

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

HUMAN RIGHTS COMMITTEE 95TH SESSION SWEDEN, 6TH REPORT 25 MARCH 2009

Key facts	1
Opening remarks by the delegation.....	1
Overview of key issues.....	2
Constitutional and legal framework	3
Non-discrimination and equality	4
Violence Against Women.....	5
Prohibition of torture and cruel, inhuman or degrading treatment and treatment of persons deprived of liberty .	6
Other issues	7
Conclusions and next steps.....	7

Key facts¹

Ratified ICCPR	Reservations	Recognises Committee's competency under Art.41 ²	Submission of State party report	Other core treaties ratified
1971	Article 10, paragraph 3, with regard to the obligation to segregate juvenile offenders from adults; Article 14, paragraph 7; and Article 20, paragraph 1	Yes	Due: 1 April 2007 Submitted: 17 July 2007	ICESCR, CAT, CEDAW, , CERD, CRC, CRPD, CMW

Opening remarks by the delegation

The delegation of Sweden was led by Mr. Carl-Henrik Ehrenkrona, Director-General for Legal Affairs in the Ministry of Foreign Affairs. He was supported by a delegation of senior representatives from the Ministry of

¹The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx and <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&id=322&chapter=4&lang=en>

² Article 41 of ICCPR recognises the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant.

Foreign Affairs, the Ministry of Justice, the Ministry of Health and Social Affairs, the Ministry of Agriculture, and the Ministry of Integration and Gender Equality.³ While Mr. Ehrenkrona's leadership was evident in the delegation's responses to the Committee, all members of the delegation contributed to the discussion in their specific areas of expertise.

In his opening remarks to the Committee, Mr. Ehrenkrona assured the Committee of Sweden's commitment to the fulfilment of its obligations under the Covenant, as well as skilfully highlighted issues that he knew were of particular concern to the Committee. He explained that the Swedish government remains apprehensive of the Committee's Draft General Comment 33 because of its implication that the Committee's legal influence extends beyond the State parties' original intent for the Committee's authority with regard to the implementation of the Covenant. On the issue of countering terrorism, Mr. Ehrenkrona advised the Committee of a new law adopted in 2008 on "signals intelligence," which is currently being revised to provide stricter guidelines governing the protection of individual privacy and the entities entitled to the collection of the intelligence.

On the 2001 controversial expulsions of two Egyptian citizens, Mr. Mohamed Alzery and Mr. Ahmed Agiza, Mr. Ehrenkrona reassured the Committee that the government is in the process of taking all necessary measures to provide appropriate remedies and resolutions to these cases. In further explanation of these two cases, he informed the Committee that the Swedish government has since put into place strict guidelines safeguarding the right of individuals to receive humane treatment during detainment and in cases of expulsion. Mr. Ehrenkrona concluded by notifying the Committee that in 2009, the government undertook an extensive initiative aimed at improving discrimination laws by merging seven civil law acts on discrimination and two new categories on discrimination (age and gender identity and prohibition against discrimination for public sector employees) into one piece of legislation.

The Committee appreciated the delegation's advanced submission of detailed written responses to its list of issues and its decision to devote all its time before the Committee to responding to Committee inquiries rather than a repetition of its replies to the list of issues. The Committee noted that it would perhaps recommend this practice to other delegations going forward.

Overview of key issues

The Swedish delegation engaged in positive and productive discussions with the Committee. The Committee was appreciative of the highly qualified delegates Sweden continually provides to the Committee (Ms. Wedgwood, United States) and noted its admiration of Sweden's commitment to the fulfilment of its obligations under the Covenant (Mr. Rodley, United Kingdom).

Since the delegation spent its entire time before the Committee responding to questions, the resulting dialogue between the Committee and the delegation was constructive, detailed, and comprehensive. The delegation's synchronicity with the Committee was evident on several occasions when the Committee's suggestions were met with positive responses from the delegation indicating that either a new law was being enacted, a study being conducted, or a new commission being established on the particular issue in question.⁴ However, the delegation did voice its outright rejection to certain of the Committee's recommendations, namely the

³ The list of members of the Swedish delegation is available at <http://www2.ohchr.org/english/bodies/hrc/hrcs95.htm>

⁴ In response to Committee (Ms. Wedgwood; Ms. Majodina, South Africa; Mr. Lazhari, Algeria) inquiries about violence against women, the Swedish delegation noted that the government created an action plan in November 2007 to investigate and report back to the government in 2010 on six main areas (protection and support; preventive measures; enhanced judicial effectiveness; measures aimed at the perpetrators; and knowledge and awareness-raising) in an effort to increase awareness about and decrease violence against women. Replying to the Committee's (Mr. O'Flaherty (Ireland); Ms. Majodina) concerns over a rise in intolerant attitudes among Sweden's youth, the delegation highlighted (i) the government's decision to implement a curriculum requiring students to learn about the culture, language and history of national minorities and to require Bachelor degree candidates to demonstrate a respect for other cultures and democracy prior to attainment of their degrees; and (ii) the government's creation of the Living History Forum to address intolerance issues. On Sweden's exclusion of the disabled from its new discrimination law, the delegation acknowledged the oversight and noted that there is an ongoing investigation into this matter today.

