

**Input from The Norwegian Center of Antiracism
for the preparation of the report of the United Nations High
Commissioner for Human Rights pursuant to Human Rights
Council resolution**

**47/21 on the “Promotion and protection of the human rights and
fundamental freedoms of Africans and of people of African
descent against excessive use of force and other human rights
violations by law enforcement officers through transformative
change for racial justice and equality”**

Content

Introduction.....	2
Executive summary	2
Legal framework.....	4
Judicial remedies.....	4
The Norwegian Bureau for the Investigation of Police Affairs.....	5
Norwegian Anti-Discrimination Tribunal.....	5
Police education	5
Reports and statistics	5
Racial-profiling.....	6
Minorities trust in police	6
Common Police practices and Incidents	6
Common Police practices	6
Incidents 2005-2021.....	7
Death of Eugene Obiora 2006	7
Excessive force in cavity search 2015	7
Racial profiling	8
Excessive force in interrogation 2019	8
Full body-search(strip-search) in public of minor 2021	8
Common for caselaw.....	8
Measures to prevent Human Rights violations and excessive force by Police	8
Receipt from police-controls trial-project in Oslo.....	8
Conclusion	9

Introduction

Africans and people of African descent constitute 145 000 persons,ⁱ 2.6 percent of the Norwegian population according to the national statistical bureau.

The Norwegian government do not produce statistics based on race or ethnicity, but on citizenship so the statistics include only African citizens who have emigrated to Norway and persons born in Norway to parents in the prior group. Hence, we do not have statistics on third-generation Africans in Norway, nor first-generation and beyond for persons of mixed African and Norwegian descent. Knowing that larger groups of people with African descent established themselves in Norway during the 1980s and 1990s there are a large “hidden” number of people with African descent in Norway, that are not visible in statistics.

The majority of people of African descent in Norway live in urban areas, with close to 40 percent residing in the capitol, Oslo.ⁱⁱ

Further, neither criminal-statistics, nor investigations on Police Affairs have statistics connected to race or ethnicity. In general criminal-statistics one will find only nationality. While in reports on and in case-law, on investigation into Police Affairs there is no trace of the victim’s nationality, race or ethnicity.

One will therefore be left with only cases that has been brought to the public attention through media, and NGO-reports, if one are to look at discriminatory behavior by Norwegian Police.

Executive summary

There have been incidents of Human Rights violations and use of excessive force by Norwegian police towards Africans and people of African descent, that have been met with impunity over the last 20 years. Reports show structural racism and systemic discrimination in police-control practices, and a lower trust in police among minority-groups.

The legal framework consists of general anti-discriminatory laws, regarding both governmental and private entities, the Police Code’s paragraph on general conduct has a none-specific prohibition of discrimination, penal laws against hate-speech and hate-crime, the Norwegian Constitution paragraph 92 through the incorporation of international conventions on Human Rights.

As there is a lack of research and statistics on race in general in Norway, and specifically none on the meaning of race or ethnicity in contact with police and

the judiciary system, there is no research on the matter that can say whether or not human rights violations racism runs rampant in the police department

There are several reports and studies showing a lack of trust in the police among minority youth, with as few as 56,8 % of youth with African and Asian backgrounds reporting to have confidence in the police, the average for the entire population being close to 80 percent. Scientific research from both government and NGO's as well as a decision from the Equality and discrimination board, show that racial- or ethnic-profiling happens, as confessed by former Prime minister Solberg. Racial profiling on a systematic scale constitute a breach of the International Convention on the Elimination of All Forms of Racial Discrimination article 2, letters c and d.

A trial-project on receipts from police-controls in Oslo decided politically in 2021 has yet to be implemented, and a proposal for a national implementation has met opposition, in particular from police officials and organizations. Hence there is no foreseeable prospect of any broader research or statistics on the subject.

Single incidents and common Police practices that have been shed light on through media-exposure who unsurfaced use of excessive force and grave violations of Human Rights. Although not widespread, yearly cases spanning from the unlawful death to frequent unwarranted traffic-controls of Africans and people of African descent are done by Norwegian Police. There is also a lack of training in anti-discrimination in Police-education.

