



REDD BARNA

Norwegian Save the Children

Committee of the Rights of the Child
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Comments on the Norwegian Report to the Committee on the Rights of the Child

We have been informed that the Norwegian initial report to the Committee is on the agenda for the pre-sessional working group January 31 - February 4 1994.

Redd Barna has analyzed the report which to a large extent gives a good description of the legislative, administrative and other measures for the implementation of the rights of children in Norway. We would, however, like to offer some supplementary information on some areas where children's legal rights and living conditions are not sufficiently secured in Norway. Our comments give special attention to refugee children, which have been given priority in Redd Barna's work for children in Norway in 1993.

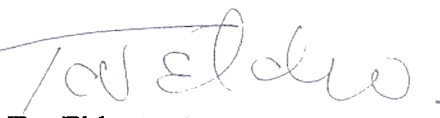
Redd Barna, the Norwegian Save the Children, is an independent non-governmental organization. In addition to child advocacy work in Norway, our organisation has programmes in several developing countries in Asia, Africa and Latin America.

Other NGOs in Norway such as Childwatch International, Voice of Children, Institute for Human Rights, Mellomkirkelig Råd (Norwegian Council of Churches), Målfrid Grude Flekkøy (board member of DCI), Norwegian Red Cross, FFO (Norwegian League of handicap Organisations) and Nansen Childwatch have been consulted. We have also consulted UNICEF and the Norwegian Commissioner for Children. The latter is going to send their own supplementary information directly to the Committee.

NGOs were hardly involved in the preparation of the initial Norwegian report. As far as we know, no NGOs except Redd Barna, has been invited to contribute to the report.

If the Committee wish to have a representative from Redd Barna at the pre-sessional meeting, we would respond positively to such an invitation.

Sincerely yours
REDD BARNA


Tor Elden
Secretary General

ADDRESS
Grensesvingen 7
OSLO 6, NORWAY

POSTAL ADDRESS
P.O.Box 6200 Etterstad
N-0602 OSLO, NORWAY

TELEPHONE
+47 22 57 00 80

TELEFAX
+47 22 68 85 47
+47 22 67 48 84

TELEX
19 143 reddb n

POSTGIRO
0803 5000187

BANK ACCOUNT
8200.01.60756

Comments on the Norwegian Report to the Committee on the Rights of the Child

General Comments

1. The report does not contain any general description of the situation in Norway that could help the committee get a picture of the country, its population, geography, social, economic and cultural conditions as well as conditions of living. A few paragraphs on this would have placed the report in its proper context.
2. In general, little use is made of statistical data to exemplify the situations of children in Norway. This is a great weakness, and unnecessary taking into consideration that the Commissioner for Children (Barneombudet) has prepared such overviews (Fakta om Barn i Norge), also in English. The lack of statistical data is most obvious when it comes to providing relevant indicators describing the status of children's health and the living conditions for disabled children in Norway. When commenting on some of the articles in this paper, we do give some statistical data.

General Measures of Implementation

Article 4 - international co-operation

The State Party is supposed to describe all measures taken to implement the Convention, according to Article 4. This includes its contribution to or participation in, international co-operation. This is not described in the Norwegian report. There are some references to international co-operation in the sections dealing with Articles 24 and 28, but the report lacks a general description of the Government's policy for development assistance and how it relates to the implementation of the Convention, or other kinds of international co-operation to the benefit of children.

The omission of this in the report is rather strange since the Norwegian government actually has made a review of children as participants and benefactors of development assistance. The conclusions of this review were presented to UNICEF in 1992 as part of the Norwegian National Programme of Action (NPA), following the World Summit for Children Plan of Action. These conclusions have also been integrated into the White Paper on development assistance that the Parliament considered in 1993 (St. meld. nr. 51 (1991-92) Om utviklingstrekk i Nord-Sør forholdet og Norges samarbeid med utviklingslandene).

The Committee should be encouraged to ask for information on children in Norwegian development assistance.

Article 4 - measurement to the maximum extent

According to Article 4 the states shall undertake measures to the *maximum* extent of their available resources in regard to economic, social and cultural rights.

