

CHANGING THE NORWEGIAN CORRECTIONAL SYSTEM CASE BY CASE

▸ STRATEGIC LITIGATION AND LEGAL POLITICAL MOBILIZATION ▸



Maria Hessen Jacobsen

Lawyer

«The Norwegian model» as portrayed in international media

[IMPACT](#) [INCARCERATION](#) [PRISON SYSTEM](#) [NORWAY](#)

How Norway Is Teaching America To Make Its Prisons More Humane

The broken prison system is in desperate need of reform. U.S. prisons are trying

The Norwegian prison where inmates are treated like people

On Bastøy prison island in Norway, the prisoners, some of whom are murderers and rapists, live in conditions that critics brand 'cushy' and 'luxurious'. Yet it has by far the lowest reoffending rate in Europe

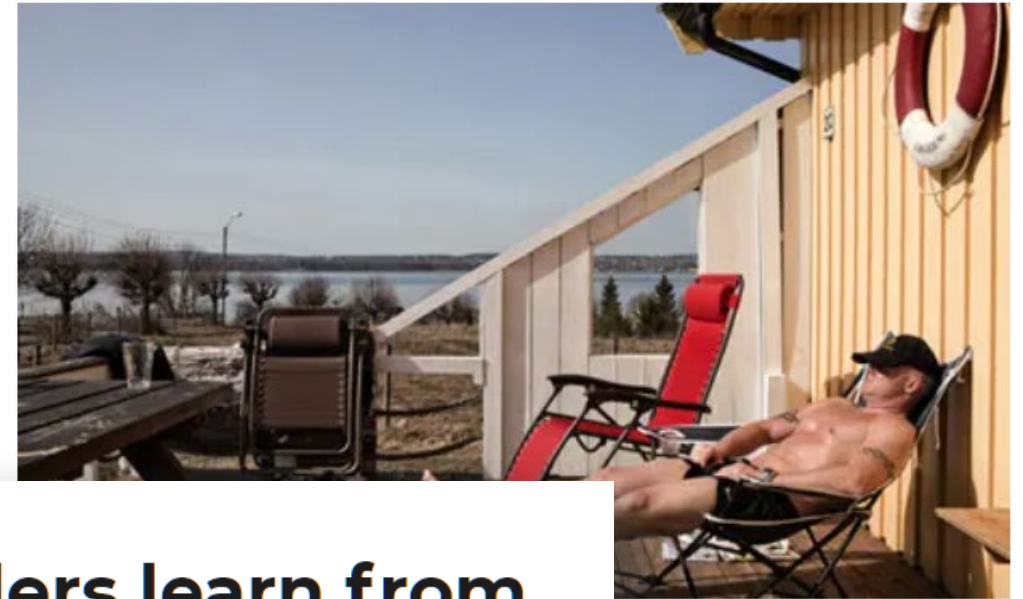


What Can We Learn From the Norwegian Prison System

BY JULIE DE VAULX ON OCTOBER

[Rehabilitation](#)

California leaders learn from Norwegian prison system



The Parliamentary Ombudsman: Clear risk of inhuman treatment at Oslo prison

A new report shows that inmates at Oslo prison are treated in violation of human rights standards and Norwegian law.

Photo: Eirik Brekke



The model without
adequate funding

The Despair in Cell 6143

They cut themselves with razor blades and skull their heads into the wall until they bleed. Mentally ill inmates are isolated in a cell in Bergen prison. The youngest is 15 years old.

Prison officer: A heralded crisis

Simple math makes us aware that there is a shortage of staffing in Norwegian prisons. But what about the consequences?

**UN Committee Against Torture: Too much isolation
in Norwegian prisons**

ISOLATION AND SEVERE MENTAL HEALTH ISSUES

- Excessive use of solitary confinement
- Inadequate care for severe mentally ill
- Excessive use of restraints

**Union representatives in prisons:
- The pain threshold has been reached**

**Sounding the alarm about Norwegian prisons: –
Becoming mentally ill**

Many inmates in Norwegian prisons struggle mentally. Too low staffing is taking a toll on the inmates, according to the prison leader.

The Parliamentary Ombud believes that the prison conditions at Bredtveit prison are critical and life-threatening. Now the attorney general has been notified, and she responds with several immediate measures.



Committee against torture raises alarm about Norwegian prisons

The Council of Europe's Committee against Torture was on an unannounced inspection in Norway in June. Now Norway is being criticised for several factors including related to the treatment of the mentally ill in prisons.

STRIP SEARCH

- Routine, not intelligence-based
- Before and after visits
- Involving squat

Inmate was naked hundreds of times in Bergen prison: – It hurts to constantly strip naked

A woman and two men have sued the state for extensive nude searches at Bergen Prison. They believe it is a violation of human rights.




Synne Sørenes
Journalist

Was naked hundreds of times in prison – now the state has been convicted of human rights violations

Jonathan case: Reportedly naked over 60 times as a minor

BERGEN/OSLO (VG) A letter was found in Jonatan Krister Andersen's cell after his death. In it, he refers to nude visitations at a young age as "abuse" – describing them as "offensive and extremely unpleasant".



Prison officer's lawyer: Not enough people at work to intervene during suicide attempt

Only two officers were at work during the suicide attempt in Ålesund prison. – This means that you cannot enter the cell of an inmate, says lawyer Rune Lium.

«If more persons are hurt, seriously ill, or even lose their lives, it will not suffice with an apology. Somebody will be held accountable. We have warned!»

