

ALTERNATIVE REPORT

to Sweden's 19th, 20th and 21st

Periodical Reports to the Committee on the International Convention on Racial Discrimination

SUBMITTED BY **THE UNITED NATIONS ASSOCIATION OF SWEDEN***, JULY 2013

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***UNA** Sweden represents 95 national organizations, **LSU** represents 81 youth organizations, **HSO** represents 38 disability organizations, **RIFFI** represents 30 immigrant and minority women's rights organizations, **SIOS** represents 22 immigrant and minority rights organizations, **CMR** represents 84 organizations working against racism, **SSR** represents 43 Saami villages and 22 Saami associations.



Introduction

This alternative report is in response to Sweden's nineteenth, twentieth and twenty-first periodic reports to the UN Committee on the Elimination of All Forms of Racial Discrimination. It has been developed with input from non-governmental organizations active in Sweden. These organizations work regularly with people who face discrimination and associated disadvantage. The contributions cite extensive research to demonstrate areas where the Swedish government fails to meet its obligations under the Convention on the Elimination of All Forms of Racial Discrimination.

Perhaps the most significant human rights challenge facing Sweden today is ensuring tolerance and respect for the rights of minorities and immigrants in a growing and increasingly multicultural state. Despite some development and implementation of legal standards pertaining to non-discrimination, indigenous, ethnic and religious minorities continue to suffer discrimination in all areas of life.

This report considers manifestations of discrimination in a number of areas including employment, housing, education, health, policing, the administration of justice and access to goods and services.

The structure of the report follows the structure of the articles in the Convention and includes a summary of main concerns and recommendations followed by detailed information on where Sweden stands in relation to fulfilling its obligations under each of these articles. This report raises the issues relevant to Articles 3, 6 and 7 in the sections on minorities and vulnerable communities under Article 2. The various socio-economic areas are dealt with under the section on Article 5 on equal rights.

Looking back at the previous alternative report from 2008, we see that most of the prominent issues concerning discrimination in Sweden have unfortunately prevailed during the past four years. While there have been some attempts to address discrimination during this time, this report clearly indicates continuing negative trends in several areas and continued discrimination in Sweden.

There is much that can be done to improve the situation of immigrants, national minorities, refugees, undocumented migrants and other vulnerable groups in Sweden. It is our hope that the recommendations in this report will spur concrete actions that will help to address some of the problems raised in this report and to promote a healthy, vibrant and dynamic society that can afford equal rights and opportunities to all persons living in Sweden.

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Executive Summary

The following report is an alternative to Sweden's nineteenth, twentieth and twenty-first periodic reports to the Committee on the Convention on Ethnic and Racial Discrimination. To avoid redundancy, this report raises issues relevant to Articles 3, 6 and 7 under the sections on minorities and vulnerable communities covered under Article 2. Relevant socio-economic areas covered under Article 5.

Article 2.1. This section takes a close look at the absence of a Swedish independent national human rights institution, the incidence of hate crime in Sweden and the need for a balanced assessment of the legal and social consequences of the removal of the term race from the Anti-Discrimination Act. The report shows that Swedish law enforcement, including the justice system, fails to effectively handle hate crimes. Several institutional measures are suggested to offset this continuing concern. These measures include establishing a common definition for hate crime used by all law enforcement authorities across the country and more effective implementation of existing hate crime legislation and consistent investigation into the motives behind criminal offenses. Best practices, such as the Hate Crime Unit in the Stockholm Police Department, should be replicated.

Article 2.2. This section highlights communities that are especially vulnerable and subject to ethnic discrimination and the need for legislation on affirmative action based on ethnicity. In addition to discrimination against Sweden's indigenous Saami people and national minorities, it looks at the human rights situation for persons with African descent, while the situation for Muslims is addressed under article 5. The issue of discrimination is examined in regards to the workplace, education, housing, indigenous land rights, education and language as well as social services and health. Of particular note is the fact that Sweden still has not taken concrete measures to ratify ILO Convention No. 169, despite strong recommendations from the CERD Committee to accelerate the work to ratify. A comprehensive list of concrete recommendations is provided at the end of each subsection.

Article 4. This article requires countries to condemn and penalize all dissemination of propaganda and organizations based on ideas of superiority of one race or ethnic origin, or which incite racial hatred or violence. Our report shows that Sweden is still in violation of its obligations under Article 4. There is continued promotion and incitement to acts of racial discrimination that go unpunished in Sweden because legislation does not provide for sufficient protection against organized forms of racist expression. Racist propaganda is spread openly without restriction, targeting vulnerable groups, such as young people who are the largest recruitment base for racist and Nazi organizations. Existing complaint mechanisms in Sweden do not provide for an effective remedy to such violations. It is critical that Sweden either fully complies with the Convention and implements a ban on racist organizations or takes necessary legislative, policy and awareness raising measures to ensure greater effectiveness of legislation on hate crimes.

Article 5. Regarding certain rights that should be guaranteed to everybody, we note significant deficits in Sweden's implementation of securing the right to equal treatment before the law, including in the areas of employment, education and access to public services. This section is divided into several subtopics that cover discrimination in the legal system, employment, housing, education, health care and access to goods and services in the private and public sectors. Although this section examines key areas separately, it is important to note that discrimination in one area impacts other areas. A comprehensive list of recommendations is provided at the end of each subsection.

ARTICLE 2: Structural and Institutional Measures to Counteract Ethnic Discrimination

This chapter is divided into different sections covered by Article 2. The first part of the chapter deals with structural measures and highlights the absence of a Swedish independent national human rights institution, the incidence of hate crime in Sweden and the need for a balanced assessment of the legal and social consequences of the removal of the term race from the Anti-Discrimination Act.

The second part of the chapter focuses on the need for legislation on affirmative action based on ethnicity and provides information on communities that are especially vulnerable and subject to ethnic discrimination.

2.1 GENERAL INSTITUTIONAL MEASURES TO COUNTERACT ETHNIC DISCRIMINATION

Article 2.1

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations; (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

LACK OF A SWEDISH INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTION

MAIN CONCERNS

- Sweden has not established an independent national institution on human rights.
- Full compliance with international human rights obligations is not given priority.
- Broad discretion given to local self-governments leads to inconsistent fulfillment of human rights obligations, including in ensuring equal access to education.
- Immigrant and minority women run the highest risk of being isolated from protection against violence and other types of violations.
- Multiple forms of discrimination do not receive adequate attention.

According to the Paris Principles adopted by the UN in 1993, all member states should establish independent national human rights institutions in order to strengthen the human rights work at the national level. The national human rights institution (NHRI) should have a broad human rights mandate, it should be established by law, work independently from the government, report to the parliament and work closely with NGOs and other human rights actors. One of the main tasks should be to analyse the state's compliance with international human rights obligations.¹

In 2010, the Universal Periodic Review of Sweden resulted in several recommendations from the Human Rights Council on the need of an independent Swedish human rights institution. These recommendations were echoed in the proposed new structure for human rights by the Swedish Delegation for human rights. However, no action towards

the establishment of a Swedish NHRI has been taken.² The establishment of a Swedish NHRI would be an important and useful structural measure to better tackle all forms of racial discrimination.

BROAD DISCRETION GIVEN TO LOCAL SELF GOVERNMENT

According to national law on local self-government, municipalities have the responsibility as well as the discretion in implementing Sweden's human rights obligations.³ This discretion results in discrepancies in the way human rights, including CERD obligations are implemented.⁴

In several municipalities newly arrived immigrants have to wait a long time before being enrolled in school.⁵ Once enrolled, they are often placed in special introductory classes.⁶ In addition, studies show that newly arrived students rarely receive education in all subjects, as other students. In elementary school as well as in upper secondary school the education is often restricted to language education and mathematics.⁷ Courses in the pupils' mother tongue language are hardly ever offered within the upper secondary school system.⁸ Education organised in this way results in segregation.⁹

It has recently been exposed that in one municipality in Sweden, asylum-seeking children were denied lunch in school, an entitlement of all children in the Swedish school system. It was not until the situation was publicly debated at the national level that the children were treated in the same way as other pupils.¹⁰

MULTIPLE DISCRIMINATION

Just as discrepancies exist between municipalities in the area of education, not all local self-governments undertake necessary measures with regard to women's rights. As noted in our last alternative report to CERD, the UN Special Rapporteur Yakin Ertürk expressed concern over the discrepancy between the legal framework to protect women from discrimination and the practical application of that framework in Sweden.¹¹

According to Ertürk, minority and immigrant women are especially vulnerable since they experience multiple forms of discrimination. Ertürk and the CEDAW Committee have in their recent examination of Sweden highlighted the precarious and vulnerable situation of immigrant and minority women within their own communities and in society at large and called for proactive efforts to combat discrimination against them. The areas identified where these women face tangible multiple discrimination are the labour market, education and health care. Furthermore, there is a need to increase the availability of social services and legal remedies for these women and a need for special measures to combat violence against them.¹²

Ertürk concluded that Saami and Roma women are often reluctant to seek protection and support from institutions and authorities because there is a perception that the authorities have little understanding of their cultural circumstances and cannot provide them with the support they need. To understand the type of discrimination women within ethnic minorities face, more research is necessary.¹³

According to a study on women and health, there is widespread institutionalized discrimination in prenatal health care provided to immigrant women.¹⁴ Discrimination in the form of generalisations, stereotypes and prejudices experienced by female immigrant patients can have negative health consequences. In addition, women with immigrant, asylum-seeking or refugee backgrounds often face a higher risk of violence, due in part to their residency status. Women without valid residency permits are often reluctant to approach state authorities and are more likely to remain in violent situations and relationships.¹⁵ Specially designed services and protection for immigrant and minority women would help address some of the barriers they face in reporting violations.¹⁶

This conclusion equally applies to other vulnerable groups within ethnic minorities such as persons with disabilities, children and persons claiming their LGBT-rights. In close cooperation with the Equality Ombudsman, an independent national human rights institution would play a crucial role in promoting a coherent human rights approach for local self-governments and in strengthening the legal framework against multiple forms of discrimination.

RECOMMENDATIONS

In line with the UN Paris Principles, the Swedish government should establish an independent national human rights institution with mandate to:

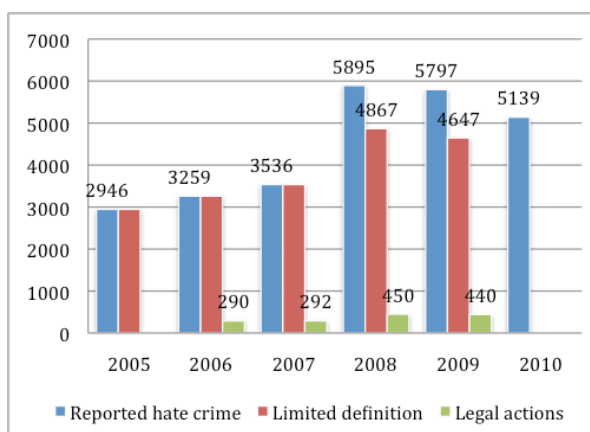
- Streamline and oversee local government compliance with Sweden’s human rights obligations.
- Support the Equality Ombudsman in developing a legal infrastructure that can deal more effectively with cases of multiple discrimination.
- Conduct research on specially designed services and protection for immigrant and minority women.
- Increase awareness among immigrant women of the availability of social services, legal remedies and their rights to gender equality and non-discrimination.

LEGISLATION ON HATE CRIME

MAIN CONCERNS

- Hate crime remains high.
- Few reported hate crimes lead to indictment.
- Laws to combat hate crimes are not being fully implemented and the so called stricter sentencing rule is seldom used by Swedish courts.
- There is no common application of the definition of hate crime. The judicial system, the police and the authorities working on these issues have different interpretations of the definition and different views on which offenses qualify as hate crime. This leads to non-uniform hate crime statistics, many hate crimes remaining unrecorded and discrepancies in implementation of the law.
- Methods used by law enforcement officials to investigate hate crimes are inadequate. Combined with a general mistrust of judicial authorities, this results in a decreased incidence in hate crime reporting.
- Hate crime in schools is not being addressed.
- Good practices, such as the Stockholm Police Department’s Hate Crime Unit initiative, are not replicated elsewhere in Sweden.

Hate crime constitutes a breach of human rights and is characterized by a lack of respect for everyone’s fundamental equal value.¹⁷ In our previous alternative report we expressed concerns regarding the increasing number of reported hate crimes in Sweden. Albeit the number of reported hate crimes has decreased since 2008, it remains high.



