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HUMAN RIGHTS COMMITTEE

Ninety-fifth session

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

SWEDEN

1. The Committee considered the sixth periodic report of Sweden (CCPR/C/SWE/6) at its 2612nd and 2613rd meetings (CCPR/C/SR.2612 and 2613), held on 25 March 2009, and adopted the following concluding observations at its 2625th meeting (CCPR/C/SR.2625), held on 2 April 2009.

A. Introduction

2. The Committee welcomes the timely submission of the sixth periodic report of Sweden in accordance with the guidelines and the inclusion in the report of detailed information on the measures adopted to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/74/SWE). It is grateful to the State party for the written replies (CCPR/C/ SWE/Q/6/Add.1) submitted in advance in response to the Committee's written questions, and the additional information provided during the consideration of the report. It also

notes the State party's consultation with non-governmental organisations during the preparation of the present periodic report, as well as the delegation's acknowledgment of the work of such organisations in providing the Committee with relevant additional information.

B. Positive aspects

3. The Committee welcomes the various legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the fifth periodic report, in particular:

- (a) the inclusion of a new provision in the Constitution in 2003 (The Instrument of Government, Chapter 1, article 2, paragraph 4), clarifying that public institutions shall combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the private person;
- (b) the establishment of the second national action plan for human rights 2006-2009, as well as the establishment, in 2006, of a Delegation for Human Rights due to present its report in 2010;
- (c) the launch, in 2002, of a human rights website (www.manskligarattigheter.se), containing all of the State party's relevant reports, including the reports to the Human Rights Committee, and the Committee's concluding observations thereon, in both Swedish and English;
- (d) the entry into force of the new Aliens Act (2005:716) in 2006, which provides for the right to appeal to independent bodies, allows for increased use of oral hearings on appeal, and permits the granting of refugee status to women fleeing gender-based violence as well as persons fleeing from persecution on grounds of sexual orientation;
- (e) the adoption, in 2005, of new legislation on sexual crimes strengthening women's and children's protection from sexual abuse, as well as the Government's decision of 2008 to start evaluating the application of the new law.

C. Principal subjects of concern and recommendations

4. The Committee has noted the merger, in January 2009, of the four previously existing Ombudsmen against Discrimination into a single Equality Ombudsman with competence to receive and examine individual complaints concerning alleged cases of discrimination, including on the grounds of age and transgender identity or expression. The Committee is concerned, however, that the State party has still not established an independent national institution, with a broad competence in the area of human rights, in accordance with the Paris Principles (General Assembly resolution 48/134: article 2 of the Covenant).

The State party should establish a national institution with a broad human rights mandate, and provide it with adequate financial and human resources, in conformity with the Paris Principles.

5. While noting the examples provided by the State party of cases where the provisions of the Covenant were mentioned by domestic courts, the Committee reiterates the concern expressed in its previous concluding observations (CCPR/CO/74/SWE) that there is no apparent modality to give effect to the full range of standards of the Covenant in the State party's domestic law. The Committee notes that in certain areas, the Covenant may accord additional protection beyond what is accorded under the European Convention on Human Rights, which has been incorporated directly into Swedish domestic law (article 2 of the Covenant).

The State party should ensure that all rights protected under the Covenant are observed in practice and in principle in the law of the State party.

6. The Committee notes that the State party does not intend to withdraw any of its reservations to the Covenant.

The State party should consider withdrawing its reservations.

7. The Committee remains concerned at the still limited percentage of women in high-ranking positions, particularly in academia and the higher echelons of the judiciary. The

Committee is also concerned about the reported wage gap between men and women, and the large proportion of women who have found only part-time work arrangements (articles 2, 3, 25 and 26 of the Covenant).

The State party should seek ways to further promote access of women to high-level and managerial positions including, where feasible, through targeted measures.

The State party should also strengthen its efforts to narrow the wage gap between men and women and to facilitate full-time employment of women.

8. The Committee notes the efforts made by the State party to eliminate violence against women, including through the adoption of a national action plan 2007-2010 to combat men's violence against women, family-based violence that misuses the idea of "honour", and violence in same-sex relationships, and amendment of the Social Services Act (2001:953) to provide support to women and children who are victims of violence. The Committee remains concerned, however, about the high prevalence of violence against women, particularly domestic violence. The Committee is also concerned that the State party has not provided consistent financial assistance to the shelters for victims of violence which are run by non-governmental organizations and that shelters are not available in all municipalities (articles 3, 6, 7 and 26 the Covenant).

