



Swedish human rights commitments in OSCE-perspective

Civil society self-assessment during
the 2021 chairpersonship

*Edited by Anders Mellbourn and Anki Wetterhall
for the Swedish OSCE Network*

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ISBN 978-91-88929-56-3

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English language check: Connie Wall

Production: eddy.se ab, Visby 2021

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1. Introductory remarks: scope and methods

In the tradition established over the past decade by the Civic Solidarity Platform (CSP), the network of civil society and human rights advocacy groups in OSCE member states, the Swedish OSCE network is privileged, proud and happy to publish a self-evaluation of Sweden's compliance with the human rights commitment associated with its membership of the OSCE, carried out during the Swedish chairpersonship of the OSCE in 2021.

This practice was originally introduced in 2014 by the then Swiss chairmanship and the CSP in order to promote self-reflection among chair governments and civil society organisations in these countries during the time they chair this important organisation for security, cooperation and civic rights in Europe, the transatlantic sphere and Central Asia.

In 2020 the Swedish government presented a comprehensive national report to the United Nations Human Rights Council and its Universal Periodic Review, UPR. The report was to a great extent based on input from Swedish civil society. With this report so close to a year of the Swedish chair, it would not have been logical to carry out a full new process this year—neither for civil society nor for the government.

Thus, we begin this self-evaluation by presenting the Swedish UPR report as originally submitted. Then, following the practice in recent self-evaluations in the CSP context, we chose a limited number of issues for more in-depth analysis. UPR contributors from civil society were invited to re-publish and possibly update their assessments, which are to be found in the following chapters under the headings of Discrimination and Hate Speech, Gender Equality and Torture. A number of women's organisations also contributed to this evaluation, with newly released reports.

Five thematic chapters deal with problem areas of particular interest, starting with a review of aspects of the rule of law and the electoral system, highlighting constitutional reforms in process. The status of national minorities, in particular the Sami people, is currently very much in focus in Sweden; we have devoted a special chapter to these problems. Corruption is a theme often raised in CSP studies and is examined in a chapter of this report.

Media developments and the role of public service radio and television facing challenges from international “big tech” and suggested infringements from political interests is a concern that Sweden has also tried to bring into the OSCE framework this year. Finally, the covid-19 pandemic has been the overriding threat to social life again this year in Sweden

as throughout the world, making almost any other issue recede into the background. The Swedish strategy for and handling of the pandemic has been hotly contested both domestically and in international forums. It has human rights implications everywhere. We find it natural to dedicate the longest of our thematic issues to these questions.

Finally, we have invited representatives from the CSP and the Swedish civil rights advocacy community to contribute their personal concluding remarks.

Assessments and opinions expressed in the different chapters are the responsibility of the individual contributors. The responsibility for the publication as presented here rests with the editors. The Swedish OSCE Network is the initiator and sponsor of the project. The network is an independent voluntary organization with both individual and organisational members. It is not affiliated to any political party or religious denomination. The purpose of the network is to inform the public and stimulate discussion about the work of the OSCE and related themes.

There are, of course, several areas that could have been more extensively highlighted in a report such as this. At the time of publication, new assessments from the Council of Europe and Swedish ombudsmen reiterate concerns about the treatment of arrested suspects awaiting trial. The public discourse in Sweden in 2021 has been dominated by two problem areas with strong human rights implications: migration and the fight against organised crime. In June, the Swedish parliament adopted new migration laws that changed Sweden from being one of the European countries with the most liberal migration policies to one of the more restrictive. Only temporary permits to stay in the country will be granted to newcomers, and the possibility to be granted permanent permits will be conditioned on having work and acquired language skills, for example. It is nonetheless stressed that the principle of asylum rights is still upheld. Among the efforts to combat organized crime and the frightening increase of lethal shootings among criminal gangs are the introduction of more intrusive surveillance measures. Sadly, we will most likely be forced to return to these concerns in further contexts.

These developments have to be followed closely. Sweden is almost automatically categorized among the “good guys” in international human rights comparisons. We hope and believe that this is still the case. And we find it even more relevant that a country of Sweden’s stature is examined and included in this important series of self-examinations in the OSCE realm.

Stockholm, September 2021

Anders Mellbourn and Anki Wetterhall

On behalf of the Swedish OSCE Network

2. National report from Sweden in the third cycle of the Universal Periodic Review

United Nations Human Rights Council Working Group on the Universal Periodic Review Thirty-fifth session, 20–31 January 2020

1. Introduction

1. We are living in a time when it is more vital than ever before that international agreements and norms on human rights are respected and viewed with the utmost seriousness. The Government is aware that challenges remain in the work to protect and promote human rights in Sweden and is firmly determined to prioritise work to surmount them.

2. The objective of Sweden's human rights policy is to ensure full respect for Sweden's international human rights commitments. This objective emphasises that ensuring that Sweden's international commitments are fulfilled in all parts of the country, in all parts of the public sector, nationally as well as in regional and municipal government, is a central undertaking for the Government.

3. Sweden intends to take a leading role in implementing the 2030 Agenda. Human rights are to infuse every aspect of this work and Sweden seeks to be a positive force by living up to its human rights commitments.

4. The UN's Universal Periodic Review (UPR) is of the utmost importance in efforts to protect and promote human rights on the national and international stage. Sweden works through the UPR to ensure greater transparency regarding the human rights situation through constructive dialogue and in close collaboration with relevant actors, including civil society. The Government has also appointed an ambassador for human rights, democracy and the principles of the rule of law, who represents Swedish policy in international organisations, in contact with other countries and in close dialogue with civil society organisations.

5. Compliance with the recommendations that Sweden has accepted within the UPR process is a high priority and this report focuses on the accepted recommendations in line with the guidance from the UN for the national reports in the third cycle of UPR. The report also addresses some of the recommendations that Sweden has not accepted.

1.1 Method and consultation process

6. This report has been coordinated by the Division for Discrimination Issues, Human Rights and Child Rights Policy at the Ministry of Employment. All ministries responsible for issues raised in the recommendations received by Sweden in the second cycle of UPR have been involved in producing this report. Information is continuously exchanged with the agencies concerned regarding issues addressed in the report.

7. An information meeting on the UPR process in general and on Sweden's third-cycle review in particular was held for a broad range of civil society organisations, at the Swedish Government Offices on 29 April 2019. On 4 September 2019 a thematic consultation was held prior to Sweden's submission of this report. Several other communication measures have also been taken and are being planned. For example, information about the review has been published on the Government website regeringen.se.

2. Protecting human rights

2.1 National human rights strategy

8. In 2016 the government adopted its strategy on human rights (the strategy).¹ The strategy takes as its starting point the objective of ensuring full respect for Sweden's international human rights commitments. It states that a cohesive structure must be put in place to promote and protect human rights. Such a structure should comprise strong legal and institutional protection of human rights, coordinated and systematic work on human rights in the public sector and strong support for work on human rights in civil society and in business.

9. A number of initiatives are being carried out within the structure of the strategy, which include seeking to increase awareness and competence on human rights and more coordinated and systematic work on human rights. This work also involves civil society, partly by the Government gathering the views of civil society stakeholders when reporting under the conventions.

10. An inter-ministerial working group at the Swedish Government Offices, appointed by the Government, is tasked since 2006 with exchanging information and experience on questions concerning human rights and on following up the Human Rights strategy.

1. The Government's Strategy for national efforts with human rights, communication 2016/17:29.

2.2 International human rights conventions

11. It is a fundamental principle that Swedish legislation is framed in conformity with Sweden's undertakings in international conventions. This conformity must be scrutinised on an ongoing basis. Sweden applies a dualistic approach to international conventions, as described in more detail in the national UPR report submitted in November 2014.

2.2.1 *Incorporation of the UN Convention on the Rights of the Child into Swedish law*

12. On 13 June 2018 a majority in the Riksdag (the Swedish Parliament) voted in favour of the Government's proposal to incorporate the UN Convention on the Rights of the Child (CRC) into Swedish law. The act will enter into force on 1 January 2020.²

13. Incorporation gives the CRC the status of Swedish law, entailing a clearer obligation on courts and legal practitioners to consider the rights that follow from the CRC in deliberations and assessments that are part of decision-making processes in cases and matters concerning children.

14. For the CRC to have an impact, continued transformation of the provisions into national law is necessary, alongside incorporation. Moreover, a combination of various measures is necessary, such as guidance, education and coordination between different actors at different levels in society.

2.2.2 *Ratification of the Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure*

15. If children are to be able to have their rights upheld, it is important that there are systems in place that enable them to assert them. These rights can be asserted in different ways. The potential ratification of the Third Optional Protocol on a communications procedure raises a number of questions which must be analysed before the Government is able to reach a view on the issue.

2.2.3 *Ratification of ILO Convention No. 169 on indigenous and tribal peoples*

16. Regarding ILO Convention No. 169 on indigenous and tribal peoples, the Government will work towards ratification. However, ratification of the Convention is ultimately a question for the Riksdag to decide.

2. Articles 1–42 will be incorporated in their entirety, Articles 43–54, which are mainly administrative in nature, will not be incorporated as they do not substantially affect the content of the Convention.

2.2.4 *Ratification of ILO Convention No. 189 on decent work for domestic workers*

17. On 7 November 2018, the Riksdag voted in favour of the proposal in the bill on ILO Convention (No. 189) on decent work for domestic workers, thus approving the proposal to ratify the Convention. Sweden submitted its ratification to the Director General on 4 April 2019.

2.2.5 *Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

18. The Migrant Workers Convention is an international convention whose provisions are to a wide extent also regulated in legal acts of the EU. A discussion regarding potential ratification must therefore be addressed at EU level. Thus, a unilateral approach from Sweden, for example, is not possible. None of the EU Member States have ratified the Convention.

2.3 **Establishment of an independent national human rights institution and human rights in the education system**

19. In March 2018 the Government appointed an inquiry with the aim of exploring the establishment of a national human rights institution. The memorandum *Förslag till en nationell institution för mänskliga rättigheter i Sverige*³ was submitted in October 2018. The proposal has been circulated to almost 200 government agencies and organisations for consultation and the issue is now being prepared further in the Swedish Government Offices. In the Statement of Government Policy on 10 September 2019 the Prime Minister stated that an independent institution for the protection of human rights will be established.

2.3.1 *Knowledge of and awareness of human rights in the education system*

20. The Swedish Education Act and national curricula set out a mandate for the Swedish education system to promote a strong and resilient democracy. Students are to learn *about* democracy and human rights. They are also to learn *through* fundamental democratic values and respect for human rights being embedded in the schools' learning environment. The aim is for them to develop democratic competences *for* active citizenship.

3. Ministry Publications Series (Ds 2019:4).

3. Specific areas of human rights

3.1 Rule of law

21. All public power in Sweden proceeds from the people. Swedish democracy is founded on the free formation of opinion and on universal and equal suffrage. It is realised through a representative and parliamentary form of government and through local self-government. Public power is exercised under the law.

22. Under Swedish law, a suspect who is arrested or detained has the right to a public defender from the moment at which he or she is informed of the alleged crime, in other words before an interview is conducted in the case. The question of the right to a defender thus arises at a very early stage and is also addressed swiftly in practice.

23. A suspect who is deprived of liberty and is represented by a public defender or a private defender who meets equivalent criteria, has an unrestricted right to see their defender and speak with them in private.⁴ When the suspect is informed of the criminal allegations, the suspect must also be informed of the rights that he or she has in the process.⁵

24. The Swedish Prison and Probation Service (SPPS) uses the UN's *Standard Minimum Rules for the treatment of Prisoners*; *Nelson Mandela Rules*, and other international regulations in basic training for all employees. They are also one of the sources used as the basis of guidelines for the work instructions of the SPPS and other internal rules in the form of regulations and general advice, guidelines, policies, strategies, plans, manuals and instructions. These documents state how the SPPS is to conduct its operations effectively, humanely and safely in line with applicable legislation and international commitments.

4. The same applies to other contact, e.g. in the form of phone calls or letters between the person deprived of their liberty and his or her defender. A defender also has the right to ask questions in interviews.

5. This includes e.g. the right to be informed of changes to the allegations and the right to see the investigation material. It also includes the right to be assisted by an interpreter and to have certain documents translated, and the right to remain silent regarding the allegations and not to have to contribute to the investigation into one's own guilt. If the suspect is arrested or detained, he or she also has the right to receive written information about the right to have a relative or other close person to be informed about the arrest or detention. The suspect also has the right to be informed of the circumstances that form the basis for the decision to arrest or detain the suspect and to be given information about when he or she will be able to have a decision to arrest examined in a detention hearing and have the question of detention re-examined by a court.

3.2 Measures to combat discrimination and segregation and promote integration of newly arrived immigrants

3.2.1 Legislation against discrimination

25. Work to safeguard effective and comprehensive legislation against discrimination continues. Formal protection against discrimination has been strengthened through changes in terms of protection against discrimination due to a lack of accessibility for people with disabilities. The requirements governing obligations for employers and education providers have been tightened up.

26. There are continued challenges in the field of discrimination. As part of the #metoo movement, many witnesses came forward with cases of harassment in a number of workplaces and schools. This shows that there may be additional needs for clearer sanctions against employers and education providers who fail to meet the requirements of the Discrimination Act.

27. There are signs that the Discrimination Act is not being complied with to a sufficiently high extent in terms of requirements made of employers to conduct pay surveys to discover, tackle and prevent unfair pay differentials. If the Discrimination Act is to have a genuine impact in society, those covered by the provisions of the act must a) be aware of these and b) seek to comply with the rules. Furthermore, there is a need for effective oversight of the Act, with effective sanctions where the provisions are not met. It needs to be ensured that the tools that the supervisory authority has at its disposal under the Discrimination Act are appropriate and in line with the rule of law.

28. An inquiry has been appointed to analyse whether the current provisions regarding supervision of active measures are appropriate for effective compliance with the law. The inquiry chair is also to analyse how supervision of the provisions in the Discrimination Act that cover the sphere regulated by the Education Act can be transferred from the Equality Ombudsman (DO) to the Swedish Schools Inspectorate.

3.2.2 The Equality Ombudsman and the anti-discrimination offices

29. The Equality Ombudsman (DO) has a central role in combatting discrimination. DO's mandate is broad and covers many different areas. DO's appropriations were increased by SEK 10 million in 2015 and by another SEK 10 million in 2017.

30. More actors are needed to conduct effective work to combat discrimination. The work of local anti-discrimination offices (ADB) shows the importance of combatting discrimination at local and regional level. There is great demand for the services they provide and today there are 16

ADB spread across Sweden. The Government has increased its appropriations to ADBs from SEK 15 million a year to SEK 29 million a year.

3.2.3 *Specifically about discrimination due to ethnic origin and religion or beliefs*

31. Discrimination due to ethnic origin and religion or beliefs is prohibited under the Discrimination Act. This ban covers virtually all areas of society. Furthermore, employers and education providers work preventively to combat discrimination due to ethnic origin and religion or beliefs.

32. Discrimination on different grounds, e.g. multiple discrimination, can be investigated by the Equality Ombudsman. The Ombudsman has noted that it's not unusual that a complainant state that the discrimination they experienced was associated with more than one ground of discrimination. The reports indicate an association between the grounds of ethnic origin and religion or beliefs

3.2.4 *Measures to combat segregation and promote integration of newly arrived immigrants*

33. The objective of Sweden's integration policy is to promote equal participation for newly arrived immigrants in working and social life. Civil society organisations have an important role in achieving this goal. People's voluntary commitment and organisation is essential in fostering a cohesive society characterised by community and trust. The Government has therefore designed a number of measures to strengthen dialogue with civil society and create better conditions for civil society organisations, both through general policy measures and through targeted measures to promote integration and combat segregation.

34. One example is how municipalities under Ordinance (2010:1122) on state compensation for activities for certain foreigners, can apply for grants from the County Administrative Board for activities with refugee guides and family contacts. Funds are provided to civil society organisations for activities that seek to promote integration, create networks, support language learning or provide social support to unaccompanied minors.

3.3 **Measures to combat racism and hate crime**

3.3.1 *National plan to combat racism, similar forms of hostility and hate crime*

35. Sweden is to be a country free of racism and hate crime. Sweden is implementing the national plan *Nationell plan mot rasism, liknande former av fientlighet och hatbrott* as decided in November 2016. The governmental

agency The Living History Forum has been responsible for coordinating and following up the plan since 2016.

36. The national plan states the importance of working on a broad front against racism, similar forms of hostility and hate crime and at the same time have a particular focus on different forms of racism and similar forms of hostility. Various initiatives are in progress, several of which are generally focused on racism, as well as certain measures geared towards combatting specific forms of racism such as antisemitism, antiziganism, islamophobia and racism against the Sámi.

3.3.2 Measures to increase knowledge, education and research on racism and hate crime

37. Since 2015, The Living History Forum has been tasked with carrying out a major education initiative on racism. Target groups include school staff and other public employees, e.g. at the Swedish Police Authority, the Swedish Public Employment Service, the Swedish national insurance office Försäkringskassan and social services. Evaluations of training initiatives as a whole have generally shown excellent results.

38. Since May 2018, The Living History Forum has been tasked with promoting journeys of remembrance to Holocaust memorial sites and granted funding to the Swedish Committee Against Antisemitism for a project on journeys of remembrance to Holocaust memorial sites in 2018–2020. Journeys of remembrance help to increase awareness of the ultimate consequences of racism and undemocratic forms of government.

39. The Swedish Media Council works to improve the skills of children and young persons as aware media users and to protect them from harmful effects of media. The Swedish Media Council runs the campaign “No Hate Speech Movement”, which aims to increase awareness of racism and similar forms of hostility on the internet.

40. In 2018 the Government introduced a national media and information literacy initiative to strengthen people’s resistance against disinformation, online hate and propaganda.

41. The Swedish National Agency for Education was charged with carrying out knowledge-boosting initiatives in schools on xenophobia and similar forms of intolerance. Within this remit, the agency has worked with the Living History Forum and eleven education institutions to develop a series of courses on how to combat xenophobia and racism in preschools and schools.

42. The Swedish National Agency for Education has run regional conferences, produced online support material, compiled information on research and the resources of other organisations, and produced podcasts about the work of schools against racism.

43. Every year, the Swedish Agency for Youth and Civil Society allocates grants in line with the Ordinance on government grants for activities to combat racism and similar forms of intolerance. Since 2016, the agency has been awarded funding to increase the disbursement of government grants to projects that specifically seek to combat different forms of racism.

44. Since 2016, the Swedish Research Council has been running a research programme on racism amounting to SEK 20 million a year in partnership with the Swedish Research Council for Health, Working Life and Welfare (Forte). In early 2019, the Swedish Research Council made a further call for proposals for grants under this programme.

3.3.3 *Work of crime prevention agencies against hate crime*

3.3.3.1 *Work by the Swedish Police Authority*

45. The Swedish Police Authority has raised its ambition in tackling hate crime and other crimes that threaten human rights and fundamental freedoms. This includes introducing a national contact point on these issues, and there are now democracy and hate crime groups in the Stockholm, West and South police regions. Equivalent capacity is also to be established in the other four police regions. Besides investigating relevant crimes, the designated resources will work with support to victims of crime, internal training, collaboration and other measures to create reassurance and trust.

46. From 2018 onwards, the Swedish Police Authority will be allocating an additional SEK 10 million in special funding for measures including strengthening existing efforts to increase bringing the perpetrators of crimes against democracy and hate crime to justice, clearer coordination, strategic work and follow-up.

47. Training on hate crime is a compulsory element in basic training for new police officers. In addition, there is internal online training available to all police employees. The Swedish Police Authority has also commissioned a training course from Uppsala University which provides in-depth skills on the underlying causes of racism, hate crime and crimes that threaten freedom of opinion.

48. The Swedish Police Authority is also stepping up its efforts to combat IT-related crime, including hate crime. National resources are being further expanded and regional IT crime centres are being set up.

49. The Swedish Police Authority conducts an ongoing dialogue with vulnerable groups on questions of security and safety at national and at local level. The Police Authority and the Swedish Security Service operate in close collaboration and also work in partnership with their counterparts in other countries. The Police Authority and the Security Service are constantly assessing whether there are grounds to take action to increase secu-

rity and safety and are equipped to do so, both nationally and at regional level if deemed necessary.

50. The appropriation letters for 2016 and 2018 commissioned the Swedish Police Authority to report back on the steps taken to combat hate crime. The Swedish Police Authority's latest report, submitted on 28 March 2019, showed that the authority has stepped up its efforts in several areas.

3.3.3.2 *Work of the Swedish Prosecution Authority*

51. Every local public prosecution office has one or more appointed prosecutors with special responsibility for dealing with hate crime. The Prosecution Authority's internal guidelines point out the importance of paying attention to and carefully investigating any hate motives and highlighting these as aggravating circumstances before the courts. If a hate motive can be proven, it may mean a harsher penalty for the perpetrator.

52. The Prosecution Authority has legal memoranda and handbooks that seek to give prosecutors guidance and support in inquiries and prosecutions. In recent years, the Prosecution Authority has produced a memorandum on hate crime and a memorandum on agitation against a national or ethnic group on social media. The authority has also produced a handbook on processing cases involving defamation and application of the special provisions that apply to such cases. The Prosecution Authority also conducts extensive training activities and training on hate crime is a part of the basic training of prosecutors.

3.3.3.3 *Work of the Swedish National Council for Crime Prevention*

53. The Swedish National Council for Crime Prevention (Brå) regularly produces statistics on hate crime. The statistics comprise police reports with identified hate crime motives and self-reported exposure to hate crime. The next report with statistics will be published by 31 October 2019.

54. Hate crime statistics used to be published every year but are now published every two years in order for Brå to be able to produce in-depth studies on hate crime. Last year Brå published two such studies, an analysis of self-reported exposure to hate crime based on the Swedish Crime Survey and a quality review of the police's flagging of cases as hate crime.

55. In June 2019 Brå produced an in-depth report on anti-Semitic hate crime. The study highlights the nature of anti-Semitic hate crime with a focus on perpetrators, with the aim of obtaining better data to strengthen preventive work.

56. With the aim of bolstering work to prevent violent extremism, the Government has set up a national centre for preventing violent extremism at Brå. The Centre for Preventing Violent Extremism (CVE) is to strengthen and develop work to prevent violent extremism.

3.3.4 Government support for security enhancement measures

57. The Ordinance (2018:1533) on government grants for security enhancement to civil society organisations entered into force on 1 October 2018.

58. The purpose of the government grant is that it should contribute to meet needs for security enhancement measures in civil society organisations whose activities are affected by fear of threats, violence and harassment linked to skin colour, national or ethnic origin, religion or belief, sexual orientation, transgender identity or expression or other similar circumstance or the work of organisations against racism or similar forms of hostility.

59. Grants may be awarded to faith communities, non-profit organisations and certain foundations provided that particular criteria in the Ordinance are met.⁶

60. The Ordinance (2018:527) on government support for security-enhancing measures in schools entered into force on 15 June 2018. The grant is set up to reduce the risk of crimes against schools or against students or school staff. It is to be spent on physical security enhancing measures that improve safety in school buildings, in school grounds and equivalent outdoor areas in after-school programmes.

61. The Swedish National Agency for Education allocates the grant for security-enhancing measures to providers who run schools where there is a tangible risk of crime where a motive for the crime is to aggrieve a person, ethnic group or some other similar group of people due to any such circumstance referred to in Chapter 29, Section 2(7) of the Penal Code (i.e. race, colour, national or ethnic origin, religious belief, sexual orientation, transgender identity or expression or other similar circumstance).

3.3.5 Legislation

62. On 1 July 2018 the grounds of transgender identity or expression were added to the provision on unlawful discrimination and to the rule on prosecuting insulting behaviour. An addition was also made such that it is expressly stated that it is an aggravating circumstance if a motive for an

6. The government grant must be provided for measures to enhance security, partly in the form of protection for buildings, premises or other facilities in which the organisation runs activities, and partly for security in the form of staff resources or technical solutions.

offence was to insult a person or a population group on grounds of transgender identity or expression. On 1 January 2019 transgender identity or expression was also added to the provisions of the Freedom of the Press Act and the Penal Code on agitation against a national or ethnic group. These changes to the law bring about expanded and clearer protection under criminal law for transgender people.

63. The new Video Surveillance Act which entered into force on 1 August 2018, means that a permit is no longer required for video surveillance, e.g. of editorial offices and premises used by religious communities. Under the new act, permits for video surveillance are only required for video surveillance carried out by government agencies and some other bodies carrying out tasks in the public interest.⁷

64. To further improve opportunities of fighting crime with the help of video surveillance, the Government has produced a proposal that allows the Swedish Police Authority and the Swedish Security Service to conduct video surveillance entirely without a permit from the Swedish Data Protection Authority from 1 January 2020. A government bill on this was submitted to the Riksdag in June 2019.

65. The Government has appointed a parliamentary committee to consider whether specific criminal liability should be introduced for participation in a racist organisation and whether a ban should be introduced on racist organisations as such.

3.3.6 *International conference to commemorate the Holocaust*

66. In October 2020 the Swedish Prime Minister will host an international conference commemorating the Holocaust to highlight and combat anti-Semitism. The conference is currently being planned.

3.3.7 *International work on intercultural and inter-religious dialogue*

67. A special envoy for inter-religious and intercultural dialogue is posted at the Ministry for Foreign Affairs. The duties of the special envoy include strengthening work against anti-Semitism and islamophobia internationally, and protecting religious, including Christian, minorities in the Middle East and North Africa.

7. The new act makes it easier for the Swedish Police Authority and municipalities, for example, to gain permits for video surveillance to combat crime and improve security in public spaces. The Swedish Police Authority and the Swedish Security Service have also gained expanded opportunities to use video surveillance without a permit for a period of three months to combat aggravated violent crime, extensive destruction of property and other serious crime.

3.4 Measures for gender equality and to prevent men's violence against women

3.4.1 Objectives and agency

68. The overarching objective of Sweden's gender equality policy is for women and men to have the same power to shape society and their own lives. Under the sub-goal of equal division of power and influence between women and men, women and men are to have the same rights and opportunities to be active citizens and shape the terms of decision-making.

69. Following a Government decision, the Swedish Gender Equality Agency was founded on 1 January 2018. The agency's remit includes developing preventive measures to combat men's violence against women, honour-related violence and oppression, prostitution and human trafficking for all purposes and violence in same-sex relationships.

3.4.2 Sex-based quotas on corporate boards

70. The goal of the gender equality policy has not been attained in the private sector. Despite progress, men continue to dominate in the boardrooms of private companies and in management. In 2018 boards of directors in private companies comprised 34 percent women and 66 percent men, while women accounted for 9 percent and 8 percent of chairpeople and CEOs respectively. Distribution between men and women is equal in wholly and partly state-owned companies, with figures standing at 48 percent women and 52 percent men in the same year. 48 percent of these companies are chaired by women and women make up 36 percent of their CEOs. Statistics for 2019 show that for the first time women are in the majority in chairing state-owned companies.

71. The Government works actively to promote equal distribution between women and men, including on government boards, advisory councils and on committees of inquiry. With regard to sex-based quotas, the Riksdag stated in a report that equal distribution between women and men is to be attained by other means.

3.4.3 The gender pay gap

72. In Sweden, responsibility for pay levels lies with the labour market partners. The employer and employee unions work actively to reduce the pay gap between women and men.

73. Under the sub-goal of economic equality, men and women must have the same opportunities and conditions regarding paid work so as to provide economic independence throughout their lives. This goal has not been met in terms of the gender pay gap. In 2017, the gender pay gap was 11.3 percent. When factors such as occupation, sector, education, age

and working hours are taken into account, the undeclared pay gap is 4.3 percent. The single most important cause of the differences in pay is that women and men work in different occupations and these occupations have different pay levels.

74. The Discrimination Act (2008:567) has been reviewed to tackle the gender pay gap. All employers must now conduct a pay survey every year. Employers with ten employees or more must also document their work on the survey. The purpose of the survey is for employers to be able to discover, remedy and prevent unfair differences in pay between women and men. The survey must also cover other terms of employment.

75. In December 2017 the Government passed a decision to draw up an action plan on gender equal lifetime income. The plan describes the key factors affecting lifetime income (the gender segregated labour market, pay differentials, health and safety and sickness figures, unequal use of parental insurance) and the measures that have been taken or are in the pipeline.

3.4.4 *Men's violence against women*

76. In November 2016, the Government decided on a ten-year national strategy (2017–2026) to prevent and combat men's violence against women.⁸ The strategy takes a holistic approach to areas in need of improvement, focussing on four political aims for expanded and effective preventive work to combat violence: improved detection of violence, stronger protection for and support to women and children subjected to violence, more effective law enforcement and improved knowledge and methodological development. The strategy has an action programme for the period 2017–2020. The Government has allocated more than SEK 1 billion to implement the action programme.

77. In recent years, several inquiries have been conducted and legislative amendments introduced to strengthen efforts to combat men's violence against women. A new legislation concerning sexual offences – based on the principle of consent – entered into force 1 July 2018.⁹

78. Sweden has put in place universal measures to prevent violence, which are defined as primary prevention. This involves producing, developing and implementing programmes geared towards a broad target group which involve changing gender stereotypes. The Government supports this trend through mandates to the Swedish Gender Equality Agency, the county administrative boards and in an agreement with the Swedish Association of Local Authorities and Regions. Work on these universal measures to prevent violence is constantly evaluated. The county administrative

8. Communication 2016/17:10.

9. Government Bill 2017/18:177.

boards also work on campaigns to draw attention to the problem of men's violence against women. Pilot helplines have been opened in two counties for people who feel they need help with their aggressive behaviour towards family members. The aim of the helplines is early discovery and offering the opportunity to change behaviours before violence escalates.

79. The National Board of Health and Welfare and the Swedish Prison and Probation Service are tasked with developing treatment initiatives for people who have committed violence in close relationships. To better understand causes and areas in society where development is needed, the National Board of Health and Welfare has a statutory duty to investigate deaths. From 1 January 2019, this work has been expanded to also cover certain forms of non-fatal violence in close relationships.

80. Since 1 July 2018, knowledge of violence in close relationships and men's violence against women has been included in the degree programmes for physiotherapists, lawyers, doctors, psychologists, nurses, social workers and dentists.

81. For 2015–2019, the Government has decided on the largest allocation of government grants to non-profit shelters for women and girls ever, SEK 515 million.

3.5 Measures to combat human trafficking

82. Chapter 4, section 1(a) of the Swedish Penal Code contains the criminal provision on human trafficking. On 1 July 2018 several legislative amendments entered into force which were, inter alia, intended to strengthen the protection in criminal law against human trafficking and exploitation. As regards the criminal provision on human trafficking, the legislative amendments entail clarifications to criteria of the offence and provide stronger protection for children as well as a stricter minimum penalty for human trafficking offences that are less gross.

83. Combatting human trafficking has long been a priority issue for the Government. Swedish agencies work actively to train staff in the judicial authorities who work against human trafficking. In the past decade, the Swedish Crime Victim Compensation and Support Authority has run several training programmes for staff working at the Swedish Police Authority, the Prosecution Authority and the courts, to improve the way victims of human trafficking and sexual crimes are treated. The authority also provides information to victims of crime in a number of different languages.

84. Since 1 January 2018 the Swedish Gender Equality Agency has been responsible for coordinating national efforts to combat human trafficking. The Swedish Gender Equality Agency is also responsible for calling meetings of the National Task Force against Prostitution and Human Traffick-

ing (NMT) which brings together agencies working to combat prostitution and all forms of human trafficking.¹⁰

85. In February 2018 the Government adopted a national action plan to combat prostitution and human trafficking. It addresses all forms of human trafficking and defines activities and people responsible for implementing them.

86. In 2018, the Government tasked the Swedish Police Authority with identifying and reporting on the measures it had taken to boost its capacity to combat human trafficking in the whole country. Initiatives carried out by the Swedish Police Authority include training initiatives, and the fact that the police now has an action plan to combat human trafficking.

87. Regarding human trafficking investigations, since 1 April 2018, all such cases are handled by the Prosecution Authority's National Unit against Organised Crime (RIO). Prosecutors who work at RIO are all senior prosecutors with long experience. Since February 2019, there is also a simple methodological support on human trafficking for prosecutors in the local public prosecution offices who come into contact with this type of crime.

88. The Swedish Migration Agency decides on temporary residence permits for aliens, who are in Sweden as victims or witnesses, following applications from the head of a preliminary investigation. The Swedish Migration Agency also plays an important role in work to combat human trafficking by uncovering suspected victims and reporting alleged crimes to the agencies concerned, such as the Swedish Police Authority and social services, within its remit.

10. NMT provides training and is an opportunity to exchange best practice to improve efforts to combat human trafficking. A regional coordinator has been appointed in Region East, which means there is now a coordinator in all seven police regions. The task of the regional coordinators is to assist agencies by providing support in human trafficking cases and acting as a regional actor with cutting-edge expertise on human trafficking. The regional coordinators are part-funded by the agency. They make it possible to link up regional work against prostitution and human trafficking with work at national level. The Swedish Gender Equality Agency is also responsible for and finances the Assisted Voluntary Return programme to enable victims in cases of prostitution and human trafficking to return to their home countries. The programme, which is carried out by IOM (International Organization for Migration) in Finland, provides support for foreign citizens who have been the victims of prostitution and human trafficking in Sweden to return home, tailored to the individual.

3.6 Measures for the rights of the child

3.6.1 *Policy for the rights of the child*

89. Sweden's policy for the rights of the child is based on the CRC and other international agreements and spans all sectors. This means that rights of the child must permeate through all policy, and all activities that involve children. The strategy to strengthen the rights of the child in Sweden, adopted by the Swedish Government in 2010, states that the fundamental principles of the UN Convention on the Rights of the Child (the CRC) should be observed in the formulation of all relevant legislation, regulations and general advice, regardless of policy area¹¹.

90. In this policy area, the Ombudsman for Children is tasked with representing children's rights and interests and with monitoring and driving the implementation of the CRC. In 2017–2019 the Ombudsman for Children has received special funding from the Government to offer governmental agencies and others support on appropriate guidance, knowledge and skills in the interpretation and application of the rights of the child.

3.6.2 *Non-discrimination and the right to education*

91. To ensure that children are not discriminated against under Article 2 CRC, it is important that the knowledge of children's living conditions which is gathered enables comparison based on different background factors. It also forms the basis for measures and designing operations geared towards children.

92. In Sweden, education is compulsory, which means that children entered in the Swedish population register must attend school unless they have a valid reason not to do so. Under the Swedish Education Act (2010:800), everyone, wherever they live and whatever their social and economic circumstances, must have equal access to education within the education system. The education is to be of equal value across the whole of Sweden and must be founded on the child's best interests. This means that students who find it difficult to fulfil the different skills requirements that exist due to a disability must be given support that seeks to counteract the consequences of the disability as far as possible.

3.6.3 *Child early and forced marriage, sexual exploitation and protection against child trafficking*

93. The starting point of Swedish marriage legislation has long been that anyone under the age of 18 has not reached a sufficient level of matu-

11. Government Bill 2009/10:232 Report 2010/11:3, Communication 2010/11:35.

rity to form an opinion on the personal and economic issues that arise in marriage. The opportunity for a person under the age of 18 to be granted permission to enter into marriage (marriage dispensation) was removed on 1 July 2014. The lowest age at which anyone may marry in Sweden is thus now 18, without exception. On 1 January 2019, the regulation was tightened up even further as a legislative amendment entered into force stating that, as a new main rule, no foreign child marriages would be recognised in Sweden.

94. Under the Government's National Action Plan to protect children from human trafficking, exploitation and sexual abuse 2016–2018, a number of steps have been taken with the aim of preventing such violations and effectively protecting children, bringing perpetrators to justice and providing support and protection to child victims.

95. In 2018 the Swedish Gender Equality Agency took over the duties of the Stockholm County Administrative Board in coordinating work to combat human trafficking and exploitation of children on a national basis. Additionally, an ambassador for international cooperation against human trafficking has been appointed, the Government has arranged themed dialogues to combat exploitation in conjunction with tourism and travel, and the general public has been informed about sexual exploitation of children in conjunction with tourism and travel in order to prevent this.

96. In the judicial system, for example the Swedish Police Authority has been tasked with identifying and carrying out measures to improve capacity to combat sexual crimes against children and prosecutors have received in-service training in investigating human trafficking crimes.

3.6.4 *Children in migration*

97. All children in Sweden, including those present in Sweden without the necessary permits, have the right to both healthcare and education¹². As the rules are formulated, it can be said that Sweden's regions and municipalities have a far-reaching responsibility to ensure that the right to care and education is realised, both for those legally resident in the country and those who are not.

98. In cases involving a child, particular attention must be given to what is required with regard to the child's health and development and the best interests of the child in general¹³. The consequences for children must

12. See section 6 of the Act (2013: 407) on healthcare for certain foreigners residing in Sweden without the required permit and Chapter 29, sections 2–3 of the Education Act (2010:800).

