

Alternative Report *for the* CERD Review of Sweden

Submitted by

International Organization for Self-Determination and Equality (IOSDE)

to the United Nations Committee on the Elimination of Racial Discrimination (CERD)
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Recalling especially CERD General Recommendations:

- XI on non-citizens (1993)
- XXI on the right to self-determination (1996)
- XXV on gender-related dimensions of racial discrimination (2000)
- XXX on discrimination against non-citizens (2005)
- XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system (2005)
- No. 33 Follow-up to the Durban Review Conference (2009)
- No. 34 Racial discrimination against people of African descent (2011)
- No. 35 Combating racist hate speech (2014)

And

IOSDE's Shadow Report "Silence is Violence",¹ submitted to UN CEDAW for review of Sweden in 2016

Much of the following report below is culled from IOSDE's report "Silence is Violence", with overlapping issues and themes of the essence... with a particular focus on discriminatory conditions causing some women to be at greater risk for domestic violence in Sweden

¹ Paginated version: <https://www.scribd.com/document/317877706/IOSDE-Shadow-Report-CEDAW-Review-of-Sweden-63rd-Session-2016>; non-paginated version on CEDAW site: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SWE/INT_CEDAW_NGO_SWE_22844_E.pdf

All Recommendations

1. Clarify the definition of ‘foreign nationals’ within the scope of the Swedish Constitution and Article 25 and the scope of and reasons for application of Constitution Article 25 (p. 5 of this report) and who can apply such limitations and when/how/why. Review the validity of Constitution Article 25 in the scope of fundamental human rights and freedoms.
2. Clarify the relationship between Article 25 of the Swedish Constitution, its scope and purpose, and the Discrimination Act, and whether the Act applies to all persons residing in Sweden including foreign nationals, in the context of the Constitution. Revise as necessary to protect the fundamental, inalienable rights and integrities and freedoms of all persons in Sweden, regardless of nationality.
3. ‘Minority’ and ‘minority rights’ must always include all persons in Sweden who are not of the statistical majority (ethnic Swedish or otherwise). Any initiatives under review to advance the legal-political definition of minority in Sweden and protected rights and access/opportunities therein must include all non-majority persons, with the right to self-identification.
4. Granting rights specifically to the said groups deemed ‘national minorities’ should be identified and labeled as what it is in its socio-legal-political context - for example, as a mechanism meant for correcting historical injustices and grievances (such as colonialism and culture and language loss therein) - and not presented as sweeping ‘minority rights’ in reporting or systems design, with exclusion of equal rights and identities of refugees and immigrants and other foreign-born nationals and their offspring as minorities in Sweden, including regarding initiatives such as against domestic violence, access to public services, and other action plans in Sweden.
5. Create special mechanisms, services and procedures to account for and equalize the differential of power imbalance and accessibility issues for immigrant and other non-majority and Indigenous women in Sweden.
6. Strive to actively invite small-scale civil society groups and organizations in Sweden created and run by non-majority (non-ethnic-Swedish) women to participate in concrete systems-change processes, procedures, and working groups and sessions.
7. Utilize immigrant expertise and fairly and justly so- not as simply ‘informants’, but with due funding, pay, and other fundamental inclusions that often are usually provided, instead, to women and men of majority/ ethnic Swedish origin to write, think, decide and talk “about” non-majority (non-ethnic-Swedish) persons in Sweden.
8. Prioritize concrete programs and projects with the above persons and groups as recognized own experts, and with a focus on developing Sweden into being a multicultural, non-racist, open society that celebrates diversity, culture, abilities, contributions, potential and skills of all women and peoples equally regardless of national origin, race, language and ethnicity.
9. Increase and improve health care and domestic violence services and resources to women in rural areas and the North of Sweden and for immigrant, minority and Sami women.
10. Undergo collection of disaggregated data based on ethnicity, national origin, race and other important factors to understanding the real situation of women of all groups in Sweden regarding domestic violence.

