

Alternative Report

To the Committee on the Elimination of Racial Discrimination (CERD) with regards to Sweden's Seventeenth and Eighteenth Periodic Report Under Article 9 of the Convention on the Elimination of Racial Discrimination.

June, 2008

Submitted by the

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Abstract

The Centre Against Racism (Centrum mot racism, CMR) is an NGO that was created as an umbrella organisation in 2003. It consists of nearly 100 national and local member associations representing a wide spectrum of civil society. The Centre Against racism submits this document with regards to Sweden's Seventeenth and Eighteenth Periodic Report to the Committee on the Elimination of Racial Discrimination (CERD). These comments and questions are the consolidated responses from member organisations as well as others on the respective articles in the 17the and 18th Periodic State report from Sweden.

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Introduction

This Parallel Report is in three parts that correspond with the structure and articles addressed in Sweden's 17th and 18th Periodic Report that was submitted to the Committee on 22 December, 2006.

The responses have been compiled through the efforts of a number of member organisations of the Centre Against Racism, independent researchers, scholars and others who are actively involved in human rights. The intentions with the report are to highlight areas of State activity that need the Committee's attention in order to counter the tone of complacency that prevails the State's report. A critical analysis of the direct, indirect and structural discrimination that continues to function unabated in Sweden requires such an approach if the principles of dignity and equality inherent in all human beings are to be realised by this State Party to the CERD.

Part I of this report consists of an Executive Summary introducing the items taken up in the articles we are responding to. In Part II, our responses to the articles addressed by the State Party in its Periodic Report follow it's paragraph numbering, and contains suggestions for questions which the Committee might use in the preparation of its own commentaries and recommendations to the State Party. Finally, our Part III contains a list of references and websites used in the preparation of this report.

We look forward to the Committees addressing these issues.

Centre Against Racism Stockholm May, 2008

Part I – Executive Summary

Population

Our report takes exception to the limited population statistics provided in the State's report on the population in Sweden. We then suggest some questions which the Committee might consider asking.

Article 2: This Parallel Report's comments on the this article are directly related to the State Party's claims of improvements in constitutional protections, addressing hate crimes, adopted antidiscrimination strategies in State agencies, anti-discrimination clauses in procurement contracts, financial support for anti-discrimination programmes, profiling the Living History Forum, and initiatives to protect mother tongue and minority languages.

Article 3: In spite of the State Party's claims regarding efforts in improvements in segregated housing, we highlight some of the structural reasons for its continuance.

Article 4: The punishment of hate speech by elected and public officials in Sweden has yet to find much support within the police and judiciary in Sweden. Our comments and suggestions for questions highlight the need for the Committee to emphasise the need for the State Party to prioritise the provisions of Article 4(c), Committee Recommendation No. IV, and strengthen their own judicial system.

Article 5: In contrast to the State Party's report on this article, our comments and questions bring attention to a number of deficiencies in the implementation of the rights provided for in this article.

Article 6: Our comments on the State's report on this article are shared with those of an earlier article.

Article 7: The comments and questions we provide on the State's report on this article call for the need for further details on how the State Party intends to implement and monitor its programmes in this section.

II Information Relating to the Articles of this Convention

Population Statistics

In §§ 2 through 6 the State Party addressed the general population of Sweden and offered statistics on the national origins of foreign-born immigrants and national minorities. In § 7 the State Party reported that the Swedish Personal Data Act (1998:204) prohibits the collection of data identifying race, ethnic origin or religious belief.

Questions:

The Committee might ask the State party the following questions:

- Why is there is no mention of those who self-identified their racial or ethnic group in its report, as asked for in General Recommendation VIII concerning the self-identification of members of particular racial and ethnic groups?
- Since self-identification does not violate the prohibition in the Swedish Personal Data Act, what measures are being taken to ensure their ability to do so? ¹

Article 2.1

Application of Penal Legislation Against hate crimes

In § 18, the State party informs the Committee that it prioritised hate crimes since 2003. This is misleading. Neither the police nor the prosecutors in Sweden have directed sufficient resources to research on racist/xenophobic hate crimes. On the other hand, the main focus of research has been on homophobic hate crimes. This is exemplified by the fact that the only report about hate crimes sponsored by the police is on homophobic hate crimes.²

A recently published report from The Stockholm City Police shows that racial hate crimes are in the majority of all hate crimes registered between 13 February till the 9 May 2007. A total of 78 % of the registered hate crimes were racial hate crimes, 12 % were homophobic hate crimes. This is worrying, since the education about hate crimes has been withdrawn from the curriculum for educating the police in the country and more needs to be done concerning hate crime, particularly concerning racial hate crime.

