

# ALTERNATIVE REPORT

## to Sweden's Seventeenth and Eighteenth Periodical Report to the Committee on the International Convention on Ethnic and Racial Discrimination.

SUBMITTED BY THE UNITED NATIONS ASSOCIATION OF SWEDEN<sup>1</sup>, JULY 2008

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# Introduction

This alternative report is in response to Sweden's seventeenth and eighteenth periodic reports to CERD, submitted in December 2006. It has been developed with input from 27 non-governmental organisations active in Sweden. These organisations work regularly with people who face discrimination and associated disadvantage. The contributions cite extensive research to demonstrate areas where the Swedish government fails to sufficiently meet its obligations under CERD.

Perhaps the most significant human rights challenge Sweden faces today is ensuring tolerance and respect for the rights of minorities and immigrants in a growing and increasingly multicultural state. Despite the development and implementation of legal standards pertaining to non-discrimination, indigenous, ethnic and religious minorities continue to suffer human rights violations.

This report considers manifestations of discrimination in a number of areas including employment, housing, education, health, policing, the administration of justice and access to goods and services.

The structure follows the structure of the articles in the CERD Convention, followed by main concerns and a summary of where Sweden stands in relation to fulfilling its obligations under each of these articles. Recommendations are also offered.

Regarding the provisions provided under Article 3 on socio-economic segregation, under Article 6 on legal protection and adequate remedies and under Article 7 on information and education, this report raises the issues and measures relevant to these articles in the sections on minorities and vulnerable communities and under the various socio-economic areas dealt with under the section on Article 5 on equal rights.

Looking back at the previous alternative report from February 2004, we see that most of the prominent issues reported back then are still prevalent in the last four-year period. While there have been some interesting isolated initiatives to address discrimination, this report clearly indicates negative trends in several areas.

This report takes a close look at the situation for national minorities and other vulnerable groups, including the Saami People, the Roma People, immigrant women, undocumented immigrants, Muslims and persons perceived as Muslim.

There is much that can be done to improve the situation of immigrants, refugees, undocumented migrants and other vulnerable groups in Sweden. It is our hope that the recommendations in this report will spur concrete actions that will help begin to address some of the problems taken up in this report and help promote a healthy, vibrant and dynamic society that affords equal rights and opportunities to all persons living in Sweden.

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# Executive Summary

*This report follows the structure of the seventeenth and eighteenth periodic report of Sweden, submitted to the CERD Committee in December 2006. Main concerns and a comprehensive list of recommendations are provided in conjunction with each subsection. Regarding the provisions provided under Article 3 on socio-economic segregation, Article 6 on legal protection and adequate remedies and Article 7 on information and education, this report raises the issues and measures relevant to these articles in the sections on minorities and vulnerable communities and under the various socio-economic areas dealt with under the section on Article 5 on equal rights.*

**Article 2.1.** A disturbing trend in the years since the last report was submitted in 2004 is the rise in reported hate crime. This section takes a close look at the incidence of hate crime in Sweden, how and where it manifests and challenges to counteracting it. The report shows that Swedish law enforcement and the justice system are unequipped to handle the increase in hate crime. Methods used to investigate hate crime are inadequate, and, as a result, very few reported hate crime offenses lead to indictment. Furthermore, victims of hate crimes are often reluctant to report the offenses because there is a lack of trust for authorities and a lack of awareness as to what constitutes a hate crime. Several institutional measures could help offset this alarming trend. Recommendations include establishing a common definition of hate crime for the police, the judicial system and authorities; more effective implementation of existing hate crime legislation and consistent investigation into possible hate crime motives behind criminal offenses. In addition, measures should be taken to increase diversity among staff in the judicial authorities to better correspond to the diversity in the general population to help build trust for the authorities among immigrant and other vulnerable populations. Best practices should also be proliferated. A positive step was taken when the Stockholm Police Department established a Hate Crime Unit in 2007 which focuses on finding ways for police to become more effective in identifying hate crimes and informing the public about hate crime. This initiative should be replicated in other communities in Sweden.