Even though Norway is a country with a high standard of living, there has been some economic recession in recent years with cuts in the official budgets. Since children are significant consumers of the official budget allocations, they are also the group that are most affected by cuts in the official grants. This is seen for example in the work environment in the schools through fewer teachers pr. student, school buildings that are unwholesome for the children, fewer special teachers and outdated teaching aids. A planned and systematic reduction in special schools for disabled children which has been taking place the recent years has not been followed up by a corresponding improvement in the ordinary schools to which the students now belong. The development of after-school programmes for pupils in grades 1 to 3 has so far not been adopted to suit the needs of disabled children and children with immigration background. The staff in kindergartens has been reduced and the groups have become larger.

The government should be asked for information on if and how children with special need will be given priority in this situation with economic difficulties and cuts in the official expenditures.

Article 42 - information strategy

The report says that the information strategy on the Convention has as its aim that all Norwegian children and adults in the course of the coming three years shall know about the Convention. In the light of this very specific goal, it is strange that the strategy is not described. Nor is any strategy related to the publication and use of the national report to the Committee described.

The Government should be asked to be more specific on its plan to ensure the dissemination of information on the Convention and of the report.

Article 42 - translation of the convention

The number of children with different cultural backgrounds is increasing in Norway. There were 17 319 foreign language children in primary education during the school year 1990/91. 2 828 children from 100 foreign language countries went to nursery school in Oslo. By August 31, 1993 there was 1 346 children in state reception centres, out of which 119 where unaccompanied minors. These children should also be informed about their rights.

In addition to the to official Norwegian languages the Convention is also published in a Sami version. The Committee should ask if the government plans to provide translation into any other languages.

General Principles

Article 2 - non-discrimination

In 1993 several Kosovo Albanians took refuge in Norwegian churches (church asylum). These were mainly persons who had received a refusal of their application for asylum either in Finland, Sweden or in Norway. Also persons seeking asylum in Norway but fearing a refusal were included. By November 18, 1993 there were 655 persons in church asylum. 55% were children.

Article 2.1 states that *each* child in a country shall enjoy all the rights of the Convention without discrimination. Redd Barna has drawn the governments attention to the fact that each child in Norway shall enjoy these rights regardless of what kind of legal basis there is for their stay. This means that also children in church asylum shall enjoy the rights and protection as stated in the Convention.

On request from the Norwegian Commissioner for Children, the Minister for Children and Family Affairs has proclaimed that children in church asylum do not have the right to education and health service because of their illegal stay in the country. Later on the Directorate of Health did however state that these children are entitled to health care services at a municipal level, but it seems unresolved which one is going to cover the expenditures. Until now the expenditures have been covered by the congregation belonging to the actual church.

The denial of rights in the case of these children this must be regarded as a violation of the Convention, and should be brought to the attention of the Committee.

Article 3 - best interest of the child

A couple of years ago the Commissioner for Children did a survey, which examined the role children play in the procedures connected to the application for asylum put forward by their parents. The conclusion was that the children seem to be invisible in these applications, very often only mentioned by name and date of birth.

According to the Norwegian laws and regulations, the totality of a child's circumstances of life should be recorded when the parents apply for asylum. Recently Redd Barna has analysed some of these applications to see whether the children's situation has been notified and to see the extent to which the directive in Article 3 on allowing the best interest of the child to be a primary consideration has been taken seriously. Our conclusion is that the authorities seldom put much emphasis on the child's situation and needs and to a very little extent take into consideration what the situation will be like for the child on return to their country. Standard formulations like "taking the child's situation into consideration does not legitimise the family's stay in Norway" are often used and the decisions often lack both reasoning and evaluation of the child's situation. Little attention is paid to statements from medical and other experts and very often medical and psychological treatment are suddenly interrupted by deportation.

The government should be asked how they think Article 3 should play a role in the procedures concerning application for asylum.

Article 12 - respect for the view of the child

According to article 12 the child has the right to express its views in any case affecting the child. Directions given in Norway for procedures relating to applications for asylum states that children between 12 and 18 years should be given the opportunity of an interview. This is also the case in application forwarded by their parents.

To day the methods of interviewing of children and the questions are the same as for adults. This approval is often not suitable for revealing the child's own opinions and experiences. The right of the asylum seeker to get free assistance by a lawyer is limited to 5 hours. This very often means that the lawyer cannot give priority to attend the questioning of the children in connection with forwarding of the application.