13. See chapter 1, section 10 of the Aliens Act (2005:716).

be analysed before decisions or other measures that may affect children¹⁴. The Swedish Migration Agency must attempt to locate family members of children under the age of 18 who on arriving in Sweden are separated from both their parents or from another adult who may be considered to have acted in the parents' stead, or who after arrival are without such a representative and who are covered by section 1, paragraph 1 and section (1) and (2) of the Act (1994:137) on reception of asylum seekers etc., as soon as possible.¹⁵ If the child is found a placement by social services, social services must design the care such that it promotes the child's relationship with relatives and other people close to the child and contact with the home environment¹⁶.

3.6.5 *The rights of the child in international development cooperation*

99. Development cooperation is an important tool for promoting the rights of the child. The perspective of the rights of the child must be prioritised in development cooperation in line with the UN Convention on the Rights of the Child.

3.6.6 *Procedural safeguards for children*

100. Sweden has implemented Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. The legislative amendments entered into force on 11 June 2019.

3.7 Measures for the rights of indigenous peoples and national minorities

3.7.1 *Sámi policy*

3.7.1.1 *Influence and participation*

101. Work has continued to ensure that the Sámi people are able to exercise their rights, with strengthening Sámi influence and participation as a central element. In recent years the Government has continued its ongoing efforts to strengthen the status of the Sámi as an indigenous people and a national minority.

14. See section 4 (8) of the Ordinance (2019:502) Containing Terms of Reference for the Swedish Migration Agency.

15. Under section 2d of the Ordinance (1994:361) on the reception of asylum seekers etc.

16. See chapter 6, section 1, paragraph 4, Social Services Act (2001:453).

102. As previously reported, the Sámi Parliament has a mandate to engage in community planning and monitor consideration of Sámi needs, including reindeer-herding interests in land and water use. The Sámi Parliament participates in reference groups and working groups, forums and in consultation with central and regional agencies.

103. In addition to this, proposed amendments to the Minerals Act have been submitted and implemented. Under the new provisions, which have applied since 1 January 2018, an environmental assessment must be carried out before licences are granted under the Minerals Act. This means that the operator must conduct a consultation regarding the siting of operations and their anticipated environmental impacts, etc. with individuals who can be assumed to be particularly affected by such operations, i.e. including reindeer husbandry.

104. The Sámi's opportunities and influence over exercising their economic, social and cultural rights are important to the Government. Consequently, the Government joined countries including Australia and Canada in contributing knowledge and financial resources to an OECD study that seeks to improve the economic development opportunities of indigenous populations. The study has been produced in close collaboration with representatives of the Sámi community and was presented in spring 2019. A unique study, it examines how existing tools, measures and regulations in rural development and regional growth work for the Sámi community and businesses. Policy recommendations for how to strengthen the link between indigenous peoples on the one hand and regional growth policy and rural policy on the other were presented in the study.

105. Furthermore, work on proposals for a consultation system on issues that affect the Sámi people continued in 2018 and 2019. When producing proposals for a consultation system, dialogue was conducted with bodies including the Sámi Parliament, which is an important actor in the process.

106. Deeper dialogue with the Sámi Parliament's political leadership on important outstanding issues of Sámi policy has continued, including the Sámi Parliament informing the responsible minister of ongoing work to gain support for a truth and reconciliation commission.

3.7.1.2 *The Sámi Parliament*

107. The Riksdag has passed a number of statutory amendments that entered into force on 1 July 2019. These include ensuring that the plenary assembly of the Sámi Parliament is to continue to be the highest decision-making body, that the Sámi Parliament's Board is to be responsible for the work of the Sámi Parliament and that the administrative director is to run ongoing activities in line with the instructions and guidelines determined by the Board.

3.7.1.3 Nordic Sámi Convention

108. Negotiations between Sweden, Norway and Finland on a Nordic Sámi Convention were completed in 2017, after which the Sámi Parliaments in Sweden, Norway and Finland submitted a request to the governments of the respective countries regarding a number of amendments through the Sámi Parliamentary Council in 2018. This request is currently being prepared in the respective government offices.

3.7.2 Minority policy

109. One of Sweden's fundamental laws, the Instrument of Government, states that "everyone shall be guaranteed the following rights and freedoms in his or her relations with the public institutions" and that one of the six freedoms is "freedom of worship; that is, the freedom to practise one's religion alone or in the company of others".¹⁷ Sweden's national minorities are the Jews, the Roma, the Sami, the Swedish Finns and the Tornedalers. Sweden is a secular state in the sense that it has no state church or state religion.

110. The focus of work on minority policy is on safeguarding the rights of the national minorities. These are human rights that follow on from international commitments.

111. To strengthen the legislation that regulates the rights of the national minorities, the Government produced the Government Bill *En stärkt minoritetspolitik*.¹⁸ The bill is part of revising the direction of minority policy. The Riksdag passed the bill on 19 June 2018 and the proposed legislation entered into force on 1 January 2019.

112. The Government has also produced the communication *Nystart för en stärkt minoritetspolitik*¹⁹ with assessments to safeguard national minority rights. The communication is the second part of the new focus of minority policy. Legislation on national minority rights and the state's obligations are now stronger and clearer.

113. The Government has decided on terms of reference for an inquiry that seeks to investigate in more detail and analyse what the structure of agencies for coordinating, developing and monitoring minority policy will look like. The inquiry *Samordning, utveckling och uppföljning för en stärkt minoritetspolitik* (Coordination, development and monitoring for a stronger minority policy) (2018:86) will run until 29 April 2020.

17. See Chapter 2, section 1, Instrument of Government.

18. A stronger minority policy, Government Bill 2017/18:99.

19. New start for a stronger minority policy 2017/18:282.

3.7.2.1 *Roma inclusion*

114. In 2016–2019 five municipalities have received government grants to carry out development work on Roma inclusion. According to the report of the coordinating agency, Stockholm County Administrative Board, the municipalities have developed initiatives that have produced positive results in relation to several target groups, such as initiatives to improve the skills of staff, methods to educate the general public in Roma history, and working methods to encourage young people to be open about their Roma identity.

115. The Swedish National Agency for Education has produced a digital support package of teaching materials within its mandate for 2016–2019 to increase knowledge about the Roma national minority in schools. The agency has also appointed compulsory school teachers as human rights ambassadors, who have received skills development in the field of human rights and national minorities with a focus on Roma. Stockholm County Administrative Board has also distributed approximately 25,000 copies of the textbook *Anti-Gypsyism in Sweden*.

116. Other agencies have also carried out training initiatives within the remit of their mandate on Roma inclusion 2016–2019. The Swedish National Board of Housing, Building and Planning has trained housing companies with the aim of counteracting discrimination against Roma in the housing market and the National Board of Health and Welfare has trained social workers to improve treatment and inclusive working methods. The Swedish Public Employment Service has initiated internal dialogues with employer centres and company advisers to increase awareness of the conditions on the labour market experienced by many Roma.

117. Activities with mediators with Roma language and cultural skills have continued. The mediators are employed in social or labour market administrations or in schools. According to the municipalities' reports, the work of mediators has helped to create networks of contacts, improve trust and faith in government agencies, spread information leading to greater awareness of the situation of Roma, and led to a reduction in school absence and an increase in contact between home and school.

118. It is clear from the reports of Stockholm County Administrative Board that all municipalities that receive government grants for their work carry out some form of consultation with Roma representatives and otherwise work with participation and influence in different ways.

119. To further improve conditions for Roma participation and influence, in 2016–2019 the Swedish Agency for Youth and Civil Society has been tasked with allocating government grants to organisations that carry out health promotion initiatives geared towards Roma, training Roma

organisations in organisational techniques and arranging exchanges of experience between these and non-Roma organisations.

120. Work is currently in progress to summarise experiences from the work on Roma inclusion to date and to discuss the focus on work from 2020 onwards in dialogue inter alia with the Government Offices' Roma reference group.

3.8 Measures for the rights of persons with disabilities

3.8.1 Strategy for implementing disability policy

121. A number of measures were carried out to ensure that the strategy for implementing disability policy for the years 2011–2016 was implemented and gained an impact. To clearly set out the objectives of disability policy, goals were set up in nine priority areas: Labour market policy, Social policy, Education policy, Transport policy, IT policy, Greater physical accessibility, Judicial system, Public health policy, and Culture, media and sport. On the basis of the objectives, about ten strategic government agencies worked on a number of sub-goals in their respective areas of activity. The agencies reported the progress of the work to the government each year and to the Swedish Agency for Participation (MFD).

122. MFD was tasked with evaluating disability policy, and this evaluation served as a basis when drawing up the new national objective for disability policy based on the UN Convention on the Rights of Persons with Disabilities.

3.8.2 Effective implementation of recommendations on the rights of persons with disabilities

123. The Government has taken a number of measures that seek to carry out the recommendations that the UN's Committee on the Rights of Persons with Disabilities (the Committee) gave Sweden in 2014.²⁰ In order to disseminate the recommendations, in 2015 the Government tasked MFD with working with the Equality Ombudsman (DO) to implement a communication initiative to increase awareness of the content of the Convention in 2015–2017, and, in this context, also to provide information on the Committee's recommendations to Sweden.

124. The recommendations from the Committee further formed the basis of the Government's design of future disability policy and have served as a starting point when producing new objectives and a new focus for implementing disability policy.

20. CRPD/C/SWE/CO/1.

125. In the Government Bill “*Nationellt mål och inriktning för funktionshinderspolitiken*” (National objective and focus for disability policy) the Government proposed a new objective and a new focus for disability policy and a number of measures that coincide with areas in which The Committee has submitted recommendations to Sweden. In line with the proposals in the bill, in 2017 the Riksdag passed a decision on a new national objective for disability policy drawing on the UN Convention on the Rights of Persons with Disabilities.²¹

3.8.3 Compulsory psychiatric care

126. The starting point is that persons with disabilities are to be given the care and treatment that they need voluntarily. If a person needs to be placed in a healthcare institution against her or his will, a special medical certificate is needed, an institutional psychiatric care certificate. The certificate must be written in conjunction with a medical examination by a licensed doctor.²²

127. On 1 July 2017 certain legislative amendments entered into force with the aim of creating better conditions for patients to participate in the care provided under the Act on compulsory psychiatric care (LPT) and the Act on forensic psychiatric care (LRV).²³

21. The new objective reads: “The National Goal for the disability policy has the UN Convention on the Rights of Persons with Disabilities as a starting point: The aim is to achieve equality in living conditions and full participation for persons with disabilities, in a society with diversity as a foundation. The objective shall contribute to increased gender equality and consideration of the rights of children”. Government Bill 2016/17:188, report 2017/18: SoU5, Riksdag Comm. 2017/18:86).

22. For compulsory psychiatric care to happen, three conditions must be met, which must be shown in the institutional psychiatric care certificate. Firstly, the individual must suffer from a serious mental disorder. Secondly, the person must have an absolute need for psychiatric care in a healthcare institution round the clock due to their mental state and their personal circumstances. The third criterion is that the person opposes treatment for the mental condition or is so ill that she or he cannot judge their need for care.

23. The legislative amendments partly mean that there must be a coordinated care plan in out-patient compulsory psychiatric care as far as possible and it must be designed in consultation with the patient and, if this is not inappropriate, with the patient’s close relatives. In addition, the patient’s attitude to the measures set out in the coordinated care plan must be reported in conjunction with applications for care as far as possible. Another new element is that the head consultant in compulsory psychiatric care and forensic psychiatric care must ensure that a patient is offered a follow-up discussion following the implementation of a compulsory psychiatric care intervention as soon as the patient’s condition permits.

128. Another measure introduced is that the Government has tasked the national coordinator for developing and coordinating mental health initiatives with reviewing compulsory psychiatric care measures under LPT for children and young people under the age of 18.

3.8.4 Accessibility and participation for persons with disabilities

3.8.4.1 Accessible public transport

129. The Swedish Transport Administration has set an objective for physical accessibility in its work on disability policy. The target is for 150 stations and 2,000 bus stops to be accessible by 2021. At the moment the Swedish Transport Administration has made about 100 stations and 1,700 bus stops accessible to persons with disabilities who use the transport system.

130. The Government commissioned the agency Transport Analysis to survey obstacles to the accessibility and usability of the public transport system for persons with disabilities. Transport Analysis submitted its report in March 2019.

3.8.4.2 Housing planning

131. In 2018 the Government tasked the Swedish National Board of Housing, Building and Planning with producing guidance to support the municipalities in how accessibility, participation and disability perspectives can be incorporated in the municipality's comprehensive planning. The Swedish National Board of Housing, Building and Planning's guidelines cover how municipalities can work with targets and standpoints in their urban planning. The guidance also describes working methods that incorporate the disability perspective in organisations and planning processes.

132. The Swedish National Board of Housing, Building and Planning has also been commissioned to analyse whether the rules on easily eliminated obstacles under the Planning and Building Act (2010:900) (PBL) need to be clarified or amended. The Swedish National Board of Housing, Building and Planning has identified a number of causes of accessibility shortcomings and proposed action to rectify these. The proposals are currently considered in the Government Offices.

3.8.4.3 Digitalisation

133. Sweden has adopted a new Act (2018:1937) on accessibility of digital public services. The Ordinance (2018:1938) on accessibility of digital public services appoints the Agency for Digital Government (DIGG) as the supervisory authority.

134. Within its remit, the Swedish Post and Telecom Authority (PTS) procures electronic communication services for persons with disabilities.

The authority works to identify needs and accessibility shortcomings (obstacles) for persons with disabilities regarding electronic communication. In 2018 the Government tasked PTS with setting up user councils with the aim of increasing digital participation of persons with disabilities.²⁴

135. PTS also participates in Swedish and European standardisation work, such as the standard EN 301549 on Accessibility requirements suitable for public procurement of ICT products and services in Europe.

136. PTS runs innovation contests with the aim of producing solutions that help to ensure that more people can benefit from the opportunities of digitalisation, irrespective of disability. Special financing is also provided to certain development projects that focus on people with disabilities and special needs. Eight projects have received funding in 2018.

137. In 2017 PTS had an extensive statistical study carried out entitled *Svenskarna med funktionsnedsättning och internet 2017*.²⁵

3.8.4.4 Procurement

138. The Public Procurement Act was amended in 2016. The act states that when the subject-matter of purchase is to be used by natural persons, the technical specifications shall be determined given the needs of all users, including accessibility for persons with disabilities. The act was amended in the light of the EU's Procurement Directives. Extensive reforms of public procurement have been conducted in recent years. There are three new procurement acts, the Public Procurement Act (2016:1145), the Act (2016:1146) on procurement in the water, energy, transport and postal services, the Act (2016:1147) on procurement of concessions, plus decisions on a national procurement strategy and establishing a supportive Procurement Agency. The new legislation carries with it an obligation to take accessibility and the needs of all users into account.

3.8.4.5 Access to public sector employment

139. The Government has charged a number of government agencies with making work experience placements available for disabled jobseekers whose disability reduces their capacity to work. This intervention is to run from 2016 to 2020. The agencies are to jointly take on an average of at least 1,000 women and men each year.

140. Government agencies also have an opportunity to employ people with disabilities through subsidised posts. Under this system, the Swedish Public Employment Service provides a financial contribution towards the

24. N2018/00719/D.

25. Swedes with disabilities and the internet 2017.

employer's wages costs. This grant compensates for the employer adapting the work and the site to the individual's needs. The purpose of these posts is to help women and men with disabilities to obtain and retain a job.

3.8.5 Measures to enable persons with disabilities to obtain and retain a job

141. In recent years the Government has introduced several measures to make it easier for persons with a disability to obtain and retain a job. The measures include gradually raising the ceiling for wages costs for subsidised jobs and increasing the ceiling for compensation for people who need the support of an interpreter for in-service training, increased funding for Samhall AB, a state-owned company that creates jobs for people with functional impairments, oversight of the regulatory framework for subsidised employment, work experience placements with government agencies, information campaign aimed at encouraging employers to focus on people's abilities and skills rather than on obstacles and disabilities and a review of the regulatory framework for special initiatives for persons with disabilities.

142. The Government has also carried out a number of reforms that seek to improve opportunities for women and men with disabilities to obtain and retain jobs. In Sweden, women and men with disabilities have access to the Swedish Public Employment Service's entire range of labour market policy measures. However, there are also measures specially designed for women and men with disabilities. This mainly involves subsidised employment.

143. Private and public employers have an opportunity to employ people with disabilities through subsidised posts. Under this system, the Swedish Public Employment Service provides a financial contribution towards the employer's wages costs. This grant compensates for the employer adapting the work and the site to the individual's needs. The purpose of these posts is to help women and men with disabilities to obtain and retain a job.

3.8.6 Measures to protect the rights of persons with psychological disabilities

3.8.6.1 Applicable regulations

144. The municipalities' social welfare committees are to work to ensure that people who for physical, psychological or other reasons encounter significant difficulties in conducting their lives gain an opportunity to engage in society and life as others do. Measures under both the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) and the Social Services Act (SoL) are voluntary and are to

be designed and carried out jointly with the individual. Under LSS, the individual is to be given influence and co-determination over the interventions given.

145. The Health and Social Care Inspectorate (IVO) supervises activities run under LSS and SoL. IVO is to provide advice and guidance, check that deficiencies and shortcomings are rectified, pass on information and experiences obtained through its supervision, and inform and advise the general public. IVO addresses complaints from providers and from individuals.

3.8.6.2 Measures to protect rights

146. In 2016 the Government decided to review the initiatives in the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) and attendance allowance.²⁶ In January 2019 the inquiry submitted a proposal on amended rules for attendance allowance.²⁷ currently being considered at the Government Offices.

147. The Government is conducting a broad range of reforms to improve healthcare with a particular focus on primary care, accessibility and staff conditions. Improving primary care and specialised out-patient psychiatry will increase opportunities to ensure that persons with psychosocial disabilities who live in their own homes or in supported accommodation are able to receive the support that they need.

148. The Government has tasked the Public Health Agency of Sweden with coordinating suicide prevention at national level.²⁸ The agency is to develop cooperation between actors at national level, develop monitoring and boost knowledge building in the area. The agency is working, for example, to produce in-depth information on different types of suicide prevention initiatives.

149. The Government has tasked the National Board of Health and Welfare with producing and disseminating information that can support the work of the health service and social services in preventing suicide. The National Board of Health and Welfare is to take the steps it finds appropriate to ensure that the health service and social services have access to knowledge support to systematically work to prevent suicide, pay attention to suicide risk and take the appropriate measures when a risk of suicide is identified in patients and clients.²⁹

26. Dir. 2016:40.

27. SOU 2018:88.

28. S2015/3986/FS.

29. This mandate includes the National Board of Health and Welfare spreading needs-based knowledge support tailored to the target group regarding approach, early

150. The Government has tasked the Police Authority to strengthen the competence of police employees to respond to mental illness by reinforced educational efforts in the area.

3.8.7 International development cooperation

151. Sweden's development cooperation takes as a point of departure the perspective of poor people on development and a rights-based perspective. A rights-based perspective means that human rights and democracy are to be seen as fundamental to development and includes four fundamental principles: non-discrimination, participation, openness and transparency, and responsibility and accountability.

152. The aim of Swedish international development cooperation is to create preconditions for better living conditions for people living in poverty and under oppression.³⁰ Under the policy statement issued by the Government on 21 January 2019, the Government will continue Sweden's extensive development cooperation and maintain aid equivalent to one percent of GDP. Aid will further be focused on democracy initiatives.

153. In 2018 the Swedish International Development Cooperation Agency (Sida) was tasked with working in dialogue with MFD to report on the inclusion of people with disabilities in the agency's initiatives and follow-up in international development cooperation. The agencies were also to provide information on how the initiatives help to meet the sustainable development goals of the 2030 Agenda and identify and propose areas for development regarding how the disability perspective could be better incorporated. Additionally, in spring 2019 Sida started using the new policy marker for disability inclusion, which will increase opportunities to follow-up disabilities in development cooperation.

4. Conclusion

154. The introduction made clear that this report focuses on the recommendations that Sweden has accepted within the second cycle of the UPR

discovery, care and treatment of suicidality to professionals in the health service, social services and others affected. This means that the knowledge support needs to shed light on risk factors for older people and for children and young people. Attention is to be paid to gender differences, as well as the greater risk of mental illness in children and young persons living in vulnerable situations and the soaring incidence of mental illness and suicide among minority groups, asylum seekers, persons with disabilities, LGBTQ-persons and people who belong to the national minorities or the Sámi people.

30. Govt Bill 2013/14:1 expenditure area 7, report 2013/14:UU2.

process in line with the guidance from the UN for the national reports in the third cycle of UPR. However, some of the issues in the recommendations that Sweden has not accepted are also addressed in the report. For example, these include the issue of ratification of the Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the question of ratification of ILO Convention (No. 169) on indigenous and tribal peoples, the question of ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the question of introducing a ban on racist organisations.

(Downloaded from <https://regeringen.se/4ad5be/contentassets/49b69f-19914542d2ab6c00d1e2ed56b2/national-report-from-sweden-in-the-third-cycle-of-universal-periodic-review-2019.pdf>)

3. Civil society concerns in the UPR and other reports

As mentioned in the introduction, several human rights organisations, such as Amnesty International, Civil Rights Defenders and the UN Association of Sweden, rendered significant contributions to the government's preparation of the Universal Periodic Review, UPR, of Sweden in 2020.

In this chapter, we highlight their contributions on three issues of lasting concern in the series of CSP encouraged self-evaluations: Discrimination and hate speech, gender equality and torture respectively.

In addition, some women's organisations, who were not involved in the UPR preparation- the Swedish Women's Lobby, The Kvinna till Kvinna Association (Women to Women) and the Swedish Section of the Women's International League for Peace and Freedom, WILPF/IKFF of WILPF, were invited to contribute.

The selected texts are excerpts from these different reports. The footnotes are largely excluded but are there in the original documents which can be accessed at the Swedish OSCE-network website,

www.ossenatverket.org

a) Discrimination and hate speech

Discrimination and hate speech is a continuous problem in Sweden, according to several human rights organisations. Although Sweden has developed a strategy to combat discrimination and hate speech, such as training of police officials in identifying and processing hate crimes, the number of reported incidents remains at a high level. In addition, there are a lot of unreported incidents. Specific victims of discrimination and hate crimes are Roma people, Muslims, Afro-Swedes, Jews and indigenous Sami. (*The Sami issue is in this self-evaluation discussed in an essay of its own in the following chapter.*) Also, people with various sexual orientations could be victims of hate speech and discrimination.

One recommendation from the human rights organisations is to make much more effort in the training of police and law enforcement personnel.

Another important issue is that Sweden has continued not to outlaw the formation of racist and extremist organisations with the explanation that criminal acts committed by individual members of racist organisations may be prosecuted. Although the government has indicated the need for amendments in the legislation concerning racist organisations, no concrete measures have been initiated up to this day. A report to parliament about this need was transmitted in May 2021.

Sweden, contrary to many other countries, does not include disability as a potential motive for hate crime.

Sweden has, since 2009, a public Equality Ombudsman, a governmental institution aiming at monitoring and ensuring that laws and regulations about equality are implemented. The human rights organisations are, however, concerned that the ombudsman has been far too passive and not used available tools to litigate in individual cases.

Below you will find excerpts from the submissions from the Swedish section of Amnesty International, the UN Association of Sweden and Civil Rights Defenders to the UPR. In the case of Civil Rights Defenders, it is an updated version from May 2021 of their submission to the UPR report that has been included here.

1. Submission from the Swedish section of Amnesty International

A number of recommendations were related to racism and hate crime. Sweden's follow-up to these recommendations include the adoption of "A comprehensive approach to combat racism and hate crime – National plan to combat racism, similar forms of hostility and hate crime"¹ (Samlat grepp mot rasism och hatbrott – Nationell plan mot rasism, liknande former av fientlighet och hatbrott), and proposals by the Commission against Antiziganism (hostility, prejudice or racism toward Romani people).

Amnesty International is concerned about the omission of Roma who are citizens of other EU member states in relation to inclusion and protection against racism and hate crime.

2. Submission from the United Nations Association of Sweden

In the recent UPR-review, an overwhelming majority of the accepted recommendations by Sweden concerned issues of racial discrimination and related intolerance. However, hate crime with racist or xenophobic motive have continued to rise. According to the latest report from the National Council for Crime Prevention (BRÅ), xenophobia/racism has been the most prevailing motive for hate crimes during 2013–2016 in Sweden. In addition, hate crimes with anti-religious motives have increased and hate crimes with sexual orientation motives remain an issue. Unlawful threats and molestation constituted the most common type of crime amongst these types of cases, followed by physical damages, crimes of violence and agitation against certain ethnic groups. Additionally, in contrary to many other countries, Sweden does not include disability as a potential motive for hate crime.

Most committed hate crimes do not get reported to the police, and as such, statistics on the occurrence of hate crimes in Sweden remain difficult and do not depict the general existence of hate crimes in the Swedish society. Data on hate crime also reveal a striking gap between the number of reported hate crimes and the numbers of hate crime related offences which result in indictment. Legal as well as practical obstacles need to be investigated and resolved in order to effectively combat unrecorded, underreported and hate crimes resulting in indictment.

1. Sweden's national mid-term report Universal Periodic Review of the UN Human Rights Council. Government of Sweden, Ministry of Foreign Affairs.

2.1 **Racist and extremist organisations**

Despite repeated recommendations from the UN Committee against racial discrimination, Sweden has continued to legally allow the formation of racist and extremist organisations with the explanation that criminal acts committed by individual members of racist organisations may be penalised. Although the government has indicated the need of amendments in the legislation concerning racist organisations, no concrete measures have been initiated up to this day. The activity of racist and extremist organisations is an alarming issue for Sweden's democratic development and respect of fundamental human rights. These organisations and their activities are spreading extremist, racist and xenophobic propaganda and acting violently, both on the Internet and on the streets of Sweden. They are threatening the public safety, the protection of all citizens and especially ethnic and religious groups, minorities and other groups in risk of exclusion in the Swedish society. Nazi parties and associated organisations have taken part in major cultural and political events and been given permission to demonstrate and spreading propaganda.

Recommendations to the Swedish government:

- Implement and enforce existing legislation on hate crime and racist hate speech
 - Increase knowledge and expertise on the application and implementation of legislation on hate crime and hate speech by mandatory and continuous training to law enforcement officials at all levels
 - Install legislative and awareness raising measures to protect people affected by hate crimes on multiple and intersectional forms of discrimination
 - Include disability as a potential motive for hate crimes in the Penal Code
 - Establish a thorough investigation on the issue of unrecorded and underreported hate crimes, and the gap between reported hate crimes and the initiated investigations, prosecutions and convictions of perpetrators
 - Take concrete actions to combat organisation and participation in violent, anti-democratic and racist activities and propaganda with the limitations stipulated in the Swedish constitution, chapter 2, para. 24(2)
- Joint Submission for Sweden's third Universal Periodic Review in 2020

3. Submission from Civil Rights Defenders

3.1 Discrimination

3.1.1 *The Equality Ombudsman*

The latest recommendations include several proposals on effective measures to combat discrimination. A key issue is the mandate and work of the Equality Ombudsman. The Government has referred to a public survey on amendments in the legislation on discrimination as a means to strengthen the work of the Ombudsman.² In reality, however, the Ombudsman has chosen not to use the most powerful tool at its disposal, litigation in individual cases. Only very few complaints from individuals are dealt with at all and 3 cases resulted in court decisions in 2020, while the Ombudsman decided to initiate litigation or support the complainant only in 7 additional cases.³ These figures should be compared with the first years of the Equality Ombudsman office, 2009 and 2010, with 12 (11 in 2010) judgments and 36 (38 in 2010) that were settled.⁴

Furthermore, the Ombudsman announced that individual applications would from September 1, 2020 be called “tips and complaints”, thereby acknowledging that incoming applications are not regarded as cases requiring individual examination.⁵ This development has created massive criticism from civil society organisations, as it leaves individuals that face discrimination without protection and redress and also subverts the importance of the legislation against discrimination.

Recommendations:

- Make sure that the Equality Ombudsman works to ensure that individuals who have been discriminated get redress.

3.1.2 *Vulnerable EU-citizens*

Discrimination and hate crimes against the Roma were highlighted in the latest recommendations. Furthermore, the UN Human Rights Committee, in its most recent concluding remarks on Sweden, recommended

2. See Sweden's national mid-term report, chapter 1.2.

3. See the annual report of the Equality Ombudsman from 2020, available at: Årsredovisning DO 2020.

4. See the annual reports of the Equality Ombudsman from 2009, available at: <http://www.do.se/globalassets/om-do/arsredovisning-2009.pdf>, and from 2010, available at: <http://www.do.se/globalassets/om-do/arsredovisning-2010.pdf>.

5. See the information on the website of the Equality Ombudsman, 1 September 2020, available at: <https://www.do.se/om-do/pressrum/aktuellt/aktuellt-under-2020/idag-andrar-do-begreppet-anmalan-till-tips-och-klagomal>.

that the Government take all measures necessary to ensure equal access by Roma to education, employment, housing and health care and that all individuals within its jurisdiction, including Roma EU-citizens, enjoy equal rights without discrimination.⁶ The Government has, so far, not taken any measures in this regard.

A big concern is the situation for Roma and other vulnerable EU-citizens who travel to Sweden from countries such as Bulgaria and Romania to make their living. Many live in destitution in Sweden and support themselves through panhandling. Homelessness is widespread amongst individuals belonging to the group, and many have previously resided in temporary settlements in the outskirts of Swedish cities.⁷ Many municipalities have refused to provide these settlements with water and sanitation facilities, giving rise to unsanitary living conditions. During the past years, the authorities have made efforts to routinely and forcibly evict Roma EU-citizens from their temporary settlements.⁸ No alternative housing is offered to those evicted. The evictions have been criticized by the former UN Special Rapporteur on minority issues.⁹ Although individuals belonging to the group have proven to be especially vulnerable to hate crimes,¹⁰ the authorities make no efforts to protect them from such attacks.

The Government has consistently avoided its responsibility to grant the group its core rights under international human rights law and has instead

6. Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 15.

7. Socialstyrelsen (The National Board of Health and Welfare), Homelessness 2017 – Extent and Nature, 2017, p. 72. Available at: <https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2018-6-19.pdf>.

8. Sydsvenskan, Nu rivs Sorgenfriläget (The Sorgenfri camp is being demolished), 3 November 2015, available at: <https://www.sydsvenskan.se/201511-03/nu-rivs-sorgenfrilagret>.

9. See the letter from the Special Rapporteur on minority issues to the Swedish Minister for Foreign Affairs, dated 30 October 2015, available at: <https://crd.org/wp-content/uploads/2015/11/Brev-från-Specialrapportören-2015-10-301.pdf>.

10. Polismyndigheten (The Police Authority), Nationell lägesbild – Brottslighet med koppling till tiggeri och utsatta EU-medborgare i Sverige (National situation – Criminality with connection to panhandling and vulnerable EU migrants in Sweden), 2015, available at: <https://polisen.se/siteassets/dokument/manniskohandel/rapport-tiggeri-nat-lagesbild-151202.pdf>; Kommissionen mot Antiziganism (The Commission against Antiziganism), Studie om hatbrott och andra allvarliga kränkningar riktade mot utsatta romska EU-medborgare (Study on hate crimes and other serious violations aimed at vulnerable Roma EU citizens), October 2015, available at: <http://motantiziganism.se/wp-content/uploads/2016/01/Tiberiu-Lacatus-Studie-om-hatbrott-och-andra-allvarligakrankningar-riktade-mot-utsatta-romska-EU-medborgare.pdf>.

adopted a repressive approach, with the aim of ensuring that members of the group do not travel to or remain in Sweden. For example, the stance of the Government is that this group does not have the same right to subsidized healthcare as others in Sweden and that their children are not entitled to Swedish education.¹¹

Several municipalities have recently proposed legislation that bans panhandling within their municipalities, effectively limiting the freedom of speech and freedom of movement of individuals belonging to the group in question.¹² A national prohibition on panhandling is promoted by several political parties and the Supreme Administrative Court has found local bans to be in line with national legislation, without assessing their compliance with Sweden's obligations under international human rights standards.¹³ Despite the judgment delivered by the Grand Chamber of the European Court of Human Rights, clarifying that panhandling constitutes a central part of human dignity and a ban violates Article 8 of the European Convention on Human Rights, the local municipalities in Sweden have not made an re-assessment of their legislations.¹⁴

Another concern is the exposedness for discrimination and hate crimes of individuals belonging to this group. Their socially disadvantaged situation and the harassments they experience from responsible authorities make it more likely that such crimes remain unreported. Civil Rights Defenders recently started a project together with a grassroots organization, in order to improve the trust towards the police within this group.¹⁵ The tentative interviews show that a large percentage of the persons concerned

11. Nationella samordnaren för utsatta EU-medborgare (National Coordinator for Vulnerable EU Citizens), *Framtid sökes – slutredovisning från den nationella samordnaren för utsatta EU-medborgare* (Future sought – final presentation from the National Coordinator for Vulnerable EU Citizens), Socialdepartementet (Ministry of Health and Social Affairs) SOU 2016:6, February 2016. Available at: https://www.regeringen.se/4905f7/contentassets/b9ca59958b5f43f681b8ec6d-ba5b5ca3/framtid-sokesslutredovisning-fran-den-nationella-samordnaren-for-utsatta-eu-medborgare-sou-2016_6.pdf.

12. Svenska Dagbladet, *Fler kommuner vill införa tiggeriförbud* (More municipalities want to impose local bans on panhandling), 18 December 2018, available at: <https://www.svd.se/fler-kommuner-vill-infora-tiggeriforbud>.

13. Judgement no. 2149-18 from the Supreme Administrative Court of Sweden, delivered on 17 December, 2018. Available at: <http://www.hogstaforvaltningsdomstolen.se/Domstolar/regeringsratten/Avgoranden/2018/2149-18.pdf>.

14. See *Lacatus v. Schweiz*, application no. 14065/15 and article concerning the implementation of the *Lacatus* judgment in Sweden at <https://www.nj.se/nyheter/strider-kommunala-tiggeriforbud-mot-europakonventionen>, 4 March, 2021.

15. For more information about the project, see <https://crd.org/sv/2019/04/02/nystartat-eu-projekt-ska-motverka-hatbrott-mot-utsatta-eu-medborgare/>.

have continuously faced various kinds of abuses, but have not thought about reporting them to the police.¹⁶ Recently, a homeless EU-citizen was killed by two teenagers and it turned out that there had been an online hatred discussion about the victim going on for a long time, without any interference from officials.¹⁷

There has been reports concerning the Swedish Police conducting unlawful removal of individuals carrying out panhandling in areas where such actions are not banned. Consequently, in 2018, Civil Rights Defenders filed a complaint to the Parliamentary Ombudsman (Justitieombudsmannen) against the Stockholm Police. In October 2020, the Parliamentary Ombudsman delivered a statement where they ruled such behavior from the Police to be unlawful.¹⁸ The Swedish Police Authority is reportedly working on a national policy in order to ensure national compatibility with the decision of the Parliamentary Ombudsman, but such policies has as of May 2021 not yet been communicated externally.

Recommendations:

- Ensure that vulnerable EU citizens are granted their fundamental rights to health care, primary education, social services and protection against hate crime and forced evictions.
- Refrain from imposing legislation that prohibits panhandling and take measures to counteract that such legislation is imposed locally on a municipal level.
- Ensure that the police and other officials secure the rights of vulnerable EU citizens as victims of crime by using early warning mechanisms and other effective tools for crime prevention.

3.1.3 Racial- and Ethnic Profiling by the Police Authority

The need for the Swedish Government to address the issue of racial/ethnic profiling has been raised by the Committee on the Elimination of Racial Discrimination, which in 2018 recommended the Government to ensure that fundamental legal safeguards are effectively applied to prevent and

16. See the intermediary report *Gypsy, go home! – Hate crime against Roma EU-migrants who make a living on the streets of Malmö, Sweden*, May 2019, available at: <https://crd.org/wp-content/uploads/2019/06/Report-Gypsy-Go-home-ENG-LISH-FINAL-to-be-published.pdf>.

17. *Dagens Nyheter*, *Mördad hemlös uppges ha trakasserats i två år* (Murdered homeless man allegedly harassed for two years), 2 September 2018, available at: <https://www.dn.se/nyheter/sverige/mordad-hemlos-uppges-ha-trakasserats-i-tva-ar/>.

18. Judgment from the Parliamentary Ombudsman concerning the unlawful removal of panhandling individuals in Stockholm, 23 October 2020, available at <https://www.jo.se/PageFiles/31849/7139-2018.pdf>.

combat racial/ethnic profiling by police of all vulnerable groups, particularly Afro-Swedes, persons of African descent, Muslims and Roma.¹⁹

One clear example that points to the problem of racial/ethnic profiling is the judgement by the Svea Court of Appeal in Stockholm in April 2017,²⁰ where the State was found responsible of discrimination and illegal registration on ethnic grounds in connection to a police register containing personal data of 4,700 persons of Roma origin, among them small children and elderly. Civil Rights Defenders brought the case before court and the Police Authority was ordered to compensate each of the persons in the register with 4,000 Euros.²¹ The Police Authority could not explain why the register had been created and no person was found liable for it.