The last high-profile cases are one of excessive force during interrogation and an incident where a 15 year old minor was strip-searched in public suspected of drug use. The latest being particularly grave as the National Prosecutor had already more than indicated that this widespread practice of body searches in cases of suspected drug use is illegal, which a later report did conclude. In none of the incidents presented in this input the police-officers in question were suspended or taken out of active duty.

The incidents exposed to the public are most likely only the tip-of-the-iceberg as they only were caught by the public eye because of vidéo-recordings. If they are to be seen as indicators for a broader picture, in correlation with studies on racial-profiling, one must say that Human Rights violations and use of excessive force by Norwegian Police towards Africans and people of African descent, although not widespread, occur with a frequency of more than one public case a year, that it is to a degree systemic and structural and are done with impunity for even when exposed to the public.

It is recommended that a trial-project on receipts after Police-controls that are decided for Oslo are implemented nationally on a permanent basis, Further the committee is advised to look into issues concerning lack of anti-discrimination

training in Police education, specific anti-discrimination legislation in the Police code, and due to the impunity, the lack effectiveness and availability, and impartialness of judicial remedies,

Legal framework

The legal framework is strong on Human Rights, incorporating international Human Rights in the Norwegian Constitution, both United Nations treaties and European Convention on Human Rights, including the International Convention on the Elimination of All Forms of Racial Discrimination.

In the Norwegian Penal Code there are paragraphs prohibiting hate-crime, hate-speechⁱⁱⁱ and discrimination^{iv} on the basis of skin-color, nationality or ethnic origin. Further there are civil legislation concerning discrimination in general, including on basis of race or ethnicity and explicitly incorporates the international Convention on the Elimination of All Forms of Racial Discrimination^v.

There are no specific laws or regulations concerning racism or discriminatory behavior by Police forces. There is a requirement of impartiality in the Police codes paragraph 6 on conduct^{vi}.

Police code paragraph 6 regulates the Polices use of force, but are wide and leave much to the discretion of the operative officer.

In 2021 stop and search practices on grounds of suspicion of drug-use were deemed illegal by Riksadvokaten, the National Prosecutor. This practice must be seen in connection with racial-profiling and are disproportionately used against racial- or ethnic minorities, including Africans and people of African descent, in their residential areas^{vii}.

Judicial remedies

There are two separate legal actions available in cases of discrimination or racist conduct by Norwegian Police forces. The Norwegian Bureau for the Investigation of Police Affairs operating under the penal-system and as an internal organ of the police, overseen by the Norwegian Police Directorate, and the Norwegian Anti-Discrimination Tribunal operating under civil-legislation. Both instances have been criticized for lack of transparency, availability and leniency in decisions and the committee are recommended to inspect if this constitutes breaches of the International Convention on the Elimination of All Forms of Racial Discrimination article 6 on available and effective judicial remedies.

The Norwegian Bureau for the Investigation of Police Affairs^{viii}

The Bureau for investigation of Police Affairs has been widely criticized for its lack of transparency and leniency. Few cases end up being decided in court, as most cases are handled by administrative measures. Resulting in fines and critique rather than convictions and termination of employment.

Due to the lack of independence and transparency in its proceedings there are a lack of trust in the bureau as an available remedy in the minority population.

A report on the Bureau for investigation of Police Affairs from the Organization against public discrimination, OMOD, of 2008^{ix}, done in cooperation with British Internal Affairs, concluded that both organization, investigation and prosecution were sub-par. Especially the interpretation of the Police code paragraph 6 and the wide discretion given to operative Police Officers leave space for violations of Human Rights and excessive force to be perpetrated with impunity.

Norwegian Anti-Discrimination Tribunal^x

The Anti-Discrimination Tribunal handles cases under Norwegian discrimination law. According to the report “Access to Justice in Discrimination Cases in Norway” by Marte Bauge and Lene Løvdal it is the process is not accessible without professional representation. It is deemed highly bureaucratic and although, one case on racial-profiling ended with a decision against Trøndelag Police Department, the decisions resulting in findings of discrimination are few and far apart.