I. Introduction

1. Sweden has for many years been formally criticized for racism, discrimination and exclusivity faced by immigrants and persons of immigrant family origin within the State.² Sweden's policies and systems, but even more importantly the social atmosphere lived-in daily, continue to condone an assimilationist mentality, versus integration as a support to a pro-positive, pro-active multiculturalism. Assimilation-based approaches to law and policy as well as systems designs put non-majority women and those persons facing intersectional discriminations, especially, at risk. Many in Swedish society continue to debate to this day if *multiculturalism* itself is a good thing or something Sweden should engage in at all. This debate (or silence and assimilationist approaches) occurs while all persons in Sweden considered to be 'non-nationals', 'foreign-born nationals', and even 'national minorities' (a Sweden-specific category of State identity, to be discussed later) and other non-majority persons are forced to wait in the wings to be accepted at some multicultural point in the future of Sweden as having own cultures, new contributions to be credited and paid for, and adding positive diversity to decision-making, influence, rights, analyses and voices. This waiting includes blockages in the forms of access to diversely expertise-based employment, diversity as self-representation as non-majority on issues, platforms, and otherwise, and access to non-discriminatory human-rights-based and criminal justice implementations and mechanisms as victims.

2. This reality of intersectional discrimination severely affects women in Sweden, especially, who are already at a disadvantage as women, compounded by discrimination based on ethnic or national origin or race. However, Sweden has formally and strictly stated that it does not apply an intersectional approach in its action plans against discrimination.³ Hence, when Sweden and its organizations and systems continue to lobby and rally together to create an appearance to the outside world as strong and superior in women's and human rights, in general, or by certain designs, it is exactly the women and others facing intersectional discrimination in real time who suffer most.

II. The Discrimination Act, Foreign Nationals and the Swedish Constitution

11. Does 'inadequate accessibility' in the context of Sweden's policy-making include notions of inherent societal disadvantage? For example, in cases of discrimination against immigrant women because they are of foreign-born nationality and/or culture?

12. In its reporting to UN CEDAW in 2014, Sweden stated, "The objective of the Government's action against discrimination is a society free from discrimination. Under the Swedish Discrimination Act no person may be discriminated against or prevented from enjoying their rights on account of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age"⁴ and then (under 2: Legislation), "The principle of gender equality is expressed in the Swedish constitution."⁵ Of late, Sweden also states that its Discrimination Act includes, within the scope of 'ethnicity' by definition, national origin.⁶ However, at the same time and to this day, Article 25 in the Swedish Constitution contains a long list of possible restrictions of fundamental human rights and freedoms of 'foreign nationals' at disposal in Sweden, without further explanation or delineations:

² For example, see UN CERD (Committee on the Convention on the Elimination of all forms of Racial Discrimination) Concluding Observations re Sweden, May 2001: "C. Concerns and recommendations: 10. The Committee is concerned that a recent upsurge in racism and xenophobia has been seen which has given rise to increased neo-Nazi violence, especially among youth.", CERD/C/304/Add.103

³ See for example video archive of CEDAW-Sweden dialogue during the 2016 review of Sweden, in which it is strongly stated by the Swedish delegation that Sweden opts to not apply intersectionality to its action plans against discrimination: <https://youtu.be/bhVBnw3UA4U> (uploaded by the author of this report from video archive after in-person attendance at the session)

⁴ Committee on the Elimination of Discrimination against Women CEDAW/C/SWE/8-9, 17 November 2014, Consideration of reports submitted by States parties under article 18 of the Convention Eighth and ninth periodic reports of States parties due in 2014 Sweden, para. 3.

⁵ CEDAW/C/SWE/8-9, para. 17

⁶ 1 February 2017, CERD/C/SWE/22-23, para. 25

Swedish Constitution: Art. 25⁷

For foreign nationals within the Realm, special limitations may be introduced to the following rights and freedoms:

1. freedom of expression, freedom of information, freedom of assembly, freedom to demonstrate, freedom of association and freedom of worship (Article 1, paragraph one);
2. protection against coercion to divulge an opinion (Article 2, sentence one);
3. protection against physical violations also in cases other than cases under Articles 4 and 5, against body searches, house searches and other such invasions of privacy, against violations of confidential items of mail or communications and otherwise against violations involving surveillance and monitoring of the individual's personal circumstances (Article 6);
4. protection against deprivation of liberty (Article 8, sentence one);
5. the right to have a deprivation of liberty other than a deprivation of liberty on account of a criminal act or on suspicion of having committed such an act examined before a court of law (Article 9, paragraphs two and three);
6. public court proceedings (Article 11, paragraph two, sentence two);
7. authors', artists' and photographers' rights to their works (Article 16);
8. the right to trade or practise a profession (Article 17);
9. the right to freedom of research (Article 18, paragraph two); and
10. protection against violations on grounds of an opinion (Article 21, sentence three).