Penal Code 29:2 p.7 describes the notion of hate crime as a crime where the motive is to violate a person, an ethnic group or a similar group of people based on race, color, national or ethnic origin, religious belief, sexual orientation or any other similar circumstance, while the specific legislation regulating hate crimes is formulated in Penal Code 16:8 on agitation against national or ethnic group and in Penal Code 16:9 on unlawful discrimination. The inclusion of transgender identity or expression in the list has been recognized through law practice.¹⁸ The most common motive in 2010, 2011 and 2012 was xenophobia/racism (about 74 %). 5490 hate crimes were reported in 2011 and 5520 in 2012 (BRÅ 2012:7, 2013:16). While the number of hate crime based on intolerance against sexual orientation has decreased during the past two years, hate crime with anti-religious or afrophobic motives have increased.

Statistics on hate crime reveal a significant and striking gap between the number of reported hate crimes and the numbers of hate crime related offences that lead to indictment. Legal as well as practical obstacles need to be resolved in order to increase the number of reported hate crimes leading to indictment.¹⁹ The term legal actions in the figure is constituted by decision to prosecute, order of summary punishment and waiver of prosecution.

FAILURE TO EFFECTIVELY ADDRESS HATE CRIMES

There is a high number of hate crimes that are not reported.²⁰ This is a result, in part, of failure to raise awareness among law enforcement, particularly the definition of a hate crime. For example, a survey by the National Council for Crime Prevention illustrates that only one third of the Swedish Police Services, who responded to the questionnaire, had educated their personnel in hate crime related offences during 2010. The result further shows that despite the high number of reported hate crimes, there are no personnel specifically tasked and trained to work with hate crime related issues in the majority of the Swedish Police Services, in the Swedish Prosecution Authority and in the Swedish Courts Administration.²¹ Well-educated personnel in relation to hate crimes as well as effective work against hate crimes within the law enforcement is desirable in order to identify hate crimes, properly implement the law and investigate allegations, hold perpetrators to account, provide justice to victims and, importantly, increase public willingness to report hate crimes. These are basic obligations of democratic societies based on the rule of law and specific obligations under the Convention.

While efforts to address this problem by law enforcement are scattered and not consistent, some limited efforts are being made to address challenges facing reporting and enforcement of hate crimes. A development center in Malmö which is responsible for follow up and supervision of hate crimes will launch a project on methods to secure identification of hate crimes.²² Research shows that the estimated number of unrecorded hate crimes is high. It has been recognized that unrecorded hate crime can be linked, in part, to inadequate methods of identifying the crime as a hate crime.²³ There is also the Hate Crime Unit (Hatbrottsgruppen) within the Stockholm Police with the main tasks of handling all reports with a possible hate crime motive and coordinate the work against hate crime.²⁴ There is a great need to create similar hate crime units in other cities in Sweden.

LACK OF A UNIFORM INTERPRETATION OF HATE CRIME RELATED OFFENCES

Penal Code 29:2 defines a hate crime, as noted above. Hate crimes allow for stricter sentencing under prosecutor and the courts are involved in the process of assessing whether a specific offence constitutes a hate crime. The recognition of the motive affects how crimes are recorded and investigated.²⁵ Within this process, authorities tend to interpret critical terms differently and the level of knowledge of what constitutes a hate crime varies. As noted in our previous alternative report, there is a

need for a common interpretation of the definition as well as education to assure correct handling of reports that could be linked to hate crime motives.²⁶ Police, for example, generally tend to use a wider interpretation of the term hate crime while the prosecutor and Swedish courts tend to use a stricter interpretation. This affects the high discrepancy between the number of registered hate crimes and the number of hate crimes leading to prosecution.²⁷

Further, the development of a more uniform application of case law concerning hate crimes is desirable. According to the prosecutor with the Stockholm Hate Crime Unit, the stricter sentencing rule is not applied in 90 % of the cases.²⁸ While the courts do not deem it necessary to state the motive for the crime in their sentencing, the police argue that the courts are obligated to accurately reflect the motive and thereby set clear guidelines for assessing hate crimes.²⁹ Information on the law's application is further hampered by the fact that Swedish courts are not obligated to denote if the stricter sentencing rule has been applied in a specific case.

HATE CRIME IN SCHOOLS

As noted in our previous alternative report to CERD, there is major difficulty in investigating hate crime in schools committed by pupils over 15 years, as most often the incidents are misinterpreted as bullying. Hence, school staff members do not file reports.³⁰ Students are also generally unwilling to file reports, partly due to the attitudes of school staff but also because of emotions related to having been a victim of a hate crime.³¹ Furthermore, most students do not know what constitutes a hate crime or that they even have a right to be protected from such offenses. To rectify this, police need to allocate more resources for education concerning hate crime in schools.³² As bullying can develop into hate crime, and children over 15 years can be sentenced for committing illegal actions, information on hate crime and actions towards increased tolerance in schools are crucial.

RECOMMENDATIONS

- Take measures to ensure effective implementation and monitoring of existing legislation on hate crime.
- Provide for a common definition and understanding of hate crime. Develop a uniform interpretation of important terms which underpins the assessment whether a specific offence constitutes a hate crime.
- Train police, prosecutors and judges on hate crime law and its appropriate application.
- Take measures to reduce the number of unrecorded and unreported hate crimes, including in schools.
- Ensure effective indictments and prosecution of alleged hate crimes.
- Require courts to identify use of stricter sentencing rule to help work towards developing more uniform case law on the issue.
- Raise awareness amongst the public about hate crimes.

THE ANTI-DISCRIMINATION ACT

MAIN CONCERNS

- The term race has been intentionally removed from the new Anti-Discrimination Act. Whether or not this development might abate the possibility to fight discrimination on all grounds is unclear, but a holistic understanding of the consequences or potential consequences of the removal is not reflected in the law.

REMOVAL OF THE TERM RACE

The legislation governing discrimination in Sweden has gone through major changes since our last alternative report. The separate laws once addressing discrimination are now gathered into one single act.³³ The goal with this legal reform was to consolidate the patchwork of legislation and make the law prohibiting discrimination clearer.³⁴

When drafting the new discrimination act the legislature intentionally removed the term race. This removal was based on the view that there is no scientific reason to divide human beings on biological grounds.³⁵ The Swedish government also supported this change and has wanted to minimize the usage of the term race in official texts, and as far as possible suggests avoiding the term.³⁶ The reformation of the constitution, the Instrument of Government, in 2011 also included a removal of the term race from the individual rights of non-discrimination.³⁷ Furthermore, the legislature felt that the usage of the term race could legitimize racist ideas and consolidate the unscientific belief that there are different races.³⁸ It was of the view that the term race is outdated and unsuitable in a modern act against discrimination and prejudice.³⁹

Review of the work leading up to such changes shows that the criticism of removal of the term by the legislature was not thoroughly taken into account.⁴⁰ Several bodies had recommended over the years not to remove the term race from the law. As far back as 2002 a committee was assigned by the Swedish government to review anti-discrimination legislation. Their mandate included to consider the option of removing the term race from national laws and regulations and if so, to what extent.⁴¹ After this review, the investigators concluded that the term race should not be excluded from anti-discrimination law.⁴² The Committee recognized that racism is, unfortunately, a reality in the Swedish society and thus, it is of high importance that the law is designed in a manner which makes it possible to fight and protect people against such racial discrimination. In addition, it noted that the term race is imbedded in many international human rights conventions as a category of protection from discrimination. And in CERD, for example, the term race is not being used because of a belief that human beings belong to a different race but as a means of legal protection. The European Commission against Racism and Intolerance (ECRI) has also explicitly recognized the need for usage of the term, in its General Recommendation Policy No 7 which establishes that “all human beings belong to the same species”, that the Commission “rejects theories based on the existence of different races” but also that the term is used in the recommendation “in order to ensure that those persons who are generally and erroneously perceived as belonging to “another race” are not excluded from the protection provided for by the legislation.⁴³

In addition, the Swedish Language Council emphasizes the need to use the word in the legislation designed to fight racism. A removal of the term from the legislation risks giving words such as anti-racism a weaker impact in the work against racial discrimination. In addition, replacing the word race with “ethnic origin” entails a risk of weakening the effectiveness of the law, due to the abstract meaning of “ethnic origin”.⁴⁴

An expert in the field, Laura Carlson, has noted that the perception of the term race as an outdated and ineffective word in combating modern discrimination, sends the wrong message that affirmative action and race-based remedies are no longer needed.⁴⁵ Carlson argues that with no material replacement of the term race a legal void is emerging.⁴⁶ Her studies of Swedish case law from the Labour Court, illustrate the problem with integrating race with “national or ethnic background” or “other similar circumstances”, as being sufficient protection against discrimination, as was argued by the legislature and government when removing the term.⁴⁷ Her findings show that the court has been restrictive in applying the provisions on discrimination

on ethnic grounds . Furthermore, a replacement of the term race with “national ethnic background” combined with “other similar circumstances” might have a negative impact on legal predictability.⁴⁸

RECOMMENDATIONS

- Conduct a thorough and balanced assessment of the legal and social consequences of the removal of the term race from the Anti-Discrimination Act.
- While removing the term race, reconfirm the remaining need for appropriate measures against racism.

2.2 SPECIAL AND CONCRETE MEASURES FOR THE PROTECTION OF VULNERABLE COMMUNITIES

Article 2.2

States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

AFFIRMATIVE ACTION BASED ON ETHNICITY

MAIN CONCERNS

- The Anti-Discrimination Act lacks provisions on the adoption of special measures based on ethnicity.
- The Swedish government argues that any concrete strategy promoting equal rights and opportunities for vulnerable ethnic groups can be comparable to special measures.

Note that the references made to inequalities within the area of employment in this chapter is further developed below under Article 5.

The Anti-Discrimination Act does not refer to the adoption of special measures, more commonly known as affirmative action, based on ethnicity. According to the government, various measures with the aim of strengthening and accelerating the development of equal rights and opportunities are being undertaken in Sweden. The provisions present in the Anti-Discrimination Act concerning active measures within the area of employment, as well as a new strategy aiming at rapidly including newly arrived persons in 2010 are listed by the government as examples of successful measures. The government argues that such measures, within an international context, could be viewed as a form of affirmative action.

However, the provisions concerning active measures are rarely effective in practice. Studies and investigations reveal a low level of enforcement of those provisions, not least within the labour market.⁴⁹ It has been shown that the work with active measures within organizations, in general, is quite limited. It cannot be established that the active measures provisions have had any actual effect on promoting equal rights and opportunities.⁵⁰ The fact that the government has decided to conduct a new investigation into how these provisions could be more effective in practice indicate their ineffectiveness.⁵¹

The recently adopted strategy called "settlement reform" (etableringsreformen) is presented as one of many measures undertaken by the government in the work of promoting equal opportunities. However, the reform has had limited effect in practice.⁵²

One of the aims of the reform is to support newly arrived immigrants to enter into the labour market faster, including by learning the Swedish language more rapidly. While such measures are encouraging, it must be recognized that discrimination often arises due to prejudices and attitudes of employers against foreigners, which appears to be common during the recruitment process.⁵³ For example, the Equality Ombudsman has reported that persons with a “foreign name” have to apply for three times as many jobs as persons with a “typical Swedish name” in order to even be invited to an interview.⁵⁴ In addition, unemployment, ever since 1990, has been two to three times higher among people born outside Sweden.⁵⁵ Thus, issues related to employer’s prejudices and attitudes also need to be addressed. This is also a problem in higher education, where the government is unwilling to propose implementation of affirmative action based on ethnicity.

The government has presented several arguments why affirmative action is not an option, including that the labour unions oppose it, lack of evidence that affirmative action based on gender has had its intended effect and that unlike gender discrimination, it is difficult to define which groups would be most suitable for affirmative action.⁵⁶ Importantly, the state argues that in order to develop affirmative action based on ethnicity, it would need to gather data based on ethnicity and other grounds, and that collection of such data would be a violation of privacy protection and integrity.⁵⁷

This latter argument is most problematic as it contradicts Sweden’s obligations under international human rights law, including CERD, to gather statistics. It is also contrary to effective practices of data collection in other countries in Europe and around the world where privacy and integrity are protected in gathering data on race or ethnicity. Under CERD and other human rights bodies, it is recognized that such data is essential to identify where potential direct or indirect discrimination is occurring and to develop effective measures to remedy the problem. Without such data collection, the state is in effect neglecting its duty to combat discrimination in all areas of life.

RECOMMENDATIONS

- Enhance the effectiveness of measures undertaken in the work of promoting equal rights and opportunities for all, irrespective of ethnic origin.
- Establish provisions enabling the adoption of affirmative action based on ethnicity, equivalent to existing legislation on affirmative action based on gender.
- Gather data on ethnicity in a manner that is consistent with obligations under CERD and that protect an individual’s privacy and integrity.