**Article 2.2.** This section highlights communities that are especially vulnerable to ethnic discrimination. It looks at the situations of the Saami People, the Roma People and other vulnerable groups including immigrant women, immigrants of African descent and Muslims. The issue of discrimination is examined in regards to the workplace, education, housing, indigenous land rights, education and language as well as social services and health. This section also brings attention to the incidence and acceptance of Islamophobia. The Saami continue to face serious rights violations, particularly when it comes to their right to traditional land, waters and natural resources. This report recommends, among other things, that administration of land user rights be transferred to the Saami Parliament. Furthermore, Saami influence in matters that affect their livelihoods and land

is still marginal. The Saami should be afforded constitutional protection as an indigenous people, and the Swedish government should take concrete measures to ratify ILO Convention No. 169. Sweden has failed to ratify the convention despite strong recommendations from the CERD Committee to accelerate the work to ratify.

The Roma people continue to face significant discrimination within all sectors of social and economic life. As much as 90 percent of the adult men are unemployed, and the average Roma child is absent from school 40 percent of the time. Roma have a hard time getting access to adequate housing or social services. In short, structural discrimination and marginalization of the Roma community is so widespread that the Roma for the most part stand outside the democratic process. Sweden must implement concrete methods and strategies to counteract discrimination, increase knowledge among the Roma of their rights and build trust between the Roma and public authorities.

This section also looks at discrimination experienced by particularly vulnerable immigrant groups, such as immigrant women, immigrants of African descent, Muslims and persons perceived to be Muslim, and immigrants with disabilities.

**Article 4.** This article requires countries to condemn and penalize all dissemination of propaganda and organisations based on ideas of superiority of one race or ethnic origin, or which incite racial hatred or violence. Our report shows that Sweden is still not in compliance with its obligations under Article 4. There is continued promotion and incitement to acts of racial discrimination and a continuous increase in reported racially motivated crimes in Sweden. Racist propaganda and so-called White Power music is spread openly without restriction, targeting vulnerable groups, such as school children who are the largest recruitment base for racist and Nazi organisations. Requirements in complaint mechanisms may impede access to effective remedies in cases of racial discrimination.

This report shows that Swedish legislation does not provide sufficient protection against organised forms of racist expression. Legislation should be compatible with the Fundamental Law on Freedom of Expression in banning racist organisations and participation in these organisations. It is also important that Sweden complies with its international legal obligations and acts in accordance with the CERD Committee's repeated recommendations to implement a ban on racist organisations and, where incompatible with constitutional provisions, introduce other protective measures to counteract racist propaganda and organisations.

**Article 5.** This section covers discrimination in the judicial system (including language and access to interpretation, discrimination and discretionary decisions, racial profiling and poor legal assistance during asylum investigations), employment, housing, education, healthcare and access to goods and services in the private and public sectors. Although this section examines key areas separately, it is important to note the intersectionality, as developments in one area can impact on another area.

Discrimination in the judicial system is of particular concern. The risk of discrimination as a consequence of discretionary decisions is considerable due to prejudices about crime tendency, truthfulness and trustworthiness of persons with foreign or minority backgrounds. In Sweden judicial authorities have the lowest proportion of employees with foreign or minority backgrounds. It is important to raise awareness about ethnic and cultural differences in the justice system and increase diversity among legal staff by actively recruiting staff with foreign backgrounds. The language gap must also be filled so that those who don't speak Swedish have access to certified interpreters for legal proceedings.

Discrimination in the labor and housing markets is also of concern. Here, active affirmative action measures to diversify the formal labor market and counteract socio-economic segregation are needed. Homelessness is on the rise, especially among women, in the immigrant community, and immigrant and minority groups frequently have difficulty getting access to quality housing. To stem discrimination in the housing market legislation requiring housing companies to make rental criteria public should be enacted and transparency should be encouraged to ensure that criteria are equally applied to all applicants regardless of ethnic background.