13. What are the scope and means of application of Article 25 of the Swedish Constitution, and for whom and when and why, and are all of these restrictions of rights, liberties and freedoms of foreign nationals truly necessary for the functioning of the Swedish State, given the potentially adverse effect on 'foreign-national' persons, as well as the inclusion-exclusion mentality of Swedish society, which is already in a delicate condition with well-documented upswings in recent years and decades of xenophobia, racism and anti-immigrant sentiments? Moreover, within the scope of the Swedish Constitution, who exactly and under what circumstances is defined as a 'foreign national'- women and men without citizenship but with permanent or temporary residency in Sweden?; persons with citizenship but with dual citizenship, and thus foreign nationality?; all persons born foreign nationals and still identifying with their national origin in cultural, spiritual or intellectual thinking? What instigates the use of Article 25, and what are its origins and purpose?

14. Expanding on this, and in the context of most at-risk groups re domestic violence and abuse in Sweden, what is the relationship between the Discrimination Act and Article 25 of the Swedish Constitution, and resident but not citizen 'love immigrant' women in Sweden? Do the Discrimination Act and Article 25 either or both cover immigrant women, in particular 'love immigrant' (i.e. often dependent on their 'partner' citizen as host to live in Sweden for a relationship/family reasons) women, who are not citizens of Sweden? Which takes priority in legal reasoning, thusly, in Sweden- discrimination against foreign nationals provided for within the Constitution itself, or legislation and policy against ethnic discrimination, or the will at random of how Swedish authorities and the general society choose to navigate (or not) any inherent contradictions re 'foreign nationals'? Is such a contradiction necessary, in the context of fundamental rights and freedoms of 'foreign nationals' within the realm of Sweden (see Constitution Article 25 to examine that can be limited)?

Recommendations:

15. Clarify the definition of 'foreign nationals' within the scope of the Swedish Constitution and Article 25 and the scope of and reasons for application of Constitution Article 25 (see text below) and who can apply such limitations and when/how/why. Review the validity of Article 25 in the scope of fundamental human rights and freedoms.

⁷ From <http://www.riksdagen.se/en/Documents-and-laws/Laws/The-Constitution/>

16. Clarify the relationship between Article 25 of the Swedish Constitution, its scope and purpose, and the Discrimination Act, and whether the Act applies to all persons residing in Sweden including foreign nationals, in the context of the Constitution. Revise as necessary to protect the fundamental, inalienable rights and integrities and freedoms of all persons in Sweden, regardless of nationality.

III. Minority Rights and legal-political-policy definition(s) of ‘minority’ in Sweden

17. Sweden’s reporting regarding Swedish minority policy and protected rights, identities and initiatives therein refer to ‘National Minorities’ as Sweden’s minorities at large, which is a label that is misleading in its wording and holds a disguised hidden discrimination effect and nationalist-divisionism influence in Swedish. ‘National Minorities’ in fact consist of only 5 categories of ethnic-racial groupings in Sweden: the five recognized groups are Jews, Roma, the Sami people (an Indigenous People), Swedish Finns, and the Torne Valley Descendants (Tornedalians). Presumably, what is meant by ‘National Minorities’, in State terms, then, are groups of non-majority persons with historical grievances with the State. There are no positive discrimination and general minority rights, then, for all minorities, i.e. non-majority persons, in Sweden (and then self-identifications within that), for example diverse groups of immigrants or immigrant-origin persons.

18. For example, in Sweden’s reporting to UN CEDAW in 2016 review the State describes, “Action for women who belong to the national minorities - Improving access to public services also improves women’s opportunities of shaping their lives in the light of their own needs and circumstances.”⁸ but what about other non-ethnic-Swedish groups and persons in Sweden not of those 5 groups deemed ‘national’ (‘national minorities’) by Sweden law, politics and policy or societal mentality and program/systems planning? What are the real results of a Swedish assimilationist policy and mentality towards immigrant and intersectional women? When a State desires to force the diversity out of groups of women, or certain women, from a top-down State-identity approach, does this not teach to their partners, authorities, and the society at large that they can do the same, resulting in both structural violence and greater risk of domestic abuse?

Recommendations:

19. ‘Minority’ and ‘minority rights’ must always include all persons in Sweden who are not of the statistical majority (ethnic Swedish or otherwise). Any initiatives under review to advance the legal-political definition of minority in Sweden and protected rights and access/opportunities therein must include all non-majority persons, with the right to self-identification.

20. Granting rights specifically to the said groups deemed ‘national minorities’ should be identified and labeled as what it is in its socio-legal-political context - for example, as a mechanism meant for correcting historical injustices and grievances (such as colonialism and culture and language loss therein) - and not presented as sweeping ‘minority rights’ in reporting or systems design, with exclusion of equal rights and identities of refugees and immigrants and other foreign-born nationals and their offspring as minorities in Sweden, including regarding initiatives such as against domestic violence, access to public services, and other action plans in Sweden.

