

Norwegian NGO-forum for Human Rights: Recommendations to Norway on Human Rights at the UN in 2012

on behalf of

Amnesty International Norway
FIAN Norway
FOKUS – Forum for Women and Development
Human Rights House Foundation
International Commission of Jurists, Norwegian National Association
Juss-Buss Law Students' Free Legal Aid Organization
Norwegian Bar Association's Human Rights Committee
Norwegian Helsinki Committee
Norwegian Human Rights Fund
Norwegian Humanist Association
Norwegian Organization for Asylum Seekers
Plan Norway
Save the Children Norway
Stefanus Alliance International

Contents

Thematic recommendations	2
Caste-based discrimination (Discrimination based on work and descent).....	2
Child rights	3
Freedom of religion or belief in the wake of the Arab Spring	4
Right to adequate food.....	5
Sexual orientation and gender identity	6
Country recommendations	7
Kazakhstan.....	7
Pakistan.....	8
Russian Federation	9
Sri Lanka.....	10
Sudan.....	11

Thematic recommendations

Caste-based discrimination (Discrimination based on work and descent)

The UN High Commissioner for Human Rights has called on the world community to ‘tear down the wall of caste.’ Caste discrimination is a global human rights issue, affecting an estimated 260 million people. The vast majority of those affected live in South Asia, where they are known as Dalits. In India alone up to 200 million people are severely affected– despite it being illegal. In Japan, discrimination against the Buraku people persists. In Yemen, the Al Akhdam people suffer from similar forms of discrimination. In a number of African countries, caste discrimination is common practice. In many caste-based diaspora communities throughout the world, Dalits still experience discrimination. The practice of treating people as ‘untouchable’ due to their inherited social status causes unacceptable suffering on a massive scale. Dalits are subject to violence, abuse, exploitation and social exclusion and have limited access to land, employment, education and health care. Human rights abuses against them are typically committed with impunity – and implementation of existing legislation is weak.

A number of UN human rights bodies – including Special Procedures and treaty bodies - have addressed the issue, including in the latest mission report from India by the Special Rapporteur on Human Rights Defenders. An international ‘soft law’ framework, the ‘Draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent’ has been published by the HRC and should be adopted to establish an effective framework to address caste discrimination. This year’s UPRs provide opportunities to address the problem as a number of caste affected countries will be up for review.

We call on the Norwegian government to:

- Actively work towards the endorsement of the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, published by the Human Rights Council in 2009 (A/HRC/11/CRP.3).
- Criticize human rights violations stemming from caste discrimination (e.g. with respect to access to justice, women’s rights, bonded labour, education, housing, water, torture, and health) in political statements, dialogues, and thematic discussions in the HRC, making systematic use of relevant recommendations from UN human rights bodies.
- Push for the inclusion of caste discrimination as a main human rights issue during this year’s Universal Periodic Review of countries where caste based discrimination persists, especially India, Pakistan, Sri-Lanka, Japan and the United Kingdom.
- Promote joint action in the HRC in the form of a resolution or joint statement to recommend the sharing of good practices to eliminate caste discrimination (possibly in a panel discussion or a study by the OHCHR).
- Promote the Ambedkar Principles¹ in international fora, especially in the UN Global Compact and ILO and include the caste dimension in its CSR policies.

¹ 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

Norwegian NGO-forum for Human Rights:

Recommendations to Norway on Human Rights at the UN in 2012

Child rights

When 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. Norway has also later confirmed that child rights will be a priority for the Universal Periodic Review.

In light of this it is highly regrettable and not in good keeping with the pledge to prioritize the rights of children in the Council, that the Norwegian government has not yet participated actively in the UN work regarding the Optional Protocol to the Convention on the Rights of the Child establishing an individual communications procedure to the UNCRC.

The Convention on the Rights of the Child is the only UN human rights treaty with a mandatory reporting procedure which has not had, in addition, an existing communications procedure.

The third Optional Protocol to the UNCRC has now been adopted by the UNGA and will be opened up for signature and ratification under an official signing ceremony scheduled for February 28 at the HRC at Geneva. We strongly encourage Norway to sign the protocol on that occasion and to ratify the protocol at the earliest possible date. The Optional Protocol will enter into force upon ratification by ten Member States.