CERTAIN VULNERABLE GROUPS

The Saami people, also recognized as indigenous, the Roma, the Jewish minority, the Tornedalians and the Sweden Finns are all national minorities in need of special protection in relation to the enjoyment of their rights and freedoms and in accordance with Article 2.2 of CERD. This section will highlight how the national minorities are discriminated against in the enjoyment of their rights and freedoms.

The religious and ethnic diversification constitutes an ongoing challenge for Swedish society. Although many ethnic Swedes express support for increased diversity, immi-grants and non-ethnic Swedes are also seen as a threat to Swedish society and are met by openly racist attitudes. This section also addresses the situation of persons with African background, while the situation for Muslims as a religious group is discussed under article 5.

THE SAAMI PEOPLE

MAIN CONCERNS

- Under international law indigenous peoples have specific rights to their traditional land, waters and natural resources. Sweden has failed to introduce any policy or special measures that acknowledge the Saami peoples' right to their traditional land and maintains that all land and natural resources in the Saami territories belong to the state, unless privately owned.
- The administration of land user rights and land use in the reindeer husbandry area, issues that are often linked to disputes with other stakeholders, have not been transferred to the Saami.
- The rate of interest-driven exploitation of natural resources that directly impacts and affects Saami livelihoods and land use is continuing in Saami areas. The consequences of such developments can be devastating for the Saami communities since conditions for sustaining their livelihoods are compromised. Saami rights to traditional land use are rarely considered in the evaluation of permits for these activities.
- Land disputes between Saami and non-Saami in courts of law are ongoing and remain severe in many areas. Due to ambiguous legislation and a reluctance to demarcate which areas traditionally had been used for reindeer husbandry, there has been a lot of room for interpretation and questioning of Saami traditional land rights, which in turn has led to these conflicts.
- Saami women continue to face discrimination due to legislation and Sweden has failed to effectively address this situation.
- According to an evaluation carried out by the Swedish School Board, Swedish school literature inadequately describes the Saami population. When mentioned, the Saami are described in stereotypical terms that can be experienced as highly offensive and discriminatory. Saami are also denied their right to be taught in their mother tongue.
- Sweden has still not taken concrete measures to ratify ILO Convention No. 169, despite earlier recommendations from the CERD committee to ratify as quickly as possible.
- The negotiations on a Nordic Saami Convention recommenced in 2010 after a few years of recess, but show little progress since the first initiative 18 years ago, in 1995.

THE SWEDISH COLONIAL PAST

Studies show that Swedish policies are influenced by prejudices and racist beliefs concerning the Saami, which negatively affect their position in contemporary society.⁵⁸ According to the Equality Ombudsman, the Saami face discrimination in all areas of life.⁵⁹

According to international law, states are obligated to remedy discrimination caused by historically institutionalized discriminatory policies. Sweden is bound under these provisions to address the historic discrimination of the Saami people. Furthermore, it is established under international law that indigenous peoples, because of their special attachment and priority in time to their ancestral land, have particular rights to their traditional land, water and natural resources.⁶⁰ United Nations treaty monitoring bodies have repeatedly underscored to Sweden and other Nordic coun-

tries that continued access to these lands and resources is a prerequisite for Saami people to maintain and develop their culture. The UN has on numerous occasions expressed concern over the ongoing violations of the Saami peoples' human rights.⁶¹

Viewed as an inferior nomadic culture, the Saami were historically not entitled to own land. Over the years ownership of their traditional land has systematically been given to non-Saami settlers, sold to private interests for resource extraction or taken over by the Swedish state.⁶² The Saami were relocated by force and they were for a long time not allowed to use their language or practice their religion.

The Swedish colonial past is not merely a part of history but also a significant part of the present, with concrete socio-economic manifestations. In 1977, the government officially recognized the Saami as an indigenous people⁶³ and in 2011, this was also declared in the constitution. Despite Sweden's international obligations, little has been made to reverse the effects of past policies. Sweden still adheres to policies and perceptions regarding the Saami peoples' right to traditional land and resources that evolved during the 1800s. Sweden still holds self-evident that all land and natural resources in the Saami territories belong to the state, unless privately owned. The racist overtones expressed by the majority society is still a reality in many areas and leads to the discrimination and harassment of Saami people in various contexts.

RIGHTS TO LAND AND REINDEER HUSBANDRY

Laws from the 1920s defined Saami as a nomadic reindeer-herding people, thus not granting Saami their rights unless they herded reindeer.⁶⁴ The Reindeer Husbandry Act (1971:437) states that the Saami are entitled to use land and water in the maintenance of their reindeer husbandry. This right has for a long time been based on 'immemorial custom'. The legislation on reindeer grazing has, in general, been criticized for its complexity and deficiency.

Lack of clarity in the law has resulted in numerous disputes between Saami villages and private landowners, both claiming rights to specific land. The Saami are overwhelmingly disfavored by law enforcement when it comes to their rights to land and water use through reindeer husbandry. However, in 2011 the Swedish Supreme Court decided a case on reindeer grazing, which brought some clarity to the legislation, although not completely.⁶⁵ The case is the very first where a Saami village is favored over private landowners.⁶⁶ The Supreme Court assessed that the legislation on reindeer husbandry and land and water rights is actually a right belonging explicitly to the Saami through customary law.⁶⁷ Even though the case in the Supreme Court was a small victory for the Saami people and their rights, uncertainties remain when it comes to reindeer grazing rights.⁶⁸ Questions remain, for example, regarding if this is applicable all year round or only on winter grazing land, which was the situation of this specific case. See also below on burden of proof still being high.

In addition to land disputes between Saami communities and private landowners, public and private companies are exploiting and expanding into the reindeer grazing lands. The Saami culture and livelihood are directly connected with their traditional environment and use of land and water.⁶⁹ Saami livelihood is affected negatively when expanding industries like forest, infrastructure and tourism are narrowing the access to the Saami's traditional environment.⁷⁰ If Saami rights to these traditional lands are denied the greater part of their culture, such as reindeer herding, hunting and fishing, is endangered.

BURDEN OF PROOF WORKS AGAINST THE SAAMI

Sweden has been criticized for applying a too heavy a burden on the indigenous people in court cases when assessing the traditional lands; it has been characterized as discriminatory against the Saami.⁷¹ The Saami and the private landowners are not seen as equally treated in these cases. The Saami traditions are oral, not written, and the Saami can often not present adequate written documentation on their customary use of land. Since the burden of proof lies with them to show that they have traditionally used or possessed the land in question, it is difficult for the Saami's to prevail in cases.⁷² The burden of proof combined with the hardship of presenting adequate documentation causes lengthy and, for the Saami, costly processes.

ANIMAL PREDATORS AND REINDEER HUSBANDRY INFRASTRUCTURE

The UN Special Rapporteur on indigenous peoples has recognized the problem of animal predators in relation to reindeer herding.⁷³ When reindeers are injured or killed by predators, the Saami do not feel they are adequately compensated for the losses.

The remuneration of reindeers killed by predators is standardized, that is the compensation is based on the number of estimated/documented predators in a certain area instead of based on the actual number of reindeers killed by predators.⁷⁴ In order to safeguard the reindeer husbandry, the actual number of injured reindeers should be taken into account when calculating the level of economic compensation to the Saami.

Another challenging area of concern is the structure and maintenance of the state's reindeer husbandry infrastructure. According to the Saami, the fences surrounding herding areas are placed in an unnatural way, causing problems with appropriate herding. An official report from the Swedish Government in 2011⁷⁵ still maintains support for the state's reindeer infrastructures but concluded that consideration should be given for releasing the state from paying for maintenance of fences near Saami villages.⁷⁶ There continues to be no agreement between the Saami villages and the state on the structure and the maintenance of fences.⁷⁷

DISCRIMINATION AGAINST SAAMI WOMEN

The Reindeer Husbandry Act (1971:437) is formally gender neutral, but in practice it promotes the rights of the reindeer herding man.⁷⁸ There are women at decision making positions within the Saami Community, however, Saami women are often excluded from decision-making in their communities after they marry. In cases of divorce, women run the risk of being excluded from the community and thereby also excluded from decision-making processes when it comes to handling land disputes. In consultation with the Saami, the legislative branch in Sweden has a duty to reformulate current legislation so that no parts of it can be interpreted in ways that exclude women.⁷⁹

DENIAL OF FULL PROTECTION TO EDUCATION AND LANGUAGE

Swedish schools and municipalities are not meeting the needs for mother tongue education among Saami students. Statistics regarding the number of students entitled to subsidized mother tongue education are misleading because they do not reflect actual demand. As noted in our previous report to the Committee, a report by the Swedish School Board shows that many municipalities fail to inform Saami students about their right to study the Saami language. Other factors that limit access to mother tongue education include a lack of resources, difficulty recruiting

certified teachers and a shortage of teaching materials. Clear instructions should be given to the responsible school authorities to adjust the mother tongue education to ensure access for all Saami to their language. School has a central role in the work against discrimination. According to this evaluation carried out by the Swedish School Board, Swedish school literature is inadequate when describing the Saami population. Saami people are described using stereotypes that can be experienced as offensive and discriminatory. School literature should counteract discrimination, not reinforce stereotypes that cause it. The Swedish government should allocate resources for an information campaign about the Saami people in schools.

FAILURE TO RATIFY ILO CONVENTION NO.169

Sweden has received ongoing criticism for not ratifying ILO Convention 169 on indigenous and tribal peoples. The Convention states, in article 14, that State Parties shall recognize indigenous peoples' rights of ownership and possession over the lands that they traditionally occupy, as well as safeguard the rights to use lands they traditionally have had access to, for their subsistence and activities, but which they don't exclusively occupy.⁸⁰

THE NORDIC SAAMI CONVENTION

In 2010, the Special Rapporteur on the rights of indigenous peoples described the cross-border effort to develop a Nordic Sami Convention as a promising initiative.⁸¹ The Convention would give the Saami Parliament a position as key negotiator on Saami issues and ensure the Saami peoples' right to self-determination. One of the proposed changes for increasing Saami self-determination would mean that Nordic governments involved would be obligated to negotiate with the Saami parliaments, who would have veto authority in matters concerning Saami interests. The first discussions on a Nordic Saami Convention started in 1995 and have been characterized by conflicting interests and criticism from referral bodies such as the Mining Inspectorate of Sweden and the Swedish Forest Agency. The negotiations were re-opened in late 2010, however, there is still no agreement on the content among the parties.

RECOMMENDATIONS

- Ensure the Saami people their rights as an indigenous people.
- Revise the burden of proof in cases on rights to land.
- Consult with the Saami on appropriate measures to maintain the predator populations in the reindeer herding areas at levels that reindeer herding communities can withstand, and fully compensate the reindeer herders for damages caused to them by predators.
- Consult with the Saami on appropriate ways to structure and maintain fence surrounding herding areas.
- Reformulate legislation so that no laws that impact Saami can be interpreted in ways that exclude women.
- Allocate resources to oversee Swedish school literature and ensure that accurate and non-discriminatory descriptions of the Saami people are available to all children in the Swedish school system.
- Ensure mother tongue education to Saami.
- Ratify ILO Convention 169
- Take necessary measures to ensure that the negotiations on the Nordic Saami Convention defend the interests of the Saami.

THE ROMA PEOPLE

MAIN CONCERNS

- Structural discrimination and marginalisation of the Roma community is so widely spread that the Roma, for the most part, are excluded from the democratic process. New initiatives have not been able to counteract discrimination against the Roma communities in all areas of social and political life. No significant changes since Sweden's last report can be noted.
- The majority of reported incidents of discrimination are not prosecuted. There is reluctance among the Roma to report discrimination because of an inherent distrust of authorities and a sense that Roma claims and rights are not taken seriously.
- Significant discrimination within all sectors of social and economic life persists. Approximately 80–90 % of Roma adults are unemployed and the vast majority of Roma people have not completed elementary school.
- Schools are not meeting their requirements to offer subsidized mother tongue education. Romani language teachers who are employed are not certified to teach. There is also a lack of information in the Swedish schools about Roma culture and about the status of the Roma as a national minority.
- Discrimination within the social services and within housing is very common.
- Roma people are often denied access to public places.
- Roma children face persistent discrimination in the education system.

DISCRIMINATION AND MARGINALISATION

The Roma community has for centuries experienced discrimination and socio-economic marginalisation in Sweden, including structural discrimination, forced sterilization and segregation.⁸² In its recommendations to Sweden from 2008, the CERD Committee expressed concern over the difficulties faced by the Roma community in the areas of housing, education and employment. The Committee urged Sweden to intensify its efforts to implement strategies and programmes in these areas.

