

Executive summary

This joint submission is presented by the United Nations Association of Sweden (UNA Sweden) and supported by 32 Swedish organizations working in the field of human rights. The submission follows the draft structure of the Sweden's national report due in October 2014.

Sweden enjoys an excellent reputation among the international community for promoting and protecting human rights around the world. It is equally important, however, that it demonstrates a corresponding commitment at the national level. There are still several areas in which Sweden fails to live up to its international obligations. One of the most salient examples is illustrated by the continued lack of an independent national human rights institution (NHRI).

Among the Nordic countries, Sweden has the highest percentage of children living in relative poverty. The principle of "the best interest of the child" is not prioritized in decisions concerning children. Insufficient measures have been taken to ensure the adequate reception of unaccompanied minors in municipalities.

Hate crime remains on a high level. Racist organizations and parties are more active than ever, and several attacks have recently been witnessed such as Nazi messages and symbols on schools, as well as attacks on peaceful demonstrations.

Sweden should enhance its work with special and affirmative measures, as well as gather equity data based on ethnicity and other grounds for discrimination, to proactively and effectively tackle discrimination, especially in the labour market.

Another urgent issue is domestic violence. Each year between 13 and 20 women die at the hand of a partner. A mechanism to protect women in abusive relationships is lacking. Discrimination against women in the labour market remains a problem.

Recent legislative reform has improved the right and access to health and medical care for most, but there are still groups that are denied full and equal access to health institutions, goods and services. The situation is highly dependent on the individual's legal status, not medical need.

Effective measures are needed to improve the present situation for indigenous people and vulnerable minorities in Sweden. They face discrimination, hate crimes, disputes and exploitation.

Persons with disabilities do not enjoy their full rights in Sweden. They experience problems with accessibility, denial of rights to assistance and a high unemployment rate. Knowledge of the rights of persons with disabilities is also lacking, particularly within the judicial system.

Finally, Sweden has yet to enact an explicit ban on torture as stated in the Convention against Torture. The government relies on diplomatic assurances in security cases where the returnee risks torture.

An independent national human rights institution

Sweden has received recurring criticism from the international community for not having an independent national human rights institution (NHRI). In a 2012 mid-term report, the government acknowledged the issue, referring to a final report (SOU 2010:70) by the Delegation for Human Rights in Sweden.¹ Yet, the process to establish a national human rights institution has come to a full halt.²

An independent national human rights institution would interpret human rights obligations, develop instructions for municipalities and county councils and monitor Swedish authorities in breach of human rights obligations. An essential difference between the well-established Swedish Ombudsman system and an independent national human rights institution is that the former lacks a holistic and critical approach to Swedish human rights legislation. A national human rights institution would have the mandate to promote and protect human rights generally on a national level.³ This is of crucial importance as the broad discretion given to municipalities in implementing Sweden's international commitments leads to inconsistent fulfilment of human rights obligations.⁴

We urge the government to establish an independent national human rights institution appointed by the Swedish Parliament, in accordance with the Paris Principles.⁵

Recommendations

- Establish a national human rights institution with a consultative and awareness-raising mandate for officials at the state, county and local levels to:
 - enhance compliance with Sweden's international human rights commitments.
 - support and promote consistency in the human rights work of municipalities.
 - support and promote an intersectional understanding of human rights issues.
 - counteract multiple discrimination.

Rights of the child

Children living in social exclusion and relative poverty, children who are ill-treated in school and online, children being placed in new homes, asylum-seeking children and unaccompanied minors are not fully ensured their rights in Sweden. There are unacceptably large disparities between the municipalities in Sweden in the support available to children in vulnerable situations.⁶

To recognize the rights granted in the Convention on the Rights of the Child (CRC), Sweden must incorporate the convention as domestic law.⁷ Sweden should also ratify without delay Optional Protocol No. 3 to the Convention, granting children the right to lodge individual complaints against the State.⁸

In 2010, Sweden launched an initiative entitled "Strategy to Strengthen the Rights of the Child in Sweden". Although comprehensive, the strategy lacks the crucial components of a plan of action such as clear and time bound goals and activities, resources and follow-up mechanisms. These are all required to fulfil the principles stated in the strategy.

Sweden is the Nordic country with the highest rate of children living in relative poverty (7,3 per cent).⁹ In 2011, 12 per cent of children belonged to financially vulnerable households.¹⁰ The standard of living and economic situation of families vary geographically and have increased in recent years. This is a growing problem, along with declining equality in elementary school standards. The largest discrepancies are found in the big cities.¹¹

Most children vulnerable to social exclusion are those raised by single mothers or by parents with a foreign background.¹² When economic hardship is not compensated for, children are more vulnerable

and risk social exclusion and marginalization.¹³ To improve the economic situations of these families, there is a need for a comprehensive plan of action with a child rights perspective, including policy areas such as labour market, housing, culture and leisure, as well as social services and education. Support should be given to children in vulnerable situations such as children living in families with problems related to alcohol and drug abuse.¹⁴

Bullying in Swedish schools is a problem, especially against children with disabilities and of foreign origin.¹⁵ A recent report shows that 45 per cent of youths experienced harassment or bullying online.¹⁶ To combat bullying and ill treatment in the physical and digital worlds, firm action must be taken with help from organizations specializing in the issue.

The “best interest of the child” principle is not implemented satisfactorily in the Swedish asylum process.¹⁷ Insufficient weight is given to child-specific motives, and the best interest principle is not fully considered in cases of family reunification.¹⁸

Absence of consideration of the best interest of the child has also been revealed in several cases where children have been placed in new homes due to difficult home conditions.¹⁹ When identifying new homes, the assessment of the specific context with regards to the culture and religion of the child is closely linked to the best interest principle. However, as such assessments are not required in the process, this may entail undesired consequences for the child.

Reports indicate a need for clear strategies in the reception of unaccompanied minors.²⁰ The quality of care varies greatly between municipalities.²¹ Since the reception of unaccompanied minors is mandatory, the Swedish Migration Board should establish guidance and support at the local level.