Committee's concerns regarding greater implementation of the Covenant into national law and the removal of Sweden's reservations to the Covenant.

Constitutional and legal framework

Concluding Observations:

5. *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 State party should consider withdrawing its reservations.*

The Committee was met with friction from the Swedish delegation when it suggested that Sweden give greater effect to the Covenant in its domestic law. Mr. Ehrenkrona clearly expressed Sweden's preference to rely on the European Convention over the Covenant by stating that the case law from the Convention is "substantial and clearer" than the Covenant. Ms. Wedgwood underscored the Covenant's greater protections of civil and political rights in areas such as equality, and encouraged the Swedish government to put forth efforts to instruct its judges and legal officials to equally consider both the Covenant and the European Convention in its decision-making. Mr. Sanchez-Cerro (Peru) cautioned the delegation to reconcile its Constitution with international standards by noting that four of Sweden's new laws did not adopt a gender perspective as provided by the Covenant. While Mr. Ehrenkrona reiterated Sweden's preference for the instruction of the European Convention over the Covenant and reminded the Committee that neither international law nor the Covenant obligate a State party to implement the Covenant in a certain fashion, he did note that there is a plan in Sweden to incorporate the Covenant into national law.

Committee members were unsuccessful in their attempts to convince the delegation to withdraw Sweden's reservations to the Covenant. Ms. Wedgwood was "puzzled" by Sweden's reservation to article 10, paragraph 3 regarding the separation of juveniles from adult offenders, and was hopeful that Sweden would reconsider its reservation to article 14, paragraph 7 regarding double jeopardy because of the detrimental consequences to convicts in instances where new evidence has come to light. In addition to reiterating Ms. Wedgwood's concerns over Sweden's reservation to article 14 and a concern over its reservation to article 20, Ms. Chanet (France) felt that the fear generated by State parties over the Committee's General Comment 33 was "unfounded," and explained that while the Committee is not a judicial body it has similar characteristics and is available to the State parties after all remedies have been exhausted. Mr. Ehrenkrona strongly responded to Mr. Amor's (Tunisia) and Ms. Chanet's concerns over Sweden's reservations to article 20, paragraph 1 by stating that war propaganda was not an issue in Sweden and therefore, Sweden would not "change its mind" with regard to this reservation. In conclusion, Mr. Ehrenkrona defended Sweden's decision to maintain its reservations by relying on the Vienna Convention on the Law of Treaties' promulgation that any State party can make a reservation so long as it is not prohibited by the treaty or against the treaty's purposes.

Non-discrimination and equality

Concluding Observations:

7. *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 access to full time employment of women.*
10. (a) *The State party should increase the awareness among persons with disabilities about their rights.*
(b) *The State party should provide updated information on 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. [The Committee requested follow-up information on the implementation of this recommendation within one year].*
20. *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,*

While the delegation proudly informed the Committee about the government's recent adoption of a new law on discrimination which merges seven existing laws and two new categories on discrimination into one piece of legislation, the Committee still had concerns regarding discrimination against women, the disabled, and the Sami minority.

According to the delegation's responses, Swedish policy seemed proactive on most of the key women's issues raised by the Committee. Ms. Wedgwood's interests were focused on Sweden's practices toward women in academia. She inquired as to what measures Sweden is taking or what funding it is providing to help women obtain positions in private and public educational institutions, and encouraged Swedish universities to "stop the tenure clock" for women who are beginning families. The delegation responded to Mr. Sanchez-Cerro's regret that there has been very little effort put toward equalizing salaries for men and women by noting that the government promotes equal pay through its mediation institute. While clearly stating that Sweden is not in favour of setting objectives for women in the private sector, the delegation did reiterate the government's commitment to providing financial support to both parents through paid parental leave and child care.