The European Commissioner for Human Rights noted in a report on Sweden from 2004 that the Roma continue to be a common target of prejudice and discrimination, specifically in the areas of education, labor and housing. The report was followed up by a memorandum in 2007, urging Sweden to intensify efforts to combat discrimination and intolerance against the Roma population, including efforts to assist Roma suffering from multiple discrimination.⁸³

Since 2003, various Ombudsmen, including the then Ombudsman Against Ethnic Discrimination, the Children's Ombudsman and the National Board of Education have, on several occasions, called attention to serious structural discrimination against the Roma community and noted that the discrimination and marginalisation is so widely spread that the Roma for the most part stand outside the democratic process.⁸⁴

Since the majority of reported incidents of ethnic discrimination do not lead to judgement and thus seldom to settlements, there is a general sense among the Roma that reporting discrimination is difficult and meaningless.⁸⁵

DISCRIMINATION IN EMPLOYMENT AND EDUCATION

Due to the lack of official data based on ethnicity, the estimated number of individuals who identify themselves as Roma varies. The official number of Roma in Sweden is roughly 50,000 individuals with an employment rate of 80–90 %.⁸⁶ NGO representatives from the Roma Community claim that the number of persons belonging to the Roma Community in Sweden is at least 120 000 individuals. This discrepancy can in part be explained by the fact that many Roma prefer not to openly declare their Roma identity. The unemployment rate appears to be high even among those who are trained in trades where there is a shortage of workers.⁸⁷ According to a report from the European Commission Against Racism and Intolerance (ECRI), the Roma continue to occupy a disadvantaged position in the Swedish educational system, and Roma children are marginalized in Swedish schools. In the recent report issued in 2010 on the Roma, the vast majority of Roma youth and adults had not completed an elementary school education.⁸⁸ One of the many underlying causes to this situation is the lack of education and teachers in their mother tongue, Romani Chib.⁸⁹

Access to mother tongue lessons vary from municipality to municipality. In its report “They want me to be Invisible”, the Children’s Ombudsman argued that the low priority given to mother tongue education for the Roma is partly due to discriminatory attitudes held by school personnel and administrators. Furthermore, according to a 2007 study by the National Board of Education, none of the 15 Romani Chib teachers employed in Sweden had formal pedagogical training or were certified to teach. Studies show that it is complicated to find qualified teachers within the area and few Roma children are taught in their mother tongue, despite their entitlement.⁹⁰

There is also a lack of sufficient learning materials in their mother tongue for Roma children, and pupils in upper secondary school do not have any learning material in their mother tongue language.⁹¹ Furthermore, there is a lack of personnel from among members of Roma communities working at schools in Sweden. It has been recognized that an increased number of personnel such as teachers and assistants from the Roma communities would most likely contribute to an increased attendance in school among Roma children.⁹²

According to the 2010 government report, Roma children are also especially vulnerable to bullying, ill-treatment and discrimination and harassment in schools, which affects their ability to receive a proper education.⁹³ The school environment for Roma children is unacceptable and measures need to be undertaken in this regard.⁹⁴ As noted by the Equality Ombudsman, Roma children are in fact denied their right to education if they cannot attend school due to the risk of being exposed to harassment.⁹⁵

DISCRIMINATION IN HOUSING

The Roma community experiences significant discrimination within the housing market.⁹⁶ As noted in our previous alternative report, a survey of Roma revealed that 30 % said they had been denied housing (buying or renting) because of their ethnicity. Half of the participants said they had experienced insults and harassment from neighbors for being Roma. The same study showed that neighbors tried to use common strategies in order to prevent Roma families from moving into the communities because of a fear that Roma presence will lower property values.⁹⁷

Furthermore, housing companies and realtors determine requirements and choose tenants based on discretionary decisions, which allow for uncontrolled ethnic discrimination in the housing sector. Roma families are often referred to segregated and socially vulnerable areas. Moreover, getting a housing lease most often requires

permanent employment. This is a considerable impediment for Roma who have significant difficulties finding employment due to discrimination in the labor market and/or lack the necessary training or education.⁹⁸

DENIAL OF ACCESS TO PUBLIC PLACES

Discrimination within trade and service areas are regulated by the law on Prohibition Against Discrimination (2003:307) and in the Swedish Penal Code 16:9. Despite these prohibitions, Roma are regularly denied access to public places, such as grocery stores, restaurants, hotels and camping areas. According to a survey form 2007, 27 % of the participants were denied access to stores and 40 % were denied access to restaurants. Despite a few judgements, most cases do not lead to results, even when reported. Achieving results in the courts is fundamentally important in setting legal precedents etc.⁹⁹ Studies also show that discrimination against the Roma is present even in the Swedish legal system.¹⁰⁰ Stereotypes and prejudice perceptions result in an unequal treatment and a mistreatment of one of the ground principles in the rule of law.¹⁰¹

CALL FOR A TRUTH COMMISSION

The 2010 government report and others have recommended that the government assemble a “truth commission” to investigate and shed light on how the Roma people have been treated in Swedish society throughout the years.¹⁰² The commission would fully investigate how the Roma people were and are treated, give a voice to Roma to share their experience, and make the findings public, as a way to break the silence. The Norwegian government, on the subject of the Roma and traveling people, has taken such initiatives.¹⁰³

While we welcome the initiative of a truth commission, we have to reiterate the importance of gaining the Roma peoples’ trust in authorities – a crucial step toward effectively combating hate crimes and everyday discrimination against the Roma people. A public apology will not heal the wounds created by the structural and societal discrimination against the Roma, but it will be a step in the right direction, and may be considered as a sort of limited remedy. The possibility of providing economic compensation, as was done in Norway, should therefore not be excluded from this initiative. Economic compensation through, for example, a fund could give back self-respect and pride to the Roma people.¹⁰⁴

FULL ROMA INCLUSION BY 2032?

In 2006, the government established a delegation to investigate discrimination facing the Roma and based on its findings to recommend measures to address this problem. In 2010, the delegation presented a long and dark history of discrimination against Roma ranging from use of derogatory terms to describe Roma, to governmental bans on working in certain occupations and types of residence, to being subject to Sweden’s eugenic policies.¹⁰⁵ Little progress has been made when it comes tackling the discrimination the Roma people face in Swedish society. The governmental delegation on Roma’s rights concludes that the Roma’s situation remain precarious to this day, especially in education and on the housing and labour market.¹⁰⁶ In other words, the marginalization of the Roma people in the Swedish society is entrenched. The delegation stated that ignorance and denial of the historical discrimination against the Roma are contributing factors to their present marginalization.¹⁰⁷

While the situation concerning the Roma has changed little, if at all, since Sweden’s latest reports to CERD over the past 10 years, the government developed a new strategy on Roma inclusion in February 2012. According to several representatives for organizations working for Roma rights in Sweden, the strategy has been

developed without satisfying consultation with the Roma. The government claims that under this new strategy, full enjoyment of the Rights of Roma can be expected only in 20 years, in 2032.¹⁰⁸

RECOMMENDATIONS

- Undertake effective measures in order to enhance Roma peoples' trust for authorities in Sweden. Such measures are important in order to increase the number of cases of discrimination against the Roma people that actually are being reported.
- Counteract imbedded and widespread discrimination against the Roma community with appropriate legislation and implementation of the anti-discrimination law and other relevant laws and policies.
- Dismantle stereotypes of Roma in Swedish society through effective awareness-raising campaigns.
- Identify best practices, such as the introduction of Roma teachers and teaching assistants to increase Roma school children attendance and ensure Roma language is taught in schools as per legal requirements.
- Consult with the Roma on a possible formation of a truth commission on Roma issues.

THE JEWISH MINORITY

MAIN CONCERNS

- Sweden was among the top three countries in Europe in 2009 in reported crimes connected with anti-Semitism.
- 30 % of hate crimes with a religious motive are anti-Semitic.
- One out of five high school students has a negative attitude towards Jewish people.

The number of reported hate crimes with anti-religious motives increased between 2010 and 2012, and 30 % of these crimes were registered as anti-Semitic hate crimes.¹⁰⁹ According to a study on high school students' attitudes, one out of five declared to have a negative perception of Jewish people.¹¹⁰ It is common that hate crimes with anti-religious motives take place in religious buildings, such as synagogues.¹¹¹ Studies show that the threat against Jewish congregations is aggravated when Jewish organizations are visible in the media.¹¹²

An international survey shows that Sweden was among the top three countries in Europe in 2009 in reported crimes connected with anti-Semitism.¹¹³ Jewish congregations are commonly exposed to threats and vandalism. The Jewish congregation in Stockholm, for example, states that the congregation has been exposed to incidents such as hate letters, threats and violence. In Malmö, an increasing number of Jewish families choose to leave the town due to daily harassment and threats. Incidences of intense anti-Semitic violence in Sweden have been reported in international media. In February 2013, the Swedish Committee Against Anti-Semitism was invited to describe the situation in Sweden to the American Congress.¹¹⁴

RECOMMENDATIONS

- Enhance measures to prevent and respond to hate crimes with an anti-Semitic motive.
- Ensure the adequate development and protection of the Jewish minority, including protection of religious institutions.

TORNEDALIANS AND SWEDEN FINNS

MAIN CONCERNS

- Several municipalities in appointed administrative areas (förvaltningsområden) fail to meet their obligations to offer pre-school education in Meänkieli and Finnish.
- The right to minority language education is not guaranteed in the comprehensive school system.
- There is no holistic view on the role of the language to preserve the minority identity over time, i.e. reaching from pre-school activities to the care of the elderly.

The minority status of the Tornedalians implies the recognition of Meänkieli as one of the acknowledged minority languages in Sweden. The Tornedalians are descendants of Scandinavian and Fennoscandian Finnic Kvens as well as Finns who several hundred years ago settled to the area of today's Northern Sweden and the Torne Valley region near the present-day Swedish-Finnish border and west from there.¹¹⁵

Sweden does not distinguish minority groups in population censuses, however, the number of persons who identify themselves as Tornedalians is usually estimated to be between 30,000 and 150,000.¹¹⁶

Sweden Finns are immigrants of Finnish origin and their descendants living in Sweden, some of whom still speak Finnish in addition to Swedish. In 2012 there were about 426 000 people in Sweden, 4.46 % of the total population, who were either born in Finland or had at least one parent who was born in Finland.¹¹⁷

According to legislation on special minority language rights in certain areas of Sweden, pre-school activities should be offered to children in Finnish and in Meänkieli. However, several municipalities do not respect the provisions on language rights, leaving the minority children without education in their own language.¹¹⁸

Within the comprehensive school system, bilingual education is extremely rare and many students are denied mother tongue teaching. In addition to a general lack of teaching materials, the Swedish National Agency for Higher Education reports that there are few teachers with minority language competence.¹¹⁹

Sweden's shortcomings in this area are mainly due to ignorance and the lack of a holistic perspective when assessing the needs and conditions of national minorities. Regular consultations with minority groups are crucial in order to safeguard the very existence of the national minorities.¹²⁰

RECOMMENDATIONS

- Examine whether the municipalities in appointed administrative areas comply with their obligations to offer pre-school activities in Meänkieli and Finnish.
- Initiate teacher training in minority languages to guarantee the right to mother tongue education of students.
- Safeguard the possibilities of the elderly to communicate with authorities in their minority language.

PERSONS OF AFRICAN DESCENT

MAIN CONCERNS

- According to the Equality Ombudsman, persons of African descent are exposed to discrimination, xenophobia and racism on a daily basis.
- Between 2009 and 2012 there was an increase in the number of reported hate crimes with an afrophobic motive.
- 35 % of the reported cases of discrimination during 2011 were related to discrimination of persons of African descent.

BRÅ has noted a dramatic increase in the number of reported hate crimes with an afro-phobic motive.¹²¹ Persons of African descent face discriminatory acts that manifest in racist language, violation and threats to physical integrity and racial profiling. Young African women are targets of sexual harassment, and young African men are often the victims of hate crimes and acts of violence.¹²² As much as 35 % of the reported cases of discrimination coming to Equality Ombudsman during 2011 concerned discrimination against persons of African descent. The daily racism faced by this group risk resulting in health issues, a lack of trust in authorities as well as difficulties in claiming one's rights.¹²³

RECOMMENDATIONS

- Closely monitor the human rights situation of persons of African descent.
- Enhance measures to protect individuals against different acts of manifestations of racial hatred.

ARTICLE 4: Racist Propaganda and Racist Organizations

Article 4 requires countries to condemn and penalize all dissemination of propaganda and organizations that are based on ideas of superiority of one race or ethnic origin, or which incite racial hatred or violence. To this end, legislative measures are needed to ban racist organizations, racist propaganda, memberships in racist organizations as well as the financing of these structures.