A study carried out by the Swedish Agency for Youth and Civil Society shows that 70 000 young people in Sweden feel restricted in their choice of partner or spouse.²² A reformed legislation to counteract forced marriage and child marriage was presented by the government in 2014. Forced marriage must be explicitly criminalized and a minimum age of 18 years must be implemented without exceptions. Monitoring and evaluation of the new legislation is crucial in order to ensure its effective implementation.²³

Recommendations

- Incorporate the Convention on the Rights of the Child into domestic legislation.
- Ratify Optional Protocol No. 3 to the Convention on the rights of the Child.
- Adopt a national action plan including all measures necessary to implement the Strategy to Strengthen the Rights of the Child.
- Take action to eliminate the disparities that prevail between municipal services and children’s access to these services.
- Adopt a national action plan to combat child poverty and social exclusion, based on the Convention on the Rights of the Child and the EU Commission recommendation “Investing in Children – breaking the cycle of disadvantage”.
- Educate officials and decision-makers on the “best interest of the child principle” to ensure that the principle permeates all decisions regarding children.
- Raise awareness among politicians and officials of the child-specific context in relation to social exclusion.
- Offer support to children in families with problems related to alcohol and drug abuse.
- Reach out to children exposed to bullying in schools and online. The Equality Ombudsman and Children’s Ombudsman should gather information aimed at these vulnerable children to make help accessible.
- Implement clear standards and strategies on the reception of unaccompanied minors.
- Monitor the implementation of the new legislation against forced marriage and child marriage.

Hate crime

Since the definition of what constitutes a hate crime was broadened in 2008,²⁴ the number of reported crimes has remained relatively constant but high; about 5,900 incidents in 2008 and 5,500 in 2012.²⁵ According to the latest statistics from the National Council for Crime Prevention (BRÅ), the most common form of hate crime is unlawful threat and non-sexual molestation/abuse.²⁶ 72 per cent of hate crime had a xenophobic or racist motive in 2012.²⁷ 97 per cent targeted minority groups, most commonly by a perpetrator belonging to the majority group.²⁸ The second most common motive in recent years is sexual orientation. In 2012, hetero-, bi- and homophobic motives were the cause of about 13 per cent of reported crimes.²⁹ Contrary to many other countries in the OSCE region, Sweden does not include disability as a potential motive for hate crime.³⁰ This is also the case for gender identity and gender expression which need to be explicitly mentioned in Penal Code 16:29 p.2 on the notion of hate crime, Penal Code 16:8 on agitation against national or ethnic group and in Penal Code 16:9 on unlawful discrimination.

The number of reported hate crimes is alarming, but even more worrying is the low rate of legal action. As of April 2013, legal action was taken in only 6 per cent of cases reported in 2011.³¹ The government attributes the low rate to difficulty identifying a hate motive when there are several potential motives and difficulty identifying a perpetrator in cases such as hateful graffiti, including agitation against national or ethnic group.³²

The former explanation indicates a large number of hate crimes go unreported. It does not, however, explain insufficient legal action in cases of documented hate crime. The latter explanation is also unsatisfactory. According to statistics on reported hate crimes from 2012, 64 per cent were committed directly against the victim.³³ Of the crimes committed from a distance, graffiti constituted merely 6 per cent.³⁴ The judiciary and politicians must recognize the insufficiencies surrounding enforcement of the hate crimes legislation.

The government recently announced a plan to strengthen the way police investigate hate crimes.³⁵ We are concerned that this competence is not already in place, despite previous recommendations.

Recommendations

- Ensure that expertise of hate crime exists throughout the entire judicial system.
- Include disability, gender identity and gender expression as motives for hate crime.
- Acknowledge the seriousness surrounding the increasing number of hate crimes and investigate all possible hurdles to legal action. Intensify efforts to increase legal action against hate crime.
- Take necessary legislative, policy and awareness-raising measures to ensure greater effectiveness of legislation on hate crimes.
- Take all appropriate measures to identify hate crimes in cases with multiple motives.

Racist organizations and racist propaganda

Sweden is still in breach of Article 4b of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), which obliges States to implement a ban on racist organizations. The government argues that Swedish law already prohibits illegal activities such organizations might engage in. However, there has recently been an increase in racist activities. Schools and other public places have been vandalized with Nazi symbols and messages. Swastikas, Hitler-greetings and provocative wordings are some of the messages sprayed on school facades.³⁶ Religious buildings have been vandalized similarly.³⁷

Demonstrations have seen an increase in confrontations and violence between far-right and Nazi groups and various other groups including the general public. The Swedish Resistance Movement SMR (Svenska Motståndsrörelsen) recently attacked a peaceful antiracist demonstration in a suburb of Stockholm.³⁸ The attack was unforeseen and the situation escalated quickly due to inadequate police

presence.³⁹ The fact that the police was unprepared to prevent the violence serves as an example to illustrate that the Swedish approach to comply with article 4b CERD by effectively counteracting racist activities is not realized in practice.

2014 is an election year in Sweden, and the political climate has been affected by recent developments. The increased use of Nazi propaganda and political violence is troubling. The largest political party with an anti-immigrant and anti-muslim⁴⁰ platform in Sweden is the Sweden Democrats (SD). The party won 5.7 per cent of the vote and 20 seats in parliament in 2010, almost twice as many votes compared to the previous election. According to opinion polls conducted at the end of March 2014, support for SD has grown to 10.4 per cent.⁴¹

The Expo Foundation monitors extremist groups in Sweden. A recent Expo report found that activities in the eugenics movement had increased 28 per cent in one year, with 2,333 documented activities in 2013.⁴² The increase is linked to SMR and Svenskarnas Parti (Party of Swedes). SvP declared it will run for municipal elections, and has significantly increased its distribution of propaganda.⁴³ In 2013 SMR increased activities almost 30 per cent compared to 2012. Several recent violent attacks on opponents to the movement have been documented,⁴⁴ including the December 2013 attack on a demonstration in the Stockholm suburb Kärtrorp, resulting in several cases of assault and at least two stabbings.⁴⁵ As previously mentioned, the prohibition against engaging in racist activities is not satisfactorily implemented.

