

*Submission to the Committee on the Elimination of Racial Discrimination
for the List of Themes in relation to the 22-23 periodic report of Sweden*

The situation of lesbian, gay, bisexual, trans, queer and intersex (LGBTQI) people of color in Sweden

The present submission is prepared by RFSL Ungdom and RFSL, the Swedish Youth Federation and the Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer rights. RFSL Ungdom is a national organization that since 1999 works for the rights of LGBTQI youth through political and social action, locally, nationally and internationally. RFSL Ungdom is a member of ILGA, IGLYO and Transgender Europe. RFSL is the adult national federation in Sweden, it was created in 1950 and has since then worked to further the rights of LGBTQI people in Sweden and internationally through political advocacy, social activities and projects.

The submission provides a brief explanation of problems related to intersections between race and sexual orientation, gender identity and expression, and sexual characteristics (SOGIESC) in Sweden. Our main areas of attention have been (1) statistics (or rather the lack thereof), (2) violence (such as hate crimes and hate speech) and (3) asylum. Based on the results obtained from our work and researches, we also suggest a list of topics to be included into the List of Themes before the review of the 22nd-23rd periodic report of Sweden.

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Suggested Issues to be Included into the List of Topics

1. Information on the consequences of the lack of intersectional statistics and possible *de facto* discrimination of LGBTQI people of color in Sweden, and on the steps taken to include more variables in the statistics to ensure the implementation of anti-discrimination laws.
2. Information on the implementation of laws prohibiting hate speech and hate crime, including the measures done to prohibit racist organizing in compliance with the ICERD and other steps taken to prevent the normalization of racism.
3. Information on the actions taken to ensure the legal security of the asylum assessment for LGBTQI asylum seekers by making sure the asylum adjudicators, interpreters and other personnel do have adequate competence regarding LGBTQI issues and does not review cases based on stereotypical or inaccurate perceptions of individuals.

Description of the Problems

1. The Swedish National Council for Crime Prevention (Brå) and other national agencies that compiles statistics lack both a gender theory perspective and a more nuanced understanding of race (by only collecting data on whether the person and their parents are born in Sweden or abroad). The lack of intersectionality in reviewing and compiling the variables conceals the unique problems and reprisals that LGBTQI people of color are exposed to.

The Swedish government has declared itself to be the world's first feminist government, therefore this issue should be of great interest since the understanding of the multiple discriminations faced by people with different intersecting identities is vital to ensure real implementation of anti-discrimination laws.

2. Because of the general lack of statistics showing the intersection of race and SOGIESC it is hard to conclude whether *de facto* discrimination is happening on these combined grounds.

We definitely know that LGBTQI people and people of color, as specific groups, face struggles other than the general population. For example LGBTQI people having worse mental health¹; people of color are being overqualified for their jobs, and at the same time being more likely to be unemployed². The question is if being part of both of these groups increases the risks of facing hardships.

The investigation about crimes in schools (SUB) shows that 36% of the students who were subjected to hate crimes based on sexual orientation were also victims of racist hate crimes³.

Hate crimes based on both race and SOGIESC grounds can be linked to an increased activity in right-wing extremist groups⁴.

3. Hate speech is by law prohibited in Sweden. At the same time the Swedish State fails in protecting its citizens from this kind of degrading treatment by providing an almost absolute right to the freedom of speech, even when this right clashes with the prohibition of hate speech.

The police, with the backing of the State, repeatedly allows Nazi organisations, such as Nordiska Motståndsrörelsen (NMR), to manifest their racism and hatred towards

¹ The Public Health Agency of Sweden, Swedish Agency for Youth and Civil Society
<https://www.folkhalsomyndigheten.se/contentassets/a55cb89cab14498caf47f2798e8da7af/halsan-hal-sans-bestamningsfaktorer-transpersoner-15038-webb.pdf>
<https://www.folkhalsomyndigheten.se/globalassets/nyheter-press/dokument-nyheter/2014/utv-halsan-bestamningsfaktorer-homo-bi-fina-2014.pdf>
https://www.mucof.se/sites/default/files/publikationer_uploads/hon-hen-han.pdf