Immigrants and persons who reside in disadvantaged neighborhoods are more likely to suffer from poor health than the rest of the population, and many immigrants suffer from stress disorders. Yet, Sweden has the most restrictive rules for access to healthcare for undocumented migrants. This is in breach of the right to receive the highest attainable standard of healthcare without discrimination. The Swedish government should reconsider this position and offer all asylum seekers and undocumented persons equal access to healthcare to conform to international obligations. In the education system, too, there is much that can be done to counteract discrimination and racism. Swedish school literature should be evaluated and updated to ensure that materials accurately describe different cultures and ethnic minorities. Access to subsidized mother-tongue education should be ensured, especially for the Roma and Saami people.

# Article 2: Structural and institutional measures to counteract ethnic discrimination

## 2.1 GENERAL INSTITUTIONAL MEASURES TO COUNTERACT ETHNIC DISCRIMINATION

### Article 2.1

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to insure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations; (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

### LEGISLATION ON HATE CRIMES

#### *Main concerns*

- Hate crime is rising, and protection of victims of hate crime remains weak.
- Legal provisions are ineffective in bringing attention to hate crime, specifying the actual offense motive and giving priority to these crimes in court.
- There is no common definition of hate crime. The judicial system, the police and the authorities working on these issues have differing definitions and views on which offenses qualify as hate crime.
- Very few reported hate crime offenses actually lead to indictment.
- Methods used by law enforcement officials to investigate hate crimes are inadequate. This, coupled with a general mistrust of judicial authorities, results in a decreased incidence in hate crime reporting.
- Good practices, such as the Stockholm Police Department's Hate Crime Unit initiative, are not being replicated elsewhere in Sweden.

Hate crime constitutes a breach of human rights and is characterized by a lack of respect for everyone's fundamental equal value.<sup>1</sup> The most common motives for hate crime are xenophobia, Islamophobia, anti-Semitism and homophobia.<sup>2</sup> In addition to offenses that have clearly identifiable hate crime motives, other of-

fenses such as assault, molestation, unlawful threat and infliction of damage, can have hate crime motives.

Applicable Swedish legislation for hate crime is Penal Code 16:8 on *agitation against a national or ethnic group* and 16:9 on *unlawful discrimination*. However, this legislation is ineffective. Investigative methods applied by the police during hate crime investigations are inadequate (even according to the police authority's self-assessment).<sup>3</sup> In general, it is difficult to investigate, assess and provide competent evidence on unlawful discrimination and hate crime charges. One of the prerequisites for effective prosecution is accurate, detailed reporting produced in conjunction with the hate crime-related incident. In most cases, this is not done.<sup>4</sup>

#### LACK OF A COMMON DEFINITION OF HATE CRIME

The Swedish Prosecution Authority and the Swedish courts have a narrow definition of what constitutes hate crime and only recognize as hate crime those offenses that fall under Penal Code 16:8 and 16:9 (see above). The National Council for Crime Prevention (BRÅ) and The Swedish Police Service have a wider definition and consider that all offenses with a hate crime motive belong in the hate crime register.<sup>5</sup> Due to the lack of a common definition, assessments of and the statistics provided on hate crime offenses are different depending on which authority is consulted. Other EU countries, such as Great Britain, have a standard definition for hate crime that is applied throughout the judicial system. The definition includes, for example, honour-related violence. A standard definition of hate crime in Sweden would make the monitoring and assessment of hate crime more effective.<sup>6</sup>

Agitation against a national or ethnic group and unlawful discrimination are criminal offenses encoded in the police register. However, when it comes to other criminal offenses with a possible hate crime motive, the motive is left out and the offense is registered as a "regular" offense. Hate crime statistics must be assessed with this in mind. Investigating the motive behind a criminal offense should be central and would benefit hate crime investigations generally.<sup>7</sup>

Many hate crime victims do not report the offense to the police. Therefore, available statistics do not accurately reflect the incidence of hate crime. Reluctance to report hate crime-related offenses will be addressed in other sections of this report, but it can, in general, be said to stem from a distrust of state authorities caused by experiences of structural discrimination and socio-economic marginalization.