Recommendations

- Implement a ban on racist organizations and activities or take necessary legislative, policy and awareness-raising measures to ensure greater effectiveness of legislation on hate crimes.
- Introduce appropriate and effective measures for racist propaganda, including Internet-based propaganda.
- Undertake awareness-raising and other measures to counter the growing support for racist and populist parties in Swedish politics.

Ethnic discrimination

The Swedish police has been accused of ethnic discrimination and racial profiling. Internal border controls targeting undocumented migrant have been heavily criticized. Several people witness that they have been asked to provide documentation of their legal status in Sweden, based on their appearance.⁴⁶ Accusations of racial profiling exploded after it was revealed that about 90 per cent of the controls conducted in Stockholm during one period were erroneous.⁴⁷ Another example is the database of 4,000 Roma people established by the police in the county of Skåne.⁴⁸ The police is required by certain laws to conduct controls, but the exercise of power must be bound by rule of law, not prejudice and other discriminatory practices.

Studies show racial discrimination is common in the labour market in the application stage and in the workplace, especially for persons of African descent.⁴⁹ Foreign-born persons, especially from non-Western countries are limited in their choice of employment in Sweden.⁵⁰ Statistics show that immigrants with higher education do not enjoy the higher wages paid to equivalently educated native population.⁵¹

Special measures such as affirmative action should be taken to counteract ethnic discrimination in the labour market. The government has argued that collection of data based on ethnicity and other grounds would be a violation of privacy protection and integrity.⁵² This argument is contrary to effective practices of data collection in other countries in Europe where collection of equity data is based on consent and where privacy and integrity of the individual are protected. According to the International Convention against all forms of Racial Discrimination, ICERD, and other human rights bodies such data is essential to identify direct or indirect discrimination and to develop effective measures to

remedy the problem. Without data collection, the state is neglecting its duty to combat discrimination in all areas of life.

Recommendations

- Immediately end racial profiling and other prejudicial perceptions among authorities.
- Enhance the effectiveness of measures to promote equal rights and opportunities for all, irrespective of ethnic origin.
- Consider affirmative action based on ethnicity, equivalent to existing legislation on affirmative action based on gender.
- Gather data on ethnicity in a manner that is consistent with international human rights obligations, based on consent and respect for privacy and integrity.

Violence against women

Each year between 13 and 20 women and girls are killed by a current or former husband/partner.⁵³ In 2012, 10000 women were questioned on their exposure to violence.⁵⁴ According to the survey, 20 per cent had been exposed to sexual abuse before the age of 15.⁵⁵ 16 per cent of women questioned had experienced “less severe” forms of violence.⁵⁶ Most commonly, violence against women is perpetrated by men and the perpetrator is under the influence of alcohol or drugs.⁵⁷ This is a public health issue and preventive measures could often be taken to avoid a deadly outcome.⁵⁸

Although health institutions are the most important actors for the detection and prevention of violence against women and girls, several authorities share the responsibility.⁵⁹ 50 per cent of all reported cases of deadly violence against women in close relationships could have been avoided if the correct actions had been taken by the relevant authorities.⁶⁰

A study conducted in 2010 shows that only 3 of 21 police authorities had satisfying structures to prevent violence against women and to support work with individual cases.⁶¹ In 2012, the number of police authorities working effectively with violence in intimate relationships had increased to 5 out of 21.⁶² The support and protection women receive varies, depending on where they live.⁶³

In 2015, the 21 different regional police authorities will be reshaped into one centralized national police authority.⁶⁴ Experts predict this will negatively affect police in their work to prevent violence in close relationships.⁶⁵

Recommendations

- Support the work of relevant authorities to prevent violence against women and girls.
- Ensure adequate financing of protective services for women and girls.
- Target men and boys in particular through awareness raising in order to change attitudes related to domestic and sexual violence.
- Develop preventive health measures to discover alcohol and drug abuse at an early stage.

Discrimination against women

The wage gap between women and men is 13.9 per cent and has essentially remained constant for 30 years.⁶⁶ The labour market is markedly segregated, with a predominance of women working in schools and health care, sectors that see slower salary increases, offer less job security and more part-time employment.⁶⁷

Women still take 75 per cent of parental leave hours and execute 60 per cent of unpaid housework.⁶⁸ Men take on responsibility for parental leave to an increasing extent. If the government would

implement a system that requires parents to share parental leave, this would further increase the participation of women in the labour market and counteract discrimination.⁶⁹

40 per cent of mothers with small children between the ages of 0 and 7 work part time, while the number of working hours among men is unaffected by the age of their children.⁷⁰ 22 per cent of women mention childcare or care for an elderly parent as the reasons for working part time.

Studies show that income and salary discrepancies increase after the birth of the first child.⁷¹ Generally, the person with the lowest expected income devotes more time and effort to the family.⁷² As this person tends to be the mother, the situation results in lower salaries, lower future pension benefits and diminished career prospects for women. The CEDAW Committee has expressed concern over the low share of women in high-ranking posts and has urged Sweden to monitor developments with regard to women's participation in top management positions.⁷³

Recommendations

- Promote an equal balance of women and men at all levels of professional life.
- Introduce measures to lessen the gender gap in income and salaries.
- Monitor development with regard to women's participation in top management positions.
- Enforce labour laws and, if needed, strengthen legislation to eliminate discrimination against women in the labour market.

