



SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

VISIT REPORT

SUMMARY AND RECOMMENDATIONS

Jong Youth Home

25–26 September 2019



National Preventive Mechanism against
Torture and Ill-Treatment



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1 Torture and inhuman treatment

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment is established in several international conventions that are binding on Norway.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), adopted in 1984, plays a central role in this connection. The same prohibition is enshrined in the UN International Covenant on Civil and Political Rights (Article 7), the UN Convention on the Rights of the Child (Article 37), the UN Convention on the Rights of Persons with Disabilities (Article 15), and the European Convention on Human Rights (Article 3). Norway has endorsed all these conventions.

People who have been deprived of their liberty are vulnerable to violations of the prohibition against torture and inhuman treatment, which is why the UN adopted an Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2002. Norway endorsed the Optional Protocol in 2013.

2 The Parliamentary Ombudsman's prevention mandate

As a result of Norway's ratification of the Optional Protocol to the UN Convention against Torture in 2013, the Parliamentary Ombudsman was issued with a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.¹ The Parliamentary Ombudsman has established its own National Preventive Mechanism (NPM) in order to fulfil this mandate.

The NPM regularly visits locations where people are deprived of their liberty, such as prisons, police custody facilities, mental health care institutions and child welfare institutions. The visits can be both announced and unannounced.

The Parliamentary Ombudsman has right of access to all places of detention and the right to speak in private with people who have been deprived of their liberty. The Parliamentary Ombudsman also has right of access to all necessary information that is relevant to the conditions for people deprived of their liberty.

The risk of torture or ill-treatment occurring is influenced by factors such as legal and institutional frameworks, physical conditions, training, resources, management and institutional culture.² Effective prevention work therefore requires a broad approach that does not exclusively focus on whether the situation complies with Norwegian law.

The Parliamentary Ombudsman's consideration of factors that constitute a risk of torture and ill-treatment is based on a wide range of sources. During its visits, the Ombudsman examines the conditions at the institution through its own observations, interviews and a review of documentation. Private interviews with those who are deprived of their liberty are a particularly important source of information, because they have first-hand knowledge of the conditions at the institution in question. They are in a particularly vulnerable situation and have a special need for protection. Interviews are also conducted with the staff, management and other relevant parties. Documentation is also obtained to elucidate the conditions at the institution, such as local guidelines, administrative decisions on the use of force, logs and health documentation.

After each visit, the Parliamentary Ombudsman writes a report describing its findings and recommendations for preventing torture and other cruel, inhuman or degrading treatment or punishment.

The reports are published on the Parliamentary Ombudsman's website and the institutions visited are given a deadline for informing the Ombudsman about their follow-up of the recommendations. These letters are also published.

In its endeavours to fulfil the prevention mandate, the Parliamentary Ombudsman also engages in extensive dialogue with national authorities, control and supervisory bodies in the public administration, civil society and international human rights bodies.

¹ Section 3 a of the Parliamentary Ombudsman Act.

² See the UN Subcommittee on Prevention of Torture (SPT), The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 30 December 2010 CAT/OP/30/6.

3 Summary

The Parliamentary Ombudsman's National Preventive Mechanism made an unannounced visit to Jong Youth Home on 25–26 September 2019. Jong Youth Home is a state-run child welfare institution that can receive up to five adolescents between the ages of 13 and 18, with serious substance abuse problems. The average treatment period at the institution is up to twelve months, including maintenance at home or in a rooming house.

Jong Youth Home seemed to be a pleasant place, designed with the residents in mind. Staff members at the institution stood out as responsible and dedicated adults who demonstrated interest in and care for the residents.

Since 2010, Jong Youth Home has been one of two child welfare institutions that have implemented a method derived from the Contingency Management Therapy method for substance abuse disorders (in Norway, referred to as 'learning-based treatment'). This is a new method of treatment for youth with substance abuse issues in child welfare institutions. The therapy in itself is knowledge-based but has not previously been attempted in child welfare institutions or in institutions where residents are placed involuntarily.

The institution's methodological profile appeared to ensure a unified practice with thorough and systematic training for staff members.

However, the house rules, unwritten rules, routines and practices when considered all together, involved risk that the adolescents could be subjected to routine restrictions without individual justification for each case. Treatment methods appeared to contribute to these restrictions, as they included a reward system that included easing up on restrictions as one type of reward.

Management stated that the adolescents placed at the institution were generally permitted to move about freely, and to leave the institution on their own if they wished. Our conversations with staff members and adolescents during the visit were not entirely consistent with these claims. Here, it was described that the adolescents, especially those undergoing first level treatment, were not permitted to meet someone on their own, go to the shops or go for a walk alone. They were also driven to school, to doctor's appointments and other activities. They described a practice that appeared to involve constant adult accompaniment. This was not based on any legal decisions, which is required for such intrusive measures.