² SCB

https://www.scb.se/sv/_/Hitta-statistik/Artiklar/Stor-skillnad-i-sysselsattning--mellan-inrikes-och-utrikes-fodda/#

³ Brå 2017:11 p.9

https://www.bra.se/download/18.4c494ddd15e9438f8ada9786/1513175214923/2017_11_Hatbrott_2016.pdf

⁴ Brå 2017:11 p. 10-11

LGBTQI people. We believe that by doing so they clearly violate article 4 of the ICERD. In 2017 NMR was allowed to hold big demonstrations in both Gothenburg (on 30 of September)⁵ and Falun (on 1 of May)⁶. NMR was also welcomed at Almedalen - the biggest political gathering in Sweden.⁷

The same organization follows the ideology of national socialism and has been connected with the attacks of several pride parades⁸ as well as the attack of an anti-racist demonstration in Kärntorp in 2013⁹.

4. We hereby express our concerns regarding the fact that trans people under the law have no protection against hate speech, resulting in additional vulnerability of an already exposed group.
We are especially concerned about the situation of trans people of color, since crimes against and murders of them - particularly black trans women - are extremely high internationally¹⁰.
Without statistics on the situation of this group there is no possibility to assess the risks and discrimination faced by trans people of color in Sweden.
5. Hate speech is increasingly normalized in Sweden. It is a genuinely frightening development to see racist propaganda on the political level. One example is that in November 2017 a Swedish politician expressed on live tv, that Muslims are not “completely human” and later continued saying that the goal of the Swedish Democrats is to free Muslims from Islam. He was forced to resign, but there have been no legal penalties¹¹. To our view, this is clearly a violation of articles 1(a),(c) and 4(c) of ICERD.
6. We want to express our concerns on the reports showing that both LGBTQI people¹² and people born abroad¹³, or whose parents were born abroad- of Sweden, has a lower trust than the general population for different institutions in Sweden. This increased distrust may have its roots in discrimination or fear of discrimination.

⁵ <https://www.svt.se/nyheter/lokalt/vast/nazister-tillats-demonstrera-i-goteborg>

⁶ <https://www.svd.se/motdemonstranter-fler-an-nazister-i-falun>

⁷ <https://www.svt.se/kultur/nazister-kommer-till-almedalsveckan>

⁸ <https://www.svt.se/nyheter/lokalt/dalarna/nmr-forsokte-stora-prideparaden>
<https://www.qx.se/samhalle/pride/150244/nazister-attackerade-alla-dagens-pride-utan-att-stoppa-folk-esten/>

⁹ <http://sverigesradio.se/sida/avsnitt/973826?programid=2519>

¹⁰ USA based statistics from NCAVP

<http://avp.org/wp-content/uploads/2018/01/a-crisis-of-hate-january-release.pdf>

¹¹ <https://www.svt.se/nyheter/inrikes/sd-politiker-muslimar-inte-fullt-ut-manniskor-1>

More examples of what politicians of Sverigedemokraterna has said and done:

<http://expo.se/sverigedemokraterna/rasism-vald-hat/page/2/>

¹² RFSL, “Förtroende att stärka.”

https://www.rfsl.se/wp-content/uploads/2017/01/RFSL_rapport_Fortroende-att-starka_webb.pdf

¹³ Brå 2017:1 p.130

https://www.bra.se/download/18.37179ae158196cb172d6047/1483969937948/2017_1_Nationella_trygghetsundersokningen_2016.pdf

In 2008 Brå published a report showing that people born abroad were stereotyped in all parts of the justice system and could be subjected to discrimination¹⁴.