The right to the highest attainable standard of health

In Sweden the right to subsidised health and medical care depends on a person's legal status, not care needs.⁷⁴ Asylum-seekers and undocumented migrants above the age of 18 are two groups that are denied the right to the highest attainable standard of health due to present excluding legislation.⁷⁵

According to the Health and Medical Care for Asylum-seekers and Others Act (2008:344), county councils are obliged to provide asylum-seekers, persons with temporary residence permits, detained foreigners and undocumented migrants 18 years or older with urgent care, maternity care, contraceptive advice and care during abortion.⁷⁶

According to the Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act (2013:407) enacted in 2013, undocumented migrants under the age of 18 are to be provided the same health care standards as residents in the region.⁷⁷ The act does not, however, cover all foreigners or regular and irregular migrants.⁷⁸

In a 2013 report on the right to health of migrant workers Special Rapporteur Anand Grover states that the core obligation under the right to health is to ensure available, accessible, acceptable and quality health facilities, goods and services on a non-discriminatory basis.⁷⁹ In other words, regular and irregular migrant workers should be ensured the same rights and freedoms as nationals of the State.⁸⁰ Grover urges States to “[d]elink access to health facilities, goods and services from the legal status of migrant workers and ensure that preventive, curative and emergency health facilities, goods and services are available to all migrant workers...”⁸¹

Furthermore, in its General Comment No. 14, the Committee on Economic, Social and Cultural Rights advises States to respect the right to health by not denying or limiting equal access to preventive, curative and palliative health services for all persons, including asylum-seekers and “illegal immigrants”.⁸²

Finally, Sweden should ratify the Optional Protocol to the Convention on Economic, Social and Cultural Rights (ICESCR), which would make it possible to lodge individual complaints regarding breaches of the rights stated in the Convention.

Recommendations

- Revise health care legislation to ensure the right to the highest attainable standard of health to all, including asylum-seekers, persons with temporary residence permits, detained foreigners and undocumented migrants.
- Delink the right to the highest attainable standard of health from a person's legal status.
- Ensure that medical staff has good language skills and understanding for different cultures.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, allowing for individual complaints.

Indigenous people and vulnerable minorities

The Saami people Sweden is frequently criticized for not ratifying ILO Convention 169 on indigenous and tribal peoples. According to Article 14, State Parties shall recognize the rights of indigenous peoples to own and use lands traditionally occupied by them for subsistence.⁸³ Uncertainties surrounding this issue include geographical boundaries of winter reindeer grazing land, hunting and fishing rights and the protection of reindeer herding in relation to other land uses.⁸⁴

In addition to land disputes between Saami communities and private landowners, public and private companies, especially the mining industry, are exploiting and expanding into reindeer grazing lands. The Saami culture and livelihood are directly connected to their environment and traditional use of land and water.⁸⁵ Expanding industries such as forest, infrastructure and tourism narrow the Saami people's access to their traditional environment of which reindeer herding, hunting and fishing, are essential components.⁸⁶ Denying the Saami their rights to these traditional lands endangers Saami culture and the right of the Saami to live free from discrimination and harassment.

The Roma people For centuries the Roma community in Sweden has faced discrimination and socio-economic marginalization, segregation and even forced sterilization.⁸⁷ To this day, Roma people are discriminated against and excluded from several parts of society, including the labour and housing markets, the social welfare system and access to education.⁸⁸ Complaints to the Equality Ombudsman show that Roma people are followed, harassed and denied entry to stores.⁸⁹ Discrimination and a hostile environment affect the will of Roma people to express their culture and identity.⁹⁰ In 2008 there were 178 reported cases of hate crimes targeting the Roma group residing in Sweden.⁹¹ By 2012 the number had increased 21 per cent.⁹² The majority of anti-Roma hate crimes include unlawful threats and molestation/abuse.⁹³

The Jewish minority The number of reported hate crimes with an anti-Semitic motive increased 39 per cent between 2008 and 2012.⁹⁴ In the same period reported cases of agitation against a national or ethnic group with an anti-Semitic motive increased 114 per cent.⁹⁵ According to a study on the attitudes of high school students, 20 per cent had a negative perception of Jewish people.⁹⁶ Studies show the threat against Jewish congregations is aggravated when Jewish organizations are visible in the media.⁹⁷

According to a 2009 international survey, Sweden was among the top three countries in Europe with reported crimes connected to anti-Semitism.⁹⁸ Jewish congregations are commonly exposed to threats and vandalism. Incidents of intense anti-Semitic violence in Sweden have been reported in the international media.⁹⁹

Tornedalians and Sweden Finns According to legislation on special minority rights in certain areas of Sweden, the role of the language to preserve the minority identity over time is essential and should reach from pre-school activities to the care of the elderly. However, there is no holistic view or follow-up of the services offered in Meänkieli for Tornedalians and in Finnish for Swedish Finns. Research shows that many Swedish Finns feel obliged to take care of their elderly in their homes.¹⁰⁰

Persons of African descent According to the Equality Ombudsman, persons of African descent are exposed to discrimination, xenophobia and racism daily. BRÅ notes that between 2011 and 2012 reported hate crimes with an Afrophobic motive increased 17 per cent.¹⁰¹ A recent report shows that persons of African descent are marginalized in the labour and housing markets and are subjected to racial profiling. This group is most vulnerable to hate crime,¹⁰² such as unlawful threats/molestation, acts of violence and defamation.¹⁰³ The daily racism faced by this group has a negative effect on general health, trust in Swedish authorities and the ability to claim one's rights.¹⁰⁴

Muslims Muslims, the largest minority group in Sweden, are disproportionately targeted with harassment, verbal threats, sabotage and vandalism.¹⁰⁵ The growing nationalist parliamentary party, SD, has an anti-muslim platform, and explicitly states in its program of ideas that Islamic influence on Swedish society should be counteracted and immigration from "Muslim countries associated with fundamentalism" restricted.¹⁰⁶ A 2012 report on the freedom of Muslims to exercise their religion without exposure to hate crime and negative treatment addressed crimes targeting Muslim congregations.¹⁰⁷ Recent attacks on places of muslim worship have caused deep anxiety in the community and a sense of alienation from Swedish society.¹⁰⁸

Recommendations

- Clarify Saami rights to land and water and ratify ILO Convention 169 to protect their traditional land from exploitation.
- Increase the Roma minority's influence in decision-making.
- Ensure adequate protection of the Jewish minority, including places of worship.
- Safeguard that the use of Meänkieli and Finnish in appointed administrative areas reaches from pre-school activities to the care of the elderly.
- Closely monitor the human rights situation for persons of African descent.
- Ensure adequate protection of the Muslim minority, including places of worship.