A legal custodian shall be appointed for every unaccompanied children seeking asylum in Norway. There are several weaknesses with this arrangement, for instance the recruitment is arbitrary, very little information about role and the tasks is passed on to the custodians who therefore seldom become qualified to do a proper job in connection with interviewing the child.

The government should be asked for existing plans to develop new methods and routines which would provide sufficient and necessary information on the child's situation which could be used in the application procedures for asylum.

Civil Rights and Freedom

In general

The Norwegian law does not provide for legal manifestation of all the traditional human rights expressed in the Convention, like the child's inherent right to life (Article 6), the right to enjoy a full and decent life (Article 23), the right to privacy (Article 16), the right to freedom of thought and conscience (Article 14) and the right to freedom of associating (Article 15).

In January 1989 the government stated that the international human rights conventions should be incorporated in the Norwegian law. An official committee has recently put forward a proposal stating that only the main human rights convention should be established as Norwegian law (NOU 1993:10 Lovgivning om menneskerettigheter). This includes the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights of 1966 and the European Convention on human rights of 1950, but not the UN Convention on the Rights of the Child. The latter was considered as a special convention and therefore *not* included among the main human right conventions.

The government should be asked about its attitude to this.

Article 7 - right to know the parents

Approximately 110 - 120 children born in Norway each year are conceived through artificial, anonymous insemination.

New legislation in Norway relating to children should be prepared with the Convention in view. It is doubtful whether this is the case with the law regulating artificial insemination. According to this law, with its clause on anonymity for semen donors, children will not be able to know their biological fathers. This is not in full harmony with Article 7 that says that the child "shall have as far as possible, the right to know and be cared for by his or her parents".

The Committee should be encouraged to inquire the background for a decision not to change this law.

Article 7 - right to nationality

In 1991 5 children with residence in Norway did not have any nationality. In addition to this figure there are some children without nationality staying at state reception centres. An estimate based upon a telephone enquire, showed that there were approximately 70 children without nationality in church asylums alone in Norway at October 1, 1993.

Article 7 states that the child shall have the right from birth to a nationality. The Norwegian law does not fully guarantee this to the child:

1. The nationality of the child depends on the nationality of its parents. A child born in Norway but with parents from an other country can remain stateless if the law in the parents country does not provide for it. Children of asylum seekers risk a problem if they have to return to their home country without an acquired nationality. Redd Barna has seen examples both of problems connected to entrance into the home country at the border and connected to their rights in the home country.

Example: A Kosovo Albanien, single mother with a child born in Norway was deported back to Kosovo after the refusal of the application of asylum. The child was stateless and on the return to Kosovo they did not succeed in getting the authorities to issue identification paper to the child. As a result the child was excluded from the regular vaccination programme. This was obtained only when the mother managed to get some false paper with the identification number of another child.

2. Norwegian law is not totally based upon the principle of equality, because the law differentiate between children born in and out of wedlock. If the mother is a foreign woman and the father is a Norwegian, the child acquire a Norwegian nationality only if the parents are married. This does not harmonise neither with Article 7 nor Article 2.

The government should be asked if any plan exists for improving the implementation of children's right to nationality.

Article 16 - right to privacy

When a foreigner no longer gets a renewal of a contemporary settlement permit in Norway due to the fact that he/she gets divorced or breaks up from a relationship to a Norwegian national residing in Norway, she/he must leave the country. However, according to the Immigration regulations a renewal *can* be given if the foreign national has the right to access to his/her children and sees them regularly.

Redd Barna knows of several examples where a mother/father has been sent out of the country, thereby making it impossible for both parents to maintain a personal relationship with the child on a regular basis. Such practices are violations of the child's right to privacy according to Article 16 and are not in harmony with the basic principles in the Convention manifesting the child's right to be cared for by both his or her parents and to maintain a direct contact with both of them (article 7, 18 and 9).

Example: A woman from Japan arrived in Norway to marry a man residing in Norway. The couple got a son, but due do marital problems they got separated after a while. The couple agreed on joint parental responsibility, the mother having custody and with right to access for the father on a regular basis. The Japanese woman did not get a renewal of her application of permission to reside in Norway. She and her son had to leave the country and the child was then no longer able to maintain contact with his father on a regular basis.

The government should be asked to what extent the principles in the Convention should have any influence on the applications for settlement permits in such cases.