Police education

There is no formal training specifically on racism and anti-discrimination in police education, for a bachelor’s degree at the Norwegian Police Academy^{xi}. It is a theme that are visited in subjects as ethics and. courses that embodies crime-prevention, social control etc. There is a non-mandatory course available as additional training,^{xii}

A newly started project in Oslo is aimed at training local operative police officers in anti-discrimination and cultural awareness^{xiii}.

Reports and statistics

As mentioned in the introduction there is a lack of research and statistics on race and ethnicity as a whole in Norway, and in-particular on Human Rights violations and discrimination from government actors.

Racial-profiling

Several reports^{xiv} testify that racial-profiling is an issue in Norway. For instance a survey from Norwegian Center of Antiracism of 2017 that showed minority youth be more than four times as likely to be stopped by police frequently, 2-3 times a month, compared to majority youth living in the same residential areas. As much as 12-13 percent of respondents that had themselves immigrated to Norway or had parents that were immigrants reported to have been stopped 2-3 times a month or more, versus only 3 percent out of youth where both parents were born in Norway.^{xv} This might constitute a breach of the International Convention on the Elimination of All Forms of Racial Discrimination article 2, letters c and d, and an issue the committee are recommended to look further into.

In one reported incident in a Nordic survey a youth from Oslo of Somali descent told that he had been crossing the street on a red light which led him being brought in and held at a police station.^{xvi}

As both former Prime minister Ena Solberg and the Police Director admitted that racial-profiling do happen in Norway. The debate is no longer to the same degree if racial-profiling happen, but to what degree.

Racial-profiling in-parallel with unlawful stop and search practices might also constitute breaches of the International Convention on the Elimination of All Forms of Racial Discrimination article 5.

Minorities trust in police

Several surveys and reports on trust in the Police show a lesser degree of trust in the Police among minorities and minority youth in-particular^{xvii}. One study shows as low as 56,8 percent confidence in Police amongst minority youth versus close to 80 percent in the whole population.

Common Police practices and Incidents

As research and statistics are scarce on the topic of Human Rights violations and excessive force by Police towards Africans and people of African descent we are forced to rely on known common Police practices and incidents brought to the public-eye to assess the situation.

Common Police practices

As illustrated in the prior paragraph racial-profiling is a huge aspect of Human Rights violations against Africans and people of African descent, and does play a significant part in why they are also in greater danger of being victim of excessive force and other Human Rights violations by Police and the Judiciary.

Amongst common Police practices identified are the forementioned unlawful stop and search procedures on suspicion of drug-use, chokeholds used in apprehension and used to force-open suspects mouth, along with batons and transportation of people identifies as suspected drug-sellers out of city-centers to forests or rural areas. Documented in OMOD's report of 2008.

Due to lack both in statistics on reported violations and on Police-controls in general the prevalence of these practices is unknown.

Some incidents 2006-2021

Death of Eugene Obiora 2006

Eugene Ejike Obiora (25 February 1958 – 7 September 2006) was a naturalized Norwegian citizen, originally from Nigeria. Obiora's name entered the public limelight in Norway after he died during a police arrest at a social services office^{xviii}, Østbyen Servicekontor, in Trondheim. He was there to complain against his being denied welfare (financial aid). According to early news reports Obiora threatened and photographed the staff, and police were subsequently called in. When Obiora refused to leave the premises and resisted arrest, a scuffle ensued where a strangle hold was employed by one of the arresting officers. Shortly thereafter Obiora lost consciousness and was subsequently transported to the local hospital by the police. He was pronounced dead despite resuscitation attempts.[2] The nurses who received the police patrol car have stated in police interviews that he was positioned "completely limp on his stomach face down on the floor of the supervisor vehicle.

The case was first abandoned, then re-opened still resulting in no charges brought. Due to lack of evidence^{xix}. One of the Police Officers involved had few years earlier been charged in a similar incident, using a chokehold on Sofia Baidoo a woman of African descent.^{xx}

Excessive force in cavity search 2015^{xxi}

In a case from 2015 a videophotographer and journalist documented an incident in the centre of Oslo where two Police Officers forced their batons inside the mouth of suspected drug-seller, according to the police officers to make him spit out balls of cocaine. After that went unfruitful, the suspected drug-seller was driven to a rural area, relieved of his shoes and left to walk back to the city. According to the victim the bus back to the city took 45 minutes.