Rights of persons with disabilities

Knowledge of the rights enshrined in the Convention on the Rights of Persons with Disabilities (CRPD) is low within the judiciary and the public administration at the national, regional and local level.¹⁰⁹ This jeopardizes among other things civil and political rights, such as equal and effective access to justice.¹¹⁰ A Swedish independent national human rights institution is needed to raise awareness on rights of persons with disabilities and to monitor the government's compliance with the convention. As party to the Convention on Economic, Social and Cultural Rights, Sweden is expected to implement the UN Standard Rules for Equalization of opportunities for persons with disabilities by ensuring accessibility of physical environment, transport, information and communication.¹¹¹

Further, despite the specific requirements of article 5 of the Convention on the Rights of People with Disabilities ratified by Sweden in 2008, inaccessibility is not a ground for discrimination. In 2014, the government proposed an amendment to the Anti-Discrimination Act to include inaccessibility as discrimination. However, as organizations and companies employing less than 10 employees are exempted from requirements of granting accessibility and reasonable accommodation, this lessens the practical improvements of access for persons with disabilities.¹¹² The Committee to the Convention of Rights of People with Disabilities has urged Sweden to review the bill for full compliance with the Convention.¹¹³

Article 27 of the Convention requires State parties to ensure the right to work of persons with disabilities and the public sector has a responsibility to employ persons with reduced work capacity. Yet, in 2013, only 44 per cent of those with reduced work capacity were employed¹¹⁴ compared with 77 per cent of the non-disabled population.¹¹⁵

Article 25 of the Convention states that the right to the highest attainable standard of health must be provided without discrimination. However, there are well-documented discrepancies in health care

provided to persons with disabilities.¹¹⁶ For some groups, assistance is an essential component of being able to fully function in society. This right is also granted in Article 28. Yet, the number of persons who had their assistance benefit withdrawn by the Swedish Social Insurance Agency has increased considerably from 2010 and onwards.¹¹⁷ Further, the CRPD Committee has expressed concern about the increasing rate of suicide among persons with disabilities, including boys and girls.¹¹⁸

Recommendations

- Ensure, by the establishment of a national human rights institution, that education on the rights of persons with disabilities is provided to the judiciary and to all relevant authorities.
- Legislate inaccessibility as ground for discrimination in line with article 5 of the Convention on the rights of Persons with Disabilities on equality and non-discrimination.
- Take active measures to increase the number of employed persons with reduced work capacity in the public sector.
- Take steps to ensure the right to personal assistance and to boost the standard and equal provision of social welfare services among municipalities.

Prohibition of torture and the principle of non-refoulement

Sweden has yet to specifically criminalize torture in accordance with the definition of torture presented in the UN Convention Against Torture. Further, Sweden has received criticism for not respecting the principle of *non-refoulement* and the absolute prohibition of torture and other cruel, inhuman or degrading treatment. Prohibition of torture is part of customary international law, legally binding on all States, irrespective of which conventions a State is party to.

The Convention Against Torture (CAT) Committee has up until June 2013 criticized Sweden for 20 asylum cases in which Sweden ruled on inadmissibility or deportation, in breach of Article 3 of CAT.¹¹⁹ The Committee specifically stated that when evaluating the risk of torture upon repatriation, information used and assessments made of the asylum-seeker's home country are too general.¹²⁰

Sweden should also refrain from using diplomatic assurances in security and asylum cases as a guarantee against torture and inhuman treatment of returnees to countries where such a risk is present.¹²¹ The government still has no intention of fully abstaining from this method.¹²² The UN Special Rapporteur on Torture states that governments should use all diplomatic and legal power to hold the violating State accountable, instead of agreeing on exceptions regarding treatment of the person(s) of concern and circumventing the absolute prohibition of torture.¹²³

Recommendations

- Introduce legislation on an explicit ban on torture in accordance with the definition of torture stated in the Convention Against Torture.
- Ensure the rule of law in asylum proceedings, and avoid the use of general country information to fully guarantee respect for the principle of *non-refoulement*.
- Refrain from using diplomatic assurances in security and asylum cases.

¹ Government Offices of Sweden, Sweden's national mid-term report, A2012/2841/DISK, p. 9, para. 95.10-13.

² United Nations (UN) Human Rights Council, Universal Periodic Review, Recommendations to Sweden, 2010, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SESession8.aspx>, accessed 13/03/14.

³ OHCHR, *National Human Rights Institutions – History, Principles, Roles and Responsibilities*, 2010, p. 16-17.

⁴ Delegation on Human Rights: SOU 2010:70, 2010, p.212

⁵ Office of the High Commissioner for Human Rights (OHCHR), *OHCHR and NHRIs*, available at: <http://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIMain.aspx>, accessed 13/03/14.

⁶ Save the Children Sweden, *Supplementary report from Save the Children Sweden to the UN Committee on the Rights of the Child regarding Sweden's fifth periodic report*, 2014.

⁷ Committee on the Rights of the Child, Concluding Observations, CRC/C/SWE/CO/4, 2009, p. 3, para. 9-10.

⁸ Save the Children Sweden, *Supplementary report from Save the Children Sweden to the UN Committee on the Rights of the Child regarding Sweden's fifth periodic report*, 2014, p. 12.

⁹ Child Poverty and Social Exclusion, a Matter of Children's rights, Save the Children, 2014, p.4. In this study the EU indicator AROPE is used, including children in families with an income less than 60per cent of the national median income as well as children in material deprivation and households with low working intensity. UNICEF, *Ungas röster om socialt utanförskap i Sverige (Youth's voices on social exclusion in Sweden)*, 2012, p. 8-9. In this study, relative poverty is understood as a family income less than 50per cent of the median income in the specific country.

¹⁰ Save the Children Sweden, *Barnfattigdom i Sverige, årsrapport 2013* (translation: Child Poverty in Sweden, annual report 2013), 2013, p. 14.

¹¹ Save the Children Sweden, 2014, p. 24-25. See also Save the Children Sweden, 2013, p. 32-33.