#### INCREASE IN REPORTED HATE CRIME

A recent study by the National Council for Crime Prevention (BRÅ) shows that 3,300 hate crimes were reported during 2006.<sup>8</sup> Twenty-three percent of the cases fell under the "agitation against a national or ethnic group" charge, and 12 percent fell under "unlawful discrimination".<sup>9</sup> The number of reported hate crimes during 2005 was 2,946, which means the number of reported hate crimes

increased 10 percent in one year.<sup>10</sup> According to Chief Prosecutor Sven-Erik Alhem, this is partly due to an increased tendency among the public to file reports for hate crime offenses, but it also could be attributed to an actual increase in hate crime.<sup>11</sup>

#### HATE CRIME NOT A PRIORITY

To combat hate crime the Prosecutor-General issued guidelines in 2002 calling for an increased focus on hate crime offenses and better cooperation between public prosecutors and the police. The guidelines also call for the appointment of special public prosecutors to work with hate crime-related offenses.<sup>12</sup> Six years later these measures are still not in place. In addition, while there is an increase in reported hate crime, the number of cases that lead to indictment has decreased.<sup>13</sup>

Sweden introduced a stricter sentencing rule with a stricter sentencing scale for hate crime-related offenses. However, this provision is not applied by the courts. In most cases the courts do not mention reasons for stricter sentencing in their rulings, nor do they consider hate crime in itself a motive. Hence, hate crime statistics produced by the courts do not accurately reflect the actual number of hate crime-related offenses. According to the prosecutor with the Hate Crime Unit, the stricter sentencing rule is not applied in ninety percent of the cases.<sup>14</sup> This is confirmed by the Swedish Prosecution Authority's 2007 annual report, which notes that this provision is seldom used.<sup>15</sup> While the courts do not deem it necessary to state the motive for the crime in their sentencing, the police argue that the courts are obligated to accurately reflect the motive and thereby set clear guidelines for assessing hate crimes.<sup>16</sup>

#### NEED FOR HATE CRIME UNITS

To gain public trust, the authorities, courts and prosecutors need to become more effective in handling hate crime-related offenses. Despite the lack of political will to combat hate crime, one local initiative has proved successful. In 2007 the Stockholm Police Department opened a special hate crime unit, which works to find ways the police can become more effective in identifying hate crime and provides information on such crimes to the public. The initiative stems from the recognition that there is a general mistrust of the police and an unwillingness to report hate crime.

During its first year the hate crime unit received reports of more than 200 incidents in Stockholm. In addition to recording and assessing these incidents, the special unit plays a key role in identifying weaknesses and areas that need improvement in the methods used to identify and assess hate crimes, within their own department and in other areas within the administration of justice. For example, the special unit has proposed improved methods for filing reports and identifying hate crime. The unit also noted that the lack of police staff with foreign backgrounds limits their ability to work effectively with hate crime. The

hate crime unit is a success and has a central role in the work against hate crime. There have been suggestions to create similar units in other cities, but the Swedish Police Service has rejected these proposals.<sup>17</sup>

#### HATE CRIME IN SCHOOLS

A major difficulty in investigating hate crime in schools is that most often the incidents are interpreted as bullying. Hence, school staff members do not file reports.<sup>18</sup> Students are generally unwilling to file reports, partly due to the attitudes of school staff but also because of emotions related to having been a victim of a hate crime.<sup>19</sup> Furthermore, most students do not know what constitutes a hate crime or that they even have a right to be protected from such offenses. To rectify this, police need to allocate more resources for educating about hate crime in schools.<sup>20</sup>

#### CONCLUSION

There is a lack of funding and resources in the work to combat hate crime. Legal provisions giving priority to hate crime are rarely applied. Increasing resources, training police officers and helping them to establish better contact with immigrant groups would help increase the rate at which hate crime incidents are reported and identified.<sup>21</sup> Awareness also needs to be increased within the judicial system and among victims of hate crime. With a better understanding of hate crime, victims can more easily recognize the crime and demand their rights.<sup>22</sup> Hate crime statistics are still relatively new, and there is plenty of room to develop statistical methods.<sup>23</sup> Overall, there is a need to raise political will to actually make hate crime a priority within the judicial system and give the police the increased resources they need to investigate hate crime offenses.