Despite the fact that the experience of being subjected to discriminatory measures by police officers is widespread among individuals belonging to ethnic and racial minorities in Sweden, research into the effects of these discriminatory practices, their cause or how they could be prevented is very scarce. Additionally, no disaggregated data is available to demonstrate the prevalence of different police measures, such as ID-checks, car searches or body searches against individuals belonging to different minority groups compared to individuals belonging to the majority population. The lack of such data makes it complicated for academic researchers and watch dog organizations to measure the potential disparate outcomes of police measures for different groups.

Due to the lack of research on ethnic and racial profiling, Civil Rights Defenders published an academic study²² in 2017, in collaboration with the Department of Criminology at Stockholm University, that examines the experiences of ethnic and racial profiling among ethnic and racial minorities in Sweden as well as how individuals belonging to such minorities, and individual police officers, understand and explain ethnic and racial profiling. The study finds, *inter alia*, that ethnic and racial profiling is a structural problem that affects the lives of ethnic and racial minorities negatively and erodes their trust in the law enforcement.

19. Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22-23, 6 June 2018, para. 27.

20. Judgement no. T 6161-16 from the Svea Court of Appeal, delivered on 28 April 2017. Available at: https://crd.org/wp-content/uploads/2019/02/2738_001.pdf.

21. Decision no. 2503-17-4.3.1 from the Chancellor of Justice, given on 24 May, 2017. Available at: <https://www.jk.se/beslut-och-yttranden/2017/05/2503-17-431/>.

22. See Civil Rights Defenders' report Randomly Selected – Racial/Ethnic Profiling in Sweden, December 2017. Available at: <https://crd.org/wp-content/uploads/2019/03/CRD-Randomly-selected.pdf>.

Acts and negligence committed by the Police and other actors within the judicial system fall outside of the scope of the Discrimination Act, making it difficult to investigate racial/ethnic profiling and other discriminatory practices by the Police Authority and to provide redress for victims.

In 2020, the government appointed a government inquiry to assess whether the scope of the Discrimination Act should be widened to also include discriminatory measures conducted by a larger number of government agencies, including the Police Authority. The conclusions of the inquiry should be presented to the Government by 1 October 2021.²³

The Police Authority has in 2021, for the first time, appointed an employee to lead the authority's work on ethnic and racial profiling. The measures to be adopted by the authority is yet to be made public and not enough time has passed to evaluate the measures.

While we welcome the initiatives described above, we are concerned that the Government's increased focus on combating violent and organized crime, will undermine any progress that the Government and the Police Authority may make in developing measures to counteract ethnic and racial profiling. As part of the Government's plan to stifle organized and violent crime, the Police Authority has been mandated to increase their presence in so called "socially challenged neighborhoods", where the percentage of individuals with a migratory background is higher among the residents than elsewhere in society.²⁴ An increased police presence in these neighborhoods also results in an increased number of measures being taken against the residents in those neighborhoods. While each individual measure might not always amount to ethnic or racial profiling on an individual level, the over-policing of certain neighborhoods is discriminatory on a collective level.

As an example of the above, the Police Authority launched a nationwide operation in November 2019, under the name "Operation Rimfrost", with the aim to combat violent and organized crime. The operation focuses specifically on so-called "socially challenged neighborhoods" where the percentage of residents with a migratory background is higher than elsewhere. Apart from a higher presence of police officers and an increase of measures in the targeted neighborhoods, the operation has also encompassed shorter and specialized operations where, for example, 729 buildings and 2000 cars have been searched in the targeted neighborhoods within the span of three days.²⁵ Residents in the targeted neighborhoods

23. <https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2020/10/dir.-2020102/>.

24. <https://www.esv.se/statsliggaren/regleringsbrev/?rbid=21242>.

25. <https://tidningensvenskpolis.se/arkiv/hallarsida-artiklar/2020/nr-2-2020/rimfrost/>.

say that there has been an exponential increase in discriminatory stops and searches by the police as a result of Operation Rimfrost.²⁶

Recommendations:

- Formulate a directive for the Police Authority to develop and implement non-discriminatory working methods and allocate sufficient funds for such developments to the authority.
- Extend the scope of the Discrimination Act to also include the Police Authority and other actors within the Swedish judicial system so that racial and ethnic minorities can exercise their right to an effective remedy on equal terms.
- Formulate a directive for the Swedish National Council for Crime Prevention to conduct a study, using both quantitative and qualitative methods, on ethnic and racial profiling in Sweden.
- Formulate a directive to the Swedish Research Council to distribute funds for academic research on racial and ethnic profiling in Sweden.
- Develop the use of social justice markers within the judicial system, to monitor disparate outcomes for racial and ethnic minorities within the judicial system.

3.1.4 Counter-Terrorism

The Human Rights Council did not put forward specific recommendations regarding counter-terrorism in its review of Sweden in 2015. However, the recommendations concerning effective measures to ensure equal treatment and non-discrimination are relevant, since efforts to combat terrorism primarily target the Muslim minority in Sweden,²⁷ entailing a risk of discrimination based on ethnicity and/or religion.

The UN Human Rights Committee and the Committee on the Elimination of Racial Discrimination have put forward recommendations in their concluding observations in 2016 and 2018, requesting Sweden to ensure that counter-terrorism legislation and practices are in full conformity with fundamental human rights, including the principle of non-discrimination and the right to liberty and security.²⁸ Sweden has been

26. <https://feministisktperspektiv.se/2020/09/22/i-sparen-av-rimfrost-okad-polis-narvaro-loser-inte-kriminaliteten/>; <https://www.arbetaren.se/2021/02/26/de-lamnar-en-med-kanslan-att-nasta-gang-tar-vi-dig/>.

27. See Civil Rights Defenders' report Randomly Selected – Racial/Ethnic Profiling in Sweden, December 2017, pp. 9–10. Available at: <https://crd.org/wp-content/uploads/2019/03/CRD-Randomly-selected.pdf>.

28. Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 23; Committee on the Elimination of Racial Discrimination, Concluding observations on

requested to ensure that the principles of necessity and proportionality are strictly observed in the application of arrest powers under the terrorism legislation, and that effective measures are taken to prevent different treatment by law enforcement officials of criminal suspects by reason of their religion and/or ethnicity, including by providing appropriate training on cultural awareness and the inadmissibility of racial/ethnic profiling.²⁹

Since these recommendations, the Government has taken no steps to ensure that profiling is not used by law enforcement in efforts to combat terrorism, and that fundamental human rights are not violated. On the contrary, the Government has in the past years, in an attempt to strengthen, extend and make counter-terrorism legislation more effective, adopted new legislation that does not sufficiently protect fundamental rights.

While Civil Rights Defenders sees a need for effective ways to combat terrorism, we note with concern that new legislation in this field comes about hastily and that there is a lack of thorough analysis of the implications on fundamental human rights, including the rights to freedom of thought, freedom of movement, freedom of expression, freedom of association and the right to equal treatment. As shown in the previously mentioned study commissioned by Civil Rights Defenders, counter-terrorism activities by intelligence services is one of the areas where minorities, particularly the Muslim minority, experience racial/ethnic profiling.³⁰

Civil society actors, the Swedish Bar Association, academic institutions and courts regularly raise concerns that the legislation is not sufficiently clear and precise to comply with international standards, however, with little effect. There is also concern about the large number of anti-terrorism laws, making it difficult to get a good overview and understanding of the actions criminalized and to what extent the legislation in its entirety conforms with human rights standards.

Civil society groups have also expressed concern that these measures may further stigmatize Swedish Muslims in general and that, in order for the police to identify perpetrators of these new crimes, Muslims would become the target of both racial/ethnic profiling and secret surveillance.

It is difficult to provide a comprehensive overview of the effects of the counter-terrorism legislation on minority communities. However, it can be noted that it is almost exclusively debated and applied in the context of Muslims and Islamic terrorism. When right-wing extreme groups commit similar type of crimes, they are not seen or prosecuted as acts of terrorism.

the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22-23, 6 June 2018, para. 21.

29. Ibid.

30. See para. 12 and footnote 32 above.

The Equality Ombudsman issued a report in 2015 that examines the representation of Muslims in Swedish news media.³¹ While the report does not say anything specifically about whether or how the application of counter-terrorism legislation play a role in shaping the representation of Muslims in news media, it is interesting in this context to note the conclusions of the report – that stereotypical representations of Muslims are highly present in Swedish news media and that Muslims are mentioned primarily in connection to themes such as security, terrorism or military action. Muslims are also most often represented as offenders and rarely as victims or agents of change.³²

Recommendations:

- Take steps to ensure that counter-terrorism legislation and practices are in full conformity with fundamental human rights, including the right to liberty and security, and that it does not have an adverse effect on minority communities in terms of racial/ethnic profiling or stigmatization.
- Ensure that counter-terrorism legislation and its implementation are comprehensively reviewed from a rights perspective and that the combined effects on fundamental rights of individuals suspected of terrorism-related crime are assessed.

4. Racism and Hate Crime

4.1 General Comments

A significant number of the recommendations for Sweden from the 2015 UPR, the UN Human Rights Committee in 2016 and the Committee on the Elimination of Racial Discrimination in 2018 concern the need to strengthen efforts to combat and eliminate discrimination and hate crimes, particularly racism and xenophobia against Muslims, Afro-Swedes, Roma, Jews and the indigenous Sami.³³

31. The Equality Ombudsman, *Representationer, stereotyper och nyhetsvärdering – Rapport från medianalys om representationer av muslimer i svenska nyheter* (Representations, stereotypes and news value – Report from media analysis of representations of Muslims in Swedish news), Report 2015:1, 2015, available at: <https://www.do.se/globalassets/publikationer/rapport-representationer-stereotyper-nyhetsvardering2.pdf>.

32. *Ibid.*, pp. 67–70.

33. Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 17; Committee on the Elimination of Racial Discrimination, Concluding observations on

The number of reported incidents that could be categorized as hate crime remain at a high level. According to 2021 statistics from the Swedish National Council for Crime Prevention the estimated number of criminal complaints where the incident has been classified as a hate crime totaled at 7,092 in 2018.³⁴ This represents a significant rise in comparison with statistics available from the previous five years. In 2013 the number totaled at 5,506, in 2014 at 6,267, in 2015 at 6,978 and in 2016 at 6,209.³⁵ There are no statistics available from 2017. Statistics from 2019 and 2020 are yet to be published.

Statistics from three different surveys conducted in 2018 and 2019 detailing self-reported incidents of hate crime published by the Swedish National Council for Crime Prevention in 2021 suggest the actual figures are higher than reported. Figures from 2018 indicate 8% of public officials identifying as female and 7% of public officials identifying as male had been the victim of a hate crime of some kind. In addition, statistics from a survey conducted in 2019 indicate 10% of ninth-grade pupils had been the victim of a hate crime. Finally, in a study conducted in 2018 amongst individuals aged 16–84 indicated that out of the individuals who had been the victim of a crime, 22% of individuals identifying as male and 18% of individuals identifying as female suggested the motive was such that the incident could be categorized as a hate crime.³⁶

Sweden has developed a strategy to combat hate crime, which was initiated in June 2015 and included, inter alia, training of police officers in identifying and processing hate crime. In its internal evaluation of the project, the Police Authority, however, noted that prosecutors participating in their surveys did not experience any improvement of quality in the investigations into hate crimes. Responses were received from thirteen different specialist prosecutors. Most had not perceived any effect on the level of ambition, nor an improvement in the communication between the Police Authority and the Prosecution Authority in regard to cases of hate

the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 11. 1132.

34. https://www.bra.se/download/18.1f8c9903175f8b2aa7053d3/1613123711637/2021_I_Handlagda_hatbrott.pdf.

35. https://www.bra.se/download/18.1f8c9903175f8b2aa7053d3/1613123711637/2021_I_Handlagda_hatbrott.pdf.

36. https://www.bra.se/download/18.1f8c9903175f8b2aa707b8/1606464241908/2020_I4_Sjalvrappporterad_utsatthet_for_hatbrott.pdf 44 https://www.bra.se/download/18.1f8c9903175f8b2aa7053d3/1613123711637/2021_I_Handlagda_hatbrott.pdf.

crime.³⁷ Furthermore, a survey conducted by the National Council for Crime Prevention shows that the majority of employees at five out of seven Police districts which had undergone education on hate crime in 2015 still experienced that they lacked the ability to detect, investigate and prosecute hate crimes.³⁸ Thus, it is clear that further efforts need to be made to properly train staff on how to effectively investigate hate crime in order to close the gap between reported incidents and convictions.

After the internal evaluation, in 2017, an additional 10 million SEK was provided to the Police Authority for improving their work on hate crimes.³⁹ In 2018, the Government also directed the Police Authority to report back on what had been done and was in process regarding the work against hate crimes. From the report from the Police, in March 2019, it is clear that the three special hate crime units are still understaffed and, in any case, small.⁴⁰ Also, resources are concentrated to the three major cities, Stockholm, Gothenburg and Malmö, and necessary expertise and staff is lacking in the rest of the country.

Many witness accounts describe how members of the indigenous Sami People experiences everyday discrimination, hate crimes and prejudiced behavior by the non-Sami. In 2018, the European Commission against Racism and Intolerance (ECRI) has recommended Sweden to conduct widespread awareness-raising activities aimed at conveying to the general public the unique value of the indigenous Sami culture as an integral part of Scandinavia and its cultural heritage.⁴¹ Also in 2018, an Academic survey was published on racism against Sami, which is now subject for review. In the beginning of 2020 the situation escalated, including in social media,

37. Polismyndigheten (The Police Authority), Återrapportering till regeringen angående polisens åtgärder rörande hatbrott (Feedback report to the government concerning police measures against hate crimes), 27 February 2017, Available at: <https://polisen.se/siteassets/dokument/regeringsuppdrag/aterredovisning-till-regeringen-om-hatbrott-2017.pdf>.

38. Brottsförebyggande rådet (National Council for Crime Prevention), Hatbrott 2015 (Hate Crime 2016), Report 2016:15, 2016, pp. 127–128. Available at: https://www.bra.se/download/18.3c6dfe1e15691e1603eb65e3/1474958157817/2016_15_Hatbrott_2015.pdf.

39. Polismyndigheten (The Police Authority), decisions Noa 167/17 and 170/17.

40. Polismyndigheten (The Police Authority), Åtgärder mot hatbrott – Redovisning av regeringsuppdrag (Measures against hate crime – Presentation of mandate from the government), March 2019. Available at: <https://polisen.se/siteassets/dokument/regeringsuppdrag/atgarder-mot-hatbrott--redovisning-av-regeringsuppdrag>.

41. European Commission against Racism and Intolerance, Council of Europe, ECRI Report on Sweden (fifth monitoring cycle), CRI(2018)3, 27 February 2018, paras. 8 and 31. See also paras. 30 and 40.

after a historic court verdict that recognized Sami hunting and fishing rights on traditional lands.⁴² Importantly, there is an urgent need for more knowledge about racism and hate crime towards the Sami People, and the Government's reluctance to initiate measures in this field is part of the problem.⁴³

In November 2016, the Government adopted a national plan to combat racism, similar forms of hostility and hate crime.⁴⁴ Civil Rights Defenders has taken part in the civil society reference group for implementation of the plan and has constantly highlighted the need for a more challenging and adequate approach in relation to the responsible authorities. While the plan aims at creating conditions for authorities and other society actors to combat racism and hate crime, it completely ignores racism and discrimination within authorities and the role they play as part discriminatory structures in society. One example of such discriminatory practices is racial/ethnic profiling within the police.⁴⁵

Recommendations:

- Expand existing training programs on hate crime for police employees and make training on the legislation and implementation of legislation on hate crime mandatory in all areas of law enforcement, including the Police, prosecutors and the judiciary.
- Institute hate crime units in all police regions and allocate sufficient resources for such prioritization to effectively be made.
- With respect to Sami free, prior and informed consent, take measures to gather more knowledge and prevent acts of hate crime, discrimination and racism directed against the Sami People.

42. See statement by Civil Rights Defenders and the Swedish Society for Nature Conservation in March 2020 condemning increased racism and hate crime directed towards the Sami People after the verdict in the Girjas case in January the same year, in English <http://crd.org/2020/03/13/civil-rights-defenders-condemns-increased-racism-and-violence-against-the-sami-people-after-verdict-in-the-girjas-case/>.

43. SVT Nyheter, Ny kartläggning – två av tre samer utsatta för rasism (New survey – two out of three Sami subjected to racism) 2 October 2018.

44. The Government Offices of Sweden, A comprehensive approach to combat racism and hate crime – National plan to combat racism, similar forms of hostility and hate crime, 2016 available at <https://www.regeringen.se/492382/contentassets/173251a50a5e4798bcafe15ba871a411/a-comprehensive-approach-to-combat-racism-and-hate-crime>.

45. See section 1.3 above.

4.2 Hate Speech and Right-Wing Extremist Activity

Hate speech is in focus for many of the recommendations, encouraging the Government to take effective measures to combat hate speech, including by prosecuting the perpetrators. Swedish law prohibits hate speech and defines it as publicly making statements that threaten or express disrespect for an ethnic group or similar group in relation to race, skin color, national or ethnic origin, faith or sexual orientation.⁴⁶ However, there are still clear obstacles that prevent the effective prosecution of hate speech.

In the annual report on right-wing extremist activity from the Expo Foundation 2041 activities were noted during 2020,⁴⁷ a decrease by 19% from 2019 and by 48% from 2018, when a record number of activities were recorded since their annual reporting began in 2010.⁴⁸ The numbers are based on activities in the physical sphere (such as demonstrations, distribution of propaganda, training sessions, etc.) and as such does not include online activity. Despite the decrease however, activity remains high, and even more so in the digital sphere.

The National Council for Crime Prevention does not publish statistics on crime related to right-wing or other extremist ideologies. Data on such criminal activity, which previously was provided by the Swedish Security Service, could be useful to better understand how extremist organizations function and what type of threat they pose.

In December 2020, the court of appeal for Western Sweden ruled that a group of individuals who participated in a demonstration held by the Nordic Resistance Movement in Gothenburg on the 30th of September 2017 had not acted in violation of chapter 16, section 8 in the Swedish Criminal Code, agitation against a population group.⁴⁹ This despite the demonstration featuring symbols associated with national socialism on jackets, flags and shields and many participants being dressed uniform clothing. The verdict has been appealed by the prosecution, but the Swedish Supreme Court is yet to decide on whether it will allow the case to be tried.

Sweden has continuously referred to the hate crime legislation as an effective means to prevent any racist activities, claiming that “Swedish criminal law means that in practice it is impossible for groups that advocate racial discrimination to operate without their members committing a

46. Brottsbalken (the Swedish Penal Code), SFS 1962:700, Chapter 16, 8 §.

47. <https://expo.se/tidskriften/svensk-rasideologisk-milj%C3%B6-2020>.

48. <https://expo.se/2021/05/trenden-h%C3%A5ller-i-sig-ned%C3%A5ng-f%C3%B6r-andra-%C3%A5ret>.

49. <https://www.domstol.se/hovratten-for-vastra-sverige/nyheter/2020/12/hovratten-ogillar-atal-for-hets-mot-folkgrupp-vid-nmrs-demonstration-i-goteborg-den-30-september-2017>.

crime.”⁵⁰ As illustrated by the case mentioned above, this is in no way an accurate representation of the situation at hand.

However, in a more welcome verdict, the Swedish Supreme Court in December 2020 clarified that verbal or written statements seemingly directed at an individual or group of individuals, which could be deemed as making an unlawful threat [chapter 4, section 5], defamation [chapter 5, section 1] or insulting behaviour [chapter 5, section 3], may also be punishable as agitation against a population group in accordance with chapter 16, section 8 in the Swedish Criminal Code.

A parliamentary committee recently concluded that additional measures needed to be taken to combat right-wing extremist activity and put forth suggestions on criminal provisions regarding the participation of individuals in “racist organizations” (as defined in Swedish Basic Law).⁵¹ If any such legislative measures are implemented, it must not be viewed as a “solution” to the consequences of right-wing extremist activity and there must be steps taken to ensure other measures, such as enforcing legislation on hate crime, still remain a priority.

It should also be noted that the UN Human Rights Committee in its most recent concluding observations expressed criticism towards Sweden for continuous cases of reported hate speech, including on the internet, against ethnic, national and religious minorities.⁵²

Recommendations:

- Take steps to ensure that acts of agitation against ethnic, religious and national minorities are investigated and brought to prosecution.
- Take steps to properly enforce the legislation prohibiting agitation against racial, religious and ethnic minorities and adapt its interpretation of the legislation in a way that conforms with the modern-day situation.
- Take steps to ensure that crime related to right-wing and other extremist organizations is categorized and published by either the Swedish Security Service or the National Council for Crime Prevention.

50. See inter alia Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention, Twenty-second and twenty-third periodic reports of States parties due in 2016, Sweden, UN doc. CERD/C/SWE/22-23, para. 95 and 98.

51. http://www.sou.gov.se/wp-content/uploads/2021/05/SOU_2021_27_webb-NY-5-maji.pdf.

52. UN Human Rights Committee, Concluding Observations on the Seventh Periodic Report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 16.

b) Gender equality

Although Sweden is known to be a country where equality between women and men is a reality, there is still a lot to be done. Violence against women, and especially domestic violence, is a big problem. Rape and sexual harassment has continued to increase over the past decade. Despite successful legislation on buying sex, there remain major challenges in this area. Few cases of human trafficking and buying sex lead to prosecution and a conviction.

Violence against women and children has been a priority question for the government for a long time and a lot of measures have been taken. However, it is not enough, the violence is still there. The government has therefore decided to make more efforts to stop violence against women.

The Swedish Government consists of the same number of women and men as ministers. Nearly half of the members of Parliament are women. However, there are major differences both between and within municipalities, and gender representation is most unequal for the highest positions at the local level. There is also a lack of representation of women in different peacekeeping initiatives.

Women continue to be paid lower wages than men for equal work of equal value. The fact that more women are working shorter hours and have lower salaries leads to lower pensions for women.

Below you will find excerpts from the submissions from Amnesty International and the UN Association of Sweden to the Universal Periodic Review, UPR, Sweden in 2020. Also included here are parts of a new report “Women in Sweden 2021” from the Swedish Women’s Lobby. “Women in Sweden 2021” is a review of Sweden’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW. Women’s Lobby is an umbrella organisation of all the important women’s organisations in Sweden. The chapter on Women, Peace and Security includes comments from the Kvinna till Kvinna Foundation (The Women to Women Foundation) and the Swedish Section of the Women’s League for Peace and Freedom, WILPF/IKFF.

This chapter on gender equality includes

1. Violence against women,
2. Prostitution and human trafficking,
3. Employment and the labour market,

3. *Civil society concerns in the UPR and other reports*

4. Political and public life,
5. International work and representation,
6. Women, Peace and Security.

1. Violence against women

Violence against women and children has been a priority question for the government for a long time and a lot of measures have been taken. Sweden took a significant step in 2018 towards addressing rape and other sexual violence by adopting a new law on sexual crimes which makes sex with someone who does not voluntarily participate a criminal offence. However, rape remains pervasive in Swedish society and the number of reported rapes has continued to increase over the past decade. In 2018, the police received 5,663 reports of rape involving people aged 15 years and above; 96% of victims were women and girls.

1.1 The government's new action plan to prevent violence against women

The measures taken are not enough, the violence is still there. The government has therefore decided to intensify the work to stop violence against women. **On June 16, 2021** the government presented a package of 40 measures to stop violence against women, called "Save lives". These measures can be divided into four main points:

1. extended and more effective preventive work against violence, such as information already in schools, raising the level of knowledge about violence against women among officials such as police, judges and social workers,
2. better methods to discover violence and stronger protection of and support to abused women and children. In this regard women's shelters are important both as a source of information about violence and as physical protection for women and a more strict ban for perpetrators to contact their families,
3. more effective fight against crimes such as higher punishment for sexual crimes, such as rape, sexual harassment and sex purchase,
4. improved knowledge and development of methods, such as better statistics on crimes and more research about domestic violence.

1.2 Submission from Amnesty International

Sweden adopted several recommendations on gender equality, four of which dealt explicitly with violence against women. Progress – and political will – is indicated by new policy documents and legislation: In 2017, the government launched a national strategy to prevent and combat men's violence against women, as part of the 10-year gender equality policy, *Power, goals and agency – a feminist policy for a gender equal future*. It also established a gender equality agency. The same year, Sweden submitted its first report on implementation of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (the Istanbul Convention), and in 2018 parliament adopted a new law on sexual crimes which makes sex with someone who does not voluntarily participate a criminal offence, in compliance with the Convention. However, sexual violence against women remains pervasive in Sweden.

In 2018 Sweden took a significant step towards addressing rape and other sexual violence by adopting a new law on sexual crimes which makes sex with someone who does not voluntarily participate a criminal offence. It also introduced a new offence of negligent rape.¹

However, rape remains pervasive in Swedish society and the number of rapes reported has continued to increase over the past decade. In 2018, the police received 5,663 reports of rape involving people aged 15 and over; 96% of victims were women and girls. The vast majority of rape victims never report the crime to the police. In a recent study, 1.4% of the sample population stated that they had been subjected to rape or sexual abuse, corresponding to approximately 112,000 people during 2017; this indicates significant underreporting.

Of those who do report, few rape survivors see their case heard in court. In 2017, prosecutions were initiated in 11% of rape cases involving children aged between 15 and 17 and in 6% of cases involving adults. In 2018, the prosecution rate in cases involving children aged between 15 and 17 increased significantly to 26%. Prosecution in cases involving adult women comprised 8% of all cases in 2018 and 4% in cases with an adult male victim.

The vast majority of rape investigations are closed by the prosecution. The low prosecution rate also affects confidence in the will and ability of the authorities to prosecute these serious crimes, both among rape survivors and the public, further exacerbating impunity for sexual violence in Sweden. There is an urgent need to significantly reinforce the investigative capabilities of law enforcement authorities to ensure prompt and

1. Penal Code, Chapter 6, section 1, available in Swedish at <https://lagen.nu/1962:700#K6>.

appropriate investigations in cases of rape. In 2010–2012, the Prosecution and Police Authority jointly developed a best practice working method for the investigation of sexual offences against adults. However, this model is not always implemented, which has a negative impact on the quality of the investigations and hampers prosecution. Interviews of suspects are sometimes held only after a long delay, or not at all. The quality of the interrogation also varies. Producing results of DNA analyses at the National Forensic Centre can take up to nine months, which also impacts negatively on rape investigations.

The 2019 joint inspection by the Prosecution Authority and the police found that, although sexual crimes should be investigated by “serious crimes” units or units specializing in violence in intimate relationships, a third of such crimes in the sample were investigated by local police without the necessary experience or expertise. Representatives from both the police and the Prosecution Authority also expressed concern that “serious crimes” units deprioritized sexual crimes in favour of other types of crime.

In June 2019, the police authority announced measures to strengthen its work related to “particularly vulnerable crime victims”, including plaintiffs in cases of rape. These measures will involve implementation of best practice working method, focus on securing evidence at an early stage and reinforcing resources. Some 350 new police investigators are to be recruited by the end of 2019 who are designated to work on rape, violence in intimate relations and sexual crimes against children.

Access to comprehensive support is crucial to enable survivors to participate with confidence throughout the legal process. This includes legal aid, medical care and psychosocial support. While the right to legal aid was further clarified by the 2018 legal reforms, access to psychological counselling, psychosocial support and trauma care remains a concern. In its Baseline Evaluation Report on Sweden, GREVIO expressed concern that “mid- and long-term psychological counselling, psychosocial support and trauma care and other services needed to provide holistic support for rape victims” are not generally available across the country and strongly recommended that the authorities ensure that sexual violence counselling services are available to all victims. This resonates with the need for mid- and long-term psychological counselling and trauma treatment highlighted in Amnesty’s interviews with rape survivors and service providers.

While sexuality education has been compulsory in Swedish schools since 1955, and is included in the curriculum for elementary and secondary school, its quality and content have been questioned. In July 2018, the government commissioned the Swedish National Agency for Education to review the elementary school curriculum and, in particular, analyze how

issues such as consent, “honour”-related violence and pornography could be included. The Agency presented a proposal in June 2019.

Recommendations:

- Prioritize combatting widespread sexual violence and provide adequate and sustainable resources to ensure that the police and the Prosecution Authority have the capacity to conduct thorough, effective and timely investigations into all cases of rape;
- Intensify efforts to analyze and address the causes of under-reporting of rape, as outlined in the National Strategy to Prevent and Combat Men’s Violence Against Women;
- Ensure access to comprehensive, affordable and accessible support for all survivors of sexual violence, including to those who do not report the crime to the police, including mid- and long-term psychological counselling, psychosocial support and trauma care to all rape survivors, regardless of age, gender, sexual orientation, ethnicity or social background, and regardless of where they live.

1.3 Submission from the Swedish Women’s Lobby

The Swedish Women’s Lobby provided, in January 2021, the UN with a report about Sweden’s compliance with the UN Convention on the Elimination of all forms of Discrimination Against Women, CEDAW.

The Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW, states:

The CEDAW committee addresses violence against women in General Recommendations No. 19 and 35. Recommendation No. 35 clarifies that the responsibility of States to establish policies against discrimination of women (as stated in CEDAW art. 2) include gender-based violence against women.

Men’s violence against women in Sweden is prevalent. In 2019 38,200 cases of abuse of women and 23,200 sexual crimes were reported, and the unreported figure is judged to be high. In 2019, 16 women were killed by a person with whom they were in a relationship or had ended a relationship with such a person. Reports of violence against women have increased during the COVID-19 pandemic.

Work to combat male violence against women has been a priority area for the Government for several years now. Many inquiries have been appointed, proposals submitted and resources allocated to efforts at local, regional and national levels. Previous reviews by the Swedish National Audit Office, however, have shown that the major interventions carried

out have often been characterised by poor management and coordination, with insufficient measures put in place to ensure lasting results.

In 2017, a national strategy was adopted to prevent and combat men's violence against women. The Government earmarked SEK 600 million for a programme of measures and SEK 300 million for development funding for municipalities and regions. An evaluation of the agencies' implementation of the Strategy to prevent and combat men's violence against women is to be presented in March 2021.

The number of girls stating that they have been forced into sex is increasing. A survey from the City of Stockholm from 2020 showed that 5 percent of girls in year 9 (the last year of compulsory education) and 7 percent of the girls in year 2 of upper secondary school had been raped. This is twice the numbers in 2016 and the highest totals measured since the survey began in 2002.

Since the new Sexual Crimes Act entered into force in 2018, the number of reports has increased, as has the number of convictions. However, the number of convictions remains low, which the CEDAW Committee criticised particularly sharply in the review of Sweden in 2016.

The majority of reported rape cases are never prosecuted and brought to trial. Rather, they are abandoned at the investigation stage by police officers and prosecutors. A study by the Swedish National Council for Crime Prevention (Brå) shows serious shortcomings in the way rape cases are handled, including the fact that a suspected perpetrator is questioned in only half of cases. In recent years, only 5 percent of reported rapes have led to convictions.

The low conviction rate for sexual crime cases affects women's willingness to report crimes. According to women's refuges, trust in the judicial system is low among young women and only a fraction of them feel able to cope with the process that reporting will involve. This is particularly true for young women with poor mental health, who these cases often involve.

There is a lack of sheltered accommodation in many parts of Sweden. In half of Sweden's municipalities, there is no access to sheltered accommodation in the municipality at all. There is a particular shortage of accommodation for women who have been the victims of violence with substance abuse and addiction problems and women with disabilities. According to the National Board of Health and Welfare, there is a great risk that women who have been the victims of violence with substance abuse and addiction problems will fail to access support and help, as social services often do not pick up or offer interventions to these women.

The law on violation of integrity and restraining orders does not work properly. Women who report violence often find it difficult to get a

restraining order partly because the criteria are very high. Only 30 percent of applications for a restraining order were granted in 2018.

The prevalence of sexual exploitation online and grooming is growing. A survey from 2018 shows that half of all 15 year-old girls have been contacted for sexual purposes by someone they think is an adult. The police have warned that increasing numbers of girls are lured into prostitution via “sugar dating” sites and that this phenomenon increased during the COVID-19 pandemic. Women’s organisations warn that girls are increasingly suffering sexual exploitation and abuse on platforms such as *Onlyfans*, where mainly young women are paid for sharing nude pictures of themselves.

Since the Act on unlawful intrusion (lagen om olaga integritetsintrång) was introduced in 2018, reports of “revenge porn” and illegal dissemination of pictures online have increased and police judge that the number of unreported cases is very high. In 2019 1,437 crimes of unlawful intrusion were reported, with proceedings brought in only 16 cases.

The proportion of men and boys who consume pornography has increased.

A survey conducted by the Public Health Agency of Sweden in 2017 shows that 70 percent of men consume pornography, and of these, 41 percent of all boys and men aged 16–29 consume porn every day or several times a week. At the same time, studies show that pornography has become more explicit and that almost all pornography today contains humiliation, abuse and violence against women.

Women born outside Sweden are subjected to threats and violence to a greater extent than women born in Sweden (7.9 percent compared with 6.7 percent). Regarding threats and violence in the home, women born outside Sweden suffer to twice the extent of women born in Sweden. Women with a temporary residence permit under the two-year rule who are also the victims of violence are a very vulnerable group. Read more under Article 9.

The number of people seeking help in cases of honour-related violence and oppression is increasing. In 2019 just over 1,000 cases entered the national helpline on honour-related violence, 81 percent of which concerned girls or women. A survey on the prevalence of honour-related violence and oppression among young people has shown that 66 percent of girls with parents born abroad are required to be virgins when they marry. Read more under Article 16.

Female genital mutilation (FGM) is a widespread problem. In 2015 the National Board of Health and Welfare estimated that around 38,000 women and girls in Sweden had suffered FGM. No new survey into the extent of the problem has been carried out for six years. There is an urgent need for

knowledge-boosting initiatives in the healthcare sector to improve investigation skills and treatment of women who have suffered FGM. (See also Article 12 on healthcare.) Similarly, the municipalities need to improve their procedures in cases where children risk being removed taken out of Sweden for the purpose of FGM. Read more under Article 16 on marriage and family relations.

Women with disabilities are a particularly vulnerable group in terms of violence and abuse. Work to combat men's violence against women with disabilities is made more difficult by the lack of systematic data collection, and a lack of procedures for how to take disabilities into consideration in work on the national strategy to combat violence against women.

Women with disabilities who are the victims of violence find it more difficult to obtain information on where they can turn to obtain help and support, and professions that encounter people with disabilities often lack skills in identifying and tackling violence.

THE CEDAW NETWORK DEMAND:

- Introduce a judicial guarantee for sexual crimes. All reported crimes must be investigated within a reasonable time and with the resources they require.
- Earmark resources for the police's work to combat sexual crimes. Set up special units to work on sexual crimes in every police region.
- Raise awareness of sexual crimes and male violence against women in the judicial system. Judges should undergo regular training on questions concerning sexual crimes and male violence against women in order to make the correct assessments.
- Increase the penalty for gross violation of a woman's integrity to one year's imprisonment. A crime for which the penalty is one year's imprisonment involves the opportunity to use rules that waive confidentiality to obtain important information from social services and the healthcare system and raises the status of the crime in the entire judicial chain.
- Tighten up the law on restraining orders. Remove fines from the range of penalties and abolish the materiality requirement on restraining orders. Authorise agencies to apply emergency protective measures in combination with electronic supervision and remove the opportunity to obtain an exemption from a restraining order.
- Stop the procurement of women's shelters. Allow charitable and non-profit women's shelters to be exempt from procurement under the Public Procurement Act. Promote partnership between non-profit organisations and the public sector (IOP).
- Give permanent government grants to women's shelters. Earmark resources for women's shelters to help women in prostitution, women

subjected to honour-related violence, women with disabilities and ethnic minority groups.

- Safeguard access to sheltered accommodation and trauma treatment nationwide. Ensure that women with substance abuse or addiction problems gain access to sheltered housing with staff who have knowledge of the mechanisms of violence and abuse.
- Safeguard support and protection for women with disabilities who have been victims of violence. Municipalities are to be responsible for ensuring that information about sheltered housing reaches all women and that accommodation is accessible to women with disabilities. The agencies concerned should ensure that trends in violence against women and girls with disabilities can be monitored through statistics and indicators.
- Limit the spread of pornography. An inquiry should be appointed to investigate how the Act on illegal depictions of violence (*Lagen om olaga våldsskildring*) can be applied to online pornography and propose new legislation where necessary. The inquiry should also investigate the harmful effects for girls and women who are exploited in pornography and how their protection can be increased.

1.4 Submission from the United Nations Association of Sweden

Discrimination and violence against women and girls are discriminated and structurally subordinated by men and boys throughout all areas of society, from decision making to gender-based violence. According to international and EU-based rules, the Swedish government is obligated to implement the gender-mainstreaming strategy throughout all parts of society. The implementation is still slow at agency-level and the work with gender mainstreaming and collection of gender-based data is hampered. This also results in difficulties identifying women facing multiple and intersectional discrimination. A stronger national strategy is needed to eliminate discrimination and violence against women.