¹² Save the Children Sweden, 2014, p. 24-25. See also Save the Children Sweden, 2013, p. 32-33.

¹³ The Ombudsman for Children in Sweden, *Supplementary report from the Ombudsman for Children in Sweden to the UN Committee on the Rights of the Child regarding Sweden's fifth periodic report*, 2014, p. 21.

¹⁴ SOU 2011:35, p. 533: *Bättre insatser vid missbruk och beroende*. (Improved action in situations of abuse and addiction.

¹⁵ CRC/C/SWE/CO/4, 2009, p. 13-14, para. 58-59.

¹⁶ Friends, *Friends nätrapport 2013* (Friends netreport 2013), 2014, p. 8-10.

¹⁷ CRC/C/SWE/CO/4, 2009, p. 6, para. 27-28.

¹⁸ CRC/C/SWE/CO/4,2009,p. 6, para.27-28.

¹⁹ DN Debatt, Håkan Ceder: *Skärp kraven på fosterhem och jourhem*, (Enhance the standards of foster homes and temporary homes) published 11/02/14.

²⁰ The Swedish Association of Local Authorities and Regions (SKL), *Ensamkommande barn och ungdomar – ett gemensamt ansvar* (Unaccompanied minors and youths – a joint responsibility), 2010, p. 38-39.

²¹ SKL, *Ensamkommande barn-vem ska ta ansvar? (Unaccompanied minors and youths – who shall seize responsibility?)*, 2011, p. 46. See also Save the Children Sweden, 2014, p. 35.

²² Swedish Agency for Youth and Civil Society, *Gift mot sin vilja*, 2009. (Married against one's will.)

²³ DN Debatt: *Vi gör alla tvångsäktenskap och barnäktenskap olagliga* (We make all forced marriages and child marriages illegal), 12/02/14, available at:

<http://www.dn.se/debatt/vi-gor-alla-tvangsaektenskap-och-barnaektenskap-olagliga/>, accessed: 06/04/14.

²⁴ The National Council for Crime Prevention, Hate Crimes (BRÅ), *Hatbrott 2012*, Report 2013:16, p. 16-17.

²⁵ *Ibid.*, p. 29.

²⁶ *Ibid.*, p. 30.

²⁷ *Ibid.*, p. 35.

²⁸ *Ibid.*, p. 35.

²⁹ *Ibid.*, p. 29.

³⁰ OSCE ODIHR, *Hate Crime in the OSCE region, Incidents and Reports*, Annual Report for 2012.

³¹ *Ibid.*, p. 33. The term legal action constitutes of decision to prosecute, order of summary punishment and waive of prosecution.

³² The Government Offices, *Sweden's national halftime report*, A2012/2841/DISK, 2012, p. 12, para. 95.21-25.

³³ BRÅ, 2013:16, p. 31.

³⁴ *Ibid.*, p. 31.

³⁵ Department of Justice, Department of Employment, *Uppdrag till Rikspolisstyrelsen att utveckla arbetet mot hatbrott* (Assignment to the National Police Board to enhance the work against hate crime), press release 12/03/14, available at:

<http://www.regeringen.se/sb/d/18499/a/235947>, accessed: 14-03-13.

³⁶ See i.e. SVT, *Skola utsatt för nazistklotter* (School exposed to Nazi graffiti), 17/03/14, available at:

<http://www.svt.se/nyheter/regionalt/sydneytt/skola-utsatt-for-nazistklotter>, accessed:

05/04/14, Metro, *Vänsterkafé drabbat av nazistklotter* (Leftist café struck by Nazi graffiti), 08/01/14, available at:

<http://www.metro.se/nyheter/vansterkafe-drabbat-av-nazistklotter/EVHnah!Z2gF1jLVuYfFQ/>,

accessed: 05/04/14, Nyheter24, *Stockholmsskolor utsatta för nazistklotter* (Stockholm-based schools exposed to Nazi graffiti), 10/03-/14 available at:

<http://nyheter24.se/nyheter/inrikes/764249-stockholmsskolor-utsatta-for-nazistklotter>,

accessed: 05/14/14.

³⁷ See Nyheter24, *Moské utsatt för nazistattack* (Mosque exposed to Nazi attack), 02/01/14, available at:

<http://nyheter24.se/nyheter/inrikes/759597-moske-utsatt-for-nazistattack>, accessed:

05/04/14.

³⁸ Expo, *Intolerans 13* (Intolerance 13), 2014, p. 38.

³⁹ SVT Nyheter, *Polisen: Vi kunde inte skydda demonstranterna* (Police: We could not protect the demonstrators), published: 15/12/13, available at:

<http://www.svt.se/nyheter/sverige/tumult-vid-antirasistisk-demonstration>, accessed:

20/03/14.

⁴⁰ Aftonbladet, Jimmie Åkesson: *Muslimerna är vårt största utländska hot* (Muslims are our greatest foreign threat.) published 19/10/09.

⁴¹ TV4/Novus, *Väljarbarometer* (voter barometer), latest opinion poll from 27/03/14, available at:

<http://www.novus.se/vaeljaropinionen/tv4novus-vaeljarbarometer.aspx>, accessed: 05/04/14.

⁴² The measured activities consists of distribution of propaganda, manifestations, social activities, combat training, presentations, municipal politics, demonstrations and concerts. See Expo, 2014, p. 32.

⁴³ Compare Expo, *Intolerans 12*, 2013, p. 4-5 with Expo, *Intolerans 13*, 2014, p. 36.

⁴⁴ Expo, 2014, p. 38.

⁴⁵ Expo, 2014, p.38.

⁴⁶ Leander, Peter: *Skyldig tills motsatsen bevisats? Guilty until the opposite is proven?*, published by the think tank Arena Idé, 2014, p. 6, 17-20.

⁴⁷ Svenska Dagbladet, *Gränspolis slutar kontrollera i t-banan* (Border Police ends

controls in the subway), 08/03/13, available at: http://www.svd.se/nyheter/stockholm/granspolis-slutar-kontrollera-i-t-banan_7979064.svd, accessed: 01/04/14.