#### Recommendations

- Establish a common definition for hate crime.
- Implement existing hate crime legislation. Guarantee and ensure that hate crime motives behind criminal offenses are investigated.
- Evaluate best practices and replicate them.
- Increase resources for law enforcement so police can investigate hate crimes, work with raising awareness in schools and establish contact with vulnerable groups.

#### COMPOSITION OF STAFF AT JUDICIAL AUTHORITIES

##### *Main concerns*

- Staff composition among judicial authorities does not correspond to the ethnic composition of the general population. Judicial authorities have the lowest number of staff with foreign backgrounds among all state authorities. Disproportionate representation of ethnic and minority groups

can be attributed to discriminatory practices within the agencies, a general distrust for the administration of justice among ethnic groups and discriminatory entrance exams.

- Police have a hard time establishing contact and trust with persons living in vulnerable suburban neighbourhoods who are reluctant to report crimes because they don't think they receive adequate help and they feel discriminated against.

A fundamental prerequisite for combating structural discrimination in a society's legal system is to ensure that the composition of the staff in judicial authorities corresponds to the population's composition. In Sweden the three judicial authorities, the National Courts Administration, the Office of the Public Prosecutor and the Swedish Police Service, have the lowest proportion of staff with a foreign background among all state authorities. According to a recent report by the Swedish Integration Board, the proportion of employees with a foreign background within the police increased slightly during 1997–2004. This was partly due to efforts by the National Police Board.<sup>24</sup> However, on the whole diversity among staff has deteriorated in contrast to the rise in diversity among the general population.<sup>25</sup>

In 2006 about 5 percent of police personnel had foreign backgrounds.<sup>26</sup> Among the categories “Nordic”, “other European” and “non-European” backgrounds, persons with non-European backgrounds are the least represented among state employees.<sup>27</sup> A survey of young people living in ethnically diverse suburban neighbourhoods showed that one in three considered applying to the police academy,<sup>28</sup> but only one in 28 of those who showed an interest in police work actually applied to the police academy.<sup>29</sup> To apply to the police academy interested prospects must have a basic faith in the police. Police can help build trust by being more present in vulnerable suburban neighbourhoods.<sup>30</sup> Officers at the Hate Crime Unit in Stockholm have noted the difficulty in establishing contact with persons of foreign background. There is a sense at the Hate Crime Unit that people with a foreign background are reluctant to turn to the police with their claims because they do not feel that they will be understood or receive adequate help from the police. It is important to employ more officers with foreign backgrounds to build trust and establish a good rapport with society, in general, and with immigrant communities in particular.<sup>31</sup>

Other measures are needed to increase diversity in the police force. Currently, 18 percent of the population in Sweden have a foreign background. Hence, the National Police Board has set as a target that 18 percent of students accepted to the police academy have a non-Swedish background.<sup>32</sup> This criterion is misleading, however, since persons in Sweden with one foreign-born parent are included in the non-Swedish background group. Furthermore, this criterion is not used in any other field or by the Statistical Bureau of Sweden. In view of the skewed criteria, and in view of low representation of police with foreign backgrounds,

it would be appropriate to set the objective for the number of accepted students with foreign backgrounds higher than 18 percent.

#### CONCLUSION

To counteract ethnic discrimination in Sweden it is important to balance the composition of the staff working at judicial authorities so that it better corresponds to the composition of the general population. This would increase trust for the authorities, improve communication between the authorities and ethnic minority groups and help strengthen legal security in general. Because of the lack of trust for judicial authorities, persons belonging to ethnic minorities are reluctant to report crime or take jobs within law enforcement. The disproportionate staff composition needs to be counteracted with concrete measures to increase diversity. Selection methods, such as entrance exams, should be looked over and the target number of students with a foreign background should be increased.

