resistance, like the peaceful Gdaim Izik tent camp outside of El Ayoun, that hosted up to 20.000 persons until it was stormed by Moroccan forces on 8. November 2010. In clashes that followed, where civilian Moroccan settlers were involved, scores were left dead. There is overwhelming evidence of abuse, harassment, or torture both before and after that incident and several other occasions when Saharawis have attempted to protest peacefully.

Most Saharawis living under occupation risk being discriminated against, but the treatment of Saharawi human rights defenders remains one of particular concern. Irrespective of their opinions regarding the territorial status of Western Sahara, human rights defenders are systematically singled out for especially harsh treatment by the Moroccan authorities. As such, their predicament illustrates a wider pattern of severe curtailment of the civil, political, social, cultural, and economic rights of Saharawis living under Moroccan occupation. Human rights organizations such as Collectif des defenseurs saharais des droits de l'homme (CODESA), led by Aminatou Haidar, are denied official registration and a legal status. Ms. Haidar and her fellow human rights defenders work at great personal risk in these conditions. Many are kept as political prisoners. The president of ASVDH, the other main human rights organization in Western Sahara, Mr Brahim Dahane, is among them. He has been imprisoned in Morocco along with other human rights defenders since 2009 after unfair trials and without being sentenced.

Some 500 Saharawis remain "disappeared" after being seized by Moroccan police or military forces. In great part as a result of this discrimination, harassment, the disappearances and effective ban on working through non-violent means to peacefully denounce the human rights abuses perpetrated by the Moroccan government, frustration and anger is on the rise in the Saharawi population.

The fact that there are no international human rights monitoring mechanisms in place as the situation worsens in Western Sahara is very worrying. The UN Security Council has on several occasions considered adding a component to the UN observer mission MINURSO to monitor the

human rights situation in Western Sahara and the camps in Tindouf, Algeria. These attempts have, however, failed so far mainly due to Moroccan and French opposition.

We urge the Norwegian government, at the Human Rights Council and General Assembly to call for:

- A resolution on Western Sahara, addressing freedom of speech, assembly and association, and requiring that imprisoned human rights defenders are either afforded fair trials in keeping with the highest international norms or that they are released.
- Greater protection of, and support for, Saharawi human rights defenders, and that the Moroccan authorities respect their right to work without impediment.
- A strengthening of the mandate of MINURSO in order to entrust it with a human rights monitoring function.
- Morocco to allow foreign observers, journalists, parliamentarians and others free and unimpeded access to the occupied areas of Western Sahara.
- The truth about the "disappeared" Saharawis to come to light, and that meaningful reparation be offered those bereaved.