Both the judicial system and police authorities need to prioritise and allocate more resources to combat all forms of violence against women. There is also a lack of concrete action to combat multiple and intersectional discrimination experienced by women in Sweden. Access to justice remain an issue for women in Sweden, and of particular concern is the complexity of legal proceedings stated in the Discrimination Act which especially hamper certain women's groups to claim their rights such as Sami women, Roma women, migrant women, asylum-seeking and refugee women and women with disabilities. According to a recent report from the Swedish

Agency for Participation, women with disabilities have fewer preconditions than men with disabilities both in terms of participation in the labour market and employment conditions. As a result, they have lower income and poorer opportunities for economic independence. Contrary to the current restriction in legislation, Sweden should guarantee that a person's gender identity is respected and that every person has the right to have their gender identity legally recognised according to self-identification.

Recommendations to the Swedish government:

- Establish targeted programs, policies and awareness raising measures to combat the root causes of violence against all women. These measures should acknowledge multiple and intersectional forms of discrimination and power structures to address real-life situations
- Take concrete action to end the gender gap in salaries and other areas of economic empowerment between men and women, and enforce and strengthen labour laws to eliminate discrimination against women in the labour market
- Ensure adequate financial resources of protective and supportive services to all victims subjected to domestic and sexual violence
- Data on and efforts towards gender equality should have an intersectional perspective to ensure that adequate measures are being taken for all women, including sexual orientation, gender identity and expression, disability and ethnicity
- Amend the legislation regarding legal gender recognition to ensure that all trans women, regardless of age, have the right to have their gender identity legally recognised Joint Submission for Sweden's third Universal Periodic Review in 2020

2. Prostitution and human trafficking

2.1 Submission from the Swedish Women's Lobby

2.1.1 CEDAW Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

In 1999 Sweden was the first country in the world to introduce an act banning the purchasing of sexual services. 20 years later results show that the act has been a success. Prostitution has fallen in Sweden and the act is still the most important tool that the police have for tackling trafficking for sexual exploitation. Above all the Act has had a normative effect and has been highly supported by the population.

However, despite successful legislation on buying sex, there remain major challenges in this area. Few cases of human trafficking and buying sex lead to prosecution and conviction. 94 cases of human trafficking for sexual purposes were reported in 2019. Proceedings were only brought against three of these crimes and none of the preliminary investigations resulted in a conviction. Furthermore, few cases of procuring and buying sex lead to prosecution and a conviction. In several counties, not one single person was convicted of buying sexual services in 2019, despite 764 cases being reported in Sweden overall.

No one has been given a custodial sentence for buying sex since the law was introduced. There is a major shortage of sheltered housing and treatment centres that take in people who have been exploited for prostitution, especially outside the city regions. The opportunities for protection and support in a treatment centre or sheltered housing are even more limited for people who also have problems with substance abuse or are suffering mental illness as a result of the abuse.

Many municipalities' social services departments are poorly informed of how human trafficking cases are to be treated, which delays the work of the police and makes it more difficult. According to an examination by the National Board of Health and Welfare, only 20 percent of the municipalities have procedures to identify people with experience of being exploited for prostitution.

In recent years, the police have gained more information about prostitution taking place in Thai massage salons. In 2019 there were about 300 Thai massage salons in the Stockholm region, about 100 of which are suspected to offer sexual services. The existence of "sugar dating" is growing, i.e. mainly young girls being tricked into prostitution on the assumption that they will be given money or expensive gifts in exchange for accompanying older men who contact them via specialised online services. Women's organisations have evidence that young girls with experience of sexual violence and mental illness being drawn into prostitution via sites such as Onlyfans, where they are encouraged to upload images with sexual content in return for payment.

Another worrying development is the increase in the number of young people buying sex. A survey by Sveriges Radio from 2019 showed that a third of all convicted buyers of sex were born in the 1990s. According to the police, high porn consumption is a common denominator among younger buyers of sex. The National Board of Health and Welfare continues to use the term "transactional sex" to describe prostitution, which runs counter to the wording of the Government remit, which takes the view that prostitution and trade in humans for sexual purposes is violence and

not “sex”. 80 percent of sex purchases by Swedes takes place abroad, either on holiday or when travelling for business.

Although in the Government policy statement of 2014 the Prime Minister declared that buying sex abroad is to be criminalised, no legislation has yet been put in place. The Government has laid down that Sweden is to work to spread the Swedish Sex Purchase Act (*sexköpslagen*) and work internationally to combat the view of prostitution as a type of work. At the same time, Sweden is one of the foremost financiers of international organisations that work to decriminalise the sex trade, including sex purchase, pimping and brothels.

Sweden’s high ambitions in terms of international aid are positive but funding should be made conditional so that money does not go to support of the trade in women in the sex industry. Swedes’ use of surrogate mothers, mainly in poor countries, has increased dramatically since the first surrogate company was established in Sweden in 2017. A Government inquiry in 2016 found that commercial surrogacy contravenes international conventions on the rights of children and women and should be prohibited.

Despite this, in 2020 the Government appointed an official inquiry that seeks to make it easier for Swedes to order surrogacy abroad.

THE CEDAW NETWORK DEMAND:

- Establish prostitution groups in every police region and earmark resources for the police to combat prostitution. At least two people should work to trace and investigate sex purchasing crime in every police region.
- Introduce compulsory skills boosting interventions in the judicial system. The Prosecution Authority and the courts must increase their skills and prioritise work to combat these crimes.
- Earmark resources for operations that provide protection and support to victims of human trafficking, trauma treatment and exit programmes. Earmark resources for municipal prostitution teams to stabilise and develop their operations in the long term. Ensure long-term and sustainable financing for national support programme (NSP) to guarantee the rights of crime victims to support and protection for at least 30 days.
- Give women who have been the victims of human trafficking time-limited residence permits. Social services should be given the right to apply for time-limited residence permits for victims of human trafficking. More actors than merely heads of preliminary investigations should be given the right to apply for a period of reflection.
- Remove fines from the range of penalties for buying sex. It must not be possible to buy your way out of purchasing sex.

- Criminalise buying sex abroad. Swedes must not infringe the human rights of women in Sweden, nor in other parts of the world.
- Make the link between pornography and prostitution clear. It should be prohibited to earn money from commercial sexual exploitation whether this takes place offline or online. An inquiry should investigate how posing sexually in front of webcams for payment and pornography for payment are covered by the Sex Purchase Act.
- Ensure that no aid funding is going towards work to legalise or decriminalise the sex industry. Place conditions on funding to UN organisations and organisations that receive aid through the Swedish International Development Cooperation Agency, Sida.
- Ban commercial trade in surrogacy. Swedes must not be permitted to exploit financially vulnerable women in other countries to bear and give birth to children.

3. Employment and the labour market

3.1 Submission from the Swedish Women's Lobby

3.1.1 CEDAW Article 11

CEDAW states: States must ensure that women are not discriminated in the labour market. Businesses and organisations that are employers must use the same basis for evaluating women and men. Women and men shall have the same right to choose their own job and to be promoted. Women shall have the same wage as men when carrying out the same type of work. Women shall have the same rights to social benefits as men in the event of unemployment, illness or injury at work. They shall also enjoy the same pension rights as men. Women shall have the same right as men to work in a good working environment and under safe employment conditions. Pregnant women shall be given extra protection, for example to take time off if the job is physically demanding, to take sick leave or change job. It shall be prohibited to dismiss women because they marry, become pregnant or take parental leave. Women shall be able to take time off work with economic support from the State when giving birth. They shall not lose their job, suffer any sanctions at work or lose benefits because they have a child. States shall guarantee childcare, for example preschool, so that parents can combine family obligations with paid work.

The current situation: Women continue to receive lower wages than men for equal work of equal value. Although women have higher education than men, women's pay was on average 9.9 percent lower than that of men in 2019. This is a reduction of 0.8 percentage points compared with

the year before. A comparison between the rates of pay in women-dominated occupations and equivalent occupations shows, however, that the difference is considerably greater (15 percent). Recalculated in monetary terms, this means that employees in female-dominated occupations earn SEK 5,400 less per month than employees in equivalent occupations. Pay differences between women and men largely depend on the fact that occupations that employ more women are valued lower by society than occupations that employ more men. Nothing indicates that the structural pay gap is shrinking; on the other hand, the gulfs between several major women-dominated occupations and comparable male-dominated occupations have grown over the past three years.

The Swedish model for setting pay involves negotiations between the employer and employee organisations in the industry setting the framework.

This means that it is difficult for pay levels in women-dominated occupations to catch up with pay levels in equivalent male-dominated occupations, because increases higher than the negotiated level are not permitted. In addition to sex segregation, the labour market is characterised by ethnic segregation which means that women and men born abroad tend to work in low-paid, women-dominated occupations. The Discrimination Act sets out that employers must carry out annual pay surveys to identify, tackle and prevent unreasonable pay differences between women and men. However, it is a shortcoming that this only addresses pay differences at the same employer, which means that it is often almost impossible to identify differences between careers and industries.

Supervision of the Discrimination Act has in principle ceased since responsibility moved to the Equality Ombudsman (DO) when the ombudsman was formed in 2009. Under the previous agency (JämO), the agency examined the pay of a million people in its “Miljongranskningen”, which led to pay adjustments for at least 5,246 people, 90 percent of whom were women. The combined pay adjustment amounted to at least SEK 70.3 million and meant an average of SEK 1,120 a month. Since DO took over responsibility, no equivalent examination has been carried out.

Opportunities for women who have been the victim of pay discrimination, or other discrimination due to sex, to obtain restitution with the help of DO are in principle non-existent. During its ten-year history, DO has not yet pursued a single case on equal pay for work of equal value. Read more under Article 2. Part-time work and parental leave If it is taken into account that many women work part-time, the differences in wage income are even greater. In 2020, 26 percent of women and 12 percent of men worked part-time. Part-time work is common in municipalities and

regions where four out of five employees are women. Therefore, since 2017, the Swedish Association of Local Authorities and Regions (SALAR) and the Swedish Municipal Workers' Union have been working to ensure that more municipalities and regions produce action plans for full-time working as the norm. Since this measure was introduced, the proportion of employees who work full-time has increased, albeit slowly. Many municipalities and regions have not yet started to produce action plans.

It is more and more common for women with children to work part-time, although a lack of full-time work continues to be the most common reason for both women and men working part-time. Women take greater responsibility than men for unpaid domestic and caring work, which affects their career and pay trajectories. Earmarked months of parental insurance have led to more men staying at home with their children, but the distribution is still far from equal. In 2019 women took 70 percent of parental benefit and 61 percent of the temporary parental benefit which includes payments when caring for ill children. Many women also spread out their parental leave, which means that they are at home from work looking after children entirely unpaid. Parental benefit uptake is more gender unequal among parents who have immigrated to Sweden than among the population at large. A large proportion of newly arrived migrants who have children after arriving in Sweden do not use any parental benefit at all. 33 percent of newly arrived fathers from the EU/Nordic countries and 37 percent of fathers from other countries did not take any parental leave at all in the first four years of the child's life compared with seven percent of fathers born in Sweden.

3.1.1.1 Work environment and working conditions

Female-dominated occupations are often characterised by heavy physical and emotional strain, high stress and limited opportunities to influence their situation at work. A poor work environment and a heavy workload at work and at home are making women ill. Today women are on sick leave almost twice as often as men and 70 percent of those who are signed off sick for mental illness are women. Women who work in care of the elderly are the group with the highest sickness absence rate on the entire labour market. The second highest rate of sickness absence is that of preschool teachers, another area where cuts have been made with large class sizes, a high workload and staff stress as a result.

3.1.1.2 Participation in the workforce and employment

In comparison with other countries, women's participation in the workforce is high, but still lower than that of men, and the differences between

the sexes are greater among those born outside Sweden. Among those born in Sweden, 84 percent of women and 86 percent of men are employed. For those born outside Sweden, the equivalent figures are 62 percent of women and 74 percent of men. A whole 45 percent of women born outside Sweden with low levels of education were unemployed in 2020. Approximately one in four women born outside Sweden neither works nor is seeking work. Causes of this include traditional family patterns, discrimination and low levels of education. Women born outside Sweden need support and help from society to enter the job market. However, several examinations show that newly arrived migrant women get to participate in fewer, later and poorer interventions to encourage labour market participation than newly arrived men. Attention was drawn to this back in 2012 by the “Akka” Inquiry on active measures to reduce discrimination. Nine years later, there is much to indicate that this unfair pattern remains in place.

Another vulnerable group is women with disabilities, where 40 percent feel discriminated against in the labour market. The Swedish Gender Equality Agency and the Swedish Agency for Participation state in a survey that women with disabilities tend to be long-term unemployed more often than other groups and that the measures of the Swedish Public Employment Service rarely lead to work.

3.1.1.3 *Pensions*

The fact that more women are working shorter hours and are lower paid has a major impact on women’s pensions. The result is that the pensions of women are on average 31 percent lower than those of men. Besides income-related pensions there is also basic protection in the form of guaranteed pensions and housing supplement for those who have had very low paid incomes during their working lives. This applies, for example, to people who have immigrated to Sweden as adults and have not managed to earn sufficient pension points. Many women who have spent their entire working lives working in the care sector have had such low-paid incomes that they need to use the basic protection provided, despite the fact that it was originally intended for people who have not worked at all or only very little.

Almost 80 percent of the pensioners who receive a guaranteed pension and 76 percent of those who receive housing supplement are women. Many older women have such low pensions that they are at risk of living in poverty. 245,000 people aged over 65 live in or are at risk of finding themselves in poverty, 162,000 of whom are women. Single older women have the lowest pensions of all. In recent years, hostels, churches and voluntary organisations have sounded the alarm on the increasing numbers of homeless older women.

THE CEDAW NETWORK DEMAND:

- Produce statistics on differences in pay between equivalent occupations. Task the Swedish National Mediation Office with conducting annual surveys of pay differences between equivalent jobs.
- Introduce pay transparency. Make information about pay levels accessible to all employees in line with the EU Commission's Pay Transparency Directive.
- Tighten up the requirements on pay surveys. Pay surveys should compare the pay for female-dominated occupations with the pay of other occupations. At workplaces that have only female-dominated occupations it should be possible to make pay comparisons outside the organisation itself. Examples of how such legislation can be designed can be found in the UK and Canada.
- Conduct a new "Miljongranskning" to identify and tackle pay discrimination. Tighten up and expand DO's supervision of the pay survey requirement. Task DO with implementing a new extensive examination of the employer's work on pay surveys inspired by JämO's "Miljongranskning"
- Legislate on the right to work full-time. Unless 75 percent of all municipalities and regions have introduced full-time working as the norm by 2025, the Government ought to legislate to reduce women's involuntary part-time work. The requirement of full-time work as the norm should also cover private providers in the health and care sector.
- Individualise all parts of parental insurance. Share parental benefit and parental leave equally between parents. Exceptions must be made in special cases, for example, for single mothers and for women who are the victims of violence.
- Strengthen governance of the Swedish Public Employment Service. Make sure that women share half of all labour market and establishment measures, for example by earmarking places for women in initiatives.
- Reform the pension system. Raise women's pensions by increasing contributions to the pension system, reallocate the pension pot that is currently not being used and even out the differences in work-related pension pots. The pension system should even out rather than reinforce financial inequality.
- Invest in higher pay and better welfare conditions. Cuts in education, healthcare and the care sector must stop. Permanent government investment is needed to increase pay and create a better work environment and working conditions.

4. Political and public life

4.1 Submission from the Swedish Women's Lobby

4.1.1 CEDAW Article 7

CEDAW states: States must ensure that women do not face discrimination in politics. Women must have the same opportunities as men to vote, to be elected to political office, to work politically, to work in public institutions and authorities, and to join non-profit and political organisations.

The current situation: Since the 2018 election, the Swedish Government comprises 12 women and 11 men as ministers. 46 percent of Members of the Riksdag are women, which is slightly more than the 2010 and 2014 elections. At local level, the gender representation is generally equal. In the 2018 election, 43 percent of all members elected to municipal councils were women.

However, there are major differences between and within municipalities. The highest management positions at local and regional level tend to be held by men despite the fact that organisations they head are dominated by women. 57 percent of all chief executive officers of municipalities, 68 percent of mayors and 71 percent of chief executive officers of regions are men.

Gender representation is most unequal in the highest positions at all political levels. 100 years after the introduction of female suffrage, Sweden has never had a female prime minister. The fact that representation is so even in elected assemblies at all political levels is largely due to the principle of alternately male and female candidate lists ("varannan damernas") introduced in 1994.

Today, however, several parties have abandoned this principle. Before the Riksdag election in 2018, three out of seven parties had completely equal lists, while four parties had between 30 and 45 percent women on their candidate lists.

Threats and hate against politicians is a serious and growing problem in democracy. 32 percent of elected women at municipal, regional and Riksdag level, and almost as many men, stated that they received threats and were the victims of harassment in the 2018 election year in Brå's Politicians' Safety Survey. The survey also shows that the prevalence of threats and harassment is growing, especially on social media.

According to The Swedish Defence Research Agency (FOI), elected women tend to receive harsher and more sexist comments than elected men. Many women and girls are also engaged in the women's movement and the fight for gender equality and women's rights. Despite their important mandate, many women's organisations are under-funded.

The Government appropriation to women's organisations and gender equality projects amounts to SEK 34.6 million and has not been increased since 2006, despite an increasing number of organisations sharing this funding and their expenditure having increased. Women's organisations also receive considerably smaller grants than other types of organisations.

THE CEDAW NETWORK DEMAND:

- Take hate and threats against elected women seriously. Ensure that the tougher penalties for crimes against elected representatives are applied. Reinforce the tracing and investigation work of the police in cases of hate directed against elected representatives on social media.
- Strengthen the position of women born abroad within the political parties. The parties should work actively to recruit women from under-represented groups as members and to boards, operational committees and nomination committees.
- Increase funding to women's organisations. The Government funding to women's organisations should be doubled.

5. International work and representation

5.1 Submission from the Swedish Women's Lobby

5.1.1 CEDAW Article 8

CEDAW states: States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

The current situation: The Government has laid down that the foreign service is to strive for gender equality in appointing Swedes to international posts. An examination of Swedish embassies at foreign missions shows an even gender representation. An examination of the gender representation of posted staff from 8 Swedish agencies in 2019 and 2020 shows that there is predominantly a major lack of gender equality in the Swedish Armed Forces (136 women and 1,247 men were posted on an international mission in 2019).

Since 2015 Sweden has been coordinating a female mediation network with the aim of increasing the number of Swedish women and women from wartorn countries participating in international peace processes. Although the initiative is welcome and appropriate, the work so far has not resulted in any of the participants being given the mandate to participate as a negotiator in a peace process. In 2016 the Government presented the

Third national action plan for the implementation of UN Security Council Resolution 1325 on women, peace and security, in line with CEDAW.

5.1.1.1 *General Recommendation*

The action plan has created a valuable forum for dialogue and exchanging experiences between different agencies and civil society. However, it is a major shortcoming that the action plan does not specify activities or indicators, which makes it difficult to follow up and evaluate the work. According to an evaluation by Sweco, the lack of expected outcomes and activities means that it is difficult to attribute any results to the action plan. An examination of Sida's work on gender mainstreaming shows that, despite high ambitions, the work is not systematic or cohesive, and that there are shortcomings in staff knowledge of gender mainstreaming.

THE CEDAW NETWORK DEMAND:

- Conduct regular knowledge-building interventions on gender mainstreaming to ensure that all staff in the foreign service and agencies that work internationally have knowledge in this area.
- Ensure women's representation and active participation in peacekeeping initiatives. Integrate a gender equality perspective in initiatives and work to increase transparency in appointments in peace negotiations.

6. Women, Peace and Security

6.1 Submission from the Swedish Section of the Women's League for Peace and Freedom, WILPF/ IKFF, Internationella Kvinnoförbundet för Fred och Frihet

The Women's International League for Peace and Freedom (WILPF) is a worldwide movement founded in 1915 bringing together women from around the world who are united in working for peace by nonviolent means and by promoting political, economic and social justice for all. The Swedish Section of WILPF was founded in 1919 and called the Internationella Kvinnoförbundet för Fred och Frihet (IKFF).

6.1.1 *Sweden's implementation of UNSCR 1325*

The third Swedish National Action Plan (NAP) for the implementation of UNSCR 1325 was adopted in 2016 (2016–2020). As it expired at the end of 2020, Sweden is in the process of reviewing it.

Sweden's feminist foreign policy, announced in 2014, highlights the Women, Peace and Security agenda as a central tool for its implementa-

tion. However, more work remains to be done to ensure coherence and synergies between the two frameworks. For example, the 2021 Action Plan for the Feminist Foreign Policy highlights that Sweden will particularly consider the vulnerability and unique needs of refugee and migrant girls, as well as their capacity as actors. It also states that Sweden “will further push to ensure respect for the human rights, including SRHR, [...] of women and girl refugees and migrants [...] and to ensure that the rights of women and girls are taken into account in the implementation of the global compacts on migration and refugees.” Such a commitment should also be included in Sweden’s NAP, as well as Sweden’s national asylum and migration frameworks to protect women in Sweden and globally. The current NAP lacks any reference to refugees and/or migrants in relation to the Swedish context or to the global context and frameworks.

6.1.1.1 *Disarmament and arms control under the NAP*

WILPF welcomes the fact that the current Swedish NAP highlights disarmament as both an area where greater women’s participation is needed and the need to adopt a gender perspective in multilateral processes on disarmament in relation to the conflict prevention pillar. However, the fact that this only applies to Sweden’s work in multilateral fora is evidence of the lack of national anchoring. Sweden’s NAP needs to be a framework also for national disarmament and arms control processes. As stated in the chapter above on arms export, the governmental agency ISP lacks the skills required to carry out adequate impact assessments of Swedish arms export in relation to development, poverty and women’s rights. UNSCR 1325 and subsequent related resolutions should be included as part of the assessments of Swedish arms export. The ISP should also be added to the list of governmental agencies that need to report on the NAP, as many other agencies under the MFA do.

6.1.1.2 *Climate*

The report *Feminist policies for climate justice* by 16 Swedish civil society organisations, including WILPF Sweden, shows that Sweden’s climate policy lacks gender analysis in many areas and that the feminist foreign policy fails to take a holistic approach to how gender equality and climate are linked. In its list of issues, the CEDAW Committee asked Sweden about measures taken to integrate a gender perspective into policies and programmes on climate change, to ensure the effective participation of women in decision-making processes on climate change in line with the Committee’s GR 37.

The current Swedish NAP does not include climate change. Given the linkages between climate change, violence, and conflict, it is clear that a gender perspective needs to be added to the discussion. The WPS agenda would therefore offer a good policy platform to start with. One of the WPS resolutions, UNSCR 2242, acknowledges the impact of climate change on the global context of peace and security. Furthermore, the EU Council conclusions on the EU's strategic approach to WPS makes this link, and the Swedish 2021 Action Plan on the Feminist Foreign Policy highlights the linkages between climate and conflict as well as the fact that gender discrimination is reinforced by discrimination and vulnerability linked to factors such as poverty, conflict, migration, and climate change.

Recommendations:

- Include migration, asylum, and climate change in the forthcoming NAP1325.
- Include UNSCR 1325 and subsequent related resolutions in the assessments of Swedish arms export carried out by the Inspectorate of Strategic Products (ISP). Such assessment should include the recipient countries' reports on implementation of UNSCR 1325 as well as NGO reports assessing such implementation.
- Require the agency ISP to report on the implementation of the NAP1325, in line with other agencies under the M for Foreign Affairs (MFA).

6.2 Submission from the Kvinna till Kvinna Foundation

The Kvinna till Kvinna Foundation promotes women's rights in over 20 conflict-affected countries in the Middle East, Africa, Europe and the South Caucasus and supports more than 150 local partner organisations throughout the world. Kvinna till Kvinna was founded as a reaction to the atrocities committed against women in the 1990's Balkan Wars. The organisation was among those that lobbied for a UN Security Council Resolution on Women, Peace and Security (WPS) ahead of the adoption of UNSCR 1325, in 2000, and has continued to work with the Women, Peace and Security Agenda ever since.

Sweden's work with the Women Peace and Security (WPS)

Agenda: Sweden has from the very beginning taken a leading role in promoting the Women, Peace and Security (WPS) Agenda internationally and was one of the first countries to adopt a National Action Plan (NAP) in 2006. Since then, Sweden has adopted two more National Action Plans

(NAPs). The last NAP covered the period 2016–2020 and we are now awaiting a fourth one and are hoping that it will be published soon.

In 2014 Sweden also adopted a Feminist Foreign Policy, which had the Women Peace and Security (WPS) Agenda as one of its priority areas. This means that the MFA has both the WPS NAP and the annual action plans for the Feminist Foreign Policy to guide their work in the area of WPS. Throughout the period of the last NAP, 2016–2020, the Swedish Ministry for Foreign Affairs has contributed to policy development, resources and experts at the UN-level, the EU-level, the OSCE and NATO in order to develop the scope of the agenda and aid its implementation on an international level. The MFA has also pushed for women to be included in different peace talks in for example Colombia, Syria and Yemen with varying degrees of success.

In 2017–2018, when Sweden was a non-permanent member of the Security Council, Sweden worked hard to promote the WPS agenda in the UN. And currently, during the Swedish Chairpersonship of the OSCE in 2021, Sweden has had the Women, Peace and Security Agenda as a clear priority throughout the year. We in civil society have seen that the MFA has been able to achieve a lot during these years when they have had a special role in international organisations and have allocated staff resources and high-level representation focusing on implementation of the WPS. We believe that Sweden could make a big difference if the government appointed a special Ambassador for Women, Peace and Security who could focus solely on this work.

In addition to promoting the Agenda in international organisations and institutions, Sweden also supports women's rights organisations around the world with funding from SIDA (the Swedish Development Agency). This funding is essential for local women's rights organisations to work in their different contexts for women's rights, for a greater representation of women in decision making processes and for greater involvement of women in conflict prevention and peace building. After 20 years with the WPS agenda we know that it is essential to have local women's organisations involved in the decision making and peacebuilding in order to understand and find solutions for local problems. Despite this, women's rights organisations (WRO) receive only 0.2% of all bilateral aid to fragile and conflict countries. The UN Secretary-General has demanded that donors increase their support fivefold to women's rights organisations in conflict areas in the coming years, in order to achieve inclusive peace and stability. We would like for Sida to increase their support to WRO in conflict areas and for Sweden to echo the call of the UN SG and encourage other donors to increase their funding too.

In addition to the Ministry for Foreign Affairs (MFA) and Sida, several other authorities and institutions are also responsible for implementation of the Swedish NAP for WPS. In early 2021 the government published an evaluation outlining the successes and the challenges of these authorities in implementing the Action Plan.

According to the report, many of the authorities are experiencing difficulties in implementing the NAP due to the fact that the Action Plan is not a governing document for the authorities, who often lack earmarked financing, staff resources and a clear strategy from the leadership. This translates to different types of problems in different authorities. For example, within the police authority it is clear that many staff stationed abroad have not received clear instructions for how they should contribute to implementation of the agenda. At the FOI, the lack of earmarked funding makes it impossible to employ and keep staff with relevant competence. And at SIDA, the Action Plan is not used as a tool when assessing actions or analyzing portfolios, which hampers the impact of the Action Plan at the global-, regional- and country-level. Based on the findings of the report we strongly recommend the Swedish Government to instruct the relevant authorities to include the goals of the National Action Plan in their governing documents, in their organizational strategies and operational plans, and in their annual budgets.

As Sweden is not a conflict or post-conflict country the NAP for the WPS focuses solely on international cooperation through the MFA, SIDA, or the other authorities covered by the NAP. We believe that Sweden needs to reconsider this narrow way of looking at how they can contribute to the WPS agenda. Sweden must take responsibility for how other policy areas also affect the realization of the agenda. Some obvious areas are Sweden's migration policy, Sweden's policy on arms exports and Sweden's climate policies.

Since 2016 Sweden has made changes to its legislation on migration and asylum, making it much more difficult for asylum seeking women to come to Sweden through family reunification. As a result, women have been stuck in war-torn places, in refugee camps and been forced to make the dangerous trips to Europe, where they risk being subjected to sexual abuse and trafficking instead of receiving safe transit to Sweden. We believe that Swedish migration policies must be shaped in a way that contributes to the implementation of the WPS agenda instead of the other way around.

In 2018 Sweden's new legislation concerning arms exports came into force. The legislation was supposed to prevent Sweden from exporting arms to undemocratic countries, but in reality this has not been the case. Due to loopholes in the legislation, Sweden continues to export arms to undemocratic countries and countries that have been involved in unlawful

warfare and attacks on civilians. This is in direct contradiction to the work under the WPS agenda. We believe that Sweden must stop exporting arms to all undemocratic countries and countries that violate human rights and the Geneva Convention.

In addition to international cooperation and policy coherence, we think that Sweden should consider how the WPS Agenda can be used in a Swedish context. Even though Sweden is not a conflict or post-conflict country we do have problems with Gender Based Violence, which means that many women and girls in Sweden live in constant fear of violence and even fear of losing their lives. Gender Based Violence is thus one of the greatest security threats for women and girls in Sweden. For this reason, we believe that Sweden should incorporate or at least link its work to eradicate Gender Based Violence in Sweden in the next Swedish National Action Plan for the WPS.

c) Torture

Regarding Sweden's compliance with the Convention against Torture and other cruel, inhuman or degrading treatment of punishment (CAT), Civil Rights Defenders in September 2020 delivered a joint NGO Submission for the UN Committee against torture review of Sweden during its 70th session.

GENERAL OBSERVATIONS. Overall, the human right situation in Sweden is viewed positively in comparison with many other countries. There are, for example, oversight mechanisms safeguarding the freedoms of opinion, assembly, speech and religion. Sweden has also acted on earlier the criticism from the Committee by taking measures to address many of its previous recommendations. For example, Sweden has strengthened its efforts to safeguard fundamental legal rights at the very outset of deprivation of liberty, in particular, the use of pretrial detention as a measure of last resort (including the consideration of alternative measures to its use).

At the same time, significant human rights concerns persist in Sweden, in particular with regards to the use of human rights-based working institutions or a human rights-based interpretation of national law, as well as ensuring that victims of human rights violations have access to legal remedies. A more pressing issue is that Sweden has totally ignored a number of the Committee's previous recommendations. Among those are the recommendations to include torture as a separate and specific crime in Swedish legislation, and to limit the length of pretrial detention. This report aims at directing the Committee's attention to some of these concerns in the hopes of highlighting their importance. The report does not claim to be exhaustive. As such, Civil Rights Defenders and the undersigned organisations (the signatory organisations) do not contend that the issues addressed below include all human rights concerns under the Convention in Sweden. The issues addressed in this report have been selected because these are areas in which the signatory organisations possess specific expertise

ARTICLE 1 QUESTION 2. The signatory organisations confirm that a memorandum is currently being considered by the Swedish Government. The memorandum proposes that torture should be defined as a specific crime. Notwithstanding the proposal, Sweden still lacks such legislation. The Government argues that the existing laws are sufficient for Sweden to

fulfil its international commitments, but the memorandum clearly lays out strong reasons for adding a specific torture crime.

The signatory organisations contend that the existing legislation does not sufficiently fulfil Sweden's international obligations. The enactment of a law criminalising torture as a separate and specific crime would also create an opportunity to address related issues, such as expanding the elements relating to complicity, participation, and responsibility of perpetrators of torture. The establishment of such a definition and separate legislation will allow for a more thorough implementation of the Convention and fairer restitution for victims.

SUGGESTED RECOMMENDATIONS, QUESTION 2

The Government must:

- Strengthen its efforts to criminalise torture and to define torture as a separate and specific crime, consistent with Article 1 of the Convention.
- Include an in-depth intersectional analysis addressing gender- and disability-specific forms of torture in the preparatory works to the proposal of legislation criminalising torture, as a means of ensuring better legal protection for particularly vulnerable victims of torture.

ARTICLE 2 QUESTION 3(A). The signatory organisations are pleased to see that the Government has addressed the criticism from the Committee and amended the Swedish Code of Judicial Procedure (1942:740), resulting in clarifications of a suspect's rights to a lawyer and to converse with the lawyer in a separate room, as well as to contact the lawyer and to have the lawyer present during hearings. The changes make clear that the rights apply to the suspect and not the lawyer, and that the rights also apply to persons under arrest.

In November 2019, the Government introduced further amendments regarding access to a lawyer outside of office hours. The new rules stipulate that a lawyer must be on call in the evenings between 5 p.m. and midnight every day of the year. This rule is intended for particularly urgent situations where a public lawyer must be immediately appointed. A decisive factor in determining whether a situation is particularly urgent is if the prosecutors on duty believe that it is necessary for the police to interview a suspect during the evening, and that waiting until the morning would be an unreasonable delay. Circumstances that would likely fall into this category of "urgent" situations include cases where the suspect is a child, hearings to determine whether detention shall continue or not, or if a critical hearing wherein a decision likely to impact the outcome of a case will be made.

However, individuals have the right to waive access to a lawyer. This means that “vulnerable persons” are not explicitly protected by law from being able to waive their right to a lawyer as recommended by the EU Commission. A related challenge is that the Swedish judicial system has not established a way to assess whether a person is unable to understand and to effectively participate in criminal proceedings due to their mental or physical condition or disabilities. Such a finding would prevent the person from being able to waive the right to a lawyer, and also ensure that they receive necessary reasonable accommodation related to the criminal procedure, something which is essential to be guaranteed the right to a fair trial.

It is more difficult for minors to waive the right to a lawyer. According to paragraph 24 of the Swedish Young Offenders Act (1964:167), a public lawyer shall automatically be appointed for a suspect who has not reached the age of eighteen years, but the law also stipulates that it is not necessary if it is obvious that the child does not need one. The same protection does not exist for elderly persons or persons who may be in need of reasonable accommodation or other forms of support.

To be able to guarantee every individual the right of access to a lawyer, there is a need to better understand situations in which suspects, whether minors or adults, waive their right to a lawyer and why they have done so. Furthermore, the signatory organisations agree with the Swedish Parliamentary Ombudsman that in situations where, objectively, an interrogation should not take place without a lawyer present, the suspect or his/her relatives should not make the assessment of the need for legal assistance. Rather, this assessment should be made by the police and prosecutors.

The ultimate responsibility for the decision, and to ensure the suspect’s right to a fair trial, lie with the interrogators and investigators, not the suspect.

QUESTION 3(B). The legal requirements are fulfilled as access to a medical examination is guaranteed by national law. In practice, however, access to medical resources is often limited and individuals in pre-trial institutions are at risk of having to wait longer than acceptable to receive a medical assessment. This is noteworthy not least because many persons in prison have psychiatric difficulties and mental illness. One reason cited for this undue delay is that medical personnel are only available during office hours. Another is the staff are over-burdened.

In some detention centers, the oncall doctor’s agreement did not cover emergency medical assessments. Instead, the staff were advised to contact the Swedish health care guide 1177, which should not be considered a substitute for a medical examination. The limited access to medical resources

has also led to situations where an unreasonably long time elapsed before a medical examination could be carried out.

QUESTION 3(C). In general, the laws in Sweden are satisfactory in that they guarantee to persons who have been deprived of their liberty the right to information and the right to be informed of the charges against them. One concern, however, is the system's ability (or inability) to identify whether suspected or accused persons are in need of reasonable accommodations while in detention. Such knowledge is essential to ensuring that individuals receive information about their rights and the charges against them in a way that they can understand, as well as to ensure the right to a fair and objective trial.

Following CPT's visit to Sweden in 2015, CPT stated that the procedure for screening newly arrived persons at police detention facilities continued to leave much to be desired. Although there is an initial security assessment in police custody, this is only a basic and routine procedure which is more useful in identifying acute health conditions rather than identifying needs in relation to the criminal procedure. In the case of pre-trial detention, the subsequent medical examination is much more thorough and includes a review of the detainee's health care history and test results, as well as an evaluation on further contact with a physician and co-ordination of medical documents and measures.

The examination conducted during pre-trial detention is carried out by a nurse, though a doctor, psychiatrist or psychologist can be consulted during a subsequent examination. However, because the medical examination available to individuals in police custody or in pre-trial detention has no relation to the criminal proceedings, it does not in fact safeguard the detainee's procedural rights as recommended by the EU Commission. In past years, some institutions screened and assessed convicted prisoners for ADHD. The results were positive, showing a lower rate of recidivism. Despite this, few such screenings are carried out today.

The signatory organisations believe it could be possible to utilise and further develop existing screenings to identify individuals in need of reasonable accommodations. With regards to the right to information, the signatory organisations would like to see information on rights or local institutional procedures made available in more places of detention.