#### Recommendations

- Implement measures that will increase diversity within the police and the judicial authorities in general.
- Raise the target enrolment number for students with a foreign background at the police academy.
- Evaluate police academy entrance exams to ensure that they do not include elements that may discriminate against persons with a foreign background.

#### SWEDISH LANGUAGE COURSES FOR IMMIGRANTS

##### *Main concerns*

- Reforms in the mandatory Swedish language courses for immigrants (SFI) fail to meet the needs of immigrants from a variety of educational backgrounds.
- The reforms might actually reinforce discriminatory methods and curriculum.
- An educational model that is uniform and based on “Swedish” as the cultural norm tends to position immigrants as “the other”, reinforcing the existing socio-economic and cultural segregation in Swedish society.

In our previous alternative report to the CERD committee we criticized the way in which immigrants are introduced to Swedish society through mandatory Swedish language courses. Statistics show that 60 percent of students fail to reach set targets.<sup>33</sup> During the past year the new government has proposed reforms for the SFI courses, but there is a risk that the proposed reforms may strengthen discriminatory aspects of the SFI programme. The proposal includes

instating national final exams for all study programmes; introducing targets in the SFI curriculum; restricting the study period to a maximum of three years; and introducing performance-based bonuses.<sup>34</sup> The government's overall objective is to introduce SFI students to the labor market as fast as possible. But it is important to recognize the vast differences in educational background among SFI students. The span ranges from students with no or limited prior schooling to students with higher education who speak several languages, including English at a level that is sufficient for many jobs. Uniform solutions are therefore highly ineffective. Students with low education levels should be offered a comprehensive grade school education to give them the skills necessary to assimilate to Swedish society. It is unreasonable to expect them to achieve a level of functional proficiency in Swedish in two to three years, when research indicates it normally takes an illiterate person at least four years to reach a level of functional literacy.<sup>35</sup> Moreover, students with higher educations and students with good study habits are frustrated by the unreasonable conditions that require them to attend a fixed number of Swedish lessons before they can earn a diploma and enter the labor market.

Research shows that SFI education presupposes "Swedish" as the norm and is anchored in a top-down perspective where participants often are subjected to corrective efforts and paternalistic attitudes.<sup>36</sup> SFI participants are positioned as "other", while a preoccupation with "Swedish" occurs.<sup>37</sup> This reinforces societal divisions and segregation based on ethnicity. The problem remains unaddressed by the proposed reforms.

#### CONCLUSION

It is good that the state is trying to improve the SFI program, but it is important to devise mechanisms that guarantee the most suitable solutions for all new immigrants in Sweden. Those requiring more education should receive it, and those who feel that they can start working directly should also be allowed to do so without being obstructed by a compulsory system that has not been designed with regard to their personal potential. A flexible approach would also free up resources for students who need more schooling. Furthermore, the methods and content of the curriculum should be corrected so that they don't reinforce "otherness" but rather present an integrated approach to diversity in Swedish society.

#### Recommendations

- The state needs to devise mechanisms that make Swedish language education for immigrants suitable for a variety of backgrounds.
- Ensure that education offered to immigrants is not just rooted in Swedish cultural norms.

## HIGHER EDUCATION AND THE HIGHER EDUCATION ORDINANCE

### *Main concerns*

- Ethnic minorities remain significantly under-represented in higher education. There is an urgent need to promote ethnic diversity in, for example, the Swedish judicial system.
- Increasing the level of ethnic diversity in higher education remains a challenge.

The Swedish National Agency for Higher Education has added the promotion of equal treatment to its equal opportunity directives that includes providing assistance to various supervisory authorities working with equal treatment initiatives. Although this is a positive step, it is not enough to actually achieve equal treatment in higher education. Measures such as quota-based admission to educational programs are needed. Quota-based admission to education is permitted in terms of maintaining a good gender balance and should be permitted to promote ethnic diversity as well.