This section has been divided into five subsections that cover the main areas of concern, namely: racist organizations and the White Power movement, Internet and racist propaganda, racist influence on politics and finally the Chancellor of Justice as sole prosecutor in matters concerning constitutionally protected media.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia: (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

INEFFECTIVE LEGISLATION

MAIN CONCERNS

- Sweden is in violation of Article 4b of the Convention by permitting racist organizations to exist.
- There is a proliferation of racist propaganda over the Internet, promoting and inciting acts of racial discrimination. There has also been an increase in reported hate crimes over the Internet.
- Populist and nationalist agendas, including those with anti-immigrant overtones, are gaining ground in politics in Sweden.
- While the provision on agitation against a national or ethnic group states that speech intended to cause imminent violence may be penalized, it is only under certain narrow circumstances that this is implemented. If the agitation takes place within the field of constitutionally protected media, an appeal for prosecution on such charges and any instructions on the restriction of freedom of speech can only be initiated by the Chancellor of Justice.
- Requirements in complaint mechanisms impede access to effective remedies in cases of racial discrimination.
- Swedish Supreme Court (Högsta Domstolen) precedents make way for tolerance of expressions of hate, such as contempt, prejudice, discrimination, and racism, against a particular group of people, where the Court does not see these expressions as hate but as accepted debatable topics.

RACIST ORGANIZATIONS AND THE WHITE POWER MOVEMENT

With respect to Article 4, the Swedish government insists that, consistent with the limitations of the Fundamental Law on Freedom of Expression and Association, Sweden has enacted laws that prohibit violence or intimidation motivated by racial, ethnic or religious hatred. Sweden continues to uphold that while criminal acts committed by individual members of racist organizations may be penalized, the existence of and participation in such racist organizations cannot. In its current and previous periodic report to the Committee, Sweden refers to parliamentary and government opinions that the current legislation is effective in banning racist expression; that the state does not see the need for legislative measures to ban racist organizations, as the activities of such organizations are countered through existing legislation, such as the laws on agitation, unlawful military activity and others.¹²⁴ Yet such legislation is clearly ineffective, since such organizations continue to pursue with their activities.

As the following examples will indicate, there is cause for concern in terms of the promotion of and incitement to acts of racial discrimination in Sweden. Racist organizations are flourishing, their propaganda is spread openly, especially on the Internet and in schools. Moreover, it is of utmost concern that racist organizations are allowed to expand their operations. Regretfully, the effectiveness of existing legislation and measures taken to address racist violence are not sufficient to counteract developments in racial violence nor do they provide protection to victims of racist propaganda and, by racist organizations agitating violence.

Article 4b of CERD provides for an absolute ban on racist organizations. We reiterate our concerns raised in the previous alternative report that such organizations are continuously active in the country.

According to Chart 1, below, the number of traditional activities registered by the White Power movement has declined since 2008. However, some organizations continue to steadily grow¹²⁵ and more subtle activities such as political organizing are becoming more common. Traditional activities include arranging demonstrations, holding lectures, distributing racist propaganda and holding paramilitary activities.¹²⁶ While the number of traditional activities diminishes, today's White Power organizations develop new methods that are less easily discovered and registered.

Year	2008	2009	2010	2011
Registered activities	1 947	1 507	1 469	1274

Chart 1. Number of activities by White Power organizations registered by Expo. Source: Expo, 2011, p. 20.

In a report from 2009 by the Swedish Security Service (Säpo) the White Power movement presently does not pose a threat to the state or to its democratic function. However, it notes that considering the access to heavy armor, weapons and knowledge and use of violence, White Power organizations could pose a threat to democracy if such intentions were imminent.¹²⁷ The Swedish Security Service notes that regardless, their violent activities continue to be harmful on an individual level.¹²⁸

INTERNET AND RACIST PROPAGANDA

Swedish legislation provides space and opportunities for organizations to operate freely and publish racist propaganda on the Internet.¹²⁹ In fact, the Internet is the most powerful tool for increasing activity for right-wing extremist and racist organizations active in Sweden. For example, the White Power movement's goal is to use the Internet as a political platform, through which the movement can reach out with their political propaganda.¹³⁰ Recent reports indicate that stream of propaganda promoting Islamophobia and anti-Semitism is most problematic on the Internet and in social media.¹³¹ Expo estimates that there were 121 Swedish White Power related websites in 2010, which constitutes an increase from previous years.¹³²

Even though the total number of reported hate crimes declined fractionally from 2008 to 2012, reported hate crimes on the Internet increased, both in relative and real terms. In 2010, in more than half of the reports on hate crimes committed on the Internet, specifically 192 cases, the motive was xenophobic/racist.¹³³ In 2009 there were 138 cases.¹³⁴ Every tenth hate crime in 2012 was committed from distance, via Internet or telephone.¹³⁵

NATIONALIST AND POPULIST INFLUENCE IN POLITICS

To gain respect in the public sphere many White Power organizations adopt what resemble traditional party platforms, many with populist and nationalist agendas. They create political parties, recruit members and get financial support through political campaigns, publishing newspapers and running Internet shops. Over time, such activities legitimize the organization in the public eye, and they are able to enter the public political sphere where they gain greater possibilities to influence people through the mass media.

The largest nationalist organization with an anti-immigrant platform in Sweden is the political party the Sweden Democrats (Sverigedemokraterna), which was elected into the Parliament for the first time in 2010 and has a growing number of supporters. The Sweden Democrats polled 5.7% and won 20 parliamentary seats in

2010, almost twice as many votes as in the previous election.¹³⁶ Further increased support is expected in the coming election in 2014.

Various nationalist political parties have received financial support from the Swedish state. In other words, the Swedish state supports activities of parties that openly proclaim nationalist views.¹³⁷

THE CHANCELLOR OF JUSTICE AS SOLE PROSECUTOR IN MATTERS CONCERNING CONSTITUTIONALLY PROTECTED MEDIA

While the provision on agitation against a national or ethnic group states that speech intended to cause imminent violence may be penalized, it is only under certain narrow circumstances that this is implemented. If the message of agitation is printed or recorded or in any way considered as constitutionally protected media, an appeal for prosecution on such charges and any instructions on the restriction of freedom of speech can be initiated by the Chancellor of Justice only.¹³⁸ By assigning one prosecutor, whose possibilities to start proceedings are significantly restricted,¹³⁹ the efficiency of the rule of law is compromised and access to justice is violated. A public court proceeding would encompass the elaboration of a clearer praxis.

During 2011, 97 cases of agitation against ethnic minorities were reported to the Chancellor of Justice, but measures were initiated in only three of them. The inquiries led to prosecution in only one of the cases.¹⁴⁰ In 2012, there were 127 reported cases of which five lead to inquiries and one to prosecution.¹⁴¹ The reported cases were either not considered criminal offenses or not covered by the mandate of the Chancellor of Justice.

Since 2003 only four cases have been considered by the Supreme Court and only one of these actually led to conviction.¹⁴² Many of these cases regard publications on the Internet, which is not covered by the so-called database provision in Chapter 1, 9 § of the Freedom of Speech Act.¹⁴³ Several recent acquittals by the Supreme Court concerning the Internet and other publications¹⁴⁴ show that the existing legislation and its implementation is ineffective in restricting agitation against ethnic minorities.

In the seventeenth and eighteenth periodic report to the Committee the Swedish government refers, as mentioned above, to a precedent ruling by the Supreme Court in a case on agitation from 1991 where the prosecuted was convicted for wearing Nazi symbols. The government upholds that this precedent ruling has led to several similar convictions in cases on agitation and that the attitude against agitation has been strict. However, in a ruling by the Supreme Court in 2007 a person was prosecuted on grounds of agitation on the Internet – and the Supreme Court ruled in favour of the defendant.¹⁴⁵

SUPREME COURT FAVOURING FREEDOM OF EXPRESSION OVER PUNISHING HATE SPEECH

The specific legislation regulating hate crimes in Swedish law are Penal Code 16:8 on agitation against national or ethnic group and Penal Code 16:9 on unlawful discrimination. In a number of precedents from the Swedish Supreme Court (Högsta Domstolen) the court has remarked upon the tensions between the freedom of expression and combating intolerance and xenophobia.¹⁴⁶ The Court has consistently favoured the former. The precedents make way for tolerance of expressions of hate, such as contempt, prejudice, discrimination, and racism, against a particular group of people, where the Court does not see these expressions as hate but as accepted debatable topics.¹⁴⁷ One of the cases¹⁴⁸ in the Swedish Supreme Court, from 2007, regarded a Sweden-based Nazi website, which had published two articles that expressed contempt for homosexuals and the Roma people. For example, homosexuality was compared to pedophilia, incest and

necrophilia and was called a “perverted morbidity” in the published articles.¹⁴⁹ According to the Supreme Court, the statements were offensive if taken out of context. But the Court considered the statements were made in an ongoing debate, and therefore not criminal.¹⁵⁰ The court referred to the Act on Responsibility for Electronic Bulletin Boards and specified that the statements did not clearly constitute an act of agitation or unlawful discrimination, due to the context of debate and freedom of expression. The founders of the Nazi website were, therefore, not to be held responsible for the articles and the accusation of agitation was left without assent.¹⁵¹ Decisions such as these perpetuate and provide support for hate crimes.

RECOMMENDATIONS

- Sweden should either fully comply with the Convention and implement a ban on racist organizations and activities or take necessary legislative, policy and awareness raising measures to ensure greater effectiveness of legislation on hate crimes.
- Introduce appropriate and effective measures to deal with racist propaganda, including over the Internet.
- Undertake awareness raising and other measures to counter growing influence of racist and populist parties in Swedish politics.
- Re-examine the role of the Chancellor of Justice as sole prosecutor in crimes related to agitation against an ethnic group in matters concerning constitutionally protected media and consider handling such cases in public court.

ARTICLE 5: Equal Rights

The present chapter is divided into different subtopics which deal with various issues covered by Article 5. The first part of the chapter highlights equality before the law, where immigrants and persons with foreign background have shown to be over-represented in the Swedish legal system as well as in the crime statistics. It is followed by information on racial profiling, freedom of religion and Sweden’s substandard protection for people seeking asylum. The second part of the present chapter deals with issues related to economic, social and cultural rights and is divided into different subtopics which aim to highlight key problems within areas such as employment, housing, health and education.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; (d) Other civil rights, in particular: (i) The right to freedom of movement and residence within the border of the State; (ii) The right to leave any country, including one’s own, and to return to one’s country; (iii) The right to nationality; (iv) The right to marriage and choice of spouse; (v) The right to own property alone as well as in association with others; (vi) The right to inherit; (vii) The right to freedom of thought, conscience and religion; (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association; (e) Economic, social and cultural rights, in particular: (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; (ii) The right to form and join trade unions; (iii) The right to housing; (iv) The right to public health, medical care, social security and social services; (v) The right to education and training; (vi) The right to equal participation in cultural activities; (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

EQUALITY BEFORE THE LAW

MAIN CONCERNS

- Discrimination against persons with foreign background is prevalent throughout the Swedish legal system, resulting in racial profiling, overrepresentation in crime statistics and lack of effective legal remedies.
- Legal protection in asylum cases is substandard, resulting in failure to protect persons with viable claims.

DISCRIMINATION IN THE LEGAL SYSTEM

Discrimination within the judicial process is examined in a report elucidating attitudes among prosecutors, lawyers, judges and court interpreters towards persons with a foreign background and minorities.¹⁵² The report reveals discrimination in all aspects of the judicial system, from initial police interrogations to sentencing. In discussing discrimination in the judicial system it is important not to limit this dialogue to cases that constitute direct discrimination. It is equally important to increase the understanding of indirect discrimination, when situational subtleties can be misconstrued as equal treatment. The question is relevant for two reasons: the judicial system's inability to handle language differences and the judicial system's unrealistic expectations that persons with foreign backgrounds will adapt to and understand the judicial system.¹⁵³

Institutionalized discrimination is manifested in the staff composition, discussed under Article 2. Since judicial agencies have the lowest number of employees of foreign background within public administration, they face a big challenge in adapting to a population that has become more heterogeneous.

Christian Diesen, a professor conducting research on these issues, draws a few general conclusions regarding discrimination of persons with foreign background in the Swedish judicial system.¹⁵⁴

In his extensive study, Diesen concludes that mistreatment of persons with foreign background exists in every step of the judicial chain (report of incident, prosecution, trial, correctional treatment etc) but is less visible in courts than in other instances. He also states that the overrepresentation of persons with foreign background in police reports is to a high extent due to discriminatory attitudes.