The Parliamentary Ombudsmen have on various occasions criticised the Swedish Migration Agency's detention centers for not providing such information in written format to detainees. Even though written materials in multiple languages are available, these are not always used by staff. The Swedish Prison and Probation Service has also been criticised for not providing information to detainees regarding their rights. For example,

a number of shortcomings in the staff instructions on how information should be provided were discovered, as was the fact that the available information booklet was not being used and there were no special information available for immigration detainees held in pre-trial detention.

SUGGESTED RECOMMENDATIONS, QUESTION 3

The Government must:

- Establish a method to identify if a person needs special support to be guaranteed the right to a fair trial,
- Establish routines to ensure that each individual who has been deprived of their liberty receives information on their rights and the charges against them in a format they can understand and are also held in humane conditions when they are deprived their freedom of liberty.

QUESTION 4. The Equality Ombudsman (DO) was introduced to ensure the effective enforcement of the Discrimination Act. However, we believe that the work of the DO has developed in a way that limits the impact of its authority. Most notably, the number of cases investigated and taken to court by the DO has decreased significantly since the merger of multiple ombudsmen into one in 2009. This development has also resulted in a lack of trust in the DO among groups in society that are particularly vulnerable to discrimination. The Ombudsman has chosen not to use the most powerful tool at its disposal, i.e., litigation in individual cases.

4. Thematic essays

a) Sweden and the rule of law

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1. Introduction

In this essay, the concept of the rule of law and the formal organization of constitutional government in Sweden is first briefly presented as a general background. The focus is a review and discussion of work in progress on constitutional reform and legislation on issues of specific relevance to the rule of law and human rights concerns. In conclusion there is a short summary reflecting on the general situation in Sweden concerning human rights and the rule of law.

1.1 The rule of law

To ensure that interpretation of the principles of rule of law does not vary, the definition in this chapter is that stated by the Secretary-General of the United Nations:

“[a] principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”¹

1. Report of the Secretary-General: *The rule of law and transitional justice in conflict and post-conflict societies* (S/2004/616).

1.2 The Swedish Political System

1.2.1 *The rule of law in the Swedish constitution*

The principles relating to the rule of law can be found in one of Sweden's constitutional laws, specifically in Chapter 1 of the Instrument of Government (1974:152). It states the foundations for the form of government, including the principle that public authority originates from the people, which in turn is based on universal and equal suffrage and that the principle of legality is to permeate every application of public authority.² Furthermore, Chapter 1 states that Parliament is the legislator,³ that the head of government rules the nation but is accountable to Parliament,⁴ and that all parts of the public sector – including the judiciary – are to act objectively and therefore ensure equality before the law.⁵

1.2.2 *Rights within the constitution*

Chapter 2 of the Instrument of Government enumerates the fundamental human rights in Sweden. As a simplified summary, it can be said that the rights stated in the second Chapter are relatively equivalent to the rights stated in the European Convention on Human Rights and Fundamental Freedoms (ECHR). This Chapter also states that no law or provision may be founded that is incompatible with the ECHR.⁶

1.2.2.1 *Liability for the state regarding violations of human rights*

A vital part of the ECHR is that states responsible for human rights violations are liable to compensate the victims of the violation at hand. Such claims are well-incorporated within the Swedish legal system. However, there is at the moment no basis for a corresponding claim in the Swedish Tort Liability Act (1972:207) regarding violations of the rights stated in Chapter 2 of the Instrument of Government. A government investigation on whether such a basis should be adopted was therefore set up in 2018 and was published in August 2020.⁷

The parliamentary committee in charge of the investigation concluded and recommended that a matching basis for compensation should be established in the Tort Liability Act (a summary of the inquiry is available in English from page 17 onwards).⁸ As this would increase accountability for

2. Instrument of Government, Chapter 1, Article 1.

3. Instrument of Government, Chapter 1, Article 4.

4. Instrument of Government, Chapter 1, Article 5.

5. Instrument of Government, Chapter 1, Article 9.

6. Instrument of Government, Chapter 2, Article 19.

7. Swedish Government Official Report 2020:44, "SOU 2020:44".

8. Swedish Government Official Report 2020:44, "SOU 2020:44", p. 12.

the state regarding human rights violations, as well as strengthen general legal certainty, it is an objectively positive development for individuals. It would have been even better if the committee had processed whether liability could or should be actualized for violations of constitutional law in general and not just the chapter containing rights, although it is still an improvement in terms of accountability for the state.

1.2.3 *Examination of legality*

While Sweden does not have a constitutional court with the task of examining the legality of new legislation, every court has a constitutional responsibility not to administer any law in conflict with superordinate legislation.⁹ Therefore, the Swedish examination of legality is bound to cases in court and cannot be realized in theory only. Such an assessment obliges the court to consider the will of Parliament, as to why the new legislation was founded. Hence, the application of new laws in practice is quite dependent on the legislative process being well functioning and that superordinate law is considered during the process.

1.2.4 *Alignment to European law*

There are many ways in which European law is integrated in Swedish legislation, the more fundamental ones being the regulations within constitutional law. As part of the foundation for the form of government it is stated that Sweden is a member of the European Union and participates in the United Nations.¹⁰ Furthermore, the constitution states that no law shall be founded in conflict with the ECHR (as mentioned under heading 1.2.2.),¹¹ that the head of government needs approval from Parliament when entering international agreements entailing legislative change,¹² and that Parliament can transfer the right of decision in matters not concerning Sweden's form of government to the European Union.¹³

1.2.5 *The Parliamentary Ombudsmen*

An important aspect of the Swedish public sector is the possibility for individuals with knowledge of wrongfully applied public authority to file a complaint with the Parliamentary Ombudsman. These are high legal officers appointed by and accountable to Parliament, not the head of gov-

9. Instrument of Government, Chapter 11, Article 14.

10. Instrument of Government, Chapter 1, Article 10.

11. Instrument of Government, Chapter 2, Article 19.

12. Instrument of Government, Chapter 10, Articles 3 and 4.

13. Instrument of Government, Chapter 10, Article 6.

ernment. It is stated in the constitution that the Parliamentary Ombudsman exercises supervision of all application of public authority and that everyone employed by the government is to provide information when the Ombudsmen so require.¹⁴ If the Ombudsmen find that unlawful exercise of authority has taken place, the agency responsible for the transgression is publicly criticized, which in turn is part of rectifying the flaw at hand.

1.2.6 *The political power*

The Swedish political system is founded on the principles of parliamentary democracy, based on freedom of opinion and universal and equal suffrage. Parliament is the legislator and decides on the annual budget while the head of government is appointed by and accountable to Parliament.

The principles of freedom of opinion and universal suffrage are stated in the first article of the first chapter in the Instrument of Government, as an indication of how imperative these values are to Sweden as a nation.

Democratic government is executed on three levels: national, regional, and municipal,¹⁵ with simultaneous proportional elections for assemblies on these levels on the second Sunday in September every fourth year.¹⁶

Public administration is based on independent agencies tasked with implementing laws without government interference in the administration of individual cases. Government agencies and the civil service are thus independent in relation to the political power in a manner quite unique in international comparison.

Another important limitation on the political power is that constitutional amendments must be adopted by Parliament on two occasions with an election in between the votes.¹⁷

2. Current constitutional and legislative reforms

2.1 **Strengthening democracy and independence of the judiciary**

The head of government decided in 2020 to appoint a constitutional committee, with parliamentary composition, with tasks including evaluating the regulations for making constitutional changes and amendments as well

14. Instrument of Government, Chapter 13, Article 6.

15. Instrument of Government, Chapter 1, Article 7.

16. Instrument of Government, Chapter 3, Article 3, and Election Act (2005:837), Chapter 1, Article 3.

17. Instrument of Government, Chapter 8, Article 14.

as the need for stronger independence of the judiciary.¹⁸ The committee was also mandated to study the possibility of restricting the freedom of association – a constitutional right – in relation to organizations engaged in terrorism, which is addressed below.

Regarding the adoption of constitutional amendments, the committee is to assess whether there should be a requirement for qualified majority to pass a constitutional amendment in Parliament (a simple majority is enough today), if a certain number of Members of Parliament need to be present and participate in the vote, and if the election between the two necessary voting sessions in Parliament should be an ordinary election rather than an extra session, which today is not excluded.

As for increasing the independence of the judiciary, the committee is to investigate the call for a constitutional regulation of the number of Supreme Justices and their retirement age, the possibility of increased cooperation between the Supreme Court and the Supreme Administrative Court during certain sessions, and whether the Swedish National Courts Administration should be changed as regards organization, governing and general role in society. The result of the inquiry about constitutional amendments and the judiciary is to be presented in February 2023, while the conclusion on restricting freedom of association was published on March 15th, 2021.¹⁹

2.2 Criminalization of participation in terrorist organizations

According to the Swedish constitution, freedom of association is a right that may be restricted by law.²⁰ The possible restrictions regarding the freedom of association that may be enforced are similar to the restrictions stated in Article 11.2 of the ECHR. Restrictions must be lawful,²¹ necessary in democratic society and proportionate.²² Furthermore, the freedom of association can be restricted if the association in question is of a military nature or participates in persecution of people based on ethnic origin, skin color or similar grounds.²³

18. Commission of inquiry by the Ministry of Justice, “Dir. 2020:11”.

19. Commission of inquiry by the Ministry of Justice, “Dir. 2020:11”, page 1–2.

20. Instrument of Government, Chapter 2, Article 1, first paragraph.

21. Instrument of Government, Chapter 2, Article 20.

22. Instrument of Government, Chapter 2, Article 21.

23. Instrument of Government, Chapter 2, Article 24.

2.3 The Inquiry

In 2019, the head of government proposed to criminalize participation in terrorist organizations and assessed that such criminalization would not restrict the freedom of association. The Council on Legislation, which judges the judicial quality of government bills, however, did not agree and stated that the proposal would result in a restriction of the right to association. To investigate the subject further, the parliamentary constitutional committee was given the task to conduct an inquiry to (i) clarify the possibilities regarding restricting the constitutional right to association, (ii) to assess whether to expand the possibility to limit freedom of association, and (iii) to propose legislative changes needed for the suggested changes (a summary of the inquiry is available in English from page 19).²⁴

The committee agreed with the Council on Legislation that criminalization of participation in terrorist organizations would be a restriction of the freedom of association. The committee does, however, assess that limiting the freedom of association to prevent terrorism may be warranted, since such restrictions would correspond with similar restrictions in other EU countries, facilitating international cooperation on combatting terrorism.²⁵ In total, the committee argues that the reasons for giving the legislator a possibility to intervene against associations engaged in terrorism are stronger than arguments raised against such an order.²⁶

To define the criminalized act, the word ‘terrorism’ will be used since it is an established definition and hence is compatible with the Swedish Criminal Responsibility for Terrorist Offences Act (2003:148) as well as the EU directive on combating terrorism.²⁷ The committee also proposes that it should be possible to limit freedom of association for groups and organizations conducting activities that contribute to terrorism.²⁸ The legislative amendment suggested by the committee is to grant the legislator the possibility to limit freedom of association with respect to associations that are engaged in or support terrorism. The amendment to the Instrument of Government in question is proposed to enter into force on January 1st, 2023.²⁹

24. Swedish Government Official Report 2021:15, “SOU 2021:15”, pp. 19–20.

25. Swedish Government Official Report 2021:15 “SOU 2021:15”, pp. 21–22.

26. Swedish Government Official Report 2021:15 “SOU 2021:15”, p. 23.

27. Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

28. Swedish Government Official Report 2021:15, “SOU 2021:15”, p. 24.

29. Swedish Government Official Report 2021:15, “SOU 2021:15”, p. 26.

2.4 Discussion

The suggested limitation on the freedom of association is truly a democratic dilemma. On the one hand, the freedom of association is a cornerstone in democratic society. On the other, participation in groups or organizations that advocate undemocratic systems undermines the democratic system. The risk with such an amendment is primarily the uncertainty regarding what is included in the definition of terrorist organizations. Since the amendment harmonizes with other legislation – both national and international – that defines terrorism, that risk is reduced. Relating to the principles of the rule of law, the effect of the suggested amendment is difficult to assess. It can be argued that limitation of freedom of association can never be acceptable in democratic society. However, since the proposed amendment is no more extensive than that of EU legislation, it is my opinion that increased international cooperation on the subject of combatting terrorism is an acceptable reason for limiting freedom of association.

While I argue that the limitation of freedom of association might be acceptable in a democratic society, and that the risk associated with defining terrorist organizations is reduced through international conformity, the risk is still a factor. Criminalization of both terrorist organizations and organizations that contribute to terrorism can lead to discretionary decisions regarding which organizations are considered to be connected to terrorism. This, in turn, is problematic due to lack of legal certainty, as well as the possibility of impairing equality before the law and fairness in application of the law. How these risks will be neutralized cannot be determined until the amendment enters into force. Optimistically, the definitions will be clear and the risk of wrongfully classifying non-terrorist organizations as terrorists will be small.

3. The electoral system

With high voter turnout in international comparison (87.2 percent in the last election),³⁰ generous possibilities for early and absentee voting and liberal policies for the support of public printing and procurement of ballots, it must be said that it is easy to cast a ballot in Sweden and that the organizational setup is conceived to make it so.

Still, concern is often raised that voting participation should be even higher, which has been discussed both in the public debate and in different government initiatives, most recently as part of the 100th anniversary cele-

30. Statistics Sweden, Valdeltagande i Sverige (eng: Voter turnout in Sweden), (<https://www.scb.se>).

bration of the final introduction of universal suffrage at the parliamentary election in 1921 (see heading 7.1.).

There is also ongoing reform work on the formal aspects of voting, and a government commission on electoral organization was set up in 2020.³¹ The assignment was to review the voting system and to consider possible alterations to improve and strengthen the democratic system. Assessments by the Swedish National Audit Office and the Election Authority conclude that the electoral system is generally well functioning but that there is room for improvement.³²

In January 2021, an interim report by the appointed government commission on how to reinforce the protection of voters at polling stations during elections was released.³³ The proposed improvements include increasing transparency in the electoral process and clarifying the principle of public access to official records, supplying educational materials to the election workers, prevention of external influences at the election stations and to strengthen the secrecy of the election in general.³⁴

The commission will release its final report in October 2021. One aspect of special OSCE interest is that it will probably propose guidelines (which Sweden has so far not had) for external electoral observation from different international bodies.

It is, however, also worth noting what was left out of the commission's working mandate – the design, character, and open availability of the ballots. Concern has been raised by European election observers, and since the election of 2014 there has been a qualified discussion among election officials and some political scientists questioning the present system with printed paper ballots distributed by party representatives and openly available at polling places.³⁵

The officials argued in the article that voter secrecy is not guaranteed, that the open presence of ballot distributors from the competing parties could be a disturbance, that the possibility of individual candidate choice on a paper ballot is not always there, and that the simultaneous elections at national, regional and local levels with different ballots can be confusing for voters. The idea of having a joint ballot with all parties and all elections in one place and with added space for individual choice has been suggested. The ballot discussion has not been able to take place outside these expert

31. Swedish Government Official Report 2021:7, "SOU 2021:7".

32. Swedish Government Official Report 2021:7, "SOU 2021:7" pp. 29–30.

33. Swedish Government Official Report 2021:7, "SOU 2021:7".

34. Swedish Government Official Report 2021:7, "SOU 2021:7", pp. 12–16.

35. Elklit, J., Petersson, O., Sverige måste ta kritiken mot valsystemet på allvar (eng: Sweden must take the criticism of the election system seriously), DN Debatt, published January 26th, 2019.

circles and it is not within the commission's mandate to come up with proposals here.

3.1 Discussion

Regarding the review of the voting system, it is encouraging to see recognition that a well-functioning system may still be improved. However, the published interim report is limited in scope, and it remains to be seen in the final report, due on October 15th, 2021,³⁶ what the commission's final proposals on improvements of the Swedish electoral system will be. The legislative changes in the interim report are proposed to enter into force on January 1st, 2022, in order to strengthen protection of the Swedish election later that year. Thus, only the legislative changes suggested in the interim report – not the full report released in October – will enter into force in 2022.

4. The Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) acquired the status of national law in Sweden on January 1st, 2020, to entail a more coherent obligation for courts and legal practitioners to regard the rights of children. This was stated by Sweden in the Universal Periodic Review by the Working Group of the Human Rights Council in 2020 (UPR), along with the assurance that Sweden was progressing in ensuring the rights of the child, whilst challenges remained concerning children in vulnerable situations.³⁷

4.1 Legislative impact

Since then, a number of investigations have been initiated to determine how Sweden's obligations in accordance with the CRC are to be implemented in other relevant processes and legislations. Recent examples include a decision to establish a national strategy for preventing and combating violence towards children,³⁸ an overview of how children are to participate in urban planning,³⁹ an inquiry into how to create a cohesive system for children's healthcare,⁴⁰ and an overview of the system for

36. Swedish Government Official Report 2021:7, "SOU 2021:7" p. 27.

37. Universal Periodic Review by the Working Group of the Human Rights Council, A/HRC/44/12, 1.A(8–9).

38. Commission of inquiry by the Ministry of Employment, "Dir. 2021:29".

39. Government mandate by the Ministry of Finance, "Fi2021/01565".

40. Swedish Government Official Report 2021:34, "SOU 2021:34".

appointed guardians.⁴¹ These are just a few examples of how the CRC is being regarded in the legislative process, and while they cannot speak for the overall status of upholding children's rights, they can show that the CRC is considered.

4.2 Judicial impact

Another way to determine the impact of the CRC as national law is through a precedent, delivered by the Migration Court of Appeal in December 2020.⁴² The legal question at hand was to determine whether a 14-year-old girl who was born in Sweden could be deported, considering the fact that her parents did not get their asylum applications approved, neither before nor after her birth. The Swedish Migration Agency argued that deporting the family would not be incompatible with the CRC or the girl's right to respect for private life in Article 8 of the ECHR, and that the state's interest in regulated immigration outweighed her interests. However, the Migration Court of Appeal stated that the child's best interest in this case was for the child to remain in Sweden, due to her strong ties to Sweden and the lack thereof to her parents' country of origin. Furthermore, the Court declared that the state's interest to regulate immigration, in this situation, could not outweigh the rights of the child. Since the Migration Court of Appeal ruled that deportation of the girl was not possible, deporting the parents was incompatible with the right to respect of family life in Article 8 ECHR.

4.3 International impact

Sweden ratified the CRC in 1990, although the lack of formal recognition as national law has been a subject for concern, stated by the United Nations Committee on the Rights of the Child.⁴³ By the few examples presented above, it is possible to conclude that the CRC's acquiring the status of national law has made Sweden reflect over how to implement the rights of the child in other relevant legislation. Due to the precedent from the Migration Court of Appeal, it can also be said that the CRC as Swedish law has made an impact on the judicial process. While this is a positive

41. Swedish Government Official Report 2021:36, "SOU 2021:36".

42. Verdict by the Migration Court of Appeals the December 22nd, 2020, case number UM 2944–20.

43. United Nations Committee on the Rights of the Child, CRC/C/SWE/CO/5, 3.A(7).

development on the national level, there is an international occurrence where Sweden's actions might not be compatible with the CRC.

United Nations human rights experts have expressed concern regarding the humanitarian situation at the Al Hol and Roj camps in Syria and have thus urged the states, including Sweden, whose nationals reside there to repatriate them without delay. A majority of the people being held are women and children, in need of justice and reparation for the serious violations of human rights and humanitarian law that have taken place in the area.⁴⁴ It is hard to determine how many of the people in detention are Swedish, although Save the Children Sweden estimates that between 30 and 40 Swedish children are being held there.⁴⁵

The Swedish Minister for Foreign Affairs expressed worry for the situation in Syria during a parliamentary debate and claimed that the government is doing its utmost to – if possible – bring the children home to Sweden. The Minister also refers to the fact that the local self-government in Syria is opposed to the repatriation of children together with their mothers, since they are inclined to prosecute the adults for crimes committed in association with Daesh.⁴⁶ However, since then the Danish Government has decided to repatriate the children with connection to Denmark, along with a few of the children's mothers.⁴⁷ Finland and Germany repatriated both children and adults at the end of 2020, arguing that separating children from their mothers was not possible.⁴⁸

4.4 Discussion

Regardless of politics, the Swedish government is responsible for the children detained in Syria. Detaining the children due to the crimes of their parents is a flagrant violation of Article 2.1 of the CRC, not to mention that the best interest of these children cannot possibly be to remain detained. To uphold the rights of the child in accordance with the rule

44. Office of the High Commissioner, Syria: UN experts urge 57 States to repatriate women and children from squalid camps, (<https://www.ohchr.org>).

45. Frågor och svar om de svenska barnen i nordöstra Syrien (eng: Save the Children Sweden, Q&A about the Swedish children in northeastern Syria), <https://www.raddabarnen.se>.

46. Parliament protocol 2020/21:105 Friday, April 9th in 2021, § 16 Answer to interpellation 2020/21:596 about the Swedish children in northeast Syria, statement 78, by Minister of Foreign Affairs Ann Linde.

47. Reuters, Denmark to repatriate women, children from Syrian camps, May 18th, 2021 (<https://reuters.com>).

48. Save the Children Sweden, Press release from December 21st, 2020 (<https://www.raddabarnen.se>).

of law, Sweden should already have ensured the rights of the children by returning them to Sweden. If possible, family members in the camp should also be brought to Sweden and tried for crimes committed there, to respect the right to respect for family life stated in Article 8 of the ECHR. Since the Minister for Foreign Affairs claims that this is not probable, the head of government must at least prioritize repatriation of the children. The need for protection and repatriation of these children and their parents has been stated since 2019,⁴⁹ and the fact remains that they are still detained. In this matter, Sweden cannot be said to have acted in accordance with the principles of the rule of law.

5. The Institute of Human Rights

During the UPR in 2020, Sweden announced that the establishment of a national human rights institution, in accordance with the Paris Principles, had been proposed to take place in 2021.⁵⁰ In mid-March 2021, a government bill with suggestions for legislative changes to enable establishment of such an institution from January 2022 was presented to Parliament.⁵¹ As the government bill to this point remains the most recent published work in the legislative process, it will be used as the main source on Sweden's progress on the matter.

5.1 Organization

The Swedish Institute of Human Rights (the Institute) is intended to be created as a new agency, as the independence of such an institution would be at risk if placed within an already existing agency.⁵² The new agency is planned to report to the head of government, not Parliament,⁵³ and is to be led by a board consisting of eight members. The board members will be appointed by the head of government, but the president, vice president and director are to be chosen by the board. The head of government may only dismiss board members at their own request, or in the case of extraordinary reasons.⁵⁴ Furthermore, board members are appointed for a period

49. Statement by UNICEF Executive Director Henrietta Fore: *Governments should repatriate foreign children stranded in Syria before it's too late*, November 4th, 2019.

50. Universal Periodic Review by the Working Group of the Human Rights Council, A/HRC/44/12, I.A(7).

51. Govt. bill 2020/21:143, "prop. 2020/21:143".

52. Govt. bill 2020/21:143, "prop. 2020/21:143", pp. 20–21.

53. Govt. bill 2020/21:143, "prop. 2020/21:143", pp. 19 and 21.

54. Govt. bill 2020/21:143, "prop. 2020/21:143", pp. 35–39.

of five years, and the board members and directors may not be appointed again until at least five years have passed since their dismissal.⁵⁵

5.2 Objectives

The main objectives of the Institute will be to promote and protect the Swedish constitution and human rights in general and to ensure the impact of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).⁵⁶ The Institute will operate in accordance with the criteria for A-status membership posed by the Global Alliance of National Human Rights Institutions (GAHNRI), to certify the legitimacy and credibility of the institution.⁵⁷ While the Institute is tasked to report on the human rights situation and bring forth suggestions on the matter to the head of government, the Institute is not to try individual complaints.⁵⁸ The function of the Institute is to be regulated through legislation, but the Institute will manage its organization independently within the frame set by the law.⁵⁹

5.3 Discussion

Establishing the Institute is an important step taken by Sweden for the protection of human rights. An agency working full time with upholding human rights is a positive development as the responsibility has been divided between different agencies in the past, depending on the nature of the rights involved. Concerning the Institute's objectives, the specified task to ensure the impact of the CRPD stands out, since it is already stated that the Institute is responsible for ensuring human rights in compliance with international obligations. This seems to be the Swedish solution to the need for an independent mechanism to promote implementation, stated in Article 33 of the CRPD. In the Report from the UPR in 2020, it was stated that the mission of ensuring the impact of the CRPD had begun at the Agency for Participation.⁶⁰ However, the government bill states the need for such a mechanism in the Institute, mainly due to Swe-

55. Govt. bill. 2020/21:143, "prop. 2020/21:143", pp. 35 and 39.

56. Govt. bill. 2020/21:143, "prop. 2020/21:143", p. 23.

57. Govt. bill. 2020/21:143, "prop. 2020/21:143", pp. 17–18.

58. Govt. bill. 2020/21:143, "prop. 2020/21:143", p. 27.

59. Govt. bill. 2020/21:143, "prop. 2020/21:143", p. 33.

60. Universal Periodic Review by the Working Group of the Human Rights Council, A/HRC/44/12, 1.A(19).

den not yet having appointed such a mechanism.⁶¹ This is no criticism of Sweden's decision to change the means of incorporation, nor critique of the mechanism itself, but merely an observation that the implementation has not been completed and that conditions have changed slightly since the UPR in 2020.

Regarding the organization itself, it might be seen as problematic that the Institute will be an agency under the head of government rather than Parliament. Even though the need for independence is stated repeatedly in the government bill, the fact that the government may dismiss board members of the Institute in case of extraordinary circumstances is troubling. Since the Institute reports to the head of government, this might lead to dependency. To ensure the Institute's independence, the agency should perhaps instead be placed under Parliament. Aside from this aspect, the suggested organizational structure where the board appoints the president, vice president and director is good for the autonomy of the Institute and strengthens its credibility.

6. Swedish jurisprudence in question

6.1 Criticism from a European perspective

While Sweden can be a role model in certain areas of democracy and freedom, we cannot deny that there are cases when Sweden is rightfully criticized for its human rights practices (in this volume, this matter is also covered within succeeding sections with input from Swedish civil society organizations).

In the spring of 2021, the European Court of Human Rights found that Sweden's signals intelligence regime in the context of national defense violated the right to privacy and the protection of correspondence under Article 8 of the ECHR.⁶² Since 1991, Sweden has also repeatedly been criticized by the Committee for the Prevention of Torture (CPT) for long detention times and the widespread imposition of restrictions on remand prisoners. The CPT expressed concern in 2016 for the fact that such practice had continued almost unabated after 24 years of dialogue between the Swedish authorities and the CPT.⁶³

In general, it can be said that Sweden's view on human rights is heavily influenced by European law. It is due to Sweden's ratification and incorporation of the ECHR as well as membership of the European Union that

61. Govt. bill 2020/21:143, "prop. 2020/21:143", p. 17.

62. Centrum för Rättvisa v. Sweden, Application no. 35252/08.

63. Report to the Swedish Government on the visit to Sweden carried out by the CPT, May 18th to May 28th 2015, CPT/Inf (2016) 1 pp. 29–30.

has led to the possibility for individuals to be compensated for violations of their rights.

7. Final observations and comments

7.1 A hundred years of equal voting rights

The year of the Swedish OSCE chair, 2021, happens to coincide with the 100th anniversary of the first parliamentary election with universal suffrage, equally for women and men, in Sweden. For a hundred years, men and women alike have been able to vote in Sweden, and as a celebration of a century of democracy, the Swedish head of government is making a national effort to recognize and strengthen the democratic system. According to the Swedish Minister for Culture and Democracy, this initiative comprises raising awareness about media and information, preventing threats and hatred towards journalists and elected representatives, as well as strengthening the participation of youths in the democratic process. Examples of these initiatives include producing pedagogical material for schools with the purpose of making the democracy more resilient, working for increased knowledge about democracy among inmates, and the establishment of a committee to plan and coordinate efforts and activities to strengthen democracy in general.⁶⁴

7.2 Discussion

The democratic system is one of the foundations on which the principles of the rule of law can be actualized. Caring for and strengthening such a system are vital for the creation of a sustainable and just society. Although Sweden's efforts to strengthen the democratic system are to be commended, it is difficult to assess the possible impact of the initiatives taken in celebration of a hundred years of equal voting rights. Nevertheless, education is an important aspect in upholding democratic values.

7.3 General summary

This chapter presents a few different ongoing commissions and reforms in Sweden, including a shorter conclusion – in relation to the principles of rule of law – to each presented subject. In general, it can be said that Sweden is making progress in promoting human rights. While it is possible to

64. The Ministry of Culture, Press release from January 4th, 2021 (<https://www.regeringen.se>).

criticize a few of the reforms and commissions, most of them are consistent with international human rights norms and standards. Due to the focus on the world pandemic (see below) at the time, the presented reforms and commissions have not received as much attention as they might in another time. This, in fact, makes reviewing Sweden's progress on the matter even more important.

Another essential aspect is that Sweden in general is prosperous in terms of democracy, equality before the law and legal transparency. Potential criticism of pieces of the legal process in Sweden is therefore not fully comparable with that of nations less evolved in such matters. Since Sweden's human rights status is better than that of many other countries, some of the observations and assessments might be seen as quite trivial from an international perspective. Nonetheless, examination of the small matters leads to more awareness and therefore progress from a human rights perspective.

As a result of the establishment of the Swedish Institute of Human Rights, it is not improbable to assume that the human rights situation in Sweden will progress further in the foreseeable future. It will be particularly interesting to see the contrast due to the lack of such an institute in the past.

Finally, a notice on Covid-19. The various challenges of the pandemic and of regulating the threat from Covid-19 has of course been the overriding public policy issue in Sweden as in the rest of the world in 2020 and 2021. The implications vis-à-vis the principles of the rule of law are crucial. Thus they have been left to an essay of its own in this volume. Hence, this chapter is focused on ongoing commissions and reforms related to human rights, without addressing Covid-19.

7.4 Personal note

I would like to express my appreciation of having been invited to contribute to this volume and offered the possibility to publicly review as well as potentially criticize the development of the human rights situation in Sweden. The freedom to do so is easily taken for granted, and I hope that in the years to come I will be able to read similar self-evaluations from other human rights enthusiasts, in other OSCE countries during their chairperson years.

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b) The rights of Indigenous peoples: the Swedish state's policy towards the Sámi people

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1. Introduction

Internationally, Sweden is well known for its record of ratifying human rights conventions (see, e.g., Dahlstedt & Neergaard 2018; Semb 2012), and being among the wealthiest and most developed countries in the world. Sweden has the capacity for enforcing human rights both legally and institutionally. Concerning the rights of indigenous peoples, for instance, the UN Special Rapporteur on the rights of indigenous peoples, James Anaya, stated in a report in 2011 that Sweden—together with Norway and Finland—‘pay a high level of attention to indigenous issues, relative to other countries’, and that the transnational indigenous Sámi people living in the three countries does not have to deal with some of the most topical issues facing other indigenous peoples around the world, ‘such as serious health concerns, extreme poverty or hunger’ (HRC 2011, 1, 5). Living within Scandinavian welfare states, the Sámi may in many ways be described as well-integrated in the majority societies due to state policies and other processes of assimilation; they are, for instance, Swedish citizens, speak Swedish, are educated in the Swedish school system, have a standard of living equal to other Swedes, the same life expectancy at birth *et cetera* (see, e.g., Anderson et al. 2016; Selle et al. 2015).¹

In spite of this track record and Sweden’s sensitivity to sustain its ‘global reputation’ as upholder ‘of international law and conventions’ (Minnerup & Solberg 2011, 4), recent country reports from UN monitoring bodies on how international norms are observed, such as the Human Rights Council (HRC), the Human Rights Committee and the Committee on the Elimination of Racial Discrimination (CERD), still criticise Sweden

1. Lately, however, this picture has been called into question somewhat, especially in research on health and standard of living, since ‘Sweden’s inability to disaggregate data by ethnicity means that it is unable to monitor the health status of its Indigenous population and respond accordingly through policy and service delivery’ (Anderson et al 2016, 152).

for not fulfilling its human rights obligations. Certain matters are recurring in these reports, for instance, the situation of the Roma, hate crimes, discrimination, and the status and situation of the Sámi people (see e.g. CERD 2018; HRC 2019, 2020). Moreover, a Swedish Government Official Report in 2017 stated that the minority policy had failed in granting the national minorities access to their basic rights on a municipal level in accordance with the national legislation (SOU 2017:60). In this chapter, we focus exclusively on the Swedish state's policy towards the indigenous Sámi people.

2. The rights of indigenous peoples and the Sámi people in Sweden: a brief background

The international recognition of indigenous peoples' rights has gradually grown stronger in the last three decades (Anaya & Rodríguez-Piñero 2018). In contemporary politics there are two instruments of specific importance for indigenous peoples: the 1989 ILO indigenous and Tribal Peoples Convention (No. 169) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly in 2007. Only 23 countries have ratified the binding ILO convention (C169) during its first thirty years of existence, while 144 countries voted for the UNDRIP. Although not legally binding, the UNDRIP reflects in many ways customary international law on indigenous peoples' rights and, as such, it serves as a point of reference in the interpretation of other human rights instruments (Diergarten 2019; Koivurova 2011; Lightfoot 2016).

With the adoption of the UNDRIP the questions that had dominated the debate in international law for a long time—on which conventions or treaties that were applicable to indigenous peoples—got an unequivocal answer: indigenous rights are human rights and indigenous peoples are equal to other peoples within international law (Allen & Xanthaki 2011). Paramount in this context is the third article of the UNDRIP recognising indigenous peoples as peoples with a right to self-determination, which—paraphrasing the first articles of the two 1966 UN Covenants on Civil and Political Rights (CCPR) and on Economic, Social and Cultural Rights (CESCR) on all peoples' right to self-determination—states that 'Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'.

Although international law provides no or little guidance for what indigenous self-determination ought to mean in political practice, there exists a consensus among political theorists and legal scholars today that it is the will of the indigenous peoples that ought to determine their polit-

ical status, as well as their economic, cultural and social development (Hohmann & Weller 2018; Mörkenstam 2015; Xanthaki 2007). Of specific importance are property rights to and control over land and natural resources, since the cultural, social and economic life of indigenous communities are dependent on and conditioned by the natural resources available (see e.g. Anaya 2015; Åhrén 2016). As expressed by Erica-Irene Daes (2005, 81), then Chair of the United Nations Working Group on Indigenous Issues: “A fundamental aspect of the true spirit of self-determination is the respect for the *land* without which indigenous peoples cannot fully enjoy their cultural freedom or cultural integrity”.

The Sámi are the only people living within European borders that are recognised as an indigenous people, and they have throughout the course of history been divided between four nation-states: Finland, Norway, Sweden and Russia. The estimates of the number of Sámi differ depending on the sources used but the figures most often seen vary between 80 000 and 100 000, of which 20 000–40 000 reside in Sweden (see, e.g., Sápmi 2018). In Sweden, contemporary Sámi policy has its origins in the second half of the 19th century, with a foundation in an alleged racial and cultural superiority of Swedes. In this hierarchical ideology, two ideas were taken for granted: that the Sámi did not have any right to self-determination, and that they had no ownership rights to land, water and other natural resources (Lantto & Mörkenstam 2015).

In 1977, Sweden for the first time recognised the Sámi as an indigenous population and a minority in their own country, and in the work of the government-appointed Sámi Rights Commission during the 1980s, the Sámi were considered to fulfil all the requirements for recognition as an ethnic and linguistic minority group protected by Article 27 of the CCPR, stating that in ‘those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language’. The status as a minority group was in the Swedish context interpreted as a justification of collective rights: the Sámi people had a right to cultural autonomy. This status justified the establishment in 1993 of a popularly elected Sámediggi—Sámi Parliament in North Sámi—to function as a representative body of the Sámi people in order to grant the Sámi cultural autonomy.² The Sámediggi (just like its counterparts in Norway and Finland) lacks legislative power and has no independent financial resources but is in an international perspective often

2. Another main argument in favor of a Swedish Sámediggi was the fact that a Sámediggi already had been established in Norway in 1989 (Josefsen, Mörkenstam & Saglie 2015).

described as a model 'for indigenous self-governance and participation in decision-making that could inspire the development of similar institutions elsewhere in the world' (HRC 2011, 11).

The Sámi were thus recognised as an indigenous people but with rights primarily stemming from their status as an ethnic and linguistic minority. Their minority status was in the 1990s confirmed and reinforced in the Swedish debate on the ratification of the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECMRL), in which the Sámi were perceived as the obvious candidate to be included in the new policy on national minorities and minority languages (Johansson 2008).

In 2006—and following the development in international law—Sweden recognised the Sámi as a people in the international law sense with a right to self-determination. This recognition of the Sámi as a people paved the way for Sweden's vote in favour of the UNDRIP in 2007. Furthermore, the special status of the Sámi was constitutionally recognised for the first time in 2010 by an amendment to the Instrument of Government stating that the 'opportunities of the Sámi people and ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own shall be promoted' (SFS 2010:1408, Ch. 1, Art. 2.). Although the Sámi people's status as an indigenous people was not explicitly recognised, the amendment was justified by this special status in the *travaux préparatoire* (Mörkenstam 2019). However, Sweden has still not ratified the only binding convention on indigenous rights, C169.