- Prison staff union, 2016

SUICIDE & SELF HARM

- Suicide rate 4 x higher than European average
- High numbers on self-harm
- Inadequate prevention and investigation mechanisms

The Parliamentary Ombud calls for increased efforts to prevent suicide in prison

Jessica (31), a mother of small children, recently took her own life in Bredtveit prison.



OVERVIEW OF
CHALLENGES

- De facto isolation in prisons
- Frequent occurrence suicide and self-harm, faulty investigations
- Inadequate health care for inmates
- Inadequate provision for mentally disabled inmates
- Excessive use of invasive coercion measures – belt beds, gas, security cells
- Women’s prison conditions
- Rules on reparation not in accordance with the ECHR
- Routine strip searches and telephone checks in Norwegian prisons

SYSTEMIC CHALLENGES

- Serious failure of the authorities' management of the use of isolation
- Deficient internal control
- Inadequate legislation – the Penal Code is out of date
- The supervisory boards do not have a sufficiently clear mandate, resources and competence to ensure regular systematic control
- Deficient decisions and assessments
- Access to a lawyer very limited
- Insufficient notoriety and statistics

ELDEN
— ADVOKATFIRMA —

CHANGING THE
SYSTEM BY JUDICIAL
CHALLENGE

State convicted of human rights violations

Three former inmates at Bergen prison were subjected to several hundred nude visitations. Now they have been convicted that their human rights were violated.

Nude visitation is a violation of human rights

OF DANIEL DENIAZI • UP-TO-DATE NOVEMBER 5, 2022



Lawyer Bendik Falch-Koslung is the leader of the Norwegian Bar Association's isolation group, which works to overcome unfounded isolation.

The State acknowledges violations of Article 3 ECHR against former prisoners

"It's quite historic, and I don't think the state has ever acknowledged violations of the torture provision, at least not in a judicial mediation," Falch-Koslung said.

Court of Appeal: Bergen prison violated human rights

One inmate was forced to strip naked nearly 200 times in a year and a half.



Bergen prison receives harsh criticism in new verdict on illegal use of solitary confinement

The man was slightly mentally retarded and was illegally isolated for ten days. "Incomprehensible and inexcusable," the defense attorney said.



2014:

Ending police
detention exceeding 48
hours

- Civil lawsuit by detainee after being held too long in police detention
- Bar Association as intervenor
- ECHR art 8 violation, 2.500 € non-pecuniary
- Attorney general implemented shortly after
- Establishing the permanent “Isolation group” in the Norwegian Bar Association

The Attorney General: – Release the prisoners in case of lack of space

The attorney general is calling on police to release alleged perpetrators rather than violate the rules of the cell. The goal is to prevent people from sitting illegally in solitary confinement for a long time.

2019:

De facto solitary
confinement 23 h/day
abolished

- Drawing inspiration from 2014 case
- Several reports by CPT, CAT, Ombudsman
- Several lower court decisions throughout 2019, violation ECHR art 8, compensated
- Lawyers in network – organized
- Academics weighing in
- Media attention
- Bar Association amicus brief

Norwegian Supreme Court HR-2019-2048-A:

Remand confined to cell for 22 hours or more a day is as harmful as full solitary confinement, and should be compensated as such – UN Mandela rules guidance

- Proposed legal amendments 2023 – hearing by JD

2020:

Settlement state – prisoner
after belt bed 38-42 hours
ECHR art. 3 violation

- The Norwegian Bar Association Isolation group – lawsuit against the Justice department
- Settlement – 15.000 € non-pecuniary damage



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**The State acknowledges violations
of Article 3 ECHR against former
prisoners**

2020:

Routine strip search in
Norwegian prisons
abolished

**Was naked hundreds of times in prison –
now the state has been convicted of human
rights violations**

HR-2020-2136-A og HR-2020-2137-A:

Violation ECHR art. 3 degrading treatment.
Reparation: 1 day deduction of sentence per
2 searches

Evolving jurisprudence – larger deduction
for children, monetary compensation etc

2023:

Female convicted – given lower sentence due to facing poorer prison conditions

Was upheld that the client should receive a more lenient sentence because women have poorer prison conditions than men

"It is the state that must ensure adequate prison conditions, but when it fails, it is important and right that the courts compensate for this," says Maria Hessen Jacobsen.

- Women as minorities in prison
- UN committee CEDAW 2017, NPM report
- Relying on national sentencing rules, but also
- Khamtokhu og Aksenchik v. Russland

2024?
ECHR ARTICLE 2



- Notice of lawsuit sent on 23 December 2022 in the "Jonatan case"
- Aimed at health, correctional care and possible child protection
- Violation of article 2 – duty to take necessary measures to prevent suicide (>50 alerts made of risk)
- Violation of article 2 – duty to investigate, inspect, participate (1 in 72 suicides investigated, 1 in 72 suicides examined by prison supervisory board)

ADVANTAGES –
STRATEGIC
LITIGATION

- Rapid change in low-priority areas
- Attention to issues
- Creating larger movement – NGO's, media, inmates involved, academics
- Economic reasons – addressing HR violations in criminal cases

THE CHALLENGES OF COURT-ORDERED CHANGES

- Obligation to secure – better before, than after
- Court-made rules not foreseeable
- Expensive – for the few (access and risk)
- Areas in need are left without possibility/suitability

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THANK YOU

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