Diesen further points out that police priorities, as well as a low inclination of confessions by defendants with foreign background, lead to a higher number of prosecutions against persons with foreign background. He highlights that persons with foreign background face difficulties in cases where credibility is significant and finally concludes that persons with foreign background are more often imprisoned, sentenced to harsher punishments and given less privileges in correctional treatment.¹⁵⁵

RACIAL PROFILING

As noted in our last alternative report to the Committee, individuals with foreign or minority background continue to be disproportionately targeted in police controls in Sweden. They are also more likely to be stopped and interrogated on looser grounds than ethnic Swedes. They are more likely to be arrested and charged, and they are also being held in detention for longer periods of time because they are considered at higher risk of escaping.¹⁵⁶

As a result of racial profiling, offenses committed by persons from foreign or minority background are more often recorded than offenses committed by persons

with an ethnic Swedish background. Similar results can be seen when police specifically target predominantly minority populated areas.¹⁵⁷

In early 2013, a project initiated by the Migration Board, called REVA received harsh criticism from human rights organizations. Aiming at expediting cases dealing with persons who are in Sweden illegally and improving the executive work of the police in repatriation of persons residing in Sweden without authorisation, the project turned out to strike hard on persons with non-European appearances (racial profiling). Increased ticket control was suddenly carried out in the Stockholm metro by the police and the passengers asked to show their tickets and identity documents were targeted based on their ethnic profile. The results of the REVA-project will be evaluated during 2013.¹⁵⁸

Qualitative and quantitative social justice markers are needed and should be developed to follow up the judicial system's activities. Data gathered and analyzed should include differences in police response for crimes committed in different parts of a city, differences in targets of police controls and differing sentences and penalties for different groups of indicted persons. Ultimately, these investigations will ensure equal treatment for all social groups.¹⁵⁹

SUBSTANDARD LEGAL PROTECTION IN ASYLUM CASES

In our previous report we expressed concerns regarding inadequate legal security during asylum investigations. The Committee welcomed the new Aliens Act (2005:716) and the reformed process that was adopted at the same time.¹⁶⁰ However, the process still has serious problems, especially concerning children in the process.

An official report to the government notes that judges from the Migration Courts have expressed concerns regarding substandard investigations by the Swedish Migration Board (Migrationsverket) on applications, jeopardizing the whole asylum process, including the appeals process.¹⁶¹ Swedish authorities are bound by law to investigate cases *ex officio* to a point where enough information is gathered in order to make a correct, balanced and holistic decision. However, petitions are often short and inadequate and lack critical information. Heavy case loads and inability to confirm age of asylum seekers cannot justify inadequate processes. Children are particularly vulnerable. Save the Children (Rädda Barnen) conducted an investigation in 2007 on the Swedish migration process and found that child-specific criteria for determination of issuing resident permits were only accounted for by the Swedish Migration Board in one third of the studied cases.¹⁶² In addition, the Swedish Migration Board has set a goal of three months before a decision is made to grant residency to unaccompanied minors seeking asylum. However, this goal is not met, with the average time in 2012 being approximately 98 days, and only 56 % of cases being decided within three months.¹⁶³

A particularly critical situation has developed regarding Somali children applying for residence permits through Swedish embassies based on relation to a person living in Sweden, e.g. father, mother or other relative. The Swedish state refuses to accept official Somali state documentation and identification because Sweden does not recognize Somalia as a state governed by the rule of law. Hence, children from Somalia cannot present adequate documentation to satisfy the Swedish requirements.¹⁶⁴ Consequently, the child and their relative cannot prove their relation, leaving children without any possibility of joining their family. In a specific case from 2009, the judges of the Supreme Court of Migration (Migrationsöverdomstolen) expressed their concern regarding the formal barriers preventing them from deciding in such cases from Somalia.¹⁶⁵

RECOMMENDATIONS

- Actively recruit legal and other staff with foreign backgrounds to increase awareness about and understanding of ethnic and cultural differences. This would help persons with foreign backgrounds who come in contact with the various areas of the legal system to feel safer and have more trust in the system.
- Launch educational initiatives for legal system staff to counteract ethnic discrimination. Encourage cooperation between the judicial system and organizations that represent persons with foreign background.
- Create conditions in the legal system that make it possible for persons with a foreign background to exercise their right to a fair trial and right to effective remedies on equal terms with all others.
- Guarantee access to certified interpreters throughout the legal system.
- Conduct an integrated diversity and equality analysis on political initiatives in the penal field. It is important to analyze the effects of new laws, working methods or strategies and whether these new initiatives lead to additional disadvantages for foreign persons. Review the impact of political initiatives on different minorities in the legal system.
- Develop qualitative and quantitative social justice markers to monitor the legal system's activities to counteract racial profiling and ensure equal treatment before the law.
- Implement measures to increase sensitivity within the judicial system towards groups that are marginalized.
- Prohibit and punish all forms of racial profiling by the police and other law enforcement bodies.
- Ensure adequate legal security throughout the asylum process from application procedures to investigation and adjudication. Revise standards of proof for identification to reflect realities of asylum seekers and related residency permit requests.

FREEDOM OF RELIGION

MAIN CONCERNS

- International studies denote the interaction between racism, discriminatory ideas and religion.
- Individuals are being met by contempt due to religion.
- 42 % among the reported hate crimes with an anti-religion motive were deemed as Islamophobic in 2012.
- Members of the Muslim congregations are exposed to assaults physical violence.
- School literature presents stereotypes and discriminatory attitudes towards Muslims.

RACISM AND RELIGIOUS HATRED

A study conducted by the Equality Ombudsman in 2010 indicates the complex interaction between discrimination and violence due to religious grounds and discrimination and violence due to ethnic origin.¹⁶⁶ International studies also denote the interaction between racism, discriminatory ideas and religion.¹⁶⁷ Individuals in today's society are being met by contempt due to religion and not

merely due to ethnicity. The below information focuses on Muslims, for information on anti-Semitism, see information under Article 2.2, above.

DISCRIMINATION AGAINST MUSLIMS

Muslims are the largest and fastest growing minority group in Sweden. They remain disproportionately targeted by harassment, verbal threats, sabotage and vandalism.¹⁶⁸ A 2010 Equality Ombudsman study shows that young people face a society characterized by intolerance against Muslims.¹⁶⁹

As much as 42 % of the reported hate crimes with an anti-religious motive were deemed as Islamophobic in 2012 (BRÅ 2013:16). A report conducted in 2012, concerning the opportunities for Muslims to freely exercise their religion without being exposed to hate crimes and negative treatment, addresses the issue of hate crimes directed against Muslim congregations.¹⁷⁰ 26 % of the representatives of the Muslim organizations who participated in the study stated that their premises, such as mosques and places of worship, at some point had been exposed to vandalism due to the fact that it represents Islam and Muslims. Furthermore, members of the Muslim congregations have reported being exposed to assaults and in some cases even to physical violence.¹⁷¹ The UN High Commissioner for Refugees has expressed Islamophobic crimes to be one of the biggest challenges in contemporary Europe.¹⁷²

As noted in our previous report, studies show that Muslims and persons perceived to be Muslims are a highly targeted group for discrimination in Sweden, and that every fourth Muslim child has been the subject of harassment and violations in school or elsewhere, during a one-year period.¹⁷³ Studies also show that in areas and municipalities where right-wing extremist groups are present and visible there is a significant increase in expressions of intolerance against Muslims.¹⁷⁴

School curriculum is one cause of anti-Muslim attitudes. According to an evaluation carried out by the Swedish School Board, school literature is full of stereotypes and discriminatory attitudes towards Muslims. The presentation of Islam and Muslims in school material is almost exclusively about militant Islam.¹⁷⁵ Such false representation of the Muslims, most often in the context of war, conflict and terrorism, further contribute to and reinforce stereotypes and perpetuates discrimination against Muslims.

RECOMMENDATIONS

- Monitor and evaluate the difficulties faced by religious minorities who are especially subject to indirect and direct discrimination. The evaluation should result in effective measures to combat their concrete experiences of marginalisation and discrimination.
- Follow up hate crimes with anti-Muslim motives.
- Examine and rewrite school literature to present a nuanced representation of Islam and Muslims and, thus, through information contravene anti-Muslim discrimination, and not engender the stereotypes that cause it.

EMPLOYMENT

MAIN CONCERNS

- Ethnic discrimination is prevalent within the Swedish labour market, despite legislation prohibiting it.
- Persons born outside Europe are at higher risk of being unemployed despite their level of relevant education, which is normally a factor lowering the rate of unemployment.

- Segregation in the labour market is extensive in Sweden, implicating also Article 3 of the Convention.
- Ethnic discrimination in employment recruitment processes is common, hampering entry into the labour market.
- Provisions concerning active measures in the labour market, present in the new Anti-Discrimination Act, needs to be effectively implemented .

THE IMPACT OF A FOREIGN NAME

In the previous alternative report, we emphasized that employment discrimination is prevalent in Sweden. This is a continuing and ongoing problem. Unemployment has, ever since 1990, been two to three times higher among persons born outside Sweden.¹⁷⁶ Furthermore, people from non-European countries are unemployed to a higher degree than people from in Europe. People from Asia and Africa are particularly vulnerable to unemployment¹⁷⁷ and discrimination. While a higher level of education generally has a positive effect on employment , this does not hold true for people born outside of Europe: their unemployment rate is low regardless of level of education.¹⁷⁸

Data also show that segregation in the labour market is extensive in Sweden, implicating Article 3 of CERD.

	Stockholm	Gothenburg	Malmö
Ethnic Swede	14,6 %	12,2 %	13,4 %
Foreign background	39,0 %	30,3 %	32,4 %

Chart 2. Average percentage of immigrant colleagues in work places in the three metropolitan cities 2006. Institute for Evaluation of Labour Market and Education Policy (IFAU) report 2010:4, p. 29.

The pattern of employment rate, income level and the percentage of immigrant colleagues vary depending on the employee's origin or the origin of his/her parents.¹⁷⁹ The most segregated immigrant groups have the lowest incomes.¹⁸⁰

The Equality Ombudsman's 2012 annual report notes that the majority of the reported cases which concerned discrimination in the labor market were related to ethnic discrimination. The report further reveals that ethnic discrimination appears to be common in connection to recruitment.¹⁸¹ Previous studies show that job applicants with a Swedish name were twice as likely to be invited to an interview compared to job applicants with an Arabic name.¹⁸² The Equality Ombudsman has reported that a person with an Arabic name has to apply three times as many jobs as a person with a Swedish name in order to be invited to an interview.¹⁸³ Studies also show that there is a high risk that children of unemployed immigrants in turn run the risk of being unemployed, which reveals a social inheritance.¹⁸⁴ ECRI has in fact recommended Swedish authorities to work more effectively in order to combat prejudices among employers.¹⁸⁵

Studies and investigations made prior to the entry into force of the new Anti-Discrimination Act reveal a low enforcement of the rules concerning active measures to prevent and counteract discrimination in the labor market.¹⁸⁶ These findings are still relevant despite the new law since the new law also has similar active measures. In fact the rules in the new Anti-Discrimination Act concerning active measures have been criticized for being vague¹⁸⁷ and there have been calls for improvement.¹⁸⁸ While the government has rejected such proposals, it has recently called for an investigation of the matter and in 2013 will present how such measures could be made more effective in practice.¹⁸⁹

RECOMMENDATIONS

- Identify and implement a full-range of measures to reduce ethnic discrimination within the employment recruitment process. The European Commission against Racism, for example, recommends that Swedish authorities conduct an information campaign with the aim to raising employer's awareness about their responsibilities under the Anti-Discrimination Act.
- Ensure effective implementation of the anti-discrimination law in areas concerning employment, including the provisions concerning active measures.
- Raise awareness amongst the public and particularly minorities concerning their right to non-discrimination in the labour market. Encourage and enable the reporting of claims alleging discrimination in the labour market, including in the recruitment process.

HOUSING

MAIN CONCERNS

- Ethnic discrimination in the housing sector, particularly concerning access and quality of housing is significant. Based on their ethnic or religious background, individuals face systematic discrimination from landlords, housing authorities, and money lending institutions. Their ability to buy or rent apartments is also limited. Segregation in housing based on ethnicity is widespread, especially in larger cities.
- Ethnic minorities are also discriminated against in housing as a result of social exclusion and poverty. Homelessness rates are high, especially among immigrant women.
- Private housing companies and realtors apply arbitrary measures that result in direct or indirect discrimination.

DIRECT AND INDIRECT DISCRIMINATION

Discrimination in the housing sector is significant, particularly in relation to access to and quality of housing. Discrimination in the area of access can be direct and indirect, and protection from discrimination is not guaranteed. The problem of spatial segregation of ethnic minorities is systematic. The housing market has become a socio-political problem where landlords, social services and banks apply direct or indirect exclusionary measures, specifically against ethnic minorities.