The report is entitled: *Hatbrott i City polismästardistikt* 13 February till 9 May 2007 Diary number LKP-KUT number 66/07.

¹ Gen.Rec. VIII, 38th Session of the CERD, 21 August, 1990; CERD/C/64/CO/8 para. 7.

² http://www.polisen.se/mediaarchive/4347/3474/4637/Homophobic_crime.pdf

Questions:

The Committee might ask the State party the following questions:

- What is the State Party's policy towards prioritising hate, homophobic and racist crimes?
- Why have so few resources have been allocated to research on race hate crime?
- What concrete measures and strategies have been taken to implement the new policy to penalise hate and racist crimes?

Application of Civil Rights legislation

In §§ 42-45 the State party has informed the committee of the reason for the closure of cases on discrimination concerning working life and higher education between 2003 and 2005.

In § 46 the explanation that insufficient grounds to support the complaint is the reason for the low statistics on convictions for such complaints.

Questions:

- The Committee might ask if the courts have failed to properly implement the burden of proof rules?
- The Committee might ask if enough is being done to provide legal assistance to those who are willing to submit complaints?
- The Committee might ask if the Swedish system allows for various actors other than the unions and government authorities to bring cases to the courts these other actors being e.g. NGOs and others that the targets of discrimination may have greater faith in?
- The Committee might ask if enough is being done to educate the judges about discrimination as a social phenomenon?
- The Committee might ask if the complaints are being pursued aggressively enough in the courts?

OTHER GENERAL MEASURES TO COMBAT ETHNIC DISCRIMINATION AND RACISM

Anti-discrimination strategies in state agencies

In § 48 the State party states that a number of state agencies have been instructed to prepare anti-discrimination strategies. However, there is no mention of how many agencies are covered or how many strategies have been prepared, how they are to be implemented or what sanctions are imposed if a strategy is not prepared, or if an agency is in violation of the intentions of this Convention. The State party seems to have failed to point out that all government agencies have been required to produce diversity plans since 1999. The government's own evaluations have concluded many agencies have failed to develop plans and that many that have plans are unsure of their purpose. The government has not explained how and why the instructions to prepare strategies will be more successful than the instructions to develop diversity plans. One example of abuse by public agencies is the removal of ethnic and religious minority children from their parents/guardians by Swedish social welfare agencies. Many such children are placed with Swedish families where features of Swedish culture, such as eating pork and conversion to Christianity cannot be avoided. In such cases, the children can lose the use of their mother-tongue language as well.

In such cases, the question of the best interests of the (Islamic, African, Iranian, or non-Swedish) child are often overlooked, and the practice is in violation of Article 1 of this Convention and Article 30 of the Convention on the rights of the Child, which ensures the right to a cultural identity.

Ouestions

- What programmes and anti-discrimination strategies have been produced by the state agencies?
- Will the strategies be more effective than the diversity plans also required?
- Do the programmes and strategies provide relief for victims, and sanctions for offending public officials?
- Are there any sanctions that will apply to the heads of state agencies that fail to develop strategies?
- Is there any agency that has the duty to follow up implementation of the instruction to develop an anti-discrimination strategy? If not, why not?

Anti-discrimination clauses in procurement contracts

In §50 through 53, the State party informs the Committee of a new ordinance to increase compliance with Swedish non-discrimination laws (2006:260) that took effect on 1 July 2006. The State party stated that the ordinance imposes certain requirements for how an anti-discrimination clause should be worded and that there are sanctions.

Questions:

The Committee might ask the State party the following questions:

- Why does the ordinance fail to apply to public contracts for goods produced in Sweden?
- How has the new ordinance been implemented?
- How many State agencies have implemented the ordinance?
- Is there any agency that has the duty to follow up implementation of the ordinance? If not, why not?
- What are the results of the new ordinance so far?
- What are the potential sanctions included in the clauses?
- Do the anti-discrimination clauses allow for the cancellation of the contract when discrimination occurs?
- How are the sanctions to be implemented?
- Are there any sanctions that will apply to the heads of state agencies that fail to implement the ordinance?

Committee on Structural Discrimination

In § 58 the State party describes two special committees that studied structural discrimination on grounds of ethnicity or religion.

Questions

The Committee might ask the State party the following questions:

- What recommendations did the committees make and how soon will they be implemented?