The State party should intensify its efforts towards the elimination of violence against women, inter alia, through awareness raising campaigns and effective implementation of the action plan 2007-2010 and the special package of measures to increase initiatives for the rehabilitation of men convicted of sexual violence and violent offences in close relationships. The State party should also ensure the availability of a fully adequate number of shelters for women and children subjected to domestic violence, including those with special needs, in particular women and children with disabilities.

9. The Committee commends the State party for the adoption and implementation of the national action plan to combat female genital mutilation, but remains concerned at the continuing

occurrence of genital mutilation harming girls and women residing in the State party (articles 3, 6 and 7 of the Covenant).

The State party should intensify its efforts to prevent and eradicate practices of female genital mutilation, in particular through the strengthening of awareness-raising campaigns for the police and prosecutors, the family members who may encourage these practices and for the girls at risk.

10. The Committee notes that the State party has ratified the Convention on the Rights of Persons with Disabilities in December 2008, and has taken steps to increase awareness among persons with disabilities about their rights. The Committee is concerned about reports of physical abuse of disabled persons who reside in institutions and sheltered housing. The Committee is also concerned that persons with disabilities often face difficulties in obtaining adequate services and housing through their municipalities, and face difficulties when they attempt to change their residence to another municipality. The Committee also regrets that the employment rate for persons with disabilities has decreased in recent years (articles 2 and 26 of the Covenant).

(a) The State party should increase the awareness among persons with disabilities about their rights and the possibilities to seek protection and redress against violations of their rights.

(b) The State party should provide updated information on the impact of its awareness-raising programmes, how the accessibility of disabled persons to social services and goods is ensured in practice including at the level of municipalities, and details on the implementation of its disability policy in its next periodic report.

(c) The State party should take effective measures to increase the employment rate for persons with disabilities, including those with reduced work capacity.

11. The Committee is concerned that the State party has not established any reporting system to monitor the use of electroshock therapy in psychiatric institutions (articles 2, 3 and 7 of the Covenant).

The State party should establish an adequate monitoring and reporting system on the use of electroshock therapy in psychiatric institutions so as to prevent any abuses.

12. The Committee notes that a common action plan has been developed by the State party's Border Control Police, the Migration Board and the Social Services, seeking to safeguard unaccompanied asylum-seeking children against the danger of human trafficking. The Committee is concerned, however, at the lack of detailed information on the effectiveness of the measures taken by the special units of the Migration Board to prevent the disappearance of children travelling without guardians (article 24 of the Covenant).

The State party should ensure that effective measures are taken to prevent the disappearance of unaccompanied asylum-seeking children.

13. While noting new legislation respecting the right to notify family members of any arrest (law no. 2008:67) and the publication in different languages of an information leaflet on the fundamental rights of persons held in custody, the Committee is concerned that criminal suspects held in custody have no guaranteed right to see a doctor and by the fact that a request to see a doctor is left to the discretion of the police officer in charge of the investigation (articles 6, 7, 9 and 10 of the Covenant).

The State party should take effective measures to ensure that fundamental legal safeguards are guaranteed in practice to all persons held in custody, in particular the right to have access to a medical doctor, and to promptly inform a close relative or a third party concerning their arrest. The State party should also ensure that the information leaflet on fundamental safeguards is made available at all places where persons are deprived of their liberty.

14. The Committee is concerned at the reported number of suicides in prisons (articles 6, 7, and 10).

The State party should provide adequate training to prison officials on suicide prevention and assure observance of the Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners.

15. The Committee notes the existence of a special body (composed of the Chief of the national police, representatives of the police trade-unions, and Members of Parliament) to deal with complaints against the police. It is concerned, however, that this body lacks the authority necessary to effectively conduct objective investigations on complaints against members of the police (arts. 2, 7, 9, 10).

The State party should consider establishing a civilian complaint board.

16. The Committee takes note of the information provided by the State party on the measures taken to implement the Committee's decision in *Alzery v. Sweden* and welcomes the settlement between the Chancellor of Justice and Mr. Alzery in 2008. The Committee notes, however, that the State party has not ruled out the possible future use of diplomatic assurances to permit the sending of persons to places where they may face treatment contrary to Article 7 of the Covenant.

The State party should ensure that no individuals, including persons suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. The State party should further recognise that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. The State party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.