In sum, then, Sweden has since the mid-1980s endorsed the emerging international indigenous rights regime as well as general human rights law protecting national minorities. In parallel to the development in international law, the status of the Sámi has gradually changed. The Sámi are today recognised both as an indigenous people with a right to self-determination equal to other peoples, and as a national minority with linguistic and cultural rights. So, why and on what issues do UN monitoring bodies raise critique or concerns towards Sweden's Sámi policy?

3. Indigenous rights in Sweden

In this section we focus on the four main issues recurrent in the UN monitoring bodies' critique of Sweden's Sámi policy: on Sámi land rights and the closely related reluctance to ratify C169, the formal position of the Sámediggi and language rights (see, e.g., CCPR 2009; CERD 2001, 2004, 2008, 2013, 2018, 2020; HRC 2019, 2020), i.e. issues of major importance for realising Sámi self-determination in political practice.

3.1 Land rights

On land rights, Sweden has recurrently received international critique claiming that the national legislation is not adequate or sufficient in order to protect Sámi land rights. The critique comprises, however, several different arguments: first, although Sweden has recognised that Sámi traditional land use and occupation may give rise to property rights, no land traditionally used by the Sámi has been officially demarcated (in spite of two reports from a government appointed Boundary Commission in the mid-2000s) (see e.g. CERD 2004, 2008; HRC 2011); second, the legislation on natural resource extraction does not protect Sámi rights and livelihoods (see e.g. CERD 2013; HRC 2011, 2016); third, the lack of legislation granting the Sámi influence on land use and natural resource extraction to ensure their free, prior and informed consent (see e.g. CERD 2018; HRC 2016); and finally, the legal system is conceived as detrimental to the Sámi since the burden of proof in legal processes on ownership or customary rights to use the land are on the Sámi part, and the Sámi party is not granted any financial legal aid in these processes (CERD 2004, 2008; CCPR 2009; HRC 2011, 2016).

To understand Swedish Sámi policy on these matters, it is important to note that Sámi land rights since the late 19th century have been attached to reindeer herding (Lantto & Mörkenstam 2016). On an individual level, the right to use the rights attached to reindeer herding, like hunting and fishing, is conditioned by membership in a reindeer herding community. There have been several legislative changes in order to strengthen the legal standing of reindeer herding since the 1980s, following a ruling of the Swedish Supreme Court in *Skattefjällsmålet* in 1981, stating that the right to herd reindeer was based on civil law—on use and prescription from time immemorial—and that it was therefore constitutionally protected in the same way as ownership rights and could not be withdrawn without compensation (see e.g. Jahreskog 1982). In an amendment to the Reindeer Husbandry Act of 1971, a new first paragraph was, for instance, introduced stating that the right to herd reindeer was a usufructuary right based on immemorial prescription, and a provision was introduced to protect reindeer herding from activities that could be of ‘considerable detriment’ (Allard 2006; Bengtsson 2015). A similar form of protection has been introduced in other legislation, such as the Natural Resources Act and the Forestry Act, a protection that has been further emphasised by defining reindeer herding as a national interest (Brännström 2017).

This legal protection has, however, not hindered a drastic increase in the number of projects exploiting the natural resources within the traditional Sámi settlement area, Sápmi (Sametinget 2012). Previous studies have, for instance, shown that the mining industry alone was granted

183 new exploration permissions and six exploitation concessions in 2012, most within the reindeer herding area, and of the 16 active metal mines in Sweden 12 were established in Sápmi and represented 98.5 percent of the mining industry's value (Labba 2014; Lawrence & Åhrén 2017). Of course, all these different kinds of projects might not violate Sámi rights under international law, especially if each project is considered separately, but there are international human rights standards for extractive projects on indigenous peoples' traditional territories. First, there is a general rule of consent: extractive projects ought not to occur absent indigenous peoples' free, prior and informed consent, which calls for processes of consultation. However, exceptions to the rule might exist if the extractive activities 'will not substantially affect indigenous peoples in the exercise of their rights in relation to lands and resources within their territories' (Anaya 2015, 120). Second, if states proceed without consent and delimit the right of indigenous peoples to exercise their human rights (such as the right to property or culture), they must prove both a legitimate aim, i.e. a substantial public need, and that the infringements are proportionate, i.e. that there is a balance between the general societal interests and the protection of the indigenous peoples' rights. Extractive activities that result in 'destroying or risking the sustainability of the indigenous peoples' way of life' clearly violate indigenous peoples' human rights (Scheinin 2008, 161).

One way of understanding this continued weak legal position of reindeer herding, in spite of the Supreme Court's ruling in *Skattefjällsmålet*, is that its legal protection is dependent on its status as a national interest to which due interest is to be taken rather than as a civil right to private property (Brännström 2017; Bengtsson 2015). As a national interest (among others), the use of land for reindeer herding may be deemed of less societal value when in conflict with other users of land defined as national interests, like the extractive industries. This was, for instance, the case in a conflict on a concession for mining in Rönnebäcken starting in 2010, which concerned the right for a mining company to start processing within the traditional Sámi reindeer grazing area. Since there was a conflict between two national interests that could not be pursued in the same area at the same time—reindeer herding and mining—the government had to prioritise between the interests according to the prevailing Swedish Environmental Code (Labba 2014). In the government's statement it was considered 'undisputable' that the national economic revenues from the mining industry would be larger than what reindeer herding could generate, just as the possibilities for an increase in social welfare (Regeringsbeslut 2013, 10). In the 2019 universal periodic review of Sweden, the HRC stated—quoting a Report from the Special Rapporteur on indigenous peoples—that such a balancing 'where traditional Sami livelihoods were weighed against

possible economic gain only, was not in line with the international human rights obligations and commitments Sweden had assumed with respect to indigenous peoples' (HRC 2019, 8).

In the Rönnebäcken case, the Sámi party had already in 2013 submitted the case to CERD, and in 2020 the committee stated its final opinion. According to CERD, the state party had violated articles 5 (d) (v) and 6 of the Convention on the Elimination of all Forms of Racial Discrimination, and recommended among other things that Sweden 'amends its legislation to reflect the status of the Sami as an indigenous people in national legislation regarding land and resources to enshrine the international standard of free, prior and informed consent' (CERD 2020, 16).

3.2 C169

Intimately linked to land rights are the recurrent concerns expressed by different UN monitoring bodies that Sweden continues to postpone the ratification of C169. The recommendations are clear: Sweden ought to proceed with the ratification process as swiftly as possible (see e.g. CERD 2001, 2004, 2008, 2013; HRC 2011).

In Swedish politics, C169 has been on the political agenda since the 1980s, when Sweden participated in the shaping of the convention and declared ratification desirable. In the end, however, the articles in the convention on the right to ownership of land traditionally occupied by indigenous peoples was considered incompatible with the Swedish legal tradition—especially Article 14 stating that the 'rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised'—and ratification was postponed (Semb 2012). In 1999, ratification was still defined as a long-term objective by a public commission exclusively focusing on C169, but the main argument justifying non-ratification had changed; it was now Swedish legislation that could not fulfil the requirements for ratification (Johansson 2016). Still, though, it was Article 14 on the right to ownership and possession that was problematic. Ratification required, it was argued, not only several comprehensive investigations on Sámi land rights and the extent of Sámi fishing and hunting rights but also a considerable strengthening of the right to herd reindeer and Sámi influence on the exploitation of natural resources within Sápmi. The two Boundary Commissions mentioned above were appointed to deal with these matters but the presented results did not change the position of the Swedish government. Subsequent governments have thereafter declared ratification a major objective, although not possible here and now (but in the near future), and there have been several proposals on ratification in the *Riksdag* (Mörkenstam 2021).

The initial position of non-ratification is still dominant and Sámi land rights still constitute the main obstacle. This position is justified, for instance, by arguments referring to 'the wide-ranging legal consequences of ratification', and 'to fears that ratification might lead to conflicts between the Sami and the non-Sami population' (Semb 2012, 139), since it would affect the balance of power between the Sámi and other holders of property rights and other users of land (e.g. extractive industries). During the legal process that started in 2009, when the Girjas reindeer herding community sued the Swedish state claimed an exclusive right to administer hunting and fishing rights within the community's land area, Anna Skarhed, then Chancellor of Justice representing the state party in the conflict, claimed that the political reluctance to ratify C169 was nothing but an expression of double moral standards (SvD 2018). In 2020, the Swedish Supreme Court ruled in favour of the Sámi party and stated that Girjas has the exclusive right to administer hunting and fishing rights within the community's land area (HD 2020). Although Sweden has not ratified the ILO Convention 169 on Indigenous and Tribal Peoples, the Supreme Court invoked the convention's Article 8 to justify the use of Sámi customs in their decision. The court also referred to Article 26 of the non-binding UNDRIP, on the right of indigenous peoples to their traditional lands, and to the UN Convention on Civil and Political Rights, Article 27, on the right of minorities to practice their culture (Allard & Brännström 2021; Ravna 2020).

By the ruling, the Supreme Court has thus decided on a highly political and controversial issue, avoided for many years by the elected representatives of the national parliament, the *Riksdag* (and the Court may also have made the discussion on ratification or not of C169 superfluous at the same time). After the ruling, the new Chancellor of Justice, Mari Heidenborg, as well as the Sámediggi, immediately called on the government to appoint a new Sámi rights commission to find viable political solutions to the recurring conflicts on land rights in accordance with the ruling in the *Girjasmålet* (DN 2020; Sametinget 2020).

3.3 The formal position of the Sámediggi

As shown above, the establishment of a popularly elected representative body—a Sámediggi—within the democratic system in Sweden (as well as in Finland and Norway), has received international praise. At the same time, however, the Swedish Sámediggi has received recurrent critique: it ought to have greater independence from the Swedish state and its mandate is too limited. It has, for instance, to be able to participate in the deci-

sion-making processes affecting Sámi land use and traditional activities (see e.g. CCPR 2009; HRC 2011, 2016, 2019).

The establishment of the Sámediggi in 1993 followed the recognition of the Sámi during the 1980s as a people with a right to cultural autonomy. A parliament elected among and by the Sámi was perceived of as an institutional prerequisite for the Sámi to independently develop their culture on their own terms, and it was considered important that this body was representative for the entire minority and, hence, elected by it (Mörkenstam 2019). In the *travaux préparatoire* it was made clear that the Sámi parliament was not to function as a body of self-government replacing or competing with municipal councils or the national parliament, the *Riksdag*. Instead, it was constructed as a government agency and the general mission of the Sámediggi is, as defined in The Sámi Parliament Act from 1992, to monitor issues related to the Sámi culture in Sweden.

With the institutional design of the Sámediggi, it was given dual roles: as an administrative authority representing the interests of the Swedish state and as a representative body of the Sámi people it shall safeguard the interests of the Sámi electorate (Lawrence & Mörkenstam 2016). From the very beginning, this construction was criticised for subordinating the Sámi Parliament under the government and *Riksdag*, and for severely delimiting the decision-making power of the parliament. With the recognition of the Sámi as a people with a right to self-determination in 2006, the critique of the Sámediggi's formal position has been even more accentuated. Its main mandate is still limited to cultural issues, including responsibility for the Sámi languages and administrative duties concerning reindeer herding (within the budgetary frames set by the Swedish government), and extending the administrative role of the parliament has been made equal to an implementation of Sámi self-determination.

The formal position of the parliament as a government agency is thus so far undisputed in Swedish Sámi policy, and also recurrently confirmed, for instance, in a Government Bill in 2018 on changes in the organisation of the Sámediggi. While referring to Sámi self-determination and international law, it was explicitly stated that the main features of the Sámediggi's organisation still ought to be decided by the *Riksdag* (Prop. 2017/18:287).

3.4 Language rights

The criticisms of Sweden by UN monitoring bodies concerning Sámi language rights have revolved in the past two decades basically around three issues: that the right to speak any of the Sámi languages in legal and administrative proceedings is limited to specific geographic areas, the lack of funding for Sámi schools and a lack of teachers proficient in the Sámi

languages (see e.g. CCPR 2011; CERD 2001; HRC 2016, 2019). Basically, there are problems in implementing the existing national legislation.

Already in the 1980s the Sámi Rights Commission proposed the adoption of a Sámi Language Act to support and protect the Sámi languages. The proposal was rejected by the Swedish government, which argued that the preservation of a language could not be the responsibility of the state; rather, it ought to be one of the most urgent issues on the agenda of the newly established Sámediggi (Mörkenstam 2019). A language act was, however, considered necessary after Sweden ratified the European conventions protecting national minorities and minority languages (Johansson 2008). Accordingly, the first Sámi Language Act was introduced in 2000 but it was replaced in 2009 by a new act on national minorities and minority languages including Sámi. In Sweden, Sámi (its five recognised languages) is regarded by the state mainly as a national minority language among other minority languages, as stated in the Language Act (2009:600), and the state's obligations to preserve and promote the Sámi languages are thus based on its status as a minority language. This distinguishes the legal protection and status of the Sámi languages from the situation in Finland and Norway, where it is constitutionally recognised (Sametinget 2021).

On a general level, the European Committee of Ministers have, as a response to the periodical reports on the implementation of the European Charter for Regional or Minority Languages, recommended that Sweden takes measures to include language as a ground for discrimination in the current Discrimination Act. Moreover, Sweden ought to strengthen education of—or in—all minority languages by adopting a comprehensive and structured approach based on the needs of the speakers, and according to the situation of each of the minority languages, as well as extend the practice of the Sámi language centers and establish similar language centers for all regional or minority languages (CM 2020). However, the Sámediggi has stressed the need for specific legislation regulating and ensuring the linguistic rights of the Sámi people, something that according to the Sámediggi would highlight and strengthen its responsibility for Sámi language work as part of the Sámi people's right to self-determination (Sametinget 2021).

4. Concluding remarks

In analysing Sweden's Sámi policy in relation to the concerns raised by UN monitoring bodies, it is obvious that land rights are the most controversial issue, just as elsewhere in the world where indigenous peoples live. It is also important to note that the issues in focus of the international critique also are highly topical in Sámi society. A recent election study

showed that 74 percent of the Sámi electorate are in favour of increasing the Sámediggi's self-determination; almost nine out of ten Sámi want to increase Sámi self-determination on language and cultural issues; 70 percent are of the opinion that Sweden ought to ratify C169 and between 56 and 79 percent want to increase Sámi self-determination on seven different matters related to land rights and the use of natural resources within the traditional Sámi settlement area (reindeer herding, mining, forestry, small game hunting, land and water management, environment protection, carnivore management, moose hunting and windpower issues) (Mörkenstam, Nilsson & Dahlberg 2021). The limited responsibilities that the Sámediggi has today are obviously not enough for the Sámi electorate: the Sámi are a people with a right to self-determination that has not yet been implemented by the state.

Strengthening the legal position of reindeer herding would simultaneously affect both other groups of people living within the traditional Sámi settlement area and future possibilities to use and exploit natural resources. Together with an increased decision-making power of the Sámediggi, this would radically change the balance of power between the Sámi people and the Swedish majority society, something that language or cultural rights do not. The strong opinions within the Sámi electorate for an increase in self-determination through their representative body, the Sámediggi, is clearly a rejection of prevailing Swedish politics. It may thus be time to finally initiate negotiations between the Sámi and the state on what the Sámi right to self-determination ought to mean in a Swedish context, as well as between the states and the Sámi on a Nordic level to initiate an actual handover of power from national political bodies to the representative institutions of the Sámi people.

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c) Bribery, corruption and other abuses of power

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1. Summary

Sweden ranks highly in most, if not all, international studies of corruption perception. Corruption is never a topic in Swedish electoral campaigns. Indeed, bribery as such is hardly an issue in Sweden. However, corruption can take other forms. The major problem is the corrupt practices in which Swedish multinational corporations engage abroad. Conflicts of interest, such as nepotism in various forms, is another area of concern. The development co-operation is also highly vulnerable to irregularities, including corruption.

2. Prevalence of corruption

Sweden's perceived level of corruption is among the lowest in the world, ranking third in the Transparency International index for last year (out of 180 countries). The Rule of Law Index, provided by the World Justice Project, also ranks Sweden third (of 113 countries) for absence of corruption. Domestic studies of actual corruption substantiate this picture. In fact, corruption is seen as more widespread in private companies than in public administration, which enjoys a high level of trust.

3. Law, policy and institutional set-up

There is no specific national anti-corruption strategy in Sweden. Policies to prevent and fight corruption should, in principle, be mainstreamed throughout ministries, government offices etc. The Swedish Agency for Public Management (Statskontoret) has, however, been mandated by the Government to formulate a plan of action to combat corruption in the state sector (2021–2023), but not in the regional or local sectors.

Nor does Sweden have a separate anti-corruption agency. But the Swedish Prosecution Authority has a National Anti-Corruption Unit with competence to prosecute corruption and related cases. The Police Authority has a similar function for the investigation of suspicions of corrupt behaviour.

The constitutional principle of public access to official documents is far-reaching and central to the prevention of corruption and other abuse of power by ensuring a high degree of transparency to all public and semi-public activities, including those of the Government.

The Swedish Act on whistle blower protection (2016:749) is ineffective, but a procedure has been initiated to implement the EU directive on the protection of persons who report breaches of Union law (2019/1936, 23 October 2019). The new act, which is planned to come into force on 21 December 2021, will constitute a substantial improvement of the protection of whistle blowers.

There are no rules on lobbying, e.g., registration of lobbyists and contacts that they have with Government Offices and Parliament. Such a regulation is considered to impair the free flow of information, and the decision-making process is considered to be highly transparent. Lobbying is, generally speaking, not regarded as a threat to the public's confidence in the integrity of the political processes and decisions. And, by the way, all political actors are free to publish information about their contacts with lobbyists, thus strengthening confidence in their integrity.

4. Foreign commercial corruption

The major corruption problem is possibly bribery committed abroad by Swedish companies. Sweden has numerous multinational companies that are active in high-risk jurisdictions and sectors, such as Central Asia, Eastern Europe and some African countries. Sectors affected are extractive industries, arms, telecom, infrastructure et cetera. The number of legal cases in Sweden involving Swedish companies is, however, conspicuously low in view of the magnitude of foreign activities of these companies and it is low in absolute terms as well.

Transparency International has repeatedly evaluated enforcement of the OECD Anti-Bribery Convention. Its Progress Report 2020, which rated the enforcement by 47 leading global exporters, classified countries in four enforcement categories: Active, Moderate, Limited and Little or No enforcement. Only four countries actively enforced measures against foreign bribery: US, UK, Switzerland and Israel. Nine countries moderately enforced against bribery of which Sweden was one. Under Swedish

law companies may not be liable for bribery unless individuals are convicted.

Thanks to the enforcement of the US Foreign Corrupt Practices Act (FCPA), corrupt payments made by Swedish companies have, however, been subject to penalties in recent years. Thus, the Stockholm-based telecom company Telia Company AB and its Uzbek subsidiary in September 2017 entered into a foreign bribery resolution with US and Dutch authorities. It agreed to pay a penalty of more than \$965 million to US and Dutch authorities to resolve charges arising from a corrupt scheme in Uzbekistan. Telia, whose securities traded publicly in New York, had admitted to paying more than \$331 million in bribes. Charges were also brought in the Swedish judiciary against three top employees of Telia. All three were acquitted due to the narrow wording of the Swedish legislation on bribery.

In a similar procedure the company Ericsson, headquartered in Stockholm, agreed in December 2019 to pay \$1,06 billion in penalties because of violations of the FCPA. This resolution covered the company's criminal conduct in Djibouti, China, Indonesia, Kuwait and Vietnam. The conduct involved high-level executives and spanned 17 years. As part of the resolution, Ericsson agreed to enhance its compliance programme and to retain an independent compliance monitor for three years. Four former employees of Ericsson were indicted in May 2021 for bribery that was allegedly committed in Djibouti in 2011–2012.

Other companies can be mentioned as well, such as Bofors (India), Saab (Eastern Europe and South Africa) and Scania (India).

5. Conflicts of interests

It is a common view that attention is overly focused in Sweden on bribery as such, with the public as well as office holders downgrading the negative effects of conflicts of interests, which is seen as much more common than tax fraud, kickbacks or other bribes.

Examples of such effects are the costs of manipulation of public procurement, for instance by favouring local bidders. Another example is public officials, for instance police officers, pursuing accessory activities to the detriment of the confidence in the integrity of the Police Authority.

Other worrying factors are a narrow understanding of what constitutes corruption: the population lacks awareness of the risks for corruption as well as a culture that encourages cutting corners rather than following proper rules and procedures. Post-employment restrictions are applicable only to ministers, state secretaries, and the Governor and other members of the Executive Board of the National Bank (Riksbank). Other persons

entrusted with top executive functions do not have such restrictions, a practice that has been widely criticized.

6. Hybridisation

In recent decades a process of hybridisation has taken place, signifying that entities of public administration have been transformed into semi-private companies and that private companies increasingly perform duties that have traditionally been in the charge of public administration. This process has blurred the line between the public and private spheres. This has not contributed to an increase of corruption but in the absence of a clear division between the spheres it has become less obvious which rules apply and formal rules have to some extent been ignored. Management of the semi-public companies has often acted as if their companies were private, thus neglecting the public interest attached to these companies.

7. Development co-operation

Swedish development co-operation is vulnerable to corruption. The Swedish International Development Co-operation Agency (Sida) has an anti-corruption policy and a system to deal with suspect behaviour. As the first Swedish agency, Sida instituted a whistle-blower function. In 2017–2019 Sida yearly received about 250 reports of presumed irregularities, such as fraud, corruption and embezzlement, the highest figures since Sida began compiling statistics in 2007. The increase is attributed to enhanced staff and partner awareness, the whistle-blower mechanisms and external reporting systems. In many cases the suspicions concern third partners, i.e. Sida's agreement partners have reported a suspicion of corruption or irregularity of their partners. In such cases, usually the agreement partners have a better potential to investigate the allegations than Sida itself.

In 2019, 152 cases were closed. In 75 percent of those cases the suspicions were substantiated. The most common sanction was repayment (26 percent of the cases closed). In 17 percent a person resigned or was dismissed, in 14 percent the agreement with the partner was cancelled and in 8 percent there was a report to the police. The measure applied could also be strengthening partner capacity to deal with irregularities.

8. Conclusions

As pointed out, a main area of concern is large-scale corporate corruption abroad. One way of strengthening the enforcement of such practices could be to introduce corporate liability for bribery in addition to the liability of individuals. A second option would be to authorize Swedish prosecutors to enter into agreements with companies that are alleged to have used bribes in conducting their businesses. Such a system of negotiated settlements (plea bargain), which is becoming standard in many OECD countries, would facilitate the enforcement of prosecutors, who need not come forward with fully convincing evidence. It would on the other hand free the company and its management from the threat of indictment. The company will be able to continue its business, but the fines and other sanctions might be harsh as demonstrated in the cases of Telia and Ericsson. A third option would be to encourage companies to self-report corrupt transactions, upon which the sanctions would be mitigated.

Another area of concern is nepotism and other forms of conflicts of interest that might jeopardize the integrity of public sector employees. There is a general need to strengthen the prevention and management of conflicts of interest among those persons. For this reason, a general enhancement of the awareness of the risks of such conflicts should be carried out at the state, regional and local levels. Persons entrusted with top executive functions should be subject to enforceable rules of conduct consolidated in one code of conduct. The post-employment restrictions mentioned above should be applicable to all those persons and to persons who otherwise hold sensitive positions in the public sector.

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4. *Thematic essays*

US Department of Justice, Office of Public Affairs, Telia Company AB and Its Uzbek Subsidiary Enter Into a Global Foreign Bribery Resolution of More Than \$965 Million for Corrupt Payments in Uzbekistan, September 21, 2017.

US Department of Justice, Office of Public Affairs, Ericsson Agrees to Pay Over \$1 Billion to Resolve FCPA Case, December 6, 2019.

d) Media development in Sweden

*Olof Kleberg, former editor-in-chief at Västerbottens-Kuriren, and
Pär Trehörning, freelance journalist, former ombudsman at the
Swedish Union of Journalists*

In the World Press Freedom Index, Sweden and the other Nordic countries rank among the top. The world's oldest Freedom of the Press Act was written into the Swedish Constitution in 1766. This act guarantees freedom of establishment, a ban on censorship for printed publications and the principle that every citizen must be able to have access to state and municipal documents. An additional law, the Fundamental Law on Freedom of Expression, guarantees the same protections for broadcast media.

1. The Daily Press

Just as in the other Nordic countries, the Swedish daily press enjoys a strong position. There are 85 multi-day newspapers in the country (2020). Of these, 27 receive part of the government press support, which amounts to roughly SEK 600 million (primarily paid to daily newspapers).

The concentration of media ownership has increased with 77 of the multi-day newspapers owned by five media groups. Monopolies prevail in most places, with only 11 localities having more than one newspaper. The number of localities without any newspaper coverage has increased.

Dagens Nyheter, Sweden's largest morning paper based in Stockholm, is in the process of building a more national profile by expanding and establishing editorial offices in Gothenburg, Malmö, the country's second and third largest cities respectively, and most recently in northern Sweden. This is an editorial investment that goes against a trend towards closed and scaled down editorial offices.

As in most countries fewer people read printed newspapers, however 64 percent of the adult population reads one newspaper for approximately thirty minutes per day (48 percent digitally and 34 percent on paper). The older the readers, the higher the percentage who read the paper version.

Digitalisation has increased newspaper scope, while the circulation of paper editions has decreased. One contributory factor for this decrease is that in 2019, the Swedish state lowered the VAT rate on digital media from 25 percent to 6 percent, the same rate as for printed media. For some news-

papers, the digital share of the total circulation is now up to 50 percent. Sweden's largest morning paper, Dagens Nyheter, has reached up to 62 percent. The average is 33 percent.

According to recognised opinion polls, media confidence is relatively high. In 2020, morning papers were around 50 percent, public television (Sveriges Television, SVT) 76 percent and public radio (Sveriges Radio, SR) 70 percent.

During the pandemic it is believed that the reach and impact have increased for all professional media sources, primarily for SVT, but also for privately owned TV4. Media reach also increased for the daily press.

In the following, four current areas will be addressed in which the daily press has clear problems: Media support, ethics, the principle of public access to official records and finances.

1.1 Media support

The Swedish government has provided budgetary press support since 1971, largely with the same rules. Newspapers at a competitive disadvantage and with lower circulation have been able to receive operational support to maintain local and regional diversity in news coverage and shaping public opinion. The content shall not be controlled. This has enjoyed widespread agreement.

In the acute situation daily media finds itself in (less advertising revenue, decline in circulation), the Swedish state has introduced a new form of “media support” for news media to strengthen local journalism in insufficiently covered areas and to strengthen editorial activities. The amount of support paid out in 2020 was roughly SEK 600 million.

In its 2020 media support appropriation (*Mediestödsförordningen*), the Swedish government stated that the news media must demonstrate “high quality” to receive support. In 2021, The Swedish Press and Broadcasting Authority (MPRT), which is the authority responsible for allocating these funds, further clarified this definition to exclude media sources that “incite crime, spread misinformation or make misleading scientific claims.” Media sources that do not maintain “good media ethics practices” will not be granted support either.

The change has resulted in a lively debate. There has been strong reaction from a media perspective against this potential for controlling content. This might have consequences in times of crisis or if authoritarian forces were to gain influence.

Undeniably, it is a problem that state support (for media, organisations, etc.) to strengthen diversity and democracy, can also be utilised by groups that counteract diversity, tolerance and democracy. This was previously a

marginal phenomenon; however, it is now a growing problem in Sweden too.

On the one hand, there are the fundamental values such as equal treatment and diversity, and, on the other hand, the need to safeguard democracy and not openly promote authoritarian or undemocratic forces. In the public debate, the entire media community and many independent debaters, have largely differed with all the political parties.

The change has now entered into force, but it will remain a controversial issue in future. The more cases where the responsible media authority denies subsidy to an applying media source because it “spreads disinformation or makes misleading scientific claims”, the more intense the debate may turn out to be. One media outlet has already been denied support by the MPRT.

In spring 2021, The Swedish Media Publishers’ Association (Tidningsutgivarna), the trade association for Sweden’s newspapers and other media, presented a proposal for a completely new type of media support. According to the Swedish Media Publishers’ Association, this will better correspond to today’s conditions where digital media has become more important than printed media. It should be “technology neutral”.

The Swedish Media Publishers’ Association wants to remove the current operational support for the daily media of SEK 600 million but develop a new form of media support for editorial offices and for areas with insufficient coverage (“white spots”). However, the Swedish Media Publishers’ Association wants the 6 percent VAT, introduced in 1995, to be abolished and for the employers’ social overhead payment for journalists to be reduced. It is estimated that this will, in total, cost approximately the same as current forms of support, some SEK 900 million.

The Swedish Media Publishers’ Association maintains that the Swedish state must indirectly create conditions for free media instead of giving some media sources direct support.

The proposal seems to have received widespread political endorsement. Swedish Minister for Culture and Democracy, Amanda Lind of the Swedish Green Party remarked, “Operational support is on the path towards having served out its purpose, which is why reforms are needed in this area.”

However, there are a number of problems. There is worry among the small newspapers that they will be disadvantaged. It will be difficult to determine who shall be regarded as a journalist (and receive reduced national insurance contributions). It is already difficult to allocate the new editorial support in a fair way.

Well known Swedish freedom of expression expert Nils Funcke wants to go one step further than the Swedish Media Publishers’ Association.

“General support is good, but it must apply to all freedom of expression, not only newspapers. This means to publishers, commercial radio and television,” he states. A new government commission on the modernization of media support will begin working in the autumn of 2021.

1.2 Ethics

In Sweden, there is no specific legislation relating to how the press handles ethical problems related to publishing. Only certain specific problems are regulated under general legislation, including matters of defamation, incitement against ethnic groups, unlawful violence or disclosure of military state secrets.

But the normal journalistic tasks of reporting, reviewing and comments are regulated voluntarily within the industry. The press has followed and subsequently issued its own “Rules for press, radio and TV” for the past hundred years. The most important are the 17 publicity rules that give all journalists, even those outside the daily press, advice about how they should work ethically:

- provide accurate news,
- treat rebuttals generously,
- respect individual privacy,
- exercise care in publishing pictures and names.

For journalists within public service, there are also special rules relating to impartiality and objectivity.

The public can submit complaints against unwarranted suffering as a result of publicity to a special Public Media Ombudsman (*Allmänhetens Medieombudsman*). This applies to newspapers, magazines, radio and television and, since 2020, online publications. The Ombudsman prepares the cases and the Swedish Media Ethics Council (*Mediernas Etiknämnd*), comprised of lawyers, journalists and the general public, makes decisions regarding the complaints. This system was previously limited to newspapers.

The Swedish Union of Journalists (*Svenska Journalistförbundet*) has established a journalistic code of conduct for its members advising them to show consideration in their work and not to accept gifts. Those who believe a journalist has breached these rules can file a report with the Swedish Union of Journalists Ethics board.

From time-to-time debates surrounding these self-regulated ethical rules flare up. Most frequently when something that has awoken public attention has been published and that may have breached basic ethical

premises. Politicians from different camps have then expressed that ethics should be regulated by law. As yet, this has failed to gain widespread favour.

Ethics cannot be legislated on. It is a matter of judgement, opinion, moral position and personal outlook. Decisions must constantly be made, from case to case, in a responsible and well thought thorough manner.

This is also one reason why Swedish media, both the press and broadcasters, identify a single publisher-in-charge, who is held accountable for both content and programming. Also, in front of the court. Individual journalists cannot, as in most other countries, be prosecuted for what they have published.

Social media has grown into a particularly important form of communication. Of internet users over the age of 16, 89 percent used social media in 2020. The largest platform was Facebook (81 percent), followed by fast growing Instagram (71 percent).

Creating a set of rules for social media, where serious attacks, accusations and lies are regularly spread, is of the utmost urgency. The EU plans to implement a Digital Services Act, at the earliest, in 2022. Tech giants must be able to be fined and forced to remove content.

European Commission Vice-President Margrethe Vestager declared that the online world must adapt itself to everything that we have already agreed upon with respect to the offline world.

The issue was debated in the European Parliament in April 2021. Some parliamentarians endorsed the legislation, while others wanted rules relating to liability.

However, in Sweden, application of this legislation may be subject to dispute. There is concern.

Once again, we are faced with a contradiction between freedom of expression and fundamental protection of personal integrity. There are good reasons for tightening up what may be accepted on social media, but this good intention may have negative consequences. Different types of regimes can utilise the legislation as a pretext for substantial restrictions.

Tech giants must also be forced to pay for sharing journalistic content. The 2019 EU Directive on Copyright in the Digital Single Market makes this possible. France has already enforced an agreement. Sweden is expected to turn the directive into Swedish law.

1.3 The principle of public access to information

One of the most important provisions in the 1766 Swedish Freedom of the Press Act, which has largely remained in place since then, is the principle of public access to information. This means that, in principle, all state and

municipal documents are public information. Not only for journalists, but for every citizen.

In addition, it is established that every citizen has the right to supply information to the media. For public service employees there is also whistle-blower protection, a ban on actively seeking out who has provided information for publication.

These principles have become even more important as larger units, public and private, have emerged.

A new dimension has emerged through the comprehensive privatisation of previously public services. Therefore, in 2017, whistle-blower protection and an investigation ban were introduced within the health-care, education and care sectors for private enterprises who receive state subsidies. However, these rules do not apply to other private enterprises.

Despite the new whistle-blower protection having been in place for several years, private employers in these three sectors frequently breach this. In spring 2021, one of Sweden's largest care companies, Attendo, was revealed to have tried to silence an employee who criticised the company in the media. Attendo backed down quickly following this.

But even in public services, where whistle-blower regulations and protection of whistle-blowers dates back some 250 years, it is common for employers to breach the statutory principle of the right of access to public information. This can be done through reprisals against those suspected, resulting in the person being fired or penalised. A trade union survey from 2021, pointed out that in working life, the fear of reporting abuse has generally increased.

Even the principle of public access to information, the right to access official documents, has been undermined during the pandemic. There have been countless cases where obstacles have been put into place to block the release of official information. Sometimes there has even been white-washing to prevent transparency.

One of the most noted cases occurred in Region Sörmland during April 2020, where all municipal managers in the county agreed that they would not disclose information to the media concerning the number of people infected with COVID-19. Even the National Board of Health and Welfare, the nation-wide Swedish government agency, refused to disclose information. These objectors subsequently backed down.

Several Swedish municipalities have issued bans against healthcare personnel making public statements about the pandemic, something which is in blatant contradiction to the Swedish Constitution.

The consequence is that in April 2021, the Swedish Government launched an investigation into how the state and municipalities have handled the principle of public access to information during the pandemic.

In June 2021, the eight municipal authorities in Region Sörmland were severely criticized by the Parliamentary Ombudsmen (JO) for having breached the principle of public access to information.

1.4 Finances

All the daily press is currently caught in a vice, squeezed between the tractive power of social media and the tech giants' draining of their financial advertising revenue. This also applies to Sweden.

Thanks to support for the press and the new media support, only a few publications have had to close their doors. During 2020, the long-term decline in circulation slowed down. However, it remains to be seen if this trend is a permanent one.

While the number of subscriptions to printed editions continues to decline, many newspapers have succeeded in getting readers to subscribe to a digital version instead. But the digital income cannot compensate for the loss of advertising.

Traditionally, advertisements have accounted for two-thirds of newspaper revenue. This is no longer the case. Advertising revenue for news-oriented media decreased by two-thirds between 2008 and 2020 (from almost SEK 12 billion to nearly SEK 4 billion).

Revenue from readers becomes even more important. For many newspapers it has increased substantially. The method for success primarily involves quality journalism with in-house investigations and reports, content that there is no space for in popup news items or on social media.

But the basic financial problem remains. The majority of the market for media advertisements has been sucked up by the large international tech giants, primarily Facebook and Google. Approximately two-thirds of the media advertising market goes to these giants and to social networking. This has drastically impaired the newspaper industry's financial circumstances, while at the same time the tech giants neither pay for the content, nor pay any tax (and they also fail to comply with the Swedish ethical rules).

The problem is international. The EU has attempted to regulate the tech giants' financial actions for a number of years but has yet to arrive at a decision. France and Great Britain have already introduced a tax on digital platforms.

Sweden will likely wait until the EU has decided upon its position.

The financial weakening has resulted in the number of journalists sharply decreasing during the past decade and to some extent this may also be due to digitalisation. Quite a few of the journalists who have lost their jobs at newspaper editorial offices have begun working as freelancers. But

the scope for them has decreased because newspapers and periodicals have fewer funds available to pay for purchases from them.

During this ten-year period, the number of local editorial offices has also been cut significantly. To some extent, the absence of local journalistic coverage has been replaced by travelling reporters with a focus on municipal issues.

The new Swedish state support for editorial activities and the so-called “white spot support” (see the section on Media Support above) have slowed down the decline during 2020. However, it is still uncertain whether this turn is permanent.