State institutions for integration policies and financial support for antidiscrimination programmes

In 2007 the government closed down the Swedish Integration Board, the state authority responsible for integration programmes without transferring substantial parts of its activities to any new agency. In §§ 55 and 56, the State party informed the Committee of the Swedish Integration Board's previous allocating state funding to anti-discrimination bodies and the Centre Against Racism.

Questions:

The Committee might ask the State party the following questions:

- Why has the current government closed down the Swedish Integration Board and reduced the scope of the activities of the government agencies in this area?
- One of the Board's duties was to work on issues of racism and structural discrimination and the development of new methods in the field, is some other agency going to continue this task?
- Why has the government discontinued its funding of the broad umbrella organisation the Centre Against Racism?
- Was the decision based on what the Centre had done, such as mobilisation campaigns, or on political considerations?
- What is the government explanation for the total absence during 2008 for the funding of any NGO programmes against racism that had been promised?
- What effects will such policies have on anti-discrimination measures proscribed by the provisions of this Convention?
- Will the government continue funding NGO controlled anti-discrimination bureaux or is there a broader general plan to cut funding to NGOs representing the victims of racism and discrimination?

The Living History Forum

In § 61 and § 134 the State party informed the Commission of the establishment of the Living History Forum as a public agency that provides information and education on intolerance expressed in anti-Semitism and Islamophobia for teachers and other professionals working with children and youth. However there is a great imbalance between the massive resources on second world war holocaust and anti-semitism information and resources for information on crimes of humantity related to the slave trade era and

colonialism. Only late in 2007 was a small scale programme initiated by the Delegation for Human Rights in Sweden on the Trans-Atlantic Slave Trade and the role of Sweden, however other government agencies has acted contrary to this development and refused cooperation.

Questions:

The questions the Committee might ask the State party are:

- What efforts are made to ensure the recognition by all parts of the government of the role Sweden pla
- Will the small scale programme undertaken by the Delegation for Human Rights be continued and rec
- Will the research and public information activites by by afro-swedish and antiracist organisations on the Swedish participation in the slave trade receive needed public financing and support?
- Do students and educators understand the various violations of human rights as part of Swedish history
- Do students and educators understand the destructive role played by e.g. Sweden's sterilisation programs that to a large extent were directed at Roma families?

Article 2.2

National Minorities

In § 64 the State Party refers to paragraphs 42 - 44 of the 15th and 16th periodic report regarding the establishment of a policy on national minorities in 2000. It reported that several State initiatives have been taken including actions to combat discrimination and protecting minority languages.

In § 67 there is a reference to how the Discrimination Ombudsman (DO) recommended actions for the Government to take to continue efforts towards elimination discrimination of the Roma.

In § 75 the Report states that the Government will be assessing conditions for the ratification of ILO Convention 169.

Ouestions

- What initiatives and actions have been taken to protect minority languages?
- What specific actions has the Government taken towards the elimination of discrimination of the Roma?
- What conditions are now in place to ensure the ratification of ILO Convention 169?

- How long have various Swedish governments (including the current one) been assessing the conditions related to ILO Convention 169?
- Will this government be more effective in assessing the relevant conditions?
- What is the government doing to clarify the responsibilities of local governments in ensuring the rights of Sweden's officially recognised minorities concerning language support and support for maintenance of their culture?

Article 3

In §§ 77 through 79 the State Party addressed the issues of reports on efforts with municipalities aimed at ending the spread of discrimination in urban areas. According to § 79 it paid particular attention to housing segregation and actions taken to increase integration in housing. However, the public housing policies of several municipalities continue practices that indirectly discriminate against persons of non-Swedish ethnicities and races. A standard and orderly queue system for the allocation of public housing is missing in most municipalities; instead, public housing boards abide by private market demands for minimal incomes, professions and social contacts. Such demands promote indirect discrimination of persons of ethnic minority or foreign backgrounds.

Public housing municipal boards also maintain lists of foreign names for the purpose of denying persons with such names to housing or restricting them to certain housing areas. In addition to those issues, there is no national policy promoting ethnic integration in public housing.

Beyond this several sources (a university research program, the tenant's union and a Swedish TV news program), using situation testing showed that ethnic discrimination is quite widespread within the housing sector. Assuming that this has been occurring over the past 20-30 years, it is not hard to understand the development of ethnic segregation in Sweden.

Questions:

- What efforts are being made to institute a fair housing policy and practices based on a queue system?
- What efforts are being made to ensure that all public housing is more ethnically integrated?

- What efforts are being made to enhance existing laws, or adopt a strong law, prohibiting ethnic discrimination in housing?
- As politicians have greater control over the housing companies owned by municipalities, what particular efforts are being made to ensure that there are sanctions for ethnic and racial discrimination in public housing?
- How will the sanctions be implemented?