The Convention of the Rights of the Child is already incorporated in Norwegian law. Signing and ratifying the Optional Protocol is an important next step. Norway has now got the possibility to send an important international signal by signing the protocol at the official signing ceremony, by ratifying the protocol and by actively promoting that other States do the same. In this way Norway can make a contribution to ensure better protection and realization of rights of the most vulnerable children in countries with weaker legal systems and poorer legal protection.

We call on Norwegian Government to:

- Sign and ratify the Optional Protocol to the Convention on the Rights of the Child establishing an individual communications procedure to the UNCRC.
- Promote rapid ratification by other States Parties.
- Work to ensure that adequate resources are provided to support the Committee on the Rights of the Child in responding to complaints under the Protocol.
- Include advice and oral questions on violations of children's human rights in the examination of all States in the Universal Periodic Review.

Freedom of religion or belief in the wake of the Arab Spring

The Arab Spring has led to great societal change in several countries in the Middle East and Northern Africa. Transition towards democracy is a huge progress which can pose a danger for the religious minorities of the region. Despite the fact that religious persecution took place before the Arab Spring, religious minorities enjoyed a certain amount of protection from the secular rule of the former dictators. Now, however, this protection is gone, and religious minorities find themselves in new and vulnerable positions. Attacks on religious minorities, especially the Copts in Egypt, increased during 2011, and there is widespread fear among religious minorities that there may be increased persecution if those Islamist parties that advocate violence and discrimination gain power and introduce harsh interpretations of Sharia law.

Freedom of religion or belief is one of the first freedoms and closely interconnected with a well-functioning democracy and a pluralistic society. Therefore, it is of vital importance to assure the principle of freedom of religion or belief according to international norms, as espoused in article 18 in the International Covenant on Civil and Political Rights (ICCPR), in the drafting of new constitutions in these countries in transition.

In light of these developments, it is encouraging to note that the Norwegian MFA has initiated a project aimed at addressing some of these issues. We applaud the dialogue the MFA has started with interested civil society actors, and we look forward to continued cooperation, in which we understand that Norway will:

- Engage with relevant actors in these countries in order to ensure open and transparent processes in drafting their new constitutions and legal frameworks, guaranteeing all inhabitants, especially minorities, their right to freedom of religion or belief, as espoused in article 18 in the ICCPR and other relevant international standards.
- Cooperate with state authorities in order to strengthen rule of law structures, such as the judiciary system, the police and other relevant bodies.
- Enlist UN-assistance to the new power holders in the region to help them address the root causes of the 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 the Arab Spring countries to invite the Special Rapporteur on Freedom of Religion or Belief, to contribute with an analysis of the situation and consequently recommendations for improvement.

Right to adequate food

Globally, one in seven people are hungry. Amongst them, women and children are disproportionately affected. About 34 per cent of children in developing countries, 186 million children in total, have a low height for age, the most common symptom of chronic undernutrition. There is an urgent need to step up efforts to effectively protect and progressively realize the right to adequate food.

By signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Right (OP-ICESCR), countries would significantly contribute to strengthening the protection of the right to adequate food and other related ESC-rights. Currently 7 countries have ratified the protocol, which will enter into force when ratified by 10 parties.

In his reports to the Human Rights Committee (A/HRC/19/59), the UN Special Rapporteur on the Right to Food continues to call for the need to reshape the agrifood systems, with a focus on rebuilding and strengthening local systems through diversified farming systems. He reiterates the need to adopt national strategies for the realization of the right to adequate food. Such strategies need to adopt a life-course perspective. He also warns against imposing nutrition-based interventions where local ecosystems are able to support sustainable diets.

The United Nations Millennium Development Project Task Force on Hunger has shown that 80 percent of the world's hungry live in rural areas. Addressing rural human rights issues is therefore key in order to progressively realize the right to adequate food. As a response to this, the Human Rights Council has requested its Advisory Committee to finalize the study on the advancement of the rights of peasants and other people working in the rural areas (A/HRC/19/75).

We call on the Norwegian government to:

- Sign and ratify the optional protocol to the International Covenant on Economic Social and Cultural Rights.
- Encourage other states to sign and ratify the optional protocol to the International Covenant on Economic Social and Cultural Rights through Universal Periodic Review examinations and bilaterally.
- Sponsor a resolution on the right to food, supporting the conclusions and recommendations of the UN Special Rapporteur on the right to food and the Human Rights Council Advisory Committee.