2. Public service

In Sweden, the objective and focus of public service broadcasting is regulated through three broadcasting licences, one for each broadcaster, Swedish Radio (*Sveriges Radio, SR*), Swedish Television (*Sveriges Television, SVT*) and Swedish Educational Broadcasting Company (*Utbildningsradion, UR*). The current licence is valid until 2025.

In brief, the assignment entails offering a diversified range of programmes subject to impartiality and objectivity. The inclusion of programmes containing news and culture is implicit. The range of programming must also contain programmes for children and young people and in minority languages. The programmes must be accessible to disabled persons. A minimum of 99.8 percent of the Swedish population must be reached by the broadcasts.

Swedish Radio and Swedish Television have a highly comprehensive network of correspondents and colleagues who monitor both domestic and international events, where e.g., Swedish Radio has broadened its network of reporters in recent times.

The company is owned by an administrative foundation whose main task is to safeguard the integrity and independence of the three broadcasting companies. Board members are designated by the Swedish Government following recommendations by the political parties and in relation to the number of members in the most recent parliamentary election.

The administrative foundation designates members on the three broadcasting company boards, which in turn designate the CEO. Members of the administrative board may not hold a political office and are designated for eight years. Half of the members have a mandate that ends after the 2022 Swedish parliamentary election and the rest will remain for a further four years. Thus, a change in government will not mean that a completely new board can be designated at the administrative foundation. The system

has a certain degree of inertia, “if not a perpetual guarantee for independent public service,” as the current Chair, Helena Stålnert, formulates it.¹

2.1 Growing criticism from politicians

Some critics question the government having the sole authority to designate members of the Administrative Foundation for SR, SVT and UR (Förvaltningsstiftelsen för SR, SVT och UR). How a strong level of independence can be guaranteed is thus subject to debate.

What is most noteworthy is that there has previously been relatively widespread political support for public service but that its activities in its current form have now begun being questioned.

The Stockholm Moderate Youth League (Moderata samlingspartiets ungdomsförbund) wants to shut down public service broadcasters in Sweden in order for Swedish media to be completely free and the parent party, the Moderate Party, published during spring 2021 an investigation into the future of public service broadcasting.

The Swedish Christian Democratic Party is advocating for the public service companies to have a narrower focus and to, in the first case, cover news and socially important content, and hand over entertainment to commercial channels. Party Leader Ebba Busch has stated the change will be implemented if there is a change of government after the coming 2022 election. The current broadcasting license does not specify precisely what the term entertainment entails. However, it is stated that this is covered under the expression, “SR and SVT will offer a diverse range of programmes that includes everything from broad popular mass entertainment to more specialised programme types”.²

The party, together with the Swedish Moderate Party and the right-wing populist Sweden Democrats, wants to reduce appropriations for public service. The three companies received a combined total of SEK 8,734,600,000 for the 2021 financial year from the public service account.³ This is financed through a fee where most citizens pay some SEK 4 per day for public service (SEK 1,329 per year), which involves access to two TV and four radio stations, several of them with round the clock coverage, as well as some extra coverage.⁴

1. Dagens Nyheter, 2021-03-25, culture section, page 10.

2. Broadcasting license SR AB 2019-12-05, Annex 1.

3. The Swedish Government's Budget for 2021, page 143 <https://www.regeringskansliet.se/4a67f4/contentassets/bcof4b1a4ce844f2aa59949d09c93f29/utgiftsomrade-17-kultur-medier-trossamfund-och-fritid.pdf>.

4. The Swedish Tax Agency, Television licence fee <https://skatteverket.se/privat/>

Thus, there is a deeper polarisation in the views on what the task of public service is and the direction activities should take, but also significant interest in discussing the matter. In October 2019, the current broadcasting licence was approved by the Swedish Parliament following a three-hour debate with over 60 speeches.

One member of the Swedish Parliament's Committee on Cultural Affairs, a member of the Sweden Democratic Party, calls for a clearer and more specific break in trends, stating that the Committee should summon the public service company to a Committee session to obtain information about their view on the provisions in the broadcasting license which stipulates the right to broadcast must be exercised in an impartial and factual manner.⁵

The CEO of SVT views the proposal as having "crossed a line". Politicians must keep an arm's length distance to independent media, which are tasked with scrutinising them and this is "clearly formulated in the broadcasting licence."⁶

Which states that:

"The activities shall be characterised by independence and a high level of integrity. They shall be conducted independently in relation to both the state and different financial, political and other interests and spheres of influence in society. It is particularly important that SR opts for programming areas that are meaningful to the public."⁷

The Chair of the Committee on Cultural Affairs from the Swedish Liberal Party views the move as unacceptable.

"We shall have free media and journalistic freedom, not political intervention into what programmes are made or who is hosting the programme."⁸

skatter/arbeteochinkomst/skattetabeller/publicserviceavgift.4.22501d9e166a8cb-399f31dd.html.

5. Taken from the minutes of the Swedish Parliament Cultural Committee meeting of 2021-02-14, notes in the newspaper Fokus <https://www.fokus.se/2020/02/m-och-kd-stottade-sds-forslag-om-att-kalla-in-public-service-chefer/>.
6. SVT website 2020-02-21 <https://www.svt.se/kultur/svt-chefen-forslaget-ar-for-vanande-och-ovanligt>.
7. Broadcasting license SR AB 2019-12-05, Annex 1.
8. SVT website 2020-02-21 <https://www.svt.se/kultur/sd-s-forslag-fraga-ut-public-service-cheferna-om-opartiskhet-i-kulturutskottet>.

At the same time, the parliamentary-based Swedish state investigation concerning freedom of print and freedom of expression from 2018 was unable to agree upon constitutional protection in the Fundamental Law on Freedom of Expression for public service. The intention was to guarantee the survival of public service in the form of a clear definition to be introduced into the Swedish Constitution:

“In this fundamental law, radio and TV in public service are referred to as: a broadcaster with a task relating to public service that is financed by public funds and that is characterised by independence, objectivity, impartiality and strong integrity.”⁹

Although several parties in the Swedish Parliamentary investigation backed the proposal, the Moderates did not want to be included. The issue then died out as the Swedish Government wanted to have a widespread parliamentary majority behind such a comprehensive proposal to amend the strongest legislation in Sweden, the Constitution.

On the other hand, amending the Swedish Constitution is relatively simple (see the chapter above concerning Rule of Law). All that is required is two identical decisions by the Swedish Parliament with an election (not necessarily ordinary) between them. There is no requirement for a qualified majority.

But even if public service were to be regulated by the Swedish Constitution, a decision concerning how to finance the company's activities would be made via normal law.

2.2 The Swedish Broadcasting Commission

The Swedish Broadcasting Commission is part of the Swedish Press and Broadcasting Authority and is a regulatory body for public service. Anyone can report a programme to the Swedish Broadcasting Commission that they believe breaches the requirement for impartiality and objectivity. The Swedish Broadcasting Commission has representatives from both the general public and the industry.

It is these two specific content rules concerning impartiality and objectivity that are mentioned on several occasions during the aforementioned parliamentary debate and that some of the members of the Swedish Parliament want to revise, however, as yet they have failed to present concrete proposals for changes.

9. Special Opinion, SOU 2020:45, page 444 and following.

During 2020, 1,732 reports were submitted (1,911 in 2019 and 1,891 in 2018) to the review board. Multiple reports can relate to the same programme. The majority of these were never addressed.

During 2018–2020 programmes have been criticized and held accountable in approximately 2.5 percent of finalized cases.¹⁰

One might also ask where the boundaries for impartiality lie. Already in 2004, a highly experienced and renowned colleague at SR was placed in quarantine while monitoring the presidential campaign in USA, as she was regarded as having breached the broadcasting rule or impartiality, by maintaining that the “Swedish media has no requirement whatsoever towards impartiality where the American election is concerned. We have no reason to be impartial and to account for both points of view in the same way as we would in a Swedish election.”¹¹

The decision led to a discussion as to whether overly rigid interpretations of set content rules can result in watered-down and boring journalism. The editor-in-chief for the largest Swedish daily newspaper Dagens Nyheter voiced the same line of thought when he asked what is truth and what is a lie? “Journalism’s most important task must be to attempt to get as close to what is true as possible, not to be impartial.”¹²

The statement reflects the major difference in how a commercial daily newspaper and a public service broadcaster perform the same assignment.

2.3 High credibility for public service

The University of Gothenburg, SOM Institute is Sweden’s most reputable survey of political opinions and the institute has conducted annual surveys since 1986 to gauge Swedish public trust in social institutions.

For the period 2010–2020 the results are quite even. Within the media, SVT and SR usually rank highest, followed by advertising financed TV4 and the daily press. In the most recent report from 2020, 76 percent of respondents trusted or had a great deal of trust in SVT and 70 percent for SR¹³. The daily newspapers have approximately 50 percent, but the single largest, the tabloid Aftonbladet, stopped at 26 percent.

10. The Swedish Press and Broadcasting Authority (*Myndigheten för press, radio och TV*), Annual Report 2020, page 30 <https://www.mppt.se/globalassets/dokument/publikationer/arsredovisningar/arsredovisning-mppt-2020.pdf>.

11. SvD 2004-10-28, <https://www.svd.se/uddens-avstangning-vacker-diskussion-pa-sr>.

12. DN, 2021-04-11, page 4.

13. The SOM Institute Report from 2021-03-31, tables 16 and 17 [https://www.gu.se/sites/default/files/2021-04/F%C3%B6rtroende%20of%C3%B6r%20sam-](https://www.gu.se/sites/default/files/2021-04/F%C3%B6rtroende%20of%C3%B6r%20sam)

3. Threats and hatred towards journalists increase and become more pronounced

During spring 2021, two individuals were convicted by the Swedish court for unlawful threats against journalists. The case involved an employee of broadcaster Swedish Radio and a journalist at tabloid Aftonbladet. The threat was extremely serious and involved a death threat.

The courts have specifically stressed the seriousness in threatening a journalist and in the case against the Swedish Radio employee the court writes in its judgement that, “it is extra serious that the threat was directed towards the plaintiff for something that concerned her work as a journalist involving a job assignment of importance to society.”¹⁴

“It is both good and important that law enforcement authorities take threats against journalists very seriously,” comments the CEO of Swedish Radio.¹⁵

In general, threats and hatred towards journalists are also on the rise in Sweden and the language used is becoming more offensive.

In April 2021, the Swedish Union of Journalists, which has conducted regular surveys related to threats, insults and hatred towards its members, presented a new survey conducted by Lund University.¹⁶

In summary the survey showed that:

- Nearly one in four journalists (23 percent) have been subjected to unlawful threats and harassment while doing their job. 70 percent have been subjected to hatred and insults. Female journalists experience sexual harassment to a greater degree than male journalists.
- One in five journalists state that their health has been negatively impacted by the hatred and threats.
- Nearly 40 percent have refrained from reporting on an issue in the past three years and 48 percent have adapted their work to avoid threats and hatred.
- Confidence in their employer taking the problem seriously has increased. However, at the same time, approximately half of respon-

h%C3%A4llets%20och%20pandemics%20akt%C3%B6rer%20-%20Ulrika%20Andersson%20korrr%202021_04_01.pdf.

14. Judgement from Attunda District Court 2021-04-26. Case no. B13035-20.

15. SR website 2021-04-27 <https://sverigesradio.se/artikel/man-domd-efter-hot-mot-sveriges-radio-journalist>.

16. The Swedish Union of Journalists website 2021-04-30 <https://www.sjf.se/system/files/2021-04/Lunds%20universitet%20sammanst%C3%A4llning%20webbenk%C3%A4t%20hot%20mot%20journalister.pdf>.

ents had low or exceptionally low confidence in the judicial system and increasingly choose not to report the threats to the police.

Until now Sweden has been spared from journalists being murdered. The most serious act of violence dates back to 1999, when a journalist who wrote about right-wing extremism was severely injured by a car bomb and his son was also injured in the incident.

In the spring of 2020, the Swedish Government launched an investigation into stronger legal protection against crimes targeting someone who exercises their freedom of expression, especially within the framework for professionally conducted news coverage or other type of journalistic activity. The investigation will submit their proposal in November 2021 at the latest.¹⁷

The Chair of the Swedish Union of Journalists hopes that the investigation will, among others, propose that hatred or other illegal measures against journalists will become a specific criminal offence.

“Then the police can prioritise these types of crimes more easily and we will have better statistics for this type of criminality,” she explains.¹⁸

Work as a journalist, including as a reporter and photographer, out in the field has traditionally been quite protected by the professional displaying a Press badge on their jacket. Now it is a target instead. According to a report from Reporters Without Borders, in 2019 a total of 49 journalists were killed in service, while 389 journalists were imprisoned and 57 journalists were held hostage.¹⁹

Today, the journalist profession is one of the world’s most dangerous. Murders, imprisonment and disappearances are seldom or inadequately investigated. This has resulted in the establishment of an International Day to End Impunity for Crimes Against Journalists and the day is recognised each year on 2 November. It calls upon governments and the judicial system to investigate crimes committed against journalists while exercising their profession.

17. Swedish Government Directive 2020:54 Stronger legal protection for certain public service functions and other criminal matters.

18. SR Medierna in P1, 2021-05-15, <https://sverigesradio.se/medierna>.

19. Reporters Without Borders, website 2020-12-19, <https://www.reportrarutanranser.se/arssammanstallning-2019-farre-journalister-dodas-i-tjansten-samtidigt-som-fler-fangslas/>.

e) The Swedish pandemic strategy and its human rights implications

Review of measures taken, legislation and public debate

Lisa Pelling, PhD, Director of Arena Idé

1. Introduction

Sweden's handling of the COVID-19 pandemic has been markedly different from that of most other countries. Instead of implementing repressive measures, such as closing down schools, shops and restaurants, and restricting people's mobility, the Swedish authorities have relied heavily on non-binding recommendations on social distancing, making, as the political scientists Carl Dahlström and Johannes Lindvall point out in a report to the Danish parliament, "citizens themselves co-responsible for limiting their social contacts and protecting others from infection". (Dahlström & Lindvall 2021, p. 505). In contrast to political leaders in other countries, the Swedish government has also relied on and followed advice by its expert authorities, like the Public Health Agency (*Folkhälsomyndigheten*) and its state epidemiologist Anders Tegnell.

A central question for this contribution is: how did this approach to handling the pandemic affect the respect for human rights in Sweden?

Was the Swedish approach relatively successful in respecting civil and political rights, as well as economic, social and cultural rights, but at the same time detrimental to the respect of the rights to life and health?

Was it a pragmatic, sustainable strategy based on science, empiric evidence and the advice of experts? Or was it a reckless response by politicians who preferred to give the responsibility to bureaucrats rather than taking charge themselves, as the most vocal critics of the Swedish strategy would argue?¹

This contribution aims at highlighting the issues that have been most prominent in the public debate around the policy choices that have been made to handle the pandemic and their implications for human rights.

It starts with a short overview of the most important measures taken by the Swedish authorities.

1. <https://www.dn.se/debatt/folkhalsomyndigheten-har-misslyckats-nu-maste-politikerna-gripa-in/>.

The next section is concerned with a central theme in the public debate: how should Sweden's handling of the pandemic be described: as an ad hoc response to a series of unpredicted events, or indeed as a strategy of sorts, though not formalized? Crucially, it looks into the issue of whether the Swedish government pursued a strategy of 'herd immunity' which has been the subject of an intensive public debate.

The following section looks at the constitutional frame of the policy choices that were made. Was the Swedish government unable or unwilling to implement a stricter lockdown? Is there a trade-off between respecting civil rights and individual liberties on the one hand, and the rights to life and health on the other hand? Or would it have been possible to implement more coercive and repressive measures without undermining the respect for the rule of law and human rights, as some have argued?

The last section lists important human rights implications thematically. A list of sources is provided at the end. The text was submitted on September 1, 2021, and does not consider later developments.

2. Measures

Following a request from the Public Health Agency of Sweden (*Folkhälso-myndigheten*) on 31 January, on 2 of February, 2020 the Swedish government decided that COVID-19 should be added both to the list of diseases classified as "dangerous to public health" (*allmänfarlig sjukdom*) and "dangerous to society" (*samhällsfarlig sjukdom*)² in the Swedish Communicable Diseases Act (2004:168).³ This is the first government decision taken in relation to COVID-19.

On 11 March 2020, the Public Health Agency asked the government to prohibit gatherings of more than 500 people at a time.⁴ This was the first in a series of decisions that together make up the most intensive phase of Sweden's response to the spread of SARS-CoV-2, including advising against all international travel (14 March), recommending that people over the age of 70 should avoid social gatherings (16 March) and encouraging all upper high schools (*gymnasier*) and universities to switch to distance

2. <https://www.folkhalsomyndigheten.se/the-public-health-agency-of-sweden/communicable-disease-control/surveillance-of-communicable-diseases/notifiable-diseases/>.

3. <https://vardgivarguiden.se/globalassets/kunskapsstod/smittskydd/smittskyddsblad/patientinformation/COVID-19/COVID-19---patientinformation-pa-engelska.pdf>.

4. <https://www.folkhalsomyndigheten.se/nyheter-och-press/nyhetsarkiv/2020/mars/forslag-inga-allman-sammankomster-med-fler-an-500-personer/>.

learning (17 March). On 19 March, the Swedish Public Health Agency recommended people to refrain from all unnecessary travel and later to work from home if possible, the closest to a lockdown Sweden has come during the pandemic.

It is important to note that the core of the Swedish response to the pandemic was non-binding recommendations. The number of sharp, legal restrictions was limited.

The number of participants at public events was limited using the Public Order Act⁵, which allows the government to rule by decree, for instance to prevent the spread of diseases, but only regulates public events, not other forms of gatherings. Thus a restriction was imposed on the number of visitors to cultural events, such as concerts and theatre performances, but not on the number of visitors to shopping centers. This discrimination of cultural gatherings has been the subject of an intensive public debate (see below).

In the case of a ban on visits to elder care homes, the government issued an executive order based on a provision in Chapter 16, Section 10, of the Swedish Social Services Act (SFS 2001:453).⁶ The restrictions on restaurants, bars and cafés were imposed with the help of a new law, the Act (2020:526) on temporary infection control measures at places serving food or drinks (*Lag (2020:526) om tillfälliga smittskyddsåtgärder på serveringsställen*). The law makes it compulsory for anyone running a restaurant to ensure that the restaurant's premises are designed so that congestion is avoided and so that visitors can keep a social distance.

After March 2020, a large number of other measures have been taken to slow down the spread of the virus and to mitigate the effects of the pandemic. The two most important are the temporary authorizations given to the government in an amendment to the Act on Communicable Disease Control on 18 April 2020 and the temporary Covid-19 Act adopted on 10 January 2021 (see annex).

Until early autumn 2021, the general public recommendations from the Public Health Agency remained largely the same as in March 2020: stay at home if you have any symptoms of COVID-19, wash your hands, maintain your distance from others and avoid crowded settings, work from home as often as this is possible, ensure that you travel in a way that minimises the risk of infection.

5. Förordning (2020:114) om förbud mot att hålla allmänna sammankomster och offentliga tillställningar.

6. Förordning (2020:163) om tillfälligt förbud mot besök i särskilda boendeformer för äldre för att förhindra spridningen av sjukdomen COVID-19. https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2020163-om-tillfalligt-forbud-mot_sfs-2020-163.

The characteristic of Sweden's policy during the COVID-19 crisis has been, Dahlström and Lindvall write, "that both the Riksdag, the government and the administrative authorities with few exceptions, have refrained from implementing coercive measures that interfere with the lives of individuals and the activities of businesses and organizations." (Dahlström & Lindvall 2021, p. 511).

It is thus important to note what *did not* happen in Sweden during the first half of 2020. Schools and pre-schools were not closed, there were no recommendations on using face masks (in fact, it took until July 2020 for the Public Health Agency to recommend the general use of face masks in health care and elder care institutions), there were no travel-bans, neither for domestic nor international travel, and no compulsory testing, health checks or even quarantine when entering Sweden from abroad. Certainly, there were no curfews.

3. Strategy: 'herd immunity'?

The Swedish government has consistently argued that the government has not adopted a formal strategy to deal with the spread of the new corona virus. This argument was made, for instance, when several government ministers were interrogated by the Committee on the Constitution of the Swedish Parliament in April 2021 (*Konstitutionsutskottet*).⁷ Instead, the government argues, it has responded to a series of events, one by one, according to the needs as they arise, and in conformity with the government's obligations and responsibilities.

Nevertheless, on 7 April 2020, an entry entitled "Strategy in relation to the new corona virus" (*Strategi med anledning av det nya coronaviruset*) was published on the official website of the government.⁸

In English, the strategy is summarized in the following six points:

- Limit the spread of infection in the country
- Ensure that health care resources are available
- Limit the impact on critical services
- Mitigate the impact on people and companies

7. <https://www.dn.se/sverige/lena-hallengren-fragas-ut-i-ku-om-coronahanteringen/>.

8. <https://www.regeringen.se/regeringens-politik/regeringens-arbete-med-coronapandemin/strategi-med-anledning-av-det-nya-coronaviruset/>.

- Ease concern, for example by providing information
- Ensure that the right measures are taken at the right time.⁹

It should be noted that the first point reads “Limit the spread of infection in the country” rather than ‘eliminating’ the virus. There has been an intensive debate on whether this should be interpreted as if the government has been pursuing a strategy towards ‘herd immunity’, that is: allowing a certain spread of the virus hoping for enough people to get infected in order to stop the spread when herd immunity is achieved.

In his book “The Herd” (*Flocken*)¹⁰ the Swedish author and journalist (he has written for e.g. The Wall Street Journal, Focus and Expressen) Johan Anderberg describes the basis for Sweden’s strategy towards the pandemic indeed as “flattening the curve” rather than eliminating the virus.

This strategy was not invented in 2020. It was in place already before the first cases of the new corona virus were reported in China, in the form of guidelines published by the Public Health Agency (*Folkhälsomyndigheten*) in December 2019.

In the publication “Pandemic Preparedness. How to prepare – empiric evidence (*Pandemiberedskap. Hur vi förbereder oss – ett kunskapsunderlag*)”¹¹, the Public Health Agency argues that in the case of an influenza pandemic, the overarching objective of the society should be to “minimize the mortality and morbidity of the population” and “minimize other negative consequences for the citizens and for society.” (FHM 2019, p. 6).

This argument is illustrated by a graph that has since become iconic: the flattened curve.

9. <https://www.regeringen.se/regeringens-politik/regeringens-arbete-med-coronapandemin/strategi-med-anledning-av-det-nya-coronaviruset/> Accessed on 25 June 2021.

10. <https://www.albertbonniersforlag.se/bocker/278063/flocken/>.

11. Pandemiberedskap. Hur vi förbereder oss – ett kunskapsunderlag <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/p/pandemiberedskap-hur-vi-forbereder-oss-ett-kunskapsunderlag/>.

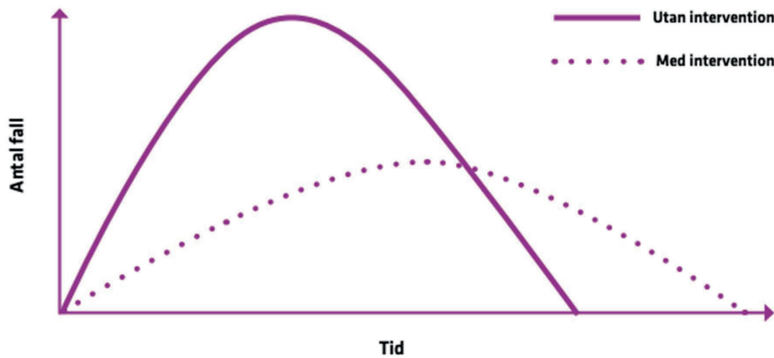


Bild 2. Pandemins förlopp med och utan intervention

Source: FHM 2019, p. 6.

A central passage in the publication reads:

“By trying to reduce the spread of infection and delay the course of the pandemic, there is a possibility that the top of the curve is shifted and flattened. This way, the burden on health care and society can be reduced as the proportion of sick at a given time (the top of the curve) decreases, the time for preparation increases and vaccines have time to become available.” (FHM 2019, p. 6).

What is important, according to the guidelines of the Public Health Agency, is to slow down the spread of infection to avoid an overburdening of the health care system, since this could lead to unnecessary deaths. But it is not deemed possible to stop the spread of the virus completely. It will only stop spreading when herd immunity has been reached: either when enough people have already become infected, or when there is an efficient vaccine that can make people immune to the influenza virus.

In this sense, it is possible to argue that the Swedish authorities, in deciding to follow the guidelines and recommendations issued by the Public Health Agency, have indeed pursued a strategy of ‘herd immunity’.

The Public Health Agency of Sweden has made two important arguments in this regard. These central arguments could be summarised as follows:

1. The virus cannot be eliminated. A policy to completely eliminate the spread of the virus would be extremely costly and futile. The only possible strategy is to try to flatten the curve: to make sure the infection does not spread too fast. The objective must be to make sure that the health care system is not overburdened, so that people can get access to the best possible health care when they fall ill.

2. Coercive measures can be used to flatten the curve, but voluntary measures are more efficient. In their recommendations regarding self-isolation (quarantine) of travellers returning from Wuhan in China on 5 February 2020, the Agency stated in an illustrative formulation that “the experience is that well-informed and motivated individuals understand and follow given recommendations and that self-responsibility is better than coercive measures.” In the same communication, the agency also points out that there are indeed possibilities to implement more coercive measures. These measures, however, rest with the County Medical Officer (*regional smittskyddsläkare*) who can decide on for instance mandatory quarantine on a regional basis.¹²

The recommendations issued by the Public Health Agency clearly have had an effect on people’s behaviour. According to surveys carried out by the Swedish Civil Contingencies Agency (MSB), until 31 May 2020, 99 percent of the respondents said they had changed their behaviour due to the pandemic. 86 per cent said they were more carefully washing their hands, and 85 per cent reported that they practiced social distancing.¹³

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In his book “The Herd”, Johan Anderberg cites the former Swedish state epidemiologist Johan Giesecke. He likes to point out, Anderberg writes, that “mortality in Sweden is 100 percent”. This is a brutal way of expressing the fact that everyone will die, sooner or later. In the approach to an influenza pandemic, the same brutal but logic conclusion is that everyone will become immune, sooner or later, either by being infected or by being vaccinated.

In this perspective, what is relevant to ask is not if the Swedish government pursued herd immunity or not. In fact, all countries that have decided to make a vaccine against Covid-19 available to their citizens have adopted a strategy of herd immunity. The question is rather: at what speed would herd immunity be achieved, using what methods, and at what costs?

In a concluding remark, the Swedish Council of Human Rights states that “direct limitations of human rights caused by legislation and bans may

12. <https://www.folkhalsomyndigheten.se/nyheter-och-press/nyhetsarkiv/2020/februari/information-om-karantan/>.

13. 11 Kantar Sifo, *Rapport om förtroende, oro och beteende under coronakrisen* (Rapport om tillid, bekymring og adfærd under coronakrisen), 21. marts–31. maj, Rapport til MSB, 2020-05-31.

have been less flagrant than in many other countries”, but “the fact that the pandemic has harvested so many lives,¹⁴ is a matter of great concern.”

The Human Rights Council writes that there is a need to evaluate whether the Swedish strategy has “neglected or failed to protect the right to life and the right to health for some affected individuals or groups of individuals; in particular the elderly and the socially and economically disadvantaged.” (Swedish Human Rights Council 2020, p. 2).

4. Constitutional limitations and possibilities

It is difficult to disentangle the complex web of responsibilities and obligations between different government actors. The Public Health Agency of Sweden, *Folkhälsomyndigheten*, represented in particular by its state epidemiologist Anders Tegnell, was given a central role in the handling of the COVID-19 pandemic in Sweden. But the Public Health Agency does not, by law, have an operative responsibility. The Public Health Agency is responsible for coordination and for the provision of knowledge and guidelines. The operative responsibility instead lies with the County Medical Officers, *regionala smittskyddsläkare*, one in each of Sweden’s 22 counties or regions. In addition, all providers of health and social care have a responsibility for the prevention of the spread of infection, for instance by having guidelines and routines in place.¹⁵

It is a misunderstanding that the Swedish constitution would not allow the Swedish government to issue decrees on binding, compulsory measures to limit the spread of an infection such as COVID-19. A state of emergency cannot be issued in peacetime, but, as Mark Klamberg, professor in international law at Stockholm University, points out, the government still has extraordinary powers in an emergency.¹⁶

In fact, the Communicable Diseases Act adopted in 2004 (2004:168) builds on both voluntary and coercive measures.

During the entire first year of the pandemic, the Communicable Diseases Act’s provisions on extraordinary measures to prevent the spread of infection were not applied. This would have been possible, though, given

14. Number of deceased 18 June 2020: 5004: <https://experience.arcgis.com/experience/09f821667ce64bf7be6f9f87457ed9aa>.

15. <https://www.folkhalsomyndigheten.se/the-public-health-agency-of-sweden/communicable-disease-control/responsibility-for-communicable-disease-control/>.

16. For a more elaborate discussion on this, see Annika Lundius “How does Swedish legislation work in exceptional situations?” in ESO 2021:1 https://eso.expert-grupp.se/wp-content/uploads/2020/11/ESO-2021_1-I-en-tid-av-pandemi.pdf.

the fact that the government had decided to add COVID-19 to the list of diseases classified as “dangerous to public health” (*allmänfarlig sjukdom*) and “dangerous to society” (*samhällsfarlig sjukdom*) in the Swedish Communicable Diseases Act (2004:168).

Dahlström and Lindvall refer to an intense constitutional discussion that took place in the spring of 2020, with some arguing that the Swedish constitution would not allow, for example, the kind of restrictions on individual mobility that a “lockdown” of the kind other European countries applied would require.

In fact, the Swedish constitution explicitly mentions that the freedom of assembly and manifestation can be restricted if the purpose is to “fight soot”, the old Nordic word for epidemic (Dahlström and Lindvall 2021, p. 517).

Also general restrictions on the individual freedom of movement would have been possible under the current Swedish constitution, Dahlström and Lindvall argue. Such restrictions are explicitly possible, if the purpose ‘is acceptable in a democratic society’, and as long as a restriction does not ‘go beyond what is necessary to achieve the purpose of introducing the restriction’ or threatens ‘the formation of free opinion as one of the fundamental values of democracy’ (Chapter 2, § 21 of the Constitution). Klamberg seems to agree with this assessment. He argues, for instance, that the temporary additional powers that the government asked for in April 2020, and that it was given by the parliament, were close to those of being able to declare a state of emergency (Klamberg 2020).

Klamberg also argues that there is no need to choose a softer strategy in order to safeguard the respect for human rights and democracy. Klamberg states that “countries could choose either a softer or more aggressive approach to counter the pandemic while at the same time respect the basic tenets of rule of law, democracy and human rights.” Respecting these values, he argues, is “not an absolute obstacle preventing Sweden from adopting a more aggressive approach to suppress the COVID-19 pandemic.” (Klamberg 2021, p. 1).

The Swedish strategy, concludes Dahlström and Lindvall, “was thus the result of political decisions, not the result of constitutional provisions specific to Sweden.” (Dahlström and Lindvall 2021, p. 517). Again, Klamberg agrees. “I would argue”, he writes about the Swedish strategy, “that this is only to some extent explained by the Swedish constitution and the lack of emergency powers in peacetime. It is rather explained by assessments made and the recommendations given by the Public Health Agency, advice which the Swedish government has decided to adopt as its own; i.e. the choice and strategy adopted in Sweden is a matter of policy, possibly also history, tradition and culture. If the Swedish policy-makers would

have opted to suppress, rather than only mitigate, the COVID-19 pandemic it could arguably have been done within the constitution and without declaring a state of emergency.” (Klamberg 2020, p. 6).

This makes the Swedish case particularly interesting. Why did Sweden choose a strategy based primarily on voluntary recommendations, even though a more repressive lockdown-policy would have been possible? And what are the consequences for human rights of such a choice of strategy?

5. Human Rights Implications

5.1 Consequences of the lack of lockdown

Whether it can be termed a “strategy” or not, clearly the Swedish handling of the pandemic has been centred around a number of voluntary recommendations to the public: wash your hands, keep a social distance, stay home if you are sick, work from home if you can, travel only if you must.

These recommendations of social distancing can be followed by many, but not by all. There are, notes the Swedish Council on Human Rights, “many groups in society that are unable to protect themselves from contagion”¹⁷, such as homeless people. Indeed, NGOs report increased needs of support among vulnerable groups.¹⁸

Since no formal lockdown was imposed by the authorities and since compulsory schools were kept open throughout the pandemic (with some individual exceptions), the number of people who were not working from home was naturally larger than in countries with lockdowns. This includes shop keepers, restaurant staff and, not least, teachers. Their safety at work (or rather, lack thereof) has been a contentious issue throughout the pandemic, particularly since the authorities have not, even after the initial lack of PPE was alleviated in the summer of 2020, recommended the wearing of face masks in classrooms, in shops, at restaurants, etc. Instead, the recommendation has been to keep a social distance, which for many professional groups has been impossible.

In many other countries, a formal, compulsory lockdown has been followed by targeted support to businesses such as restaurants, shops, etc. that were forced by law to close during lockdown. In Sweden, since no activities were forced to close, there was also very limited targeted support for particularly hard-hit industries. Instead, the government has given general

17. <https://www.folkhalsoguiden.se/nyheter/coronapandemin-drabbar-socioekonomiskt-utsatta-grupper-i-hogre-utstrackning/>.

18. www.socialforum.se/wp-content/uploads/2020/04/Rapport-om-coronavirusskador-konsekvenser-f%C3%B6r-civilsamh%C3%A4llet_Forum_200408.pdf.

support to all businesses that had to reduce their staff costs.¹⁹ The support to employers to reduce the part-time employment of staff (*korttidsarbete*) was the single largest spending of the government during the first year of the pandemic. Initially, employers could apply for state support with 60 percent of the wages (SFS 2020:375). Later, this was increased to 80 percent for the months of May, June and July 2020. The second most expensive economic support package was support to businesses on the basis of their drop in turnover.

Until April 2021, the sum of economic measures adopted in relation to the pandemic was 400 billion SEK. Some of these measures were directed at specific sectors: media, culture, sports, public transport, railways and aviation and shipping.²⁰ It is clear, though, as noted by the Swedish Human Rights Council, that the brunt of the economic support measures decided by the government to deal with the pandemic has been aimed at helping businesses and prevent lay-offs.²¹

5.2 Consequences for the right to health

From the very beginning, the stated objective of the recommendations issued by the Swedish Public Health agency has been to “flatten the curve” of the number of infected people, in order not to overwhelm the health care system. It is contested whether this objective was in fact achieved and whether more repressive policies would have been better at containing the spread of infection. Would a lockdown have lowered the number of deaths? Undisputedly, during the pandemic, the Swedish health care system, including the largest hospitals and emergency wards, has reached its limits several times: first, in connection with the “first wave” of infections in April and May 2020, then again during the second wave starting in October 2020.

There are two main consequences of the overburdening of the health care system. First, it is likely that some of the individuals who died of COVID-19 at elder care homes or at home would have survived if they had been admitted to hospital and had received intensive care. On 28 April 2020, 90 percent of the people who had died of COVID-19 were over 70

19. <https://www.regeringen.se/sveriges-regering/finansdepartementet/statens-budget/ekonomiska-atgarder-med-anledning-av-COVID-19/>.

20. <https://www.regeringen.se/artiklar/2021/04/ekonomiska-atgarder-med-anledning-av-pandemin-20202021/>.

21. <https://www.regeringen.se/sveriges-regering/finansdepartementet/statens-budget/ekonomiska-atgarder-med-anledning-av-Covid-19/>.

years of age. Half these shares were long-term care home residents, and an additional quarter received domestic care.²²

The Swedish Human Rights Council has raised concern about new triage guidelines issued by the Region of Stockholm and the National Board of Health and Welfare in April 2020 on how to prioritize among COVID-19 patients in need of intensive care.²³ Crucially, according to these guidelines, the patient's biological age is to be taken into account when prioritizing among patients. Physicians told Sweden's main newspaper, *Dagens Nyheter*, that particularly elderly people were not offered hospital care based solely on their age.²⁴ Instead of being admitted to hospital, people suffering from COVID-19 were forced to stay at home or in a long-term care facility with very limited medical attention. For instance, although long-term care homes typically host elderly people with severe medical conditions, the long-term care facilities are rarely equipped with oxygen gas. Oxygen gas can be used as part of the treatment of COVID-19, but also as part of palliative care. Following rules of social distancing, physicians did not visit elder care facilities either. The Health and Social Care Inspectorate (IVO) has directed heavy criticism towards the Swedish regions that are responsible for health care, and towards the municipalities that are responsible for elderly care, for insufficient staffing of medical staff as well as general care staff and for lack of access to medical equipment.²⁵

Second, because the health care system was overburdened with COVID-19 patients, non-emergency care was postponed or cancelled, causing suffering and creating a health care debt which might take a long time to pay back. When it comes to patients suffering from cancer, the National Board of Health and Welfare (*Socialstyrelsen*) has concluded that their treatment was not significantly affected, but warns of long-term consequences of the decline of cancer screenings particularly during the first half of 2020.²⁶

The Swedish Human Rights Council points particularly at the danger posed by pausing mammography and cervical screening but notes that access to abortion seems not to have been affected by the pandemic.