Mr. Sanchez-Cerro and Ms. Wedgwood also raised serious concerns over the treatment of the disabled. Mr. Sanchez-Cerro felt that the disability laws in Sweden were well drafted but the government failed in its effective implementation of such laws. Echoing Mr. Sanchez-Cerro's comments, Ms. Wedgwood was concerned that in practice, the delivery of services to the disabled varied greatly from one municipality to another based upon differences in funding. Further, she inquired as to the rights of the disabled to bring a lawsuit against a private institution. In testimony before the Committee, the Swedish Disability Federation focused on the lack of accessibility of the disabled to an equal education and employment. The delegation was receptive to the Committee's concerns and responded by acknowledging that the Swedish Government is currently working to improve the lives of this vulnerable population through several measures.⁵

Several Committee members focused on the treatment of Sweden's Sami minority. Committee members inquired about issues such as whether legal assistance is provided to the Sami people (Mr. Bhagwati, India), the effectiveness of and power sharing with the Sami Parliament (Mr. Fathalla, Egypt; Mr. O'Flaherty, Ireland; Ms. Motoc, Romania), and the current state of land rights and sharing between the Samis and the

⁵ The delegation noted that while no current law on accessibility exists, an investigation is currently being undertaken to determine whether the accessibility issue should be included in the new discrimination law. With regard to equal education, a hearing was scheduled for April on the issue of accessibility in higher education. To address the issue of discrepancy in municipal services, the disabled are now afforded the opportunity to go before a court to obtain their right to certain social services

central and municipal authorities (Ms. Motoc).⁶ The delegation's statements summarizing its legal and cultural initiatives aimed at promoting equal treatment of the Sami people indicated that the Swedish government feels confident that it is adequately promoting and protecting the rights of this indigenous people. The delegation informed the Committee about a national information initiative launched in 2000 targeted at the education of students about the Samis, about the creation of the Living History Forum to promote tolerance of all cultures, and about the appointment of an inter-ministerial working group on Sami issues tasked with making recommendations and drafting legislation (with the aid of the Sami representatives) on issues of concern to the Sami people.

Violence Against Women

Concluding Observations:

- 8. 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 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.*

The Committee's concerns regarding the treatment of women in Sweden expanded beyond issues of discrimination to those of violence against women. Mr. Lazhari and Ms. Wedgwood inquired as to what measures were being undertaken by the national police to investigate honour killings and to what degree were family members held accountable for their participation in both honour killings and female genital mutilation. Ms. Wedgwood also expressed concern over the significant lack of government funded shelters for female victims of abuse and about whether the government would consider criminalizing early marriage. Ms. Majodina repeated an NGO's concerns over the particular vulnerability of disabled women to abuse, citing that thirty-one percent of women with disabilities in Sweden are victims of abuse.⁷

The Committee appeared encouraged by certain actions taken by Sweden to address the issue of violence against women, but remained concerned over a lack of funding and attention to other issues. The Committee was pleased to hear about the government's institution of an action plan in 2007, supported by eighty million Euros, to combat violence against women through measures aimed at greater prevention, support services, and education. The delegation also notified the Committee that there is legislation to be considered in 2010 criminalising the act of a custodian allowing a child under the age of 16 to marry. However, the Committee was disappointed by the delegation's acknowledgment, without any intention at reform, that the majority of the country's women's shelters are funded by NGOs. Further, the Committee's concluding observation encouraging greater education around the practice of female genital mutilation was most likely a reaction to the delegation's admission that the crime of female genital mutilation is difficult to prove and in the rare instance where there is evidence that a family member incites or aids in female genital mutilation, they can only be punished for complicity.

⁶ Two shadow reports to the Committee commended the advances the Swedish Government has made toward recognising the Sami people's rights to self-determination, but advised the Committee that the Sami people's land rights continue to be violated by the Swedish courts' failure to utilise article 27 of the Covenant, by shifting the burden of proof to the Saami through evidentiary rules, and through the denial of legal aid. Observations by the Sami Parliament with regard to Sweden's Sixth Periodic Report to the Human Rights Committee and Observations by the Saami Council with regard to Sweden's Sixth Periodic Report to the Human Rights Committee.

⁷ The Swedish Disability Movement, Shadow Report to the Human Rights Committee, April 2007, p.7. All Swedish NGO reports to the Committee are available at <http://www2.ohchr.org/english/bodies/hrc/hrcs95.htm>

Prohibition of torture and cruel, inhuman or degrading treatment and treatment of persons deprived of liberty

Concluding Observations:

11. *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.*
13. *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.* [The Committee requested follow-up information on the implementation of this recommendation within one year].
16. *The State party should ensure that no individual, including persons suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment.* [The Committee requested follow-up information on the implementation of this recommendation within one year].

In light of the highly publicized cases of the violations of human rights of two Egyptian citizens, it was not surprising that the Committee spent considerable time probing the delegation about Sweden's current practices in relation to individuals deprived of their liberty.