⁴⁸ Amnesty International, Sweden: *Skåne police database violates human rights of Romanis*, 25/09/13, available at: <http://www.amnesty.org/en/library/asset/EUR42/001/2013/en/03fb3036-6dc8-44de-aa1e-2c0b10e95063/eur420012013en.pdf>, accessed: 06/04/14.

⁴⁹ Mångkulturellt Centrum (MKC), *Afrofobi* (Afrophobia), 2014, p. 61-62.

⁵⁰ IFAU, *Löneutveckling bland invandrade och infödda* (Wage development among immigrants and natives), 2013:5, p. 15-16.

⁵¹ *Ibid.*, p. 1.

⁵² Legislative bill 2007/08:95, *Ett starkare skydd mot diskriminering* (A stronger protection against discrimination), p. 170.

⁵³ Foundation Safer Sweden, *Dödligt våld mot kvinnor* (Lethal violence against women), 2013:1, p. 6.

⁵⁴ The National Centre for Knowledge on Men's Violence against Women (NCK), *Våld och hälsa – En befolkningsundersökning om kvinnors och mäns våldsutsatthet samt kopplingen till hälsa* (Violence and health – A population survey on women and men's exposure to violence and the connection to health), 2014:1, p. 15-16.

⁵⁵ *Ibid.*, p. 26. The corresponding number for the questioned men was 8per cent. Other sexual abuse is defined as: the perpetrator caresses the child's body in a sexual manner, forces/makes the child to caress/feel the perpetrator's body in a sexual manner or forces/makes the child to pose nakedly, see NCK, 2014:1, p. 27, note 40.

⁵⁶ *Ibid.*, p. 45-46.

⁵⁷ BRÅ, *Misshandel mot kvinnor* (Assault against women), available at:

<http://www.bra.se/bra/brott-och-statistik/kvinnomisshandel.html>, accessed: 24/03/14. See also BRÅ, *Brottsutvecklingen i Sverige år 2008-2011* (Development of Crime in Sweden). Rapport 2012:13, p. 72,75.

⁵⁸ Save the Children Sweden, 2014, p. 24-25. See also Save the Children Sweden, 2013, p. 32-33.

⁵⁹ *Ibid.*, p. 26.

⁶⁰ *Ibid.*, p. 20.

⁶¹ Foundation Safer Sweden, *Våld mot kvinnor* (Violence against women)2010:2, p. 33.

⁶² Foundation Safer Sweden, *Deficiencies in police work on crime in close relationships*, 12-11-28, available at: <http://trygga Sverige.org/brister-i-polisens-arbete-med-brott-i-nara-relationer>, accessed: 03/04/14.

⁶³ *Ibid.*, p. 34.

⁶⁴ Swedish Police, *Ny polisorganisation 2015* (New policeorganization 2015), 16/04/13, available at: <http://polisen.se/Om-polisen/Organisation/Ny-polisorganisation-2015/>, accessed: 07/04/14.

⁶⁵ Strandell, Peter, Foundation Safer Sweden, mail correspondence, 31/03/14.

⁶⁶ Institute for Evaluation of Labour Market and Education Policy (IFAU), *Det envisa könsgapet i inkomster och löner* (The stubborn gender gap in income and salaries), 2013:2, p. 1.

⁶⁷ Medlingsinstitutet
http://www.mi.se/files/PDF-r/att_bestalla/loneskillnader/skillnaden12.pdf

⁶⁸ Försäkringskassan:
http://www.forsakringskassan.se/wps/wcm/connect/54ab7667-6b2a-4325-8c8d-ad102b48c106/socialforsakringsrapport_2013_08.pdf?MOD=AJPERES

⁶⁹SCB:
http://www.scb.se/statistik/publikationer/LE0103_2010A01_BR_LE123BR1201.pdf

⁷⁰ SCB:
http://www.scb.se/statistik/publikationer/LE0201_2012A01_BR_X10BR1201.pdf

⁷¹ Institute for Evaluation of Labour Market and Education Policy (IFAU), *Det envisa könsgapet i inkomster och löner* (The stubborn gender gap in income and salaries), 2013:2, p. 14.

⁷² *Ibid.*, p. 15.

⁷³ CEDAW Concluding Observations on Sweden, April 2008.

⁷⁴ Swedish Red Cross: *Absurt att utgå från status för rätt till vård* (Absurd to base the right to care on status), 06/02/14, available at:

<http://www.redcross.se/pressrum/pressmeddelanden/?itemid=958363&resid=446340713&q=rper centC3per centA4tten+till+hper centC3per centA4lsa&ilang=sv&hitnr=1&url=httpper cent3aper cent2fper cent2fwww.redcross.seper cent2fpressrumper cent2fpressmeddelanden%2f%3fitemid%3d958363&uaid=B2939679E8BA2C469F988B917CB0A3EF%3a38332E3234382E3230362E323434%3a5247008022301894460>, accessed: 04/04/14.

⁷⁵ *Ibid.*

⁷⁶ Article 7 Health and Medical Care for certain foreigners residing in Sweden without Proper Documentation Act (2013:407). This is a minimum guarantee, and the county councils are entitled to provide more extensive health and

medical care to undocumented migrants that are eighteen years or older, see Article 8 in said act.

⁷⁷ Article 6 Health and Medical Care for certain foreigners residing in Sweden without Proper Documentation Act (2013:407).

⁷⁸ Article 5 section 2 Health and Medical Care for certain foreigners residing in Sweden without Proper Documentation Act (2013:407).

⁷⁹ The right to health is stated in the Universal Declaration on Human Rights article 25 and in the International Covenant on Economic Social and Cultural Rights article 12.

⁸⁰ Grover, Anand, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/HRC/23/41, p. 12.

⁸¹ Grover, A/HRC/23/41, p. 23.

⁸² Committee on Economic, Social and Cultural Rights, General Comment No. 14, 2000, p. 10, para. 34. This position is also backed by the Special Rapporteur, see Hunt, Paul, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Mission to Sweden*, A/HRC/4/28/Add.2, 2007, p. 20, para. 72.