Ethnic minorities experience discrimination when either renting or purchasing property - as it is more difficult for them to secure bank loans because of discrimination in the financial and banking sector and lower income levels. As they are less likely to own property, they are more dependent on the private rental sector and social housing where they face additional difficulties such as substandard quality housing and segregation. The Roma minority, for example, is systematically discriminated against by housing companies (see section 2.2).

Housing companies and realtors determine requirements and choose tenants based on discretionary decisions, which enables uncontrolled ethnic discrimination. While such companies are subject to the Anti-Discrimination Act, there are no explicit requirements regulating what is reasonable in terms of criteria for selection, thus indirect discrimination based on income and other factors has an effect on access to housing for persons with an ethnic background.¹⁹⁰ A recent survey conducted by the Equality Ombudsman reveals the ongoing problem of

discrimination in housing in Sweden, with ethnic background being the most common ground of discrimination in housing.¹⁹¹

Limited access to the housing market leads to limited access and possibilities in other socio-economic areas and inevitably results in increased segregation. Research on housing segregation in Sweden unambiguously shows that segregation, especially in larger cities, is widespread. For example, an ethnic Swede living in Stockholm had an average of 19.7 % immigrant neighbors in his/her residential area, as opposed to an immigrant living in Stockholm during the same period with an average of 40.9 % immigrant neighbors in his/her residential area.¹⁹² Furthermore, ethnic segregation has become synonymous with economic segregation, with poorer communities being of persons with ethnic background more likely living amongst each other.¹⁹³

HOMELESSNESS AND ETHNIC DISCRIMINATION

Persons born outside Sweden are overrepresented among homeless people in Sweden, a trend which has continued.¹⁹⁴ Women born outside of Sweden have been particularly vulnerable. Lately, the proportion of foreign-born persons who are homeless has increased. Homelessness could be attributed to different factors, individual as well as structural. Individual factors such as drug addiction or physiological problems has shown to be less common among foreign-born persons being homeless in relation to homeless people born in Sweden.

The high and also increased number of foreign-born people being homeless in fact indicates that structural factors, such as exclusion in the labor market, discrimination and segregation, as the underlying causes. This is a vicious circle for ethnic minorities and must be given more attention.¹⁹⁵

RECOMMENDATIONS

- Conduct an in-depth study on discrimination in the housing sector, looking at direct and indirect forms of discrimination in the area of housing, including institutional discrimination in banks and financial institutions mortgage lending practices.
- Enact legislation and policies requiring housing companies to make rental criteria public. Housing queues based on queue time need to be established for all housing companies, limiting arbitrary evaluations and possibilities for discrimination.
- Encourage transparency in the housing sector including routines for housing companies to ensure that criteria are equally applied to all applicants regardless of ethnic background.
- Address increase in homelessness among immigrants with measures that will guarantee housing, special attention should be paid to homeless women.
- Cooperate with relevant civil society actors, such as those working with immigrant and ethnic minorities in disadvantaged neighbourhoods, to develop measures to counteract discrimination in the housing sector.

HEALTH

MAIN CONCERNS

- Ethnic discrimination is the most common ground for discrimination in access to health care in Sweden. Persons born outside Sweden experience poor treatment and discrimination in the health care system and as such, have low trust in the system, lowering their ability and willingness to use it.

- Foreign-born persons tend to have poorer health compared to persons born in Sweden. For example, foreign born persons have higher mortality rates than persons born in Sweden.
- A new law entered into force in July 2013 concerning health care for undocumented persons. While this law will most likely improve undocumented persons access to health care, it is not comprehensive as asylum seekers and undocumented persons still will not be able to receive the same health care as residents.

DISCRIMINATION IN HEALTH CARE

Ethnic discrimination is the most common ground for discrimination in access to health care in Sweden.¹⁹⁶ The Swedish National Board of Health and Welfare has recognized that foreign-born persons often have poorer health status than persons born in Sweden.¹⁹⁷ The Board also reports that foreign-born persons are treated differently by health care personnel, and experience limited accessibility to health care.¹⁹⁸ According to the Equality Ombudsman, foreign-born persons are not cared for as individuals seeking health care, but are treated based on stereotypes based on the ethnic group they belong to.¹⁹⁹ For example, the former Ethnic Equality Ombudsman has reported on psychiatric cases concerning immigrants where the medical analysis was based on general negative perception of the patient's ethnic origin, not on the particular situation of the individual patient.²⁰⁰ The current Equality Ombudsman has characterized such treatment as one of the most severe forms of discrimination in health care.²⁰¹

Studies show that discriminatory treatment in health care results in mistrust of the health care system and reluctance of foreign-born persons to seek needed medical care in comparison with persons born in Sweden.²⁰² Such treatment could explain the differences in health and mortality rates between these groups.²⁰³

It is of importance that effective measures are undertaken in order to increase ethnic minorities, including foreign-born persons' confidence for the Swedish health care and to prevent and punish discriminatory treatment. The Equality Ombudsman has noted that active measures to counteract discrimination are desirable in all public services, including health.²⁰⁴

HEALTH CARE FOR ASYLUM SEEKERS AND UNDOCUMENTED PERSONS

Sweden has among the most restrictive rules for access to health care for undocumented migrants in the European Union.²⁰⁵ Under legislation applicable at the time of publishing this alternative report, Sweden has had a discriminatory approach in terms of the level of health care entitled to residents, to asylum seekers, and to undocumented migrants, treating each group differently. Asylum seekers are entitled to "emergency" health care and health care "that cannot wait", such as maternity care, while undocumented persons may only receive emergency health care and are required to pay the full cost of treatment and medication. Demarcations, such as "emergency" health care and health care "that cannot wait" are vague categories and allow for interpretations that are unjustifiable from a patient and health care providers perspective. The demarcations also engender insecurity among the medical staff because they are in direct breach of legal demands under international law and of medical ethics.²⁰⁶

A new law governing health care for undocumented migrants takes effect from July 2013 and provides the same level of health care to asylum seekers as to undocumented migrants. It will also allow for undocumented migrant children under the age of 18 to receive the same health care as resident children.²⁰⁷ While these are welcome developments, the law does not follow the recommendations calling

for the same access to health care as all lawful residents.²⁰⁸ The Swedish Medical Association, while recognizing advancements in the law, criticises the changes as being too limited and discriminatory since asylum seekers and undocumented persons would not be guaranteed health care on equal conditions as other persons.²⁰⁹ The Medical Association notes that medical personnel would still be forced to focus upon the legal status of a patient and their requisite legal entitlements instead of their medical needs.²¹⁰

Thus despite this new law, earlier findings concerning the harm this distinction has caused, are still of concern. As noted in our previous alternative report to CERD, the Swedish Red Cross²¹¹ and medical personnel have reported cases when patients have died from preventable causes or risked dying because they had not received adequate health care.²¹² There are also known cases where asylum seekers and undocumented persons have been reluctant to seek medical assistance, even in the most critical cases, because they are afraid of being reported to the authorities by medical staff.²¹³ A study conducted by Médecins Sans Frontières showed that 82 % of undocumented persons have faced direct or indirect obstacles when seeking medical assistance.²¹⁴ Furthermore up to 25 % of refugees and asylum seekers suffer from various forms of stress disorder but have great difficulties accessing mental health care.²¹⁵

The recommendations of UN human rights mechanisms are also still relevant. Former UN Special Rapporteur on Health, Paul Hunt, noted after his country visit to Sweden that the above mentioned discriminatory practices are in direct breach of the fundamental human right to the highest attainable standard of health, which is to be enjoyed by all without discrimination. This is especially important for vulnerable persons in Sweden since they are precisely the sort of disadvantaged group that international human rights law is designed to protect.²¹⁶ His findings are supported by the Committee on Economic, Social and Cultural Rights which stated in its General Comment 14 in 2000 that "States are under an obligation to respect the right to health by refraining from or denying or limiting equal access for all persons, including asylum-seekers and illegal immigrants, to preventive, curative and palliative health services."²¹⁷ This is also endorsed by the CERD Committee's General Recommendation No. 30, paragraph 36, from 2004.

RECOMMENDATIONS

- Undertake effective legislative and policy measures that prohibit discrimination in access to health care.
- Develop and implement active measures which create acceptable health care environment for foreign-born persons, combatting mistrust in the health care system and encouraging its use.
- Ensure that the rights of asylum seekers with health problems or disabilities are properly guaranteed throughout the asylum process.
- Ensure that asylum seekers with health problems or disabilities have access to adequate health care and support in their countries of origin if denied asylum in Sweden.
- The new legislative proposal issued by the government should be extended so that asylum seekers and undocumented persons are offered the same access to health care as all residents, as recommended by the former UN Special Rapporteur on Health.

EDUCATION

MAIN CONCERNS

- Segregation in the educational system is a persistent problem and leads to lower educational achievement among ethnic minorities.
- Studies show that newly arrived young persons do not always receive the education they are entitled.
- Other structural forms of discrimination include an educational system that fails to accommodate language and culture. Subsidized mother tongue education for ethnic and national minorities is not consistently provided by Swedish schools. Official statistics regarding the number of students entitled to mother tongue lessons are misleading since it does not reflect actual demand.
- Educational materials promote and reinforce prejudices by presenting stereotypical images of ethnic minorities and their cultures. Because of this some families are unwilling to send their children to school, as they fear that they will not be protected from discrimination.

EDUCATIONAL ATTAINMENT

Ethnic discrimination in the area of education continues to be a problem in Sweden. Educational attainment of ethnic minorities is lower than that of the rest of the general population and the drop out rate is also higher.²¹⁸ These difficulties arise from a combination of factors, such as segregation and other indirect and structural forms of discrimination. Segregation is a persistent problem, both as a result of segregation in the educational system itself and spatial segregation in housing. As discussed above under Article 2.2, the Roma remain among those who experience disproportionately high levels of discrimination in education.

LACK OF MOTHER TONGUE EDUCATION

Other structural forms of discrimination include lack of provisions for education that accommodate language and culture. As discussed in Section 2.2, the need for subsidized mother tongue lessons among Roma and Saami students is not being met by Swedish schools and municipalities, and the official statistics regarding the number of students entitled to subsidized mother tongue education is misleading since it does not reflect actual demand. Access to subsidized mother tongue lessons can also vary from municipality to municipality.

DISCRIMINATORY CONTENT OF EDUCATIONAL MATERIAL

Curriculum can also be a part of the problem. According to an evaluation by the Swedish School Board, Swedish school literature is inadequate and discriminatory when describing minority populations. As mentioned above, certain minorities are described through the use of stereotypes that are considered offensive. For example, the presentation of Islam and Muslims in school material is almost exclusively always about militant Islam. The history curriculum gives a one-sided and very limited presentation of the history of and current situation of the Jews and Saami people. Students belonging to these minorities have a difficult time identifying with the images portrayed. School literature should counteract discrimination, not reinforce the stereotypes that cause it.

RECOMMENDATIONS

- Ensure the immediate enrolment in school of newly arrived immigrants. Ensure their curriculum is the same as all other students. Evaluate best practices in different municipalities and replicate elsewhere.
- Undertake measures to increase the number of foreign-born persons graduating upper secondary school.
- Allocate resources for information campaigns in schools about ethnic and religious minorities
- Instruct school authorities across the country to ensure mother tongue literacy education for all. This is particularly urgent for the Roma and the Saami people as institutionalized discriminatory practices created their illiteracy in the first place.
- Evaluate and update Swedish school literature to ensure that accurate and non-discriminatory descriptions of various cultures and ethnic minorities are available to all children in the Swedish school system. Materials regarding the Roma, the Saami and the Muslim cultures, especially, need to be developed to enrich curricula for all students.

Endnotes

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- ¹⁸ The National Council for Crime Prevention, Hate Crimes (BRÅ), Hatbrott 2010, Report 2011:8, p. 24. A hate crime can consist of several hate crime motives. The statistics only display what is considered to be the main motive.
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⁵³ Equality Ombudsman, *Annual Report 2010*, pp. 24-25.

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⁵⁶ Legislative bill 2007/08:95, *Ett starkare skydd mot diskriminering (A stronger protection against discrimination)*, p. 170.

⁵⁷ *Ibid.*

⁵⁸ Equality Ombudsman, *Discrimination against the Saami – the rights of the Saami from a discrimination perspective*, 2008:1 Eng, p. 5.

⁵⁹ *Ibid.*, p. 24.