Echoing concerns raised in NGO shadow reports, Mr. Rodley was pleased by Sweden's acknowledgment that Mr. Alzery's human rights had been violated and that compensation had been tendered to Mr. Alzery and Mr. Agiza, but wanted assurances that the government has instituted new measures to ensure that it had "learned its lesson."⁸ Mr. Rodley also asked for clarification as to adjudication procedures in place prior to deportation and the government's attitude toward diplomatic assurances. Mr. Sanchez-Cerro expressed concern on several occasions as to the treatment protocols in place to address asylum-seekers suspected of terrorism.

The delegation informed the Committee that to ensure "non-repetition" in the future, the Swedish government instituted a new asylum procedure creating a multi-tiered legal review of all asylum cases to better safeguard the legal and human rights of these individuals. While the delegation tried to ease the Committee's concerns by noting that it had only used the practice of diplomatic assurances in the cases of Mr. Alzery and Mr. Agiza, the Committee remained disappointed by Sweden's pledge that all "relevant instruments" will be considered in any given case, including the use of diplomatic assurances in "exceptional circumstances."

Mr. O'Flaherty drew the delegation's attention to prison conditions, with specific inquiries related to the quality of medical care provided, the level of access to medical specialists, the use of the police's discretion in determining when an inmate is permitted to receive treatment, and the lack of knowledge of police and prison staff on the appropriate treatment of the disabled. Ms. Wedgwood focused her inquiries on the treatment of the disabled, cautioning the delegation against the overuse of inpatient treatment when outpatient therapy might be more appropriate and recommending the establishment of a system to monitor the use of electroshock therapy in hospitals. The delegation's responses that a care inspection is currently being undertaken in remand prisons with a recommendation that inmates begin to see a nurse on a weekly basis and that the government has undertaken efforts to better train and educate staff on medical care and care of the disabled indicated that the Committee touched upon key issues in need of reform and monitoring.

⁸ Amnesty International, Shadow Report to the Human Rights Committee, February 2009, p.1. Submission of the International Commission of Jurists, January 2009, p. 4.

Other issues

The Committee also voiced its concerns on the following topics, all of which are included in the Committee's Concluding Observations: establishment of a national institution with a broad human rights mandate; disappearance of children (practices aimed at the prevention of the disappearance of unaccompanied asylum-seeking children); establishment of a civilian complaint board (to address complaints against the police); protection of the right to privacy (in the context of the Law on Signals Intelligence in Defence Operations); studies to evaluate, and adequate training to combat, violence between prisoners and prison suicides; detention and legal safeguards of asylum-seekers (the Committee requested follow-up information on the implementation of this recommendation within one year); and prevention and prosecution of racially motivated crimes and hate speech incidents.

The full list of Concluding Observations should be read in conjunction with this report and are available at <http://www2.ohchr.org/english/bodies/hrc/hrcs95.htm>

Conclusions and next steps

Determining that its entire time before the Committee was most beneficially spent responding to inquiries, the delegation chose not to make final concluding remarks but rather to use all its allotted time to provide comprehensive responses to the Committee. Perhaps feeling slightly rushed in his time before the Committee, Mr. Ehrenkrona simply recommended to the Committee that it should proceed in the future by setting aside one day for introductions and questions, followed by a second day for responses.

Breaking with the practice of the previous Chairperson (Mr Rivas Posada, Columbia), the new Chairperson (Mr Iwagasa, Japan) did not provide concluding remarks. This meant the delegation departed without an indication of what to expect in the Committee's concluding observations, or where it thought Sweden had made progress.

Sweden's next report to the Human Rights Committee is due by 1 April 2014.

Last revised and updated: 20 April 2009.

TREATY BODY MONITOR STAFF

Eléonore Dziurzynski, Communications Officer, Geneva

Gareth Sweeney, Deputy Manager, Geneva

Katrine Thomassen, Manager International Programme, Geneva

Michael Ineichen, Human Rights Officer, Geneva

Michelle Evans, Representative to the UN, New York

Vanessa Jackson, Human Rights Officer, New York

AUTHOR OF THE SWEDEN REPORT

Mary Mercadante, Intern

ABOUT THE PUBLICATION

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at www.ishr.ch.

COMMENTS AND FURTHER INFORMATION

We would welcome your feedback on this publication so please send any comments and suggestions to information@ishr.ch. You can check the latest Treaty Body Monitor reports published on www.ishr.ch.

COPYRIGHT, DISTRIBUTION AND USE

Copyright © 2009 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify information@ishr.ch.