Sexual orientation and gender identity

All people should be able to enjoy all the human rights described in the Universal Declaration of Human Rights. Yet millions of people across the globe face execution, imprisonment, torture, violence and discrimination because of their sexual orientation or gender identity.

The range of abuses is limitless: women raped to “cure” their lesbianism, sometimes at the behest of their parents; individuals prosecuted because their private and consensual relationship is deemed to be a social danger; individuals attacked, sometimes killed, on the street – as victims of a “hate crime”; denial of employment, housing or health services; denial of asylum when they do manage to flee abuse; individuals raped or otherwise tortured in detention.

Human rights abuses based on sexual orientation or gender identity include the violation of the rights of the child; the infliction of torture and cruel, inhuman or degrading treatment; arbitrary detention on grounds of identity or beliefs; the restriction of freedom of association and basic rights of due process.

We call on the Norwegian Government to:

- Promote joint action in the HRC in the form of a resolution or joint statement in support of the decriminalization of homosexuality in countries where such legislation remains. This entails reviewing all legislation which could result in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity.
- Push for the inclusion of discrimination on the basis of sexual orientation or gender identity as a main human rights issue during this year’s Universal Periodic Review of countries where discrimination based on sexual orientation or gender identity persists.
- Criticize national laws banning the “promotion” of homosexuality which can be used to imprison lesbian, gay, bisexual, same-sex practicing and transgender individuals and human rights defenders, and call for all such laws to be repealed or amended.
- Actively promote adequate protection of human rights defenders at risk because of their work on human rights and sexual orientation and gender identity.

Country recommendations

Kazakhstan

Kazakhstan was granted the OSCE Chairmanship in 2010 and the Chairmanship of the Organization of Islamic Cooperation in 2011, and became a full-fledged member of the Venice Commission in 2011, but has failed to respect its international human rights obligations and commitments. During the last year, there are even reports indicating a worsening situation.

Over the last year, Kazakhstan arranged Presidential elections that were deemed neither free nor fair by international observers, and later Parliamentary Elections that also failed to meet international standards. Following the Parliamentary elections, leaders of opposition parties have been arrested, and editors and staff of oppositional newspapers have been brought in for questioning and their offices raided. Several electronic information sources like *LiveJournal* have been blocked. The informational blockade during the clashes between striking oil workers and police forces in Western Kazakhstan in December 2011 is an element of serious concern. In 2011, the authorities introduced restrictive legislation on religion, including strict registration requirements, ban on unregistered religious activities, and censorship of religious literature.

Before being granted the OSCE Chairmanship, Kazakhstan presented several pledges of reforms. However, none of these were realised in full and in practice the human rights situation deteriorated. Taken together, these tendencies demonstrated that Kazakhstan is taking advantage of international organisations for its own purposes rather than respecting their core principles and aims of these international organisations. Kazakhstan is seeking a non-permanent seat in the UN Security Council 2017-2018 and membership of the Human Rights Council, but should be granted neither without concrete improvements in human rights.

We call on the Norwegian government to urge the government of Kazakhstan to:

- Guarantee freedom of expression by refraining from blocking internet news sources and hindering the work of independent news papers,
- Guarantee freedom of association and religion by ensuring the possibility for the registration and independent operation of public organizations, trade unions and religious groups,
- Invited the UN Special Rapporteur on Freedom of Assembly and Association.
- Provide concrete evidence of human rights reforms in accordance with pledges made within the framework of the candidacy processes before being given seats in the UN Security Council and Human Rights Council.

Pakistan

2011 continued to see the deterioration of basic human rights in Pakistan, and the situation is especially grave for vulnerable groups such as religious minorities and women. Freedom of religion or belief is limited and religious minorities experienced persecution and discrimination from both state and society. The notorious blasphemy laws continued to be used as instruments of abuse and as tools to silence adversaries. Accusations directed against innocent victims, many of whom are religious minorities, have had dire consequences. The accused languish in prisons for many years while waiting for their trials and appeals to come before court. They are often beaten or killed whilst in custody. Judges and lawyers in such cases are threatened and sometimes even murdered. In 2011, two prominent politicians were shot and killed due to their support for amending the blasphemy laws. It appears as though the government lacks both the will and the ability to protect minorities and those who contradict extremist groups.