The practice both of using batons to force suspected drug-sellers to spit and to drive them to rural areas and leave them of their shoes are known to have been a common practice in Oslo. No Police Officers were suspended or reprimanded.

Racial profiling^{xxii}

In one case the Anti-Discrimination Tribunal found in 2020 that more than ten police-controls during a period of five years constituted discrimination.

Excessive force in interrogation 2019

In a case considering excessive force to extract evidence from a suspect in Agder Police Department the Bureau of investigation of Police Affairs brought charges and the Police officer were found guilty in the first instance of court, but acquitted in the Appeals Court that deemed the actions to be within the scope of the Police Code paragraph 6^{xxiii}. The suspect was held in a chokehold, and had marks of being beaten, and told he feared for his life^{xxiv}

The Police Officer was not suspended or taken out of duty.

Full body-search(strip-search) in public of minor 2021

In 2021 a 15 year old boy of African descent were subjected to a humiliating full body-search in public due to suspicion of drug-use. Let alone the search for suspicion of drug-use was unlawful in itself, but the humiliating way it was conducted in a sexual-demeaning manner was in itself a breach of several Human Rights including the Child Convention. The Bureau of Investigation of Police Affairs deemed it to be in breach of procedure and the Officers were given a fine, as an administrative measure^{xxv}. The officers were not suspended or taken out of duty.

Common for caselaw

Common for the incidents are that they are all well documented, in most cases by video. Yet the police officers involved were not suspended during investigation. None of the incidents led to convictions, termination of employment, loss of rank or position, or been impediments on further career. The harshest reactions were low-level fines, which are not deterrent or preventive.

Measures to prevent Human Rights violations and excessive force by Police

Receipt from police-controls trial-project in Oslo.

After more than thirty years of political lobbying and gathering of evidence by several organization first and foremost OMOD^{xxvi}, A trial-project on receipts after Police-controls were decided in Oslo in 2021. As of now it is yet to be implemented. It has met opposition although it will only describe the situation as is. It is recommended by both the Anti-discrimination Ombud and several NGO.s that this measure is implemented nationally^{xxvii}.

Conclusion

The legal framework, although strong on Human Rights, embodying international Human Rights in the Constitution, lacks in specific codes directed at discriminatory conduct within the police and judiciary. It is a legislative issue that the scope of the Police Code's paragraph on conduct and use of force is so wide that most all force used by Police Officers are deemed to be within this scope and not excessive.

Further it lacks effective remedies, as the Norwegian Anti-discrimination Tribunal is hardly accessible other than with legal aid, and the findings of discrimination are few and far apart. The Norwegian Bureau of the investigation of police affairs for long time have been criticized for leniency and being an organ inside the police the prosecution lacks independence of the Police. For instance questions of the scope of the Police Code paragraph 6 has not been appealed to the Supreme Court for clarification on its interpretation. The committee is recommended to inspect the judicial remedies effectiveness even further.

Education and training are also lacking in both quantity and quality when it comes to anti-discrimination and cultural awareness.

Measures as the receipt-project will only document "stop and search" practices and might have a preventive effect but are yet to be more than a local trial-project under development.

The reports on racial-profiling give grounds to conclude that there are reasons to believe this is structural and systemic, and in breach with the International Convention on the Elimination of All Forms of Racial Discrimination article 2 c) and d). This in turn also leads to a lack of trust in Police among minorities among them Africans and people of African descent.

Further the incidents of excessive force, unlawful body search and unlawful death that resulted in fines or no punitive reactions whatsoever. In addition, common practice of use of force in apprehension give grounds to believe violations of Human Rights and excessive force are structural and systemic. This give reason to conclude that, while one cannot say that such grave violations of fundamental Human Rights are widespread, Human Rights violations and excessive force by Police are done with seemingly impunity for the perpetrators. The impunity being ascribed to necessary force according to the Police Code paragraph 6 or lack of evidence.

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ANTIRASISTISK SENTER

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