⁶⁰ See, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (the “ILO Convention No. 169”) Art. 14 and 15, the ILO Convention no. 169’s predecessor, ILO Convention No. 107⁶⁰ Art.11, Art. 27 of the CCPR and the findings of the Human Rights Committee, which on several occasions has pointed out that cultural rights pursuant to Art. 27 include a right to traditional land and territories, means of subsistence and participation rights. See for example *Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada*, Report of the Human Rights Committee, 45 UN GAOR Supp. (No. 43), UN Doc. A/45/40, vol. 2 (1990), *Kitok vs. Sweden*, Report of the Human Rights Committee, 43 UN GAOR Supp. (No. 40) UN Doc. A/43/40 and *I. Länsman et al vs. Finland* (Communication No. 511/1992), CCPR/C/52/511/1992, General

Comment No. 23 (50) (art 27), adopted by the Human Rights Committee at its 1314th meeting (15th Session) and Concluding observations of the Human Rights Committee: Australia 28/07/2000, CCPR/CO/69/AUS. (Concluding Observations/Comments), para.10 and 11. We refer also to the Inter-American Commission on Human Rights (the “IACHR”), Art. 30 of the Convention on the Rights of the Child and the United Nations Expert Seminar on Practical Experience Regarding Indigenous’ Land Rights and Claims.

⁶¹ Committee on Economic, Social and Cultural Rights’ Concluding Observations on Sweden (UN document E/C.12/1/Add. 70, para. 28.), the CERD Committee’s Concluding Observations on Sweden, the Human Rights Committee’s Concluding Observation on Sweden (UN document CCPR/CO/74/SWE para. 15.) and Norway (UN document CCPR/C/79/Add.112), and the CERD Committee’s Concluding Observations regarding the 16th Periodic Report of Finland (UN document CERD/C/63/CO/5, para. 11) and Norway (UN document CERD/C/63/CO/9 para. 19).

⁶² Based on the argument that a people belonging to an inferior nomadic culture are not to acquire title to land, the Saami people’s traditional lands were declared to be the property of the Swedish crown in 1886. Henceforth, the Saami could only pursue reindeer husbandry in the traditional territories. They were, however, not allowed to establish residence by building houses, which was a right reserved for persons of Swedish descent. Substantial areas of traditionally Saami territories were systematically given to non-Saami settlers. It was not until the 1960-70 that this discriminatory system was eased as to the right to housing.⁶² But even with the introduction of new policies the Saami were not allowed to represent themselves in administrative issues concerning their traditional lands. See, Lundmark, Lennart, *Lappen är ombytlig ostadig och obekvämt, Svenska Statens Samepolitik i Rasismens Tidevarv*, Umeå (2002), pp. 57 f, p. 120, and Lundmark, Lennart, *Så länge vi har marker, Samerna och staten under sexhundra år*, Falun (1998), p. 74; Equality Ombudsman, *Discrimination against the Saami – the rights of the Saami from a discrimination perspective*, 2008:1 Eng, p. 19.

⁶³ Equality Ombudsman, *Discrimination against the Saami – the rights of the Saami from a discrimination perspective*, 2008:1 Eng, p. 22.

⁶⁴ Equality Ombudsman, *Discrimination against the Saami – the rights of the Saami from a discrimination perspective*, 2008:1 Eng. pp. 20-21. Approximately 20 000 Saami currently live in Sweden, out of which approximately 2 500 subsist on reindeer husbandry. See, SOU 2011:62, *Underhållsansvaret för statens renskötselänläggningar (Responsibility for the maintenance of the state’s reindeer husbandry structures)* p. 23.

⁶⁵ NJA: Nytt Juridiskt Arkiv 2011 (New Judicial Archive) 2011 p. 109

⁶⁶ Allard, Christina, *Nordmalingsmålet: Urminnes hävd överspelad för renskötselrätten? (The*

Nordmaling case: Is immemorial custom outdated in the reindeer husbandry legislation?), Juridisk Tidskrift nr.1 2011/12, p. 117, 119.

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⁶⁹ The Sustainable Development Working Group of the Arctic Council, *Circumpolar Information Guide on Mining for Indigenous Peoples and Northern Communities*, 2011, p. 14.

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⁷³ Anaya, James, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Human Rights Council, Eighteenth session, 2011.

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⁷⁵ Report, SOU 2011:62, *Underhållsansvaret för statens renkötselanläggningar (Responsibility for the maintenance of the state's reindeer husbandry structures)*.

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⁷⁷ *Ibid*

⁷⁸ Interview with Stefan Mikaelsson, President of the Saami Council, 20013-05-25.

⁷⁹ Brännström, Malin, legal representative for Svenska Samers Riksförbund, in presentation on the Reindeer Husbandry Legislation in the Swedish Parliament, 2007-12-05.

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⁸¹ Anaya, James, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Human Rights Council, Eighteenth session, 2011.

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[anet=FFCD4F&BackColorLogged=FFC679](#), accessed on 2013-05-24.

⁸⁴ See, for example, Equality Ombudsman, *Diskriminering av Romer i Sverige (Discrimination against Roma in Sweden)*, 2002, 2003; Skolverket, *Romer i skolan: en fördjupad studie (Roma in School: a detailed study)* 2007.

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⁸⁶ State investigativereport, *Romers rätt - en strategi för romer i Sverige (Roma Rights-a strategy for Roma in Sweden)*, SOU 2010:55; Report from the Delegation for Roma Issues, JU 2006:10, p. 12.

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¹⁰⁷ *Ibid.*, p. 162.

¹⁰⁸ Swedish Government report to the CERD-Committee, 2012.par, 78, available, <http://www2.ohchr.org/english/bodies/cerd/cerds83.htm>

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¹¹⁰ Forum för levande historia, *Den mångtydiga intoleransen*, (Living History Forum, *The many faces of intolerance*), 2010.

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¹¹³ *Ibid.*, p.15.

¹¹⁴ Maria Ludvigsson: “Willy Silberstein i USAs kongress”, Svenska Dagbladet, 27February 2013.

¹¹⁵ Information from Länsstyrelserna, County Administrative Boards, see www.lansstyrelsen.se.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ Church of Sweden et al., *Våga vara minoritet* (dare to be Minority) NGO-report to the Council of Europe, 2012.

¹²⁰ Church of Sweden et al., *Våga vara minoritet* (dare to be Minority) NGO-report to the Council of Europe, 2012.

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¹²³ Equality Ombudsman, *Vardagsrasism*, (Everyday racism): <http://www.do.se/sv/Press/Pressmeddelanden-och-aktuellt/2012/Vardagsrasism/>, accessed in 2013-05-25..

¹²⁴ Periodic State Report of Sweden to the CERD Committee, 19th-21st report, 2012, para 120..

¹²⁵ Expo, *Svensk vitmakt-årsrapport 2010* (Swedish *White Power, annual report 2010*) by Mikael Ekman and Daniel Olsson, p.13. Expo is an organization studying and mapping anti-democratic, right-wing extremist and racist tendencies in society. See more on http://expo.se/2010/about-expo_3514.html

¹²⁶ *Ibid.* p.23.

¹²⁷ Säpo and BRÅ, *Våldsam politisk extremism* (*Violent political extremism*), report 2009:15, p. 19.

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¹³⁴ Brottsförebyggande rådet (BRÅ) (The National Council for Crime Prevention), Hatbrott 2009, (*Statistics on Hate Crimes 2009*),2010:12, p. 34.

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¹³⁶ *Ibid.*

¹³⁷ Expo, *Svensk vitmakt-årsrapport 2010* (Swedish *White Power, annual report 2010*) by Mikael Ekman and Daniel Olsson, pp. 27-28.

¹³⁸ See Fundamental Law on Freedom of Expression (1991:1469) Chapter 7, Article 1; SOU 2010:68, *Ny yttrandefrihetsgrundlag? (New Fundamental Law on Freedom of Expression?)*, p. 48

¹³⁹ As per the instructions stated in chapter 1, 4 § of the Freedom of Press Act and chapter 1,5 in YGL.

¹⁴⁰ Justitiekanslern , (Chancellor of Justice), Annual Reports 2011 and 2012

¹⁴¹ *Ibid.*

¹⁴² Jakobsson, Expo, Svårt att fällas för hets mot folkgrupp, nov 2007, info accessed at: http://www.expo.se/2007/48_2125.html

¹⁴³ Justitiekanslern , (Chancellor of Justice), Annual Report , 2007, p 8.

¹⁴⁴ The Supreme Court has, for example, acquitted the publisher of a Nazi website who published gravely offensive propaganda against homosexuals and the Roma people. According to the Supreme Court, the information on the site was only accessed by persons familiar with the website and those who actively sought it out, and since websites are protected by the Fundamental Law on Freedom of Expression, the court acquitted the publisher. In a similar case, the web publisher of a Christian website who had been charged for agitation against ethnic groups was also acquitted. The Supreme Court found that even though the text in itself constituted agitation against an ethnic group, the actual intentions of the website publisher could not be proved to have had racist motives. As discussed in article: TT, publicerad i Aftonbladet, 2007-11-07, <http://www.aftonbladet.se/nyheter/artikel1188053.ab> ; and Jansson, Journalistförbundets Tidning, 2007-11-08, Info accessed at: <http://www.journalisten.se/artikel/14207>.

¹⁴⁵ Bull, Thomas, *Sicksackmönster och spegelbilder – hetsbrotten i HD* (translated: *Zigzag patterns and*

reflections – crimes on agitation in the Supreme Court), Juridisk Tidskrift nr. 3, 2008/09.

¹⁴⁶ See NJA 2005 p. 805, NJA 2006 p. 467 and NJA 2007 p. 805.

¹⁴⁷ Bull, Thomas, *Sicksackmönster och spegelbilder – hetsbrotten i HD* (translated: *Zigzag patterns and reflections – crimes on agitation in the Supreme Court*), Juridisk Tidskrift nr. 3 2008/09, p. 531; See also Österdahl, Inger, *Har HD hittat en hets-doktrin? (Has the Supreme Court found a doctrine for agitation?)*, SvenskJuristtidning 2008 (Swedish Law Paper), p. 719-722.

¹⁴⁸ NJA 2007 p. 805 (II).

¹⁴⁹ Österdahl, Inger, *Har HD hittat en hets-doktrin? (Has the Supreme Court found a doctrine for agitation?)*, SvenskJuristtidning 2008 (Swedish Law Paper), pp. 719-722.

¹⁵⁰ Bull, Thomas, *Sicksackmönsterochspegelbilder – hetsbrotten i HD* (translated: *Zigzag patterns and reflections – crimes on agitation in the Supreme Court*), Juridisk Tidskrift nr. 3, 2008/09, p. 531.

¹⁵¹ *Ibid.*

¹⁵² BRÅ, *Diskriminering i rättsväsendet* (National Council for Crime Prevention, *Discrimination in the Administration of Justice*), by Martens, Shannon, Törnqvist, 2008:4.P9. 77-78.

¹⁵³ *Ibid.*, p. 78.

¹⁵⁴ Christian Diesen, *Likhet inför lagen, tvärvetenskaplig antologi (Equality before the law: interdisciplinary anthology)*, Natur och Kultur: 2005, p. 292.

¹⁵⁵ Svenska Dagbladet, *Invandrare döms hårdare i rätten (Immigrants are being punished tougher in courts)*, published: 13-03-2005, link: http://www.svd.se/nyheter/inrikes/invandrade-doms-hardare-i-ratten_403619.svd.

¹⁵⁶ BRÅ, *Diskriminering i rättsväsendet* (National Council for Crime Prevention, *Discrimination in the Administration of Justice*), by Martens, Shannon, Törnqvist, 2008:4; See also, *Bästa Beatrice Ask (Dear Beatrice Ask)*, Dagens Nyheter, 2013-03-13 Jonas Hassen Kemiri.

¹⁵⁷ *Ibid.*

¹⁵⁸ Erik Magnusson “Migrationsverket: Reva har varit bra”, Sydsvenskan, 2 May 2013.

¹⁵⁹ BRÅ, *Diskriminering i rättsväsendet* (National Council for Crime Prevention, *Discrimination in the Administration of Justice*), by Martens, Shannon, Törnqvist, 2008:4 p. 93.

¹⁶⁰ Legislative bill 2004/05:170, *Ny instans- och processordning i utlännings- och medborgarskapsärenden (New instance and process orders in aliens and citizen shipcases)*, p. 105-106.

¹⁶¹ *Den nya migrationsprocessen (The new immigration process)* SOU 2009:56, p. 182.

¹⁶² Save the Children, *Nytt system gamla brister? (New system, old deficiencies?)*, 2008, p. 59.

¹⁶³ Swedish Migration Board, Annual Report 2012.

¹⁶⁴ See Swedish Supreme Court of Migration decision, MIG 2009:17.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ See e.g. U.N. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban Declaration and Programme of Action (DDPA), 2001, para. 61; U.N. General Assembly, *Complementary international standards:*

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