21. Create special mechanisms, services and procedures to account for and equalize the differential of power imbalance and accessibility issues for immigrant and other non-majority and Indigenous women in Sweden.

IV. Intersectional Discrimination

3. In Sweden, the systems-focus is on maintaining and enforcing top- and center-down systems and organizational methodologies to a degree of structural violence when discriminatory. This can be seen in real-world

⁸ Paragraph 29 of Sweden’s Report to CEDAW for 2016 review.

circumstances of women in Sweden who face multiple intersectional discriminations often resulting in domestic violence and/or abuse, including but not limited to immigrant women who have relocated to Sweden or Sápmi for love-partner relationships, migrant women who have come for manual labor to feed their families back home, Sami women in both Swedish and Sami societies, women seeking asylum with children, and rural women; at particular risk also are women in the North and rural North of Sweden, as many resources are concentrated in Stockholm in the South that are not available to women and families in the North, including adequate domestic violence resources, health care facilities, counseling and integration and culturally-sensitive or culturally-skilled authorities and justice officials.

4. Large gaps in statistics regarding domestic violence, such as the absence of ethnically/racially/foreign-national disaggregated data (see next section), testimonials of victims of gender violence (versus court-processed and court-written decision versions), and within that discrimination against small-scale civil society and inclusion, representation and equal access to fair work in particular for ‘love immigrant’ women (i.e. women who have relocated to Sweden to be in a relationship), all leave women in Sweden who face intersectional discrimination at especially high risk for domestic violence and abuse- abuse not only by partners or family, but by Swedish systems, society members, organizations and institutions at large, and rights-based local integration processes or lack thereof.

Recommendations:

22. Strive to actively invite small-scale civil society groups and organizations in Sweden created and run by non-majority (non-ethnic-Swedish) women to participate in concrete systems-change processes, procedures, and working groups and sessions.

23. Utilize immigrant expertise and fairly and justly so- not as simply ‘informants’, but with due funding, pay, and other fundamental inclusions that often are usually provided, instead, to women and men of majority/ ethnic Swedish origin to write, think, decide and talk “about” non-majority (non-ethnic-Swedish) persons in Sweden.

24. Prioritize concrete programs and projects with the above persons and groups as recognized own experts, and with a focus on developing Sweden into being a multicultural, non-racist, open society that celebrates diversity, culture, abilities, contributions, potential and skills of all women and peoples equally regardless of national origin, race, language and ethnicity.

25. Increase and improve health care and domestic violence services and resources to women in rural areas and the North of Sweden and for immigrant, minority and Sami women.

V. Disaggregated Data

26. “Since World War II, statistical data in Sweden collected by the State has not been collected or categorized by ethnicity, in accordance with Swedish policy. Due the horrendous race-based politics of the European Nazi regime leading up to World War II and also Sweden’s own shameful eugenics and race biology programs of the time, the Swedish State put a ban on all data collection and statistics based on ethnicity after WWII, something now criticized by the UN Committee Against Torture (CAT) in review of Sweden. CAT criticizes Sweden for the reason that without such data there is no way for the CAT Committee and others to analyze Sweden’s adherence to the CAT treaty in difference ethnic contexts within Sweden, in addition to Sweden not having the knowledge it needs to know what changes and services are required by its populations. This lack has deep effects on statistics regarding domestic violence rates [...] It also means no statistics-provable grounds for need for legal redress or systems changes, even under urgent conditions and situations of neglect [...] lack of data also leaves women who are from other ethnic and non-majority circumstances in Sweden with a lack of possible opportunity to discuss any common issues regarding rates of domestic violence with Sami women in Sweden and for the women to create solidarity [as neglected women within the Swedish State across cultural and national origin lines]. The lack of such data and the resulting silence of the State on such issues also prevents situations of intersectionality (issues crossing through multiple spheres of

oppression at the same time, such as minority/Indigenous/immigrant) and problem-solving regarding State policies therein to further address larger issues of structural State and societal discriminations.”⁹

Recommendation:

27. Undergo collection of disaggregated data based on ethnicity, national origin, race and other important factors to understanding the real situation of women of all groups in Sweden regarding domestic violence.

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⁹ Preparatory Report for the United Nations Special Rapporteur on the Rights of Indigenous Peoples, 2015 August, Written for the Sami Parliament in Sweden by India Reed Bowers, B.A. LL.M., <https://www.sametinget.se/92639> p. 25