Women continue to experience egregious mistreatment. Domestic violence, rape, forced marriages and honor killings are examples of this gross abuse. These violations need to be addressed more effectively through stronger legislation and active support and protection of the victims. Impunity is rampant and needs to be addressed. While it is commendable that the Pakistani Senate has recently approved a bill to establish a National Commission on the Status of Women, it is lamentable that the government of Pakistan failed to reintroduce the Domestic Violence (Prevention and Protection) bill, which would have been a major improvement to the current legislation. Pakistan is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), but has not yet implemented its standards.

We call on the Norwegian government to:

- Use its voice to address violations against religious minorities and women in Pakistan's Universal Periodic Review in the fall of 2012.
- Encourage the Pakistani government to fulfill its earlier commitments to review the blasphemy laws with a view to minimizing their abuse, and as a step toward their repeal; and to ensure that those campaigning against the blasphemy laws are able to do so without fear of reprisal.
- Encourage Pakistani authorities to bring to justice the killers of the two prominent politicians murdered last year and provide additional long-term security measures for the lawyers and judges involved.
- Applaud the Pakistani Senate's unanimous approval of the National Commission on the Status of Women Bill 2012 and encourage Pakistan to reintroduce the Domestic Violence (Prevention and Protection) bill.
- Encourage Pakistan to accede to the Optional Protocol of CEDAW in order to allow the treaty body to initiate inquiries in Pakistan and consequently help Pakistan improve its women's rights situation.
- Encourage the UN Special Rapporteur on Violence against Women to make a country visit to Pakistan.

Russian Federation

The human rights situation in Russia remains critical. Especially the situation in the North Caucasus remains the most serious human rights crisis in Europe, and is likely to continue to deteriorate until Russia takes serious steps to implement the so-called “Chechen” decisions of the European Court of Human Rights. Russia generally pays the compensations decided by the court but fails to implement the court decisions in a way that would rectify the causes of violations, end the climate of impunity in North Caucasus, end the widespread practice of torture, guarantee access to effective legal remedies for the population and support and protect human rights defenders.

Currently, Russia accounts for more than a quarter of the **new** admissible cases before the European Court for Human Rights. In addition to the “Chechen cases”, Russian complaints frequently concern poor conditions and inadequate medical assistance in pre-trial detention facilities.

Human rights defenders, journalists and civic activists have been murdered, beaten, harassed and imprisoned without due process, in circumstances that indicate they were punished for expressing their opinion or carrying out their mandate. This is a pattern seen throughout Russia to an increasing degree. The fact that over the last years, most of the assassinations remain unsolved, continue to raise serious concerns for a general lack of willingness to protect human rights defenders and journalists. Additionally, criminal prosecutions appear to be used to hinder human rights defenders in legitimate work, in 2011 criminal cases were initiated against at least 117 civil activists and heads of NGOs.

In 2011 an increasing number of Russians made use of the freedom of assembly to express their views on issues of public concern in 2011. However authorities made a number of efforts to curtail such expressions, often successfully. More than 4000 activists were arrested during or immediately after peaceful demonstrations in 2011. The rise in citizen’s activity and engagement was triggered, among other things by the rigging of Duma elections and the lack of rule of law in the country.

We call on the Norwegian government to urge:

- The Russian Federation to respect the rule of law and to actively prosecute any alleged violation of human rights and international humanitarian law, to end impunity for crimes such as forced or involuntary disappearances, killings and torture by thorough investigation of each case and the provision of fair and public trials.
- That a legal process for grave crimes in the Northern Caucasus region is established, in accordance with the Parliamentary Assembly of the Council of Europe resolution 1323 (2003), and that Russia fully implements the decisions of the Court of Human Rights.
- The Russian Federation to respect freedom of association, expression and assembly, including by security services and law enforcement officers, and to encourage the Russian Federation to invite the UN Special Rapporteur on Freedom of Assembly and Association.
- The Russian Federation to immediately halt persecution of human rights defenders and NGO organizations, honor its obligations to protect and support human rights work and give the NGOs and other civil society initiatives the opportunity to function freely.