Family Environment and Alternative Care

Article 9 - separation from the parents

It does occur that Norwegian authorities have contributed to the separation of family members in connection with deportations when an application of asylum is rejected. This is not in harmony with the intention in the Convention regarding the child's right to get care from its parents and not to get separated from its family.

Example: After having received a refusal of their application of asylum in Sweden, a married couple (the wife from Ural and the husband from Montenegro) together with their two children flew to Norway to seek asylum here. Their application for asylum was also rejected in Norway and the family was sent back to Sweden, from where the mother and the children were deported back to the mothers hometown in Siberia and the father was sent back to Montenegro. The couple has not got permission to stay in each other countries. In this case Norwegian authorities can say that Sweden is responsible for the splitting up of the family. In Redd Barna's opinion the

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Norwegian authorities also have to take responsibility because the result could be anticipated beforehand.

Example: A 14 year old asylum seeker staying at a state reception centre together with his mother, father and a younger sister, chose to flee from the centre to a chapel when the local police without warning came to the centre to deport the family as a result of a refusal on the application of asylum. The parents and the sister were then deported out of the country after having been kept in custody for a day and a night in another place far away from where the son was. The family was sent to Finland and from there sent on to Kosovo via Sweden and Makedona. The 14 year old boy wanted to remain in Norway and threatened to commit suicide if he was taken into custody and deported. According to Redd Barna's opinion the Norwegian authorities should have postponed the deportation as long as the minor son chose to seek shelter in church asylum.

Article 10 - family reunification

It is a question of discretion whether or not an unaccompanied child is granted political asylum or a settlement permit on a humanitarian basis. In the first case the child has, according to Norwegian law, the right to reunification with his/her family. In the latter case there is no absolute legal right to reunification, but this can be granted when special circumstances call for it. From the child's point of view the need for reunification with the family is the same in both cases. Even if Article 10 does not guarantee the child the right to family reunification, such a legal grant would harmonise better with the principle of allowing the best interest of the child become a primary consideration and the principle of the family as a fundamental unit.

Special Protection Measures

Article 22 - appropriate protection for refugee children

In our comments on Article 2, 3 and 12 we have already focused on some aspects of the situation that the asylum seeker children experience. Some other aspect can also be focused on:

1. Redd Barna has made some studies of the state refugee centres (which is where the asylum seekers stay while their applications are being considered). We found that there exists a need to make improvements in order to respond to the needs of families with children. In addition there should be more suitable in- and outdoors localities. Upgrading of the competence of the staff in regard to meeting the needs of children in general and especially in crises needs to be improved.

2. Unaccompanied minors who seek asylum are entitled to an appointed guardian responsible for taking care of the child's interests. This is practised, but it is very often unclear for the

guardians what kind of tasks they have to carry out. Even if the government has made guidelines for the guardians, they give little concrete information about the guardian's tasks and how they should be executed.

3. The Norwegian law does not protect a child from being kept in custody while awaiting deportation after a rejection of an application for asylum. The custody is limited to at first 12 weeks but can be prolonged. The law does not contain any limit for length of time the custody can last. No age limit is set in these cases, while the age limit for custody in a penal case is 15 years. Occasionally both family with children and unaccompanied minors are kept in custody in Norway. One could ask if not other and more human measures could have been used.

4. Redd Barna has seen several examples of inappropriate treatment in connection to deportation from this country. Some of the families got very short notice before departure. We have also experienced families being sent out of the country without warning, where the police picked up the parents at the asylum centre and the children were picked up at school also by the police. This way of practising foreign policy does not show respect for the integrity of the child and very often leads to psychological problems.

5. The Ministry for Child and Family Affairs has an overall responsibility for children's affairs and child policy in Norway. Redd Barna has appealed to the Minister of Child and Family Affairs to accept responsibility for the total situation also for refugee children. but has not succeeded in getting the Minister to acknowledge this responsibility. The Ministry has referred this responsibility to authorities responsible for the general immigration- and refugee policy, primarily the Minister of Justice. The refugee children thereby have been reduced to being a *case*, not *children*.

The government should be asked if there are any plans on formulate an official plan in regard to strengthening the legal and actual status of refugee children. They should also be asked about what role and responsibility the Ministry of Child and Family Affairs could play in regard to refugee children.