17. The Committee notes that positive changes have occurred in the Migration Board's policies, decreasing the number of cases in which asylum seekers are subjected to detention prior to the resolution of their status. The Committee remains concerned that some asylum seekers have been detained for lengthy periods. The Committee also notes that asylum-seekers said to be a risk to themselves or a threat to others have been placed in remand prisons that also house criminal suspects and convicted criminals. The Committee is further concerned that asylum seekers have been deported before the final resolution of their claims to refugee status. In addition, the Committee notes that confidential information is sometimes used in expulsion decisions to which the applicant has no access. (articles 13 and 14 of the Covenant).

The State party should permit detention of asylum-seekers only in exceptional circumstances, and limit the length of such detentions, also avoiding any placement in remand prisons. The State party should consider placement alternatives for asylum seekers, and should assure that asylum-seekers are not deported before the resolution of their claims. In addition, the State party should ensure that asylum-seekers have the right to access adequate information in order to answer arguments and evidence utilized in their case.

18. While understanding that security requirements may be aimed at preventing violence and terrorism, the Committee takes note that the Law on Signals Intelligence in Defence Operations (2008:717), will apparently provide the executive with wide powers of surveillance in respect of electronic communications (article 17 of the Covenant).

The State party should take all appropriate measures to ensure that the gathering, storage and use of personal data are not subject to any abuses, are not used for purposes contrary to the Covenant, and are consistent with obligations under article 17 of the Covenant. To that effect, the State party should guarantee that the processing and gathering of information is subject to review and supervision by an independent body with the necessary guarantees of impartiality and effectiveness.

19. The Committee is concerned that, according to information from the Living History Forum, following a Survey¹ conducted in 2004 and examining anti-Semitism, Islamophobia, homophobia and general intolerance among school youths in relation to attitudes, victimisation, self-reported crime and the dissemination of extremist propaganda, “intolerance towards minority groups – which may manifest itself in such forms as discrimination, harassment, insults, threats and physical violence – constitutes a serious social problem” in the State party. Furthermore, and while appreciating the State party’s efforts to combat hate crimes, including the establishment of the hate crime hotline in 2007, the Committee reiterates its concern about the increase of reported racially motivated crimes in recent years as well as the low number of prosecutions compared with the number of reported hate speech incidents (articles 20 and 26).

The State party should intensify its efforts to prevent, combat, and prosecute hate speech violating article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented. The State party should significantly increase its efforts to tackle the problem among youth, in particular within the framework of the Living History Forum. The State Party should also evaluate the effectiveness of the hate crime hotline.

20. While noting that the State party has delegated some responsibilities for reindeer husbandry to the Sami Parliament, the Committee remains concerned at the limited extent to which the Sami Parliament may participate in the decision-making process on issues affecting land and traditional activities of the Sami people. Furthermore, while noting the State party’s intention to address recommendations concerning Sami land and resource rights through a bill to be submitted to Parliament in March 2010, the Committee notes the limited progress achieved so far in respecting Sami rights as well as the restrictive terms of reference of the Boundary Commission and other inquiries tasked with the study of Sami rights (articles 1, 25, and 27 of the Covenant).

¹ See http://www.levandehistoria.se/files/INTOLERANCEENG_0.pdf.

The State party should take further steps to involve the Sami in the decisions concerning the natural environment and necessary means of subsistence for the Sami people. The State party should ensure the fair and expeditious resolution of claims concerning land and resources made by the Sami people, by introducing appropriate legislation in consultation with the Sami communities.

21. The Committee is concerned about de facto discrimination against the Sami in legal disputes, since the burden of proof for land ownership has been placed wholly on Sami claimants. The Committee also notes that, although legal aid may be granted to individuals who are parties in civil disputes, no such possibility exists for Sami villages, which are the only legal entities empowered to act as litigants in land disputes in respect of Sami lands and grazing rights (articles 1, 2, 14, 26 and 27 of the Covenant).

The State party should grant adequate legal aid to Sami villages in court disputes concerning land and grazing rights and introduce legislation providing for a flexible burden of proof in cases regarding Sami land and grazing rights, especially where other parties possess relevant information. The State party is also encouraged to consider other means of settling land disputes, such as mediation.

22. The State party should widely publicize the text of its sixth periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations. In addition to Swedish, the Committee suggests that the report and the concluding observations be translated into the official minority languages spoken in Sweden.

23. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 10, 13, 16, and 17 above.

24. The Committee requests the State party to include in its seventh periodic report, due to be submitted by 1 April 2014 specific, up-to-date information on follow-up action taken on all the

recommendations made and on the implementation of the Covenant as a whole. The Committee also requests that the seventh periodic report be prepared in consultation with civil society organizations operating in the State party.
