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25 May 2011

Mr. Ambassador,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the fifth periodic report of Sweden (CAT/C/SWE/5) on 11 and 12 November 2008. The Committee adopted its Concluding Observations (CAT/C/SWE/CO/5), in which it requested further comments by the Government of Sweden in relation to specific concerns listed in paragraphs 11, 13, 16 and 17.

On behalf of the Committee, thank you for your response of 3 June 2009 providing comments by your government. I have reviewed it with care. The additional information provided assists the Committee in its ongoing analysis of the issues identified for follow-up. As Rapporteur on Follow-up, I would be grateful for clarification on the following matters, where sufficient information is not yet provided to complete an analysis of the progress made regarding implementation of the recommendations.

With regard to paragraph 11 of the Committee's Concluding Observations on fundamental legal safeguards to prevent torture and ill-treatment, thank you for the information provided. The Committee is pleased to learn that an information sheet listing the rights of detained persons has been widely translated and disseminated. With regard to the April 2008 amendment to the Code of Judicial Procedure, which is a positive step, we note that information before the Committee indicates that in practice, the right to access legal counsel is not always made expressly known to the suspect/detainee at the outset of his/her detention. According to your Government's response, a person is notified of his or her right to defense counsel when the person is "reasonably suspected" of having committed the offence. Please clarify whether persons can be apprehended or arrested and detained prior to being deemed "reasonably suspected?" In other words, can there be a lapse of time between the apprehension of a suspect and the point at which he/she is determined to be a formal suspect or considered "reasonably suspected" during which he/she would not be entitled to legal counsel? Please also clarify if there is an established system of reading or otherwise informing suspects their rights when they are apprehended, including their right to access legal counsel? What efforts are made to ensure that all suspects enjoy the right to legal counsel when being questioned by investigators, including during informal or first interrogations?

With regard to the issue of detainees' access to medical care, the Committee appreciates the information provided. The list of rights for persons deprived of their liberty states that detained persons have the right to "receive health and medical care as needed or by your own request be examined by a doctor, unless it is apparent that a medical examination is unnecessary." We would be grateful for clarification as to whether all detainees who request to see a physician are examined first by a nurse, as articulated in your response, or whether the examination by a nurse is at the discretion of detaining police or prison officials. Please clarify for the Committee who is responsible for determining whether a medical examination is "unnecessary" and how is this decision made.

.../...

H.E. Mr. Jan KNUTSSON
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Sweden
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With regard to the recommendation in paragraph 13 of the Concluding Observations, the Committee acknowledges receipt of the information regarding compensation awarded to both Mr. Agiza and Mr. Alzery, mentioned in your response. According to the April 2010 submission by the government of Sweden to the Committee regarding follow-up measures in the individual complaint of Mr. Agiza, we understand that part of the compensation awarded to the complainant was to be paid by the Swedish Security police, due to their "liability for the events." We note that the district Prosecutor, Prosecutor-Director, Parliamentary Ombudsman, and Prosecutor General have all decided separately not to resume an investigation. However, identification of the Security Police for liability in the expulsion of Mr. Agiza raises the question as to whether any members of the Swedish Security Police have been disciplined or otherwise sanctioned or punished, as part of a process of prosecuting and holding accountable those found responsible for a breach of the Convention?

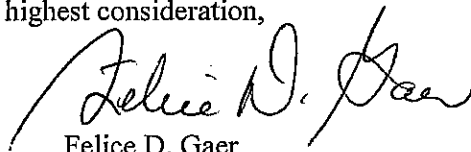
With regard to non-refoulement, the Committee appreciates the information that the National Swedish Police board has issued "guidelines regarding effectuation of expulsion orders," emphasizing the rights of aliens to dignified and humane treatment during expulsion. In this regard, the Committee would appreciate updated information from the government containing statistics on expulsions and deportations since 2005, including data on the percentage approved and rejected, and any claims as to treatment alleged to be neither humane nor dignified?

The Committee thanks the State party for the statistics and other information provided with regard to the concerns and recommendations in paragraph 16 of the Concluding Observations on the use of restrictions for remand prisoners. The Committee notes with concern the high percentage of detained persons who are subjected to court-mandated restrictions (according to the State party's letter, 65 per cent in 2008), particularly as this figure may indicate that such restrictions are not used only as an exceptional measure. The Committee also reiterates its view that restrictions should be individualized, proportionate to the particular situation, and lifted as soon as the grounds for their imposition no longer exist. In this regard, please also update the Committee as to the proposal under consideration by the Ministry of Justice at the time of the Swedish Government's response, which would allow individuals to appeal restrictions.

The Committee is pleased to learn that the government of Sweden has appointed a committee to review Swedish legislation on mental care, including the regulation concerning physical restraints and solitary confinement. According to the reply, this committee was due to report their result on 1 June 2010. The Committee would appreciate receiving a summary of the findings and recommendations of this review, as well as information on the scope of the review, the legislation examined, and whether any statistics regarding the use of physical restraints and solitary confinement in the context of mental care were gathered.

The Committee looks forward to pursuing a constructive dialogue it has started with the authorities of Sweden on the implementation of the Convention, and in this context, to receiving clarification to our follow-up questions.

Accept, Mr. Ambassador, the assurances of my highest consideration,



Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
Committee against Torture