Article 4(c)

In § 90, the State Party reports that penal provisions on the prohibition of support or the promotion of ethnic discrimination also applies to individual public officials.

However, there is one case where an elected politician clearly violated Penal Code §16.8 for making disrespectful statements about an ethnic minority group in a motion on homeless persons. The successful appeal of his conviction in the lower-court was based on the Freedom of Speech sections of the Swedish Constitution.³

Question:

The question the Committee might ask the State party is:

- What efforts are being made to ensure that members of the judicial system are aware of the full meaning of Article 4(c) of this Convention, and of Article 7 of Committee Recommendation No. XV on the obligations of public authorities under this paragraph?⁴

Article 5

(a) The Right to Equal Treatment before Tribunals

In § 91 – 95, the State Party refers its 12th periodic report which describes guarantees to equal treatment by public authorities and others within public administration to all persons under the law with objectivity and impartiality. However, a recently published report by the Swedish National Council for Crime Prevention (Brå report No. 2008:4) has identified a number of examples of direct and indirect discrimination issues that question the ability of the State party to provide equal treatment to ethnic minorities before tribunals as required in this section of the Convention.

³ Case No. B 1729-07: Hovrätten över Skåne och Blekinge, Rotel 12, Dom 2008-05-12.

⁴ General Recommendation XV, 42nd Session, 17 March, 1993. www.unhchr.org

⁵ 12th Periodic Report, for Sweden, CERD 280, paras. 86 – 89.

Examples of direct discrimination before the tribunals include working routines of investigating officers who apply racial profiling, stereotyped conceptions and the linking of certain minority group members with certain types of crimes; rudeness, arrogance, disdainful treatment that negatively affects these individuals right to be heard, believed or taken seriously.⁶ Examples of indirect discrimination applies to the mono-cultural approach to service provisions during investigations, trials and sentencing procedures. Inadequate and poor interpretation services, interpretation by telephone, inadequate time-frames for contacting lawyers and others and the use of unqualified legal interpreters give the illusion of services being provided, but in fact lead to inadequate testimony, decisions and sentencing. The report further points out that one of the inadequacies of the civil antidiscrimination legislation that is in place (Lagen 2003:307) is that it does not include discrimination that occurs within the justice system, hence the Ombudsman Against Ethnic Discrimination is not able to prosecute cases of ethnic discrimination within the justice system itself.

The report points out that the Swedish judicial system is in an "institutional lag" with regards ensuring the equal treatment of ethnic minorities within its many institutions, one of which is the prison system for which no research has been conducted. The report also pointed out that the persons within the legal system do not reflect the ethnic mix that exists within Swedish society and that this may be a contributing factor in regard to ethnic discrimination in the legal system. The recommendations from the report include the need to introduce new measures to combat the direct and indirect discrimination that exists throughout the system. Taken together, these inadequacies indicate a failure of the justice system to ensure the right to equal treatment before tribunals and all other organs administering justice as called for in this Convention.

Questions

- What positive steps are being taken to ensure the equal treatment of ethnic minorities within the justice system for ethnic minorities?
- What positive measures are being taken to ensure that direct and indirect discrimination within the justice system can be prosecuted?

⁶ Swedish National Council for Crime Prevention (Brå report No. 2008:4), pp 7 − 8.

⁷ Ibid., pp 8 - 18.

- What measures are being taken to ensure that those working within the legal system (lawyers, lay judges, judges prosecutors, police) more accurately reflect the ethnic composition of Swedish society?
- What measures are being taken to ensure that well-qualified interpreters are used in the courts and other parts of the legal system?
- What additional measures are being taken that are based on the National Council for Crime Prevention's report?

Article 5 (d) iii) The Right to a Nationality

In § 101 the State report refers the committee to paragraph 86 of the fifteenth and sixteenth periodic report on the matter of citizenship. However, this right in practice is dependent upon a number of prohibiting conditions:

- (i) The high fee for filing the application. With their low incomes, many immigrants who fulfil the time requirement are unable to pay the fee for the application for themselves and all their family members;
- (ii) The requirements for proficiency test in the language. This could be a great hindrance for older persons who have resident permits but are unable to pass a language test; and
- (iii) The requirement of a "sound economy" as a condition for approval of citizenship. 8 This has resulted in applicants being denied citizenship because they have one or more unpaid parking tickets, unpaid child support or an unpaid bill for services. Because citizenship is required for most well-paying jobs the result of this criteria is a never-ending cycle of economic failure for many would-be citizens.