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22. Statistik om smittade och avlidna med COVID-19 bland äldre efter boendeform, 6.7-15552/2020, 2020-05-06.

23. <https://www.dn.se/sthlm/dokument-visar-vilka-som-inte-far-intensivvard/>.

24. <https://www.dn.se/sthlm/lakare-vi-tvingas-till-harda-prioriteringar/>.

25. <https://www.ivo.se/publicerat-material/nyheter/2021/forutsattningar-for-godvard-och-behandling-pa-sabo-saknas-och-leder-till-brister/>.

26. Socialstyrelsen, »Faktablad-påverkan på screeningverksamheter inom cancerområdet«.

On 27 May 2020, in the Special Procedures of the UN Human Rights Council, a number of independent human rights experts who work with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a questionnaire on protecting human rights during and after the COVID-19.²⁷ The rest of this section is structured around the thematic issues of the questionnaire.

5.3 Protection of various groups at risk²⁸

The Swedish Council of Human Rights lists a number of consequences of the self-isolation recommendations issued by the Public Health Agency of Sweden, such as an increase in domestic violence against women, honour-related violence²⁹, and increased pressures on mental health particularly of already relatively isolated elderly and stigmatised groups such as LGBTI people³⁰.

5.3.1 Older persons

Older persons living in long-term facilities were the victims of a measure that the Minister for Health and Social Affairs Lena Hallengren has termed “the most repressive measure”³¹ of all the government-sanctioned measures decided during the pandemic: a ban on all visits to long-term care facilities from 1 April 2020³². This separated elder people from their loved ones for eight months: the ban was not lifted until 1 October.³³

27. The Swedish government responded to the questionnaire on 22 June, 2020, and there were also two responses by Swedish civil society organisations: a joint Swedish civil society response compiled by The Swedish Foundation for Human Rights (handed on 18 June 2020) and a separate response made by RFSL – The Swedish Federation for LGBTIQ Rights. The latter was not limited to the Swedish situation, but concerned the global impact on human rights of lesbian, gay, bisexual, transgender, intersex (LGBTI), and gender non-conforming (GNC) people.

28. The situation of Sweden’s indigenous people, the Saami, is treated elsewhere in this publication.

29. www.tris.se.

30. <https://sverigesradio.se/sida/artikel.aspx?programid=96&artikel=7475035>.

31. <https://www.dn.se/sverige/lena-hallengren-fragas-ut-i-ku-om-coronahanteringen/>.

32. <https://www.svenskforfattningssamling.se/sites/default/files/sfs/2020-03/SFS2020-163.pdf>.

33. See eg. Håkan Hydén “Corona – a challenge for judicial policy” <https://statsvetenskapligtidskrift.org/2021/06/11/sarskild-utgava-coronapandemin-beslutsfattande-under-svara-forhallanden/>.

Early in the pandemic, the Public Health Agency issued a recommendation for all individuals above the age of 70 to avoid all social contacts outside their immediate household. The recommendation was to avoid cultural events and visits to places of worship as well as shops and restaurants.

This recommendation was non-binding. But it has clearly been experienced as a severe limitation to the quality of life of older persons, and as a de facto restriction on the freedom of movement, the right to family and private life, and the right to assembly and association. It has also affected the right to worship and, in general, the rights of older persons to freely pursue their economic, social and cultural development, guaranteed in the first Article of the International Covenant on Economic, Social and Cultural Rights.³⁴

More severe, however, was the inability of the authorities to limit the spread of the infection at elder care homes, despite the ban on visits. The infection clearly spread among both residents and staff. A decisive factor has been the poor working conditions of care workers. The use of precarious contracts is systematic in Swedish elderly care. At the start of the pandemic in March 2020, 40 per cent of homecare workers in Stockholm were employed on hourly contracts and many of these vulnerable workers simply could not afford to follow the most critical advice from the Swedish authorities: ‘stay home if you are sick’. In addition, understaffing made it difficult to implement cohort care. 96 per cent of Swedish municipalities were planning cuts in the budgets for the elder care sector in 2020. Elder care has been subject to austerity for decades. In the 1980s, an employee of the homecare service would visit four people during a full-time shift; in 2015, that employee was expected to visit 12 people in the same period of time. This is in spite of the fact that those who are granted homecare service today are older and more vulnerable than the same group in the 1980s.³⁵

These structural deficiencies (understaffing, precarious working conditions, etc.) were highlighted by the Corona Commission of the Swedish Government in its first report, released in December 2020.

Care for the elderly was “unprepared and ill-equipped” when the pandemic struck, the Commission writes in its report. “This was due to structural deficiencies which were known before the virus outbreak.” Because of these deficiencies, the government’s strategy to “protect the elderly” failed, according to the commission. In particular, the commission points out the fragmented organization of elder care, a need for higher staffing,

34. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

35. Pelling in Social Europe <https://socialeurope.eu/sweden-the-pandemic-and-precarious-working-conditions>.

increased skills, and reasonable working conditions, an insufficient regulatory framework, barriers to municipalities hiring doctors and accessing medical equipment; and late and sometimes insufficient decisions and measures.³⁶

I have argued elsewhere that one reason why these deficiencies were not known to the Public Health Authority when they designed the strategy to “protect the elderly”, which did not, for instance, take into account the precarious working conditions of the elder care workers or their overburdened workload, is that the Public Health Authority is a state authority dominated by physicians. There is a lack of voice and representation of other professions, such as nurses and assistant nurses who dominate the workforce within elder care, and of non-medical professions, such as sociologists.

5.3.2 *People of faith*

The Swedish Christian Council has throughout the pandemic consistently warned that the restrictions imposed on public events have negative consequences for their worship services and other activities, and therefore “for fundamental freedoms and rights, as well as the health of children and adults in an existential, spiritual perspective.”

In May 2021, the Swedish Christian Council was invited to present its views on directives concerning the recommendations of the Public Health Agency on restrictions to limit the spread of COVID-19.³⁷ In its answer³⁸ to the government, the Council emphasized that “protecting lives is both about fighting infection and promoting public health in a broader perspective. Here the churches have an important social task.” The Council is frustrated at the “inconsistent rules” for public gatherings: the rules limit the number of people in a cathedral to a maximum of 50 while no limits are placed on indoor shopping centers.

5.3.3 *People with disabilities*

According to data published by the Swedish National Board of Health and Welfare (*Socialstyrelsen*), people with disabilities have been overrepresented among those diseased with COVID-19. There are several reasons for this.

36. First report of the Corona Commission <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2020/12/sou-202080/>.

37. <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/h/hslf-fs-202157/>.

38. <https://www.skr.org/forslag-till-foreskrifter-om-andring-i-folkhalsomyndighetens-foreskrifter-och-allmanna-rad-hslf-fs-20212-om-sarskilda-begransningar-for-att-forhindra-spridning-av-sjukdomen-COVID-19/>.

In addition to the fact that many people with disabilities have underlying health conditions and therefore belong to medial risk groups, many have had fewer possibilities than others to practice social distancing, such as those living in long-term care facilities.³⁹

The Swedish Human Rights Council concluded in June 2020 that the situation of people with disabilities had become worse during the first wave of the pandemic in 2020 because neither people with disabilities nor their carers (personal assistants) were prioritised when it came to accessing personal protective equipment or access to testing. “Personal assistants were included in the prioritised testing only in mid-May. The same goes for supply of personal protective equipment.”, the Human Rights Council writes.⁴⁰ But persons with disabilities had to wait until the beginning of June to be able to access testing (unless they were admitted to hospital).⁴¹

5.3.4 *Socio-economically disadvantaged people*

From early on in the pandemic, there were reports that the new corona virus spread more quickly in socially disadvantaged housing areas in Stockholm, such as neighbourhoods in Järva north of Stockholm (Spånga-Tensta and Rinkeby-Kista).^{42, 43} The fact that socio-economically disadvantaged people have been more affected by the spread of the virus has since then been confirmed in a number of reports and is clearly visible in socio-demographic data published by the Public Health Agency of Sweden.⁴⁴ The pandemic has clearly both highlighted and increased pre-existing health inequalities. In a report covering data from March 2020 through February 2021, the Agency summarizes: “Foreign-born people in Sweden have been hit harder, compared to Swedish-born, with a higher incidence in terms of confirmed cases, number of people treated in intensive care units (ICUs), and number of fatalities.” This can be explained by a greater exposure to the virus because of not being able to work from home and because of crowded housing conditions. A part of the explanation also lays with

39. Statistics about COVID-19 among persons with disability (in Swedish): <https://www.socialstyrelsen.se/statistik-och-data/statistik/statistik-om-COVID-19/statistik-om-COVID-19-bland-personer-med-funktionsnedsattning/>.

40. <https://assistanskoll.se/20200520-Hallengren-assistenter-priortestning.html>.

41. Testing indication for Covid-19 (in Swedish) <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/p/provtagningsindikation--misstankt-fall-av-Covid-19/>.

42. <https://mitti.se/nyheter/bekraftade-drabbats-cornona/>.

43. <https://www.sll.se/verksamhet/halsa-och-varld/nyheter-halsa-och-varld/2020/04/14-april-antal-personer-med-Covid-19-per-kommunstdel/>.

44. <https://www.folkhalsomyndigheten.se/contentassets/2dddee08a4ec4c25a0a59aa-c7aca14fo/utrikesfodda-och-COVID-19.pdf>.

increased vulnerability to more severe outcomes of the infection, such as underlying health conditions. These health conditions are often related to conditions on the labour market: those who could not work from home were also typically those carrying out heavy physical work and/or with stressful working conditions.

About 20 percent of the Swedish population is foreign-born. Between 13 March 2020 and 15 February 2021, individuals born in Africa were 3.4 times more likely to die from COVID-19, and individuals born in the Middle East were 2.8 times more likely to die from COVID-19 in comparison with Swedish-born citizens (Public Health Agency 2021, p. 23).

5.3.5 *Victims of honour-based violence and oppression*

The limitation of social contacts due to the pandemic poses a risk to victims of honour-related violence since fewer social contacts might limit their opportunities to ask for help. According to the Swedish Human Rights Council, women's and girls' shelters that specialize in victims of honour-related violence have seen an increase in threats of child and forced marriages.⁴⁵ The Human Rights Council also reports that corona patients might be denied access to healthcare by their own family, a particularly severe form of honour-related violence during the pandemic.⁴⁶ Indeed, there was a reported increase in the incidence of domestic violence against women, with the number of cases reported increasing from 124 in March 2019 to 194 cases in March 2020.⁴⁷

5.3.6 *Children in vulnerable situations*

Early in the pandemic, the Swedish government pointed out that children living in situations where they risk being victims of honour-related violence and oppression would be particularly at risk during times of social distancing, for instance the difficulties encountered in seeking help from social services. Keeping the schools open as long as possible has been a priority since the start of the pandemic: "schools will be the last to close and the first to open" as the Minister of Education, Anna Ekström, has repeatedly stated. On 30 April the Government gave an assignment to the Swedish Gender Equality Agency to identify and develop working methods for municipalities to be able to disseminate information about violence in close relationships and honour-related violence and oppression due to the

45. <https://www.tris.se/>.

46. <https://www.tris.se/nyheter/lista/2020/4/5/effekten-av-corona-underlitar-hedersrelaterade-praktiker>.

47. <https://www.svt.se/nyheter/lokalt/smaland/antalet-fall-med-kvinnor-som-blivit-misshandlade-av-sin-partner-har-okat>.

outbreak of COVID-19. The government also decided to increase financial support to civil society organisations working with violence against children, honour-related violence and oppression, children in vulnerable situations and LGBTI-persons.⁴⁸

5.3.7 *LGBTI-persons*

The Swedish government has identified LGBTI-persons as particularly vulnerable in the pandemic, and has dedicated funds to LGBTI organisations so that they could step up their work.⁴⁹ LGBTI people were also included in the government's funding to organisations that work to support victims of gender-based violence.⁵⁰

5.4 Social Protection

Sweden has a well-developed social safety net, including universal health care and universal basic sick leave. During the first months of the pandemic, the Swedish government took a number of steps to strengthen this safety net.

Unemployment benefit was raised twice (both the lowest level of benefit and the highest, the 'ceiling,' were raised). Of particular importance for people on precarious or short-term contracts was the fact that the qualification time between membership in one of the many unemployment funds (*A-kassa*) and eligibility for unemployment benefit was shortened.⁵¹ According to the ordinary rules, 12 months of membership in an unemployment fund is required to be entitled to income-related compensation from the unemployment insurance. In April 2020, the parliament adopted a government proposal that the so-called membership condition can be fulfilled more quickly: each month of membership in an unemployment fund counted as four months from March to December 2020. This means that the membership condition can be achieved within three months.⁵²

48. <https://www.regeringen.se/regeringsuppdrag/2020/04/uppdag-till-jamstalld-hetsmyndigheten/>.

49. <https://www.regeringen.se/pressmeddelanden/2020/04/mer-pengar-till-hbtq-organisationer/>.

50. <https://www.regeringen.se/pressmeddelanden/2020/04/satsning-for-att-motakad-utsatthet-i-samband-med-det-nya-coronaviruset/>.

51. <https://www.regeringen.se/artiklar/2020/05/tillfalligt-hojt-tak-i-a-kassan-fran-dag-101/>.

52. <https://www.regeringen.se/artiklar/2020/04/a-kassan-forandras-tillfalligt/#medlemsvillkoranchor>.

A major improvement was made to the system of sick pay. Normally, sick pay is calculated as 80 per cent of the salary, but only from the second day of absence from work. Employees are not covered for the first day of absence. The Municipal Workers Trade Union *Kommunal* successfully raised this as a factor potentially contributing to people turning up at work despite having symptoms of an infection – for instance at hospitals or long-term care facilities such as elder care homes – because they could not afford to stay at home with an infection.⁵³ The first-day sickness leave deduction was cancelled by the government on 13 March 2020.

The right to adequate housing has been challenged during the pandemic. The Swedish government has acted to avoid evictions, but the financial help has been designed to help landlords who rent out to businesses, not to help individual tenants.⁵⁴ The fact that the state has not acted to reduce the rent and the risk of evictions has been the subject of heavy criticism, not least from civil society organisations that mobilise on socially disadvantaged areas where people tend to have precarious jobs. People on precarious contracts are the first to be laid off in times of economic crisis, and in addition, they tend to have little or no social protection. An example is the campaign “Yellow Flag” (*Flagga Gult*) initiated by the association *Ort till ort* in Husby and other suburbs.⁵⁵

5.5 Participation and consultation

Some of the legal measures that were adopted to limit the spread of the new corona virus were designed and pushed through parliament at great speed, giving little time for either civil society or Members of Parliament to exert influence and exercise their democratic role.

Professor Klamberg cites the adoption of amendments to the Act on Communicable Disease Control⁵⁶ as an example. These amendments or “temporary authorizations” nearly amounted to giving the Swedish government the powers to declare a state of emergency, according to Klamberg. Yet it took only 14 days for the government to obtain these powers (Klamberg 2020, p. 5).

The Swedish Human Rights Council voiced similar concerns. “The proposal would increase the powers of the government in an unprece-

53. <http://library.fes.de/pdf-files/bueros/stockholm/17690.pdf>.

54. <https://www.regeringen.se/pressmeddelanden/2021/04/aterinforda-hyresstod-et-forlang/>.

55. <https://www.mitti.se/nyheter/darfor-flaggas-det-gult-i-husby/reptdn!BRArb-z4W1n9JByUE4f4VXQ/>.

56. <https://www.regeringen.se/rattsliga-dokument/proposition/2020/04/prop.-201920155/>.

dented manner and thus circumvent the parliament's power as legislators", the Council writes. This is a temporary piece of legislation (valid for three months between April and June 2020) but, reminds the Council, "there is always a risk that this kind of legislation is more or less automatically prolonged, thwarting further public discussions." It "opens a loophole" and a "precedent for future governments and parliaments" (MR-rådet 2020).

The amendments were temporary. They entered into force on 18 April 2020 and expired on 30 June. The government never used these temporary powers.

Another restriction on democratic consultation with parliament was the agreement among the political parties to restrict the number of MPs present in parliament. Using an already established routine to maintain the balance between the political parties in situations when parliamentarians are absent due to for instance travels or health issues (*utkvittning*), the parties agreed that the MPs would take turns and that only 55 MPs would be present at a time, instead of all of the 349 MPs. While maintaining the balance between the political parties, this system naturally limited the democratic influence of the individual parliamentarian, and arguably that of their voters.

This restriction on the work of parliament came at a time when there was an unprecedented number of government proposals. Dahlström and Lindvall point out that under normal circumstances, the Riksdag Rules of Procedure (*Riksdagsordningen*) allows the government to propose changes to the state budget only twice a year: in the budget bill in the autumn and in the proposal for guidelines for Sweden's economic policy and fiscal policy (economic spring bill). The government can present supplementary and amending budgets if "there are special reasons for this" (Chapter 9, § 6 of the Riksdag Rules of Procedure). In 2020, the government presented ten supplementary and amending budgets (on 17, 19, 26 and 30 March, 1 April, 14 and 15 May, 10 and 15 June and 10 September). (Dahlström and Lindvall 2021 p. 525).

The Swedish government allocated 100 million SEK in additional funds to support organizations working with vulnerable communities, including LGBTI organizations, organizations working to address gender-based violence, and those to combat loneliness and isolation of the elderly population.⁵⁷ Furthermore, the government absolved civil society requirements to finance 10% of their operational costs in order to receive support from the Swedish Institute for Development Assistance for the year

57. <https://www.regeringen.se/pressmeddelanden/2020/05/100-miljoner-till-insatser-for-manniskor-i-sarskild-social-utsatthet-och-mot-alldres-ensamhet-under-coronapandemin/>.

2020.⁵⁸ The Swedish Ministry for Foreign Affairs invited local, regional, and international LGBTI organizations to consultations on the impact of COVID to vulnerable communities.

The Swedish Human Rights Council nevertheless concludes that “consultations with civil society have been inadequate and insufficient”⁵⁹.

★ ★ ★

In its report for 2021, the Sweden-based international institute Varieties of Democracy (V-Dem Institute) presents a bleak picture of the state of liberal democracy around the world. 2021 was another year of decline, and the level of democracy is now “down to levels last found around 1990” according to the institute. Although the V-Dem Institute concludes that the pandemic’s direct effects on liberal democracies were limited in 2020, the institute warns that “longer-term consequences may be worse and must be monitored closely”.

In the analysis of the V-Dem institute, what the institute terms “autocratization” or the slide away from liberal democracy is a process that typically starts with the forces in power attacking both the free press and independent civil society. This is part of a tendency to increase polarization in society, which is further increased when ruling governments act to undermine the credibility of individual opponents and opposition forces, including by spreading false information and making false accusations. Steps to undermine formal institutions, such as the judiciary system or elections then follows.

Arguably, Sweden has seen none of these tendencies from the ruling government, and despite the restrictions posed on the freedom of movement and assembly during the pandemic, Sweden can be confidently defined as a liberal democracy.

In fact, in the Liberal Democracy Index (LI) calculated by the V-Dem institute, Sweden ranks second only to Denmark in the overall score. Sweden has a total score of 0.87 (Denmark reaches the level of 0.88, and Norway ranks in third place at 0.86).

Nevertheless, the pandemic has put human rights under pressure also in Sweden. One obvious case is the limitations on the right to assembly. Globally, mass mobilizations decreased to the lowest level in a decade in 2020, according to data collected by the V-Dem institute. This was a

58. <https://www.regeringen.se/regeringens-politik/regeringens-arbete-med-anledning-av-nya-coronaviruset/for-civila-samhallet/>.

59. <https://www.socialforum.se/article/ny-sammanstallning-visar-pa-stor-framtidsoro-bland-civilsamhallets-organisationer-till-foljd-av-corona/>.

decline from an all-time high in 2019. (V-Dem 2021, p. 28). “The ‘year of lockdown’ in 2020 replaced the 2019 ‘year of protest’ (V-Dem 2021, p. 9).

In Sweden, mass mobilizations ceased completely from mid-March until the summer of 2020. In June some large demonstrations were held to protest the killing of George Floyd in the US city of Minneapolis and to show solidarity with the Black Lives Matter movement. A manifestation in Stockholm on 3 June was the largest manifestation, with several thousand participants. The formal manifestation on Sergels torg in the city centre of Stockholm ended without police intervention, but the police acted to disperse another (spontaneous?) demonstration later that evening, resulting in a handful of arrests (Sveriges Radio 2021-06-04).⁶⁰

In a report published in June 2020, Amnesty International documents show how police forces charged with enforcing COVID-19 lockdowns in Europe have “disproportionately targeted ethnic minority and marginalized groups with violence, discriminatory identity checks, forced quarantines and fines” (Amnesty International 2020).⁶¹ The 3 June 2020 Black Lives Matter demonstration in Stockholm is possibly an example of this trend.

5.6 Awareness raising and technology

The Swedish Council on Human Rights has pointed out that information on COVID-19 was initially not available to people with hearing and/or visual impairments. After successfully raising awareness about this, sign Language interpretation was introduced at the daily press conferences broadcasted by public service TV SVT, and information about COVID-19 in Sign Language was published at the site krisinformation.se (Emergency information from Swedish Authorities).

5.6.1 *Vaccination Passports as a threat to human rights*

In February 2021, the author and journalist Anita Goldman argued that Swedish democracy “is being subjected to the most serious restrictions on civil rights in modern times”.⁶² The most pressing threat against civil rights is the introduction of “Vaccination Passports”, argues Goldman. These passports will give a set of rights to those who have been vaccinated, and deny these same rights to people who had – for some reason or other –

60. <https://sverigesradio.se/artikel/7488212>.

61. Policing the Pandemic – Human rights violations in the enforcement of COVID-19 measures in Europe.

62. <https://www.dn.se/kultur/anita-goldman-varfor-ar-det-sa-tyst-om-hur-pan-demin-hotar-var-demokrati/>.

decided not to get an injection. Article 7 of the UN Convention on Civil and Political Rights states that no one “may, without his or her free consent, be subjected to medical or scientific experiments”, Goldman recalls, which is one of the reasons why compulsory vaccination is unconstitutional in Sweden. But, Goldman asks, “will not the right to choose be de facto abolished by society’s formidable pressure of retaliation against the unvaccinated individual?”

Here it is important to recall that Sweden is one of the world’s most digitalized countries, where information about an individual’s corona status, vaccinate/immune/testing could easily been accessible to all kinds of actor, seamlessly but brutally dividing people in, as Goldman puts it, groups of acceptable and less acceptable people.

Interestingly, there has been very little debate about the introduction of Covid vaccine passports in Sweden. An exception is a number of articles on the pros and cons of the use of vaccine passports for the re-opening of cultural activities that took place in August 2021.⁶³

6. Concluding remarks

This report describes Sweden’s handling of the COVID-19 pandemic. It is different from that of most other countries: instead of implementing repressive measures, such as closing schools, shops and restaurants, and restricting people’s mobility, the Swedish authorities have relied heavily on non-binding recommendations on social distancing. Arguably, a more repressive policy, with more coercive measures, would have posed a more serious threat to the rule of law, democracy, and human rights than non-binding recommendations. Repressive measures such as lockdowns typically infringe on human rights, such as the right to assembly, to manifestation, and the right to freedom of movement. In addition, if the measures are adopted fast, and implemented without the necessary safeguards, such measures also risk undermining the rule of law. All in all, there seems to be a greater threat to human rights from a more repressive approach towards the pandemic.

At the same time, the ‘soft’ Swedish approach might have been less efficient in limiting the spread of SARS-CoV-2, and therefore in limiting the number of deaths from COVID-19.

The Swedish approach was relatively successful in respecting civil and political rights, as well as economic, social and cultural rights, while it was

63. See eg. Petter Larsson in Aftonbladet: “Vaccination passports will become a secret tool of state coercion” <https://www.aftonbladet.se/kultur/a/oWMgGB/vaccin-pass-blir-ett-statligt-tvang-i-smyg>.

less efficient in limiting the spread of the virus. This was particularly true at the beginning of the pandemic, and particularly for some socio-economically disadvantaged groups; those who could not work from home, and those who lived in crowded living conditions.

At the time of writing in September 2021, the pandemic is not yet over, and it is impossible to make a conclusive evaluation of the Swedish handling of the pandemic. Clearly, in comparison to its Nordic neighbours, which have all implemented stricter lockdowns, Sweden has suffered from a much higher COVID-19 mortality rate. At the same time, a number of other European countries which have implemented similar or even more severe measures than in Norway, Finland and Denmark have had much higher mortality rates than Sweden.⁶⁴

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5. Concluding reflections

a) Summary thoughts from inside

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Civil society parallel reporting is an important component in the implementation of human rights. Civil society offers another perspective on the human rights situation than the Government in the given country gives, providing a more complete picture of the situation. Under these circumstances, considering that the Swedish government has chosen not to submit the usual self-evaluation report, this parallel report is even more significant.

Another type of reporting, that from Independent National Human Rights Institutions (INHRIs), has the potential of giving a third independent perspective on the situation. A long-standing recommendation to Sweden from the UN system is the establishment of an INHRI. A Swedish INHRI is now being established, due to commence its work on 1 January 2022. The obligation under the UN Convention on the Rights of Persons with Disabilities, especially its article 33.2 on national implementation and monitoring, has had great importance in this process¹. Swedish civil society welcomes the establishment and looks forward to contributing to its pivotal work and expects Parliament and the Government to continue allocate adequate resources to it in the years to come.

There are two indispensable components for successful implementation of human rights that are often overlooked – economic, social and cultural rights (ESCR) and transitional justice. Complying with economic, social and cultural rights is often argued to be difficult and being a welfare issue rather than a rights issue. The devaluation of these human rights constitutes an obstacle to obtaining equality, respect for the inherent dignity of human beings and the implementation of all other human rights. These arguments prevail despite the Vienna Conference Declaration in 1993, which stated that human rights are universal, indivisible, interdependent

1. Convention on the Rights of Persons with Disabilities, article 33.2: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>.

and interrelated.² The Swedish Foundation for Human Rights, emphasizes the importance of the economic, social and cultural rights and the indivisibility of human rights, inter alia by coordinating the Swedish civil society joint parallel report³ to the UN Committee on Economic, Social and Cultural Rights (CESCR)⁴.

Transitional justice is an approach to systematic or massive violations of human rights that both provides redress to victims and creates or enhances opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses.⁵ In a Swedish context, this approach is relevant to, inter alia, the Sami, Tornedalians, Kvens and Lantalaish populations.⁶ The truth commissions to human rights abuses inflicted on them are important steps forward in striving for reparations and truth seeking. However, there is a lack of resources and time, risking their successful work.

A key to ensuring the inclusive and sustainable application of human rights in Sweden, leaving no-one behind, is adopting a Human Rights Based Approach⁷, based on the principles of non-discrimination, participation, transparency and accountability. Among other things, it entails the inclusion of the rights holders in all processes affecting them. Sweden, being a rich welfare state, has the resources to respect, protect and fulfil human rights, and does so to a great extent. However, there is room for improvement. Not least, considering the role Sweden plays globally, safeguarding and promoting human rights. Two steps that Sweden could start with are the ratification of the Optional Protocol to the International

2. The Vienna Declaration, art. 5: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>.

3. Joint NGO submission for the review of Sweden Submitted by the Swedish Foundation for Human Rights May 2016: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/SWE/INT_CESCR_CSS_SWE_23891_E.pdf.

4. The Committee on Economic, Social and Cultural Rights: <https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>.

5. WHAT IS TRANSITIONAL JUSTICE? A Backgrounder, United Nations, 2008: https://www.un.org/peacebuilding/sites/www.un.org/peacebuilding/files/documents/26_02_2008_background_note.pdf.

6. Preparations before a truth commission on the violations of the Sami people by the Swedish State, Sami Parliament, 2021: <https://www.sametinget.se/160524> and The Truth and Reconciliation Commission, About the assignment: <https://komisuuni.se/en/about-the-assignment/>.

7. UN Sustainable Development Group, Universal values: <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>.

Covenant on Economic, Social and Cultural Rights⁸, allowing individual complaints to the CESCR, and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance⁹.

8. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: https://www.ohchr.org/Documents/HRBodies/CESCR/OProtocol_en.pdf.

9. International Convention for the Protection of All Persons from Enforced Disappearance: <https://www.ohchr.org/Documents/ProfessionalInterest/disappearance-convention.pdf>.

b) A look from the outside

Matthias Hui, humanrights.ch, for Civic Solidarity Platform (CSP)

1. Self-assessments since 2014

During its OSCE chairpersonship in 2014 Switzerland introduced a new instrument: It carried out an evaluation of how the OSCE commitments in the area of the human dimension (human rights and democracy norms) are being implemented in the chairpersonship state. The idea itself, however, was born in civil society before and concretely proposed by our Civic Solidarity Platform to Switzerland. Serbia in 2015, Germany in 2016, Austria in 2017 and Italy in 2018 and then the Albanian civil society in 2020 have all followed suit and further developed various dimensions of this model.

We are very grateful that the Swedish OSCE Network took up this tradition. We hope that this self-assessment will help to draw attention to critical points of the human rights situation in Sweden and, in an implementation process, lead to specific improvements. Using Sweden as a model, the self-assessment is intended to be a modest but consistent contribution to a critical international discussion on human rights and democratic standards in the OSCE area, which are currently under pressure in many ways.

The importance of this debate will also be demonstrated in 2022 under the Polish OSCE chairpersonship. The Albanian and Swedish self-assessments of civil society will encourage Polish human rights organisations to analyse the situation in their country and to engage in a debate on this issue also within the framework of the OSCE, its participating states and their civil societies.

2. Methodology

A significant shift is underway in the sequence of self-assessments within the framework of OSCE chairpersonship. In the case of Albania 2020, it has already proved very useful that civil society has taken charge of this analysis and presented a high-quality analysis. This is now also the case in Sweden.

Under no circumstances, however, should the state concerned be able to shirk its responsibility. The OSCE chairpersonship states should be obliged to make financial resources available for the implementation of

this independent self-assessment by human rights organisations. They must also agree to draft a substantive response to the report, including concrete pledges for the implementation of recommendations formulated in the report.

The crucial point lies in such an implementation process that civil society cannot provide. The state is responsible for human rights protection and the rule of law. A comprehensive, transparent and binding follow-up strategy needs to be presented and put into practice by each chair state. It needs to include the presentation and discussion of the self-assessment at the domestic as well as at the OSCE level. Only then can this exercise contribute to the idea of “leading by example”, a role for which Sweden is actually predestined. We look forward to the Swedish government’s readiness to discuss the report among various stakeholders in its own country and in the OSCE, for example in the Human Dimension Committee of the OSCE in Vienna and around the Ministerial Council meeting at the end of the year, and to present concrete ideas for the implementation of specific recommendations. The steps Sweden is taking now will also point the way for the next chairpersonships.

The Civic Solidarity Platform also insists that ODIHR should play a much stronger role in monitoring and promoting self-assessments. ODIHR should set up guidelines for the self-evaluation of chairpersonship states (for instance in the framework of its support to incoming chairpersonship states and its civil societies) and offer training. ODIHR is ideally placed to accompany the process carefully and offer assistance when needed, thus functioning as an institutional memory, a repository of the processes and experiences accumulated over the years as well. ODIHR can create synergies and offer coordination between the self-assessment process and Human Dimension events as well as other OSCE processes and institutions.

What has long been discussed has been implemented with this self-assessment in Sweden: a stronger link with the UPR process, the Universal Periodic Review of the UN Human Rights Council. Methodologically, this linkage can be further developed in the coming years.

At the same time, it should be worked out where the productivity of the emphasis on OSCE commitments in the area of the Human Dimension exactly lies and which commitments are particularly challenging for the state in question. Especially in areas such as media development, minority policy or women, peace and security – topics covered in this self-assessment interestingly – there is still a lot of cross-linking with OSCE frameworks to be done.

From the very beginning, the idea was that the National Human Rights Institutions (NHRI) would play a role in the self-assessment process. The

fact that this was not the case in Sweden has to do with the situation in that country: It has only in 2021 – exactly in the year of the OSCE chairpersonship – taken the decision to establish an NHRI. This fact also shows that Sweden (like Switzerland, for example, in this respect) is by no means a pioneer of human rights in all areas.

The selection of topics for this self-assessment is creative and very well done. Deficits remain obvious and are also named by the authors: in particular, human rights violations in the area of migration and refugees are not addressed. For the discussion and the implementation process, it will be helpful for certain parts to clearly point out concrete recommendations and to prioritise them.

3. The white sheep are not so white – the example of counter-terrorism

This self-assessment shows very well that even human rights-friendly states like Sweden are part of a devastating development in the field of counter-terrorism. Efforts to combat terrorism primarily target the Muslim minority, entailing a risk of discrimination based on ethnicity and/or religion, as the report states. Not only in Sweden but here, too, there is concern about the large number of partly un-coordinated anti-terrorism laws. New legislation in this field, as the report points out, comes about hastily and with a lack of thorough analysis of the implications for fundamental human rights. The danger is great that freedom of association is restricted by anti-terror legislation and that the definition of terrorist associations is inevitably very blurred and risky.

This is true for many if not all states. However, it is all the more devastating when states such as Sweden or Switzerland do not take countermeasures here, but instead help authoritarian states with their equally restrictive anti-terrorism legislation to make dubious excuses. The Civic Solidarity Platform already in its 2016 Hamburg Declaration elaborated on the link between anti-terror legislation and the need to protect and expand threatened civil society space.

4. Every state has blind spots in human rights protection: the indigenous Sami people

The point of self-assessment is to look where it hurts. Especially for outsiders, the contributions on the discrimination of the minority of indigenous Sami people in Sweden are very revealing. It is alarming and challenging

when it is stated: “There is an urgent need for more knowledge about racism and hate crime towards the Sami People, and the Government’s reluctance to initiate measures in this field is part of the problem.” It is astonishing that Sweden is reluctant to sign the international conventions for the protection of indigenous people, in particular ILO Convention 169, the only binding convention on indigenous rights.

The conflict concerns land rights versus tangible economic interests. Apart from the concrete need for enhanced protection, this issue also has enormous global implications; pressure on the Swedish government must therefore be kept up. And with regard to the OSCE, it must be stated that indigenous people, unlike national minorities with linguistic and cultural rights, are not really in its sights yet. This self-assessment might contribute to awareness raising.

5. Outsourcing of human rights problems: actions of the state and private actors abroad

The article on bribery and corruption shows very well the ambiguity of Sweden’s human rights performance in certain domains: “A main area of concern is large-scale corporate corruption abroad.” While most protection mechanisms may work very well at home, problematic situations abroad, in which Swedish actors are also involved, are often not perceived as such at home. The fact that the self-assessment addresses corruption fits in very well with the efforts of the Civic Solidarity Platform with its Tirana Declaration on Human Rights, Democracy, and the Fight against Corruption of 2020.

A section on the Convention on the Rights of the Child also points to Sweden’s responsibility for human rights violations abroad. It is concerned with the rights of children who, together with their mothers or parents, are suspected of having been associated with Daesh fighters and are detained in camps in northern Syria. The criticism of Sweden’s state (non-)action in this case is also important beyond the individual cases, as many governments in the OSCE area are under the same obligation.

Very important, but not elaborated, are the indications that the pioneering Swedish feminist foreign policy, especially in the areas of migration, national disarmament/Swedish arms export and climate justice, is still far from providing truly universal human rights responses. It is to be hoped that the self-assessment will lead to further debates in this field as well.

6. Even the best human rights protection has gaps and requires constant discussion

It is undeniable that by international standards Sweden has very good human rights compliance. But even in this case, there are numerous serious gaps. The fact that the self-assessment addresses these deficits is its strength. It points out for example racial profiling (in the fight against organised crime) and certain detention conditions that are problematic from a human rights perspective.

Sweden's performance on gender equality issues in general is undoubtedly good. And yet the problem of violence against women, for instance, is still very serious in Swedish society, as the self-assessment illustrates. Violations of women's rights are massive in all the OSCE member states and have been described in most self-assessments so far. However, it is precisely on this issue that the potential added value of the OSCE and its institutions is still not sufficiently discussed. There is also an obvious need for more exchange on good practices and different approaches in the fight against violence against women. In particular, the banning of the purchasing of sexual services and the prohibition of sex work is very controversial from a human rights perspective among feminist organisations in other countries and requires further international debate.

Finally, the analysis of the human rights implications of the Swedish pandemic strategy in this report is very interesting. The less drastic measures in Sweden than in many other countries probably led to fewer violations of liberty rights. However, the extent to which serious restrictions on the right to life and the right to health were accepted cannot yet be conclusively assessed, as the pandemic is not yet over.