The attorney general has expressed an urgent need to improve ethnic diversity among lawyers and other judicial staff.<sup>38</sup> Immigrant and ethnic communities share a uniquely vulnerable position in society in that they stand a much greater risk of being victims of structural and institutional discrimination. Therefore, it is important to introduce measures that promote greater trust for central authorities among these groups. Increasing ethnic diversity within judicial authorities would be an important step toward achieving this. The introduction of specific affirmative action measures in law school admissions, for example, could aid this process.<sup>39</sup>

Affirmative action provisions were introduced in the equal treatment provisions of the Higher Education Ordinance. However, when attempts were made to admit students through a quota system, it was met with a lot of criticism and ultimately failed. The issue was brought to court and three universities ended up paying damages to Swedish applicants who felt they had been discriminated against when the universities admitted students with a foreign background through the affirmative action plan. The government has since presented a bill that forbids affirmative action on ethnic grounds.<sup>40</sup>

### **Recommendation**

- The state should reintroduce directives for a quota-based system to increase the proportion of students with foreign backgrounds in higher education.

## 2.2 COMMUNITIES VULNERABLE TO ETHNIC DISCRIMINATION

### Article 2.2

States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

The picture of ethnic discrimination in Sweden and of the communities vulnerable to ethnic discrimination is a complex one. Although Sweden is a diverse society, ethnic and religious diversity is not always recognized or valued. Ethnic discrimination is a persistent and damaging experience in the everyday lives of ethnic, religious and national minority groups. It undermines the values that underpin the concept of social cohesion and human rights. While there is a commonality in the experience of discrimination, it can be experienced in different ways by different groups depending on the context and time.

Communities in Sweden that are especially vulnerable to racism include the Roma people, Saami people, migrants (particularly undocumented migrants and asylum seekers) and the Muslim community. Longstanding ethnic minority communities, national minorities and more recent migrants experience racism and ethnic discrimination on many levels in their everyday lives. Vulnerability to ethnic discrimination varies among the different generations. There are similarities and differences among the experiences of first, second and third generations, established minorities and new minorities.

The intersection between ethnic and religious discrimination is a complex one. It is clear that religious minorities are targets of discrimination in Sweden. Islam is the largest minority religion in Sweden, and followers of Islam are the most vulnerable to religious discrimination in Sweden. Minority groups within minorities are particularly vulnerable. Many members experience multiple discrimination. In addition to ethnic discrimination, there are those who experience other forms of discrimination such as sexism and heterosexism.

This section highlights communities that are especially vulnerable to ethnic discrimination.

## INDIGENOUS PEOPLES: THE SAAMI PEOPLE

### *Main concerns*

- It is firmly established under international law that indigenous peoples have particular rights to their traditional land, waters and natural resources. Sweden has failed to introduce any policy or special measures that acknowledge the Saami people's right to their traditional land and maintains that all land and natural resources in the Saami territories belong to the state, unless privately owned.
- The administration of land user rights and land use in the reindeer husbandry area, issues that are often linked to disputes with other stakeholders, have not been transferred to the Saami Parliament but remain with the County Administrative Board. A bill, aimed at increasing Saami self-determination has not resulted in an increase in the Saami influence as to matters that directly affect Saami livelihoods.
- The rate of interest-driven exploitation of natural resources that directly impacts and affects Saami livelihoods and land use has significantly increased in Saami areas and will continue to do so as a result of climate change and melting icecaps. The consequences of such developments can be devastating for the Saami communities since conditions for sustaining their livelihoods are compromised. Saami rights to traditional land use are rarely considered in the evaluation of permits for these activities.
- The draft proposal for a Nordic Saami Convention that would give the Saami Parliament a position as key negotiator on Saami issues and ensure the Saami people's right to self-determination has received harsh criticism by referral bodies such as the Mining Inspectorate of Sweden and the Swedish Forest Agency. As a result, the Ministry of Agriculture has decided that negotiations regarding the content of the Convention can begin at the earliest in 2009. There is even a risk that the Convention will be cancelled, which clearly demonstrates the lack of political will to protect Saami rights.
- National legislation regulating the relation between Saami communities and the mining and forest industries is inadequate in terms of offering lasting solutions to conflicts of interest. As a result, the Saami communities shoulder an enormous economic burden in continuously defending their livelihoods against multinationals and large mining companies. To have an impact on the decisions made and affect the process of exploitation of their lands, the Saami need to be actively involved at an early stage in the decision-making processes.
- Issues related to Saami land rights remain unresolved as Sweden has still not taken concrete measures to ratify ILO Convention No. 169, despite earlier recommendations from the CERD committee to ratify as quickly as possible. The consideration and the recommendations of a boundary