Article 5(e) Economic, social and cultural rights

Article (5:e.i) The Right to Work: Anonymous job application process In § 112 the State Party informed the Committee of a pilot project involving anonymous job applications at seven government agencies, and that the project will continue throughout 2007.

Questions

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⁸ Swedish Migration Department website: www.migrationsverket.se

The Committee might ask the State party the following questions:

- What has been the result of this project with regards the discrimination of ethnic minorities on the job market?
- Are there any plans to test the occurrence of ethnic discrimination (or other discrimination) in the public sector, e.g., in state agencies?

Article 5 e:iii on the Right to Housing

In § 115 the State Party offered a clarification on municipal responsibility for housing provisions. The clarification indicated that a working committee presented a memorandum on Fair and Equal Conditions in the Housing Market (Ministry Publication Series 2006:9) that remains under consideration.

Application procedures for public and private housing totally lack transparency. This has resulted in the creation of many *defacto* ghettos. Persons who find that they have been discriminated in their search for housing are able to turn to the Discrimination Ombudsman for consultation, but the long backlog of other complaints means that many cases fail to get reported. Of those that are, only a marginal number have a satisfactory result for the victims of the *defacto* discrimination in housing.

Question

The question the Committee might ask the State party is:

- What recommendations were made in the memorandum and what measures are being taken to adopt its recommendations?

Article 5(e:iv) on The Right to Public Health, Medical Care, Social Security and Social Services

In § 116 the State Party referred to a three-year joint health and discrimination project, the results of which were published in a report. In his report on his mission to Sweden in 2007, the Special Rapporteur on the right to health, Paul Hunt, noticed that even though health care in Sweden is amongst the best in the world, there are a number of gaps in its distribution to its populations. He commented on the fact that Chapter II of The Instrument of Government (which forms part of the Swedish Constitution and is entitled Fundamental Rights and Freedoms) is absent a right to health, even though there is a statement in Chapter

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⁹ A/HRC/4/28/Add.2, 28 February, 2007.

I that calls for public institutions to secure the right to health, employment, housing and education, and to promote social care and social security. 10

In his report, Mr. Hunt urged the Government to ensure that health care became more accessible for all persons, including all marginal groups and ethnic minorities such as the Sami, who were often the victims of discriminatory practices in the application of health care. 11

Questions:

The Committee might ask the State party the following questions:

- What measures have been taken to rectify the recommendations in the project report and Mr. Hunt's urgings?
- In particular, is anything being done to test discrimination in the health sector?
- If so, is anything being done to come to terms with discrimination in the health sector?

Article 6 Effective Protection and Remedies through Competent National Tribunals

In § 126 the State Party reefers to paragraphs 133 and 134 of Sweden's 12th Periodic Report and to paragraphs 91 though 94 of this report on projects within the legal system to ensure the realisation of the principle of equality before the law in day-to-day operations. However, our comments on paragraphs 91 through 94 in the State's report may be applied to the claims in this paragraph.

Article 7 Effective Measures in Teaching, Education, Culture and Information

Consultation with non-governmental organisations In § 127 the State party reported that it was in consultation with NGOs active in the areas covered by this Convention in November 2006.

Ouestions

The Committee might ask the State party the following questions:

Which specific organisations that represent the targets of racism and discrimination were included in the consultation process in November 2006?

¹⁰ Ibid., para, 19.

¹¹ Ibid., para. 48.

- How much time were these organisations given to prepare for the consultation process?
- What underlying materials were provided? And when?
- Finally, in view of the closing of the Swedish Integration Board (§133), how does the government intend to ensure financial assistance to such NGOs as called for in this article?

The National Action Plan for Human Rights

In §§ 129 through 131 the State party reported that it has adopted a National Action Plan for Human Rights 2006 – 2009.

Questions

The Committee might ask the State party the following questions:

- What results have emerged from the first National Action Plan that was adopted in 2002?¹²
- How broad is public participation be in the processes associated with this Plan?
- What roles NGOs have in the implementation of the Plan?
- What major and minor actors are monitoring and evaluating the achievements of this National Action Plan?

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¹² CERD/C/452/Add.4, 23 September, 2003, para 112.

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www.cmr.nu

Discrimination Ombudsman

www.do.se

The Lundian Magazine (NGO)

www.thelundian.com

Swedish Ministry of Justice

www.regeringen.se

Swedish Integration Board

www.integrationsverket.se

UN High Commissioner for Human Rights

www.unhchr.org