Another problem is that many asylum seekers and newcomers already have a lack of trust in institutions on the basis of their previous experience with authorities in their country of origin. This is especially the case for LGBTQ people of color¹⁵. Another worry is the avoidance of reporting crimes because of fear of being outed, or in the case of not being a citizen - the fear of being deported.¹⁶

Indeed, a number of cases related to deportation or refoulement of representatives of LGBTQI community from Sweden have been reviewed already by the UN Treaty Bodies.¹⁷

7. Many professionals working with asylum seekers such as case workers at the Migration Agency, interpreters and public counsels, lack competence regarding LGBTQI asylum seekers specific situation. This is evident through interpreters' inadequate vocabulary, or the lack of supplementary questions from the case worker to make the asylum seekers' stories credible.

There are also such problems as LGBTQI people seeking asylum not knowing that fear of persecution based on SOGIESC grounds may be grounds for asylum, or the fear of coming out in case the application gets rejected. These problems can make it harder for asylum seekers who are also LGBTQI to get a fair and just assessment of their case.¹⁸

8. In the asylum cases of LGBTQI people the Migration Agency makes a credibility assessment of the person's sexuality and/or gender identity. This is often based on stereotypical and Western notions of what and how sexuality and gender are constituted and expressed with a lack of understanding of how cultural differences can play a role in the way one's identity is described. Furthermore, the Migration Agency puts a lot of weight on the person being open and out, manifesting their identity in a way understandable to the agency. This increases the risk of discrimination or getting an asylum claim denied, which is a big problem when persecution based on SOGIESC could be a ground to grant asylum on.¹⁹

¹⁴ Brå 2017:11, p.19

¹⁵ NCY, RFSL Ungdom, "Commitment for legal security" p. 9

https://newcomersyouth.se/wp-content/uploads/2017/07/RFSL_NCY_rapport_eng_online.pdf

¹⁶ Brå 2017:11 p.10, p.19

¹⁷ See e.g.: Committee against Torture: *E.J.V.M. v. Sweden*, communication no. 213/2002, decision of 14 November 2003, [CAT/C/31/D/213/2002](#); *Uttam Mondal v. Sweden*, communication No. 338/2008, decision of 23 May 2011, [CAT/C/46/D/338/2008](#); *E.A. v. Sweden*, communication no. 690/2015, decision of 11 August 2017, [CAT/C/61/D/690/2015](#); Human Rights Committee: *X. v. Sweden*, communication no. 1833/2008, views of 1 November 2011, [CCPR/C/103/D/1833/2008](#); *M. I. v. Sweden*, communication no. 2149/2012, views of 25 July 2013, [CCPR/C/108/D/2149/2012](#).

¹⁸ NCY, RFSL Ungdom, "Commitment for legal security" p. 6, p. 10-11

¹⁹ NCY, RFSL Ungdom, "Commitment for legal security" p. 9

9. Furthermore, we express our concerns regarding the inhumane treatment of LGBTQI people of color by the Swedish State and the Migration Agency. There is evidence of LGBTQI people being deported to countries where same-sex relations are criminalized on the basis that “there is no threat to you as an individual as you are not open about your sexuality” or “stay in the closet and no harm will come to you”. We are sure that these kinds of arguments are a direct violation to article 8 (Right to respect for private and family life) of the European Convention on Human Rights. By deporting people to countries where they might face retaliation, torture or any degrading treatment or punishment is a violation of article 3 (prohibition of torture) of the European Convention on Human Rights.²⁰

10. It is our opinion that the Swedish Migration Agency have narrow and ineffective methods for deciding which countries qualify as “safe”. These poorly established criteria decides whether a LGBTQI asylum seeker is entitled to protection by the Swedish state. They investigate if the country of origin provides security for LGBTQI people, ignoring evidence of the lack of implementation of the human rights and the societies hostile approach towards sexual minorities.²¹ Also ignoring the government’s lack of interest in protecting LGBTQI citizens against persecution.

²⁰ Gröndahl, Aino. “Asylprövningen vid flyktingskap på grund av sexuell läggning - En analys av riskprövningen och möjligheten till skydd i hemlandet”

²¹ NCY, RFSL Ungdom, “Commitment for legal security” p. 9-10