⁸³ Bernitz, Hedvig, Skydd för samernas grundläggande rättigheter – på väg mot en europeisk standard? (Protection of fundamental rights of the Sami - Toward a European standard?) Juridisk Tidskrift nr. 3 2010/11.

⁸⁴ The Sami Parliament, *Rätt till land och vatten* (Right to land and water), 14-03-21, available at: <http://www.sametinget.se/1054>, accessed: 14-04-05.

⁸⁵ The Sustainable Development Working Group of the Arctic Council, *Circumpolar Information Guide on Mining for Indigenous Peoples and Northern Communities*, 2011, p. 14.

⁸⁶ The Arctic Council and the Association of World Reindeer Herders (EALAT Project), *Reindeer herding, traditional knowledge and adaptation to climate change and loss of grazing land*, 2011, p. 48-49.

⁸⁷ Dagens Nyheter, "Sanningskommission måste ge resandefolket upprättelse" (Truth Commission must give the Traveller Community redress), published: 29/12/11 available at <http://www.dn.se/debatt/sanningskommission-maste-ge-resandefolket-upprattelse>, accessed:07/04/14.

⁸⁸ Equality Ombudsman, *Romers rättigheter* (Roma people's rights), 2011, p. 41-52.

⁸⁹ Equality Ombudsman, 2011, p. 38-39.

⁹⁰ Equality Ombudsman, 2011, p. 43.

⁹¹ BRÅ 2013:16, p. 46-47.

⁹² *Ibid.*, p. 47.

⁹³ *Ibid.*, p. 47.

⁹⁴ BRÅ, 2013:16, p. 52.

⁹⁵ *Ibid.*, p. 52.

⁹⁶ Forum för levande historia, *Den mångtydiga intoleransen*, (The many faces of intolerance), 2010.

⁹⁷ Forum för levandehistoria, *Antisemitism och Islamofobi – utbredning, orsaker och preventivt arbete* (Anti-semitism and Islamophobia – expansion, causes and preventive work), 2011, p. 35.

⁹⁸ *Ibid.*, p.15.

⁹⁹ Maria Ludvigsson: “Willy Silberstein i USAs kongress”, Svenska Dagbladet, 27/02/13.

¹⁰⁰ National Association of Finns in Sweden: *Sverigefinsk jämställdhetsrapport*, p.51. See also Church of Sweden *Våga vara minoritet*, NGO-report to the Council of Europe 2012.

¹⁰¹ BRÅ, 2013:16, p. 42-43.

¹⁰² MKC, 2014, p. 80-81.

¹⁰³ BRÅ, 2013:16, p. 43.

¹⁰⁴ Equality Ombudsman, *Etnisk diskriminering och rasism i vardagen* (ethnic discrimination and everyday racism), 21/03/13, available at: <http://www.do.se/sv/Press/Pressmeddelanden-och-aktuellt/2013/Etnisk-diskriminering-och-rasism-i-vardagen/>, accessed: 06/04/14.

¹⁰⁵ Forum för levandehistoria, 2011, p. 9.

¹⁰⁶ SD, *Sverigedemokraternas principprogram 2011* (Sweden democrats’ program of principles 2011), 2012, p. 21.

¹⁰⁷ Borell, Klas, *Islamofobiska fördomar och hatbrott: En kunskapsöversikt (Islamophobic prejudices and hate crimes: A systematic review)*, 2012, pp. 11 and 35.

¹⁰⁸ The Swedish Commission for Government Support to Faith Communities, *Säkerhetsläget måste ses över* (The safety issue must be overlooked), 21/01/14, available at: <http://www.sst.a.se/nyheter/nyhetsarkivaktuel/sakerhetslagetmastesesover.5.38228ad4143b3511097721.html>, accessed: 07/04/14.

¹⁰⁹ CRPD Concluding Observations on the initial report of Sweden, 2014 nr 22. See also Handisam: *Hur är läget 2013? Uppföljning av funktionshinderspolitiken* (What’s up? In Swedish Disability Policy 2013), 2013, p. 97. See also Domstolsverket, *Rapport om arbetet för att uppnå delmål i En strategi för genomförande av funktionshinderspolitiken 2011-2016* (Report on the progress to achieve landmarks in the Strategy for implementation of Disability Policy 2011-2016), 2013, p. 2.

¹¹⁰ Handisam, 2013, p. 109.

¹¹¹ ESC Committee, General Comment nr 5.

¹¹² SvD Opinion: *Undantagen gör Ullenhags förslag tandlöst* (The exceptions make Ullenhag’s

bill toothless), 20/03/14, available at: <http://www.svd.se/opinion/brannpunkt/undantagen-gor-forslaget-tandlost-3381654.svd>, accessed: 25/03/14.

¹¹³ CRPD Concluding Observations on the initial report of Sweden 2014 nr 10.

¹¹⁴ Handisam, 2013, p. 23.

¹¹⁵ Swedish Public Employment Service, January 2014.

¹¹⁶ Handisam, 2013, p. 40-41.

¹¹⁷ CRPD Concluding Observations on the initial report of Sweden 2014 nr 43.

¹¹⁸ CRPD Concluding Observations on the initial report of Sweden 2014 nr 30.

¹¹⁹ Government Offices, *Migration och asylpolitik* (Migration and asylum politics), Skr. 2013/14:73, p. 30-31.

¹²⁰ Amnesty International Sweden, *Sweden and torture*, 11-12-12, available at: <http://www.amnesty.se/vad-gor-vi/tortyr-och-rattssakerhet/tortyr/sverige-och-tortyr/>, accessed: 05/04/14.

¹²¹ Amnesty International, *Dangerous deals – Europe’s reliance on ‘diplomatic assurances’ against torture*, 2010, p. 27-28.

¹²² CAT, *Consideration of reports submitted by States parties under article 19 of the Convention, pursuant to the optional reporting procedure*, CAT/C/SWE/6-7, 2013, p. 20, para. 126.

¹²³ Nowak, Manfred, Report of the Special Rapporteur on the question of torture, E/CN.4/2006/6, p. 11.