Sri Lanka

Thousands of civilians were killed during the final months of Sri Lanka's decades-long internal conflict. Despite the Sri Lankan government's efforts to make this a war without witnesses by barring independent monitors and journalists from the conflict zone, eyewitness testimonies and information from aid workers indicate that at least 10,000 civilians were killed; that the LTTE used civilians as human shields and conscripted child soldiers; that the Sri Lankan army shelled areas it knew were densely populated by civilians; and that people trapped by fighting suffered severe and avoidable deprivation of food, water and medical care. These actions constitute serious violations of international law, and, if left unaccounted for, set a terrible international precedent for impunity. Independent international human rights organizations continue to receive reports of enforced disappearances and police torture.

The Sri Lankan government has so far refused to make a credible effort to seek accountability. Instead, it established an ad hoc special commission, ostensibly to investigate and address wrongdoings, but in fact to deflect international pressure and silence internal critics.

The final report of this Lessons Learnt and Reconciliation Commission (LLRC), released publicly in December 2011, acknowledges serious human rights problems in Sri Lanka but falls short of fully addressing the war crimes and crimes against humanity committed during the final phases of the conflict. The report does, however, offer some relevant recommendations about how to improve the overall human rights situation in Sri Lanka and the need of further investigations into possible violations of international humanitarian law.

So far, the Sri Lankan government has rejected any notions of a more independent, international investigation; neither has it shown much inclination to address the findings of the LLRC's report.

We call on the Norwegian government to:

- Support the establishment of a mechanism within the Human Rights Council to formally deal with the issue of possibly massive violations of international humanitarian and human rights law in Sri Lanka; as a first step, the Council should request the Sri Lankan government to report on its progress in addressing the recommendations of the LLRC's report at the earliest possible date;
- Make clear that Norway does not consider the LLRC's investigations to be sufficient, considering the seriousness and the extent of the crimes under international law alleged to have been committed and the LLRC's limited mandate and lack of independence, even though the implementation of the LLRC's recommendations would be an important first step;
- Express concern about the continued pattern of human rights violations against human rights defenders in Sri Lanka, including steadily increasing smear attacks by the government targeted at people highlighting ongoing human rights issues;
- Support, in the longer run, the establishment of an independent, international mechanism to thoroughly investigate alleged violations of international humanitarian law in the last phase of the conflict, with a view to bringing those responsible to justice.

Sudan

In the border areas, Southern Kordofan and Blue Nile state, hundreds of thousands of civilians suffer the effects of armed conflict and restricted access to humanitarian aid. In Darfur attacks on villages has resulted in thousands of newly displaced people. Sexual violence against women remains rife in and around camps for the internally displaced. Abductions and attacks on humanitarian convoys have increased. In southern Sudan and the border areas, the proliferation of small arms and human rights abuses by various groups continue to affect communities and humanitarian workers. Inter-communal fighting over cattle, land and natural resources results in destruction and looting of civilian property, arbitrary arrests and allegations of extra-judicial killings, and has resulted in over 200,000 newly displaced people.

Human rights violations, mainly by the National Intelligence and Security Service (NISS), continue to be committed with impunity. Perceived critics of the government have been arrested, tortured or ill-treated and prosecuted for exercising their rights to freedom of expression, association and assembly. Death sentences were handed down, including against juveniles.

Women, young girls and men have been arrested and flogged because of their “dress” or “behavior” in public places.

We call on the Norwegian government to:

- Remain seized of the situation throughout Sudan while giving particular attention to the gross violations of international human rights and humanitarian law taking place in the border areas, Southern Kordofan and Blue Nile state, including by requesting the Independent Expert on the situation of human rights in Sudan to present a report on the human rights and humanitarian situation in Southern Kordofan and Blue Nile to the Council.
- Promote joint action in the HRC in the form of a resolution or joint statement demanding that the government of Sudan provide unfettered access to humanitarian organizations in all affected areas, in order to provide emergency humanitarian assistance to the population.
- Actively work to follow up on key concerns raised by the Independent Expert on Sudan in his report (A/HRC/18/40 and Add. 1), including the need for the Government of Sudan to implement the large number of outstanding recommendations, including those compiled by the Group of Experts on Darfur. The Council needs to better reflect the Independent Expert’s findings and recommendations in its resolution.
- Address Sudan’s rejection of recommendations made in the Universal Period Review on the need to review the 2010 National Security Act and to reform the National Intelligence and Security Service, in line with Sudan’s international human rights obligations. The 2010 National Security Act allows the National Intelligence and Security Services extensive powers of arrest and detention without charge, and perpetuates a culture of impunity.