This uncertainty regarding the adolescents' opportunities for leaving the institution involved a risk that the adolescents' freedom of movement could be restricted without a basis on individual or concrete assessments.

This was reinforced by the institution plan, which noted that the time the adolescents could spend on their own ("alone time") was something that was assessed based on maturity and the level of treatment. It also stated that "private life" and "alone time" were examples of rewards that the adolescent could choose if they had submitted a clean drug test. The Ombudsman notes that a system where residents must earn a right that they already have (by submitting a clean urine sample), is clearly problematic.

Access to the internet was also used as a reward for clean drug tests. Since many of the adolescents had access to the internet through their own subscriptions, often financed by family or local child

welfare services, this means that the arrangement involved greater restrictions for some residents than for others.

During the visit, we also learned that all adolescents were required to hand in their mobile phones at night. This was stated in the institution's "house rules", which at the time of the visit were described as "mandatory", without individual considerations. The Ombudsman notes that this is not consistent with the provisions of the Child Welfare Act.

One of the institution's other house rules stated that adolescents living at the institution were not permitted to spend time together alone. The rule was presented as a general ban and was not based on individual and concrete assessments. The Ombudsman's report notes that this general rule regarding socialization is problematic and may be in violation of both the Child Welfare Act and the right to respect for private life.

The Ombudsman had the impression that the institution worked systematically to prevent the use of coercion. Staff appeared to make active and preventative efforts to minimise conflicts. During the period we looked into, there were few cases where tense situations escalated. There were also several routines in place concerning prevention efforts, and it was the Ombudsman's impression that these were followed. However, the Ombudsman emphasises that when coercive methods and restrictions are routinely used for all young people, it will become more difficult to make individual assessments and to ensure legal rights. Opportunities for prevention and participation will also be lost.

There were few decisions on the use of physical coercion in acute high-risk situations during the period checked by the Ombudsman. However, in one of the situations described in the protocol, the Ombudsman notes that the conditions for the use of coercion were not satisfied.

During the visit, we received information from several sources concerning a situation with an adolescent where a staff member had physically intervened. This situation was not described in an administrative decision or in other written reports. This implies that the use of physical force may not always be documented, as required by law.

A review of the documentation also revealed a situation where the institution had demanded that the adolescent remove a video from their mobile phone. The video had documented a situation where a staff member had intervened with physical force. Staff members also demanded to be present when the adolescent showed the film to their parents. The Ombudsman's report stresses that the demand to delete the content of an adolescent's mobile phone is an intervention that may conflict with the right to respect for private life under Article 8 of the European Convention on Human Rights (ECHR). A practice of demanding to delete the content of the mobile phone, and the demand to have staff members present when adolescents show such documentation to their parents could prevent the documentation of other violations, including violations of the prohibition on torture and inhuman treatment pursuant to Article 3 of the ECHR.

3.1 Recommendations

Documentation of coercion

- The institution must ensure that decisions on the use of coercive methods contain concrete and detailed information on the justification for the use of coercion, as well as information on the attempted use of less invasive methods. They should also describe how the use of coercion was reviewed with the adolescent following an incident of coercion, and measures in place to prevent the similar use of coercive methods.

The use of physical force

- The institution must ensure that all use of physical force is consistent with children's rights and that it complies with the Child Welfare Act and its regulations.
- All forms of less invasive uses of coercion should be documented and justified in writing.

Restrictions on freedom of movement

- The institution should ensure adolescents' rights to freely move about, both inside and outside the institution. Restrictions regarding this rights must be based on individual, concrete assessments.
- The institution should always ensure that adolescents' rights are made clear. There must also be individual and concrete justifications for any restrictions.

Searches and inspections

- The institution should never search an adolescent's possessions without a specific reason and individual justification.

Electronic communication

- The institution should ensure that there are no routine infringements on the rights of adolescents to use their electronic communication devices.
- The institution should ensure that house rules on electronic communication devices does not imply greater restrictions for some residents than for others, unless there are individual reasons to justify this.

The right to respect for private life

- The institution should ensure that rights of adolescents to socialisation with other adolescents is not routinely restricted.
- The institution should ensure that all employees are given adequate supervision and training on the boundaries for control over the residents' private lives and electronic correspondence.

Preventing coercion

- The institution must ensure that all use of coercion at the institution is consistent with children's rights and that it complies with the Child Welfare Act and its regulations.
- Adolescent who have been subjected to coercion shall always be heard during the evaluation of the use of coercion.
- The institution should implement systematic efforts to prevent all use of coercion. As part of this effort all routine use of coercion as a result of house rules and practices should be discontinued.

The right to healthcare and treatment

- The institution should update its medicine management routines and ensure routines for the responsible management of medicines belonging to adolescent who have moved out of the institution.

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