commission and a study on hunting and fishing rights are still being reviewed by the Government Offices. Hence, Sweden has not yet begun to assess conditions for ratification of ILO Convention No. 169.

- Land disputes between Saami and non-Saami in courts of law are ongoing and remain severe in many areas. Especially critical is the situation for the Saami communities in the counties of Jämtland and Härjedalen. There is also an ongoing Norwegian–Swedish cross-border conflict concerning Saami land rights. It is evident that a solution must be reached promptly to ensure that reindeer husbandry isn't jeopardised in the southernmost area of the reindeer husbandry region. Due to ambiguous legislation and a reluctance to demarcate which areas traditionally had been used for reindeer husbandry, there has been a lot of room for interpretation and questioning of Saami traditional land rights, which in turn has led to these conflicts.
- According to an evaluation carried out by the Swedish School Board, Swedish school literature inadequately describes the Saami population. When mentioned, the Saami are described in stereotypical terms that can be experienced as highly offensive and discriminatory.

#### CONSTITUTIONAL PROTECTION

There is no constitutional safeguard for the Saami as an indigenous people in Sweden. While Sweden has acknowledged the Saami people's status as an indigenous people,<sup>41</sup> the Saami and the protection of their interests and culture continues to fall under the "national minority" heading, as stated in the latest official Swedish report to the CERD committee.<sup>42</sup> This ignores the fact that the Saami are recognized as an indigenous people by the CERD Committee<sup>43</sup> and the Human Rights Committee,<sup>44</sup> and results in the acceptance of systematic violations of the Saami people's right to traditional lands, waters and natural resources. Reindeer husbandry, hunting and fishing have traditionally been and continue to be the main means of subsistence for a substantial portion of Saami society, and the continuation of such traditional land use practices is paramount in preserving Saami culture.<sup>45</sup> Sweden has granted the Saami people citizenship status and the rights that follow, such as protection against ethnic discrimination, but has failed to introduce any policy or measures that acknowledge the Saami people's right to their traditional land and protect the Saami's distinct cultural heritage, history, language and lifestyle. Such constitutional protection exists for the Saami in Finland and in Norway.<sup>46</sup>

Moreover, the Saami have, as an indigenous people, a special need for affirmative action measures, which should be acknowledged in the Swedish Constitution. According to CERD Article 2.2, states have obligations to monitor how national legislation results in discrimination and to take measures, such as affirmative action, when necessary. This issue was highlighted in a government investigation of Saami protection by international human rights laws. The commission found

that affirmative action measures would not be in breach of the principle of equal treatment in Sweden.<sup>47</sup> Constitutional protection of the Saami as an indigenous people, along with affirmative action measures, would be powerful initiatives to protect the Saami indigenous population from discrimination.

#### HISTORICALLY INSTITUTIONALIZED DISCRIMINATION POLICIES AND THE LACK OF REMEDIES

Systematic and institutionalised forms of discrimination against the Saami people must be viewed in a historical context, as many of the policies regarding land use and the resulting socio-economic marginalization and other forms of discrimination are embedded in and legitimized by a long history of discriminatory state policies. The Saami people have historically been subject to injustices from which they have yet to recover.

Viewed as an inferior nomadic culture, the Saami were historically not entitled to own land. Over the years, ownership of their traditional land has systematically been given to non-Saami settlers, sold to private interests for resource extraction or taken over by the Swedish state.<sup>48</sup> The Saami were relocated by force from a number of land areas, and they were for a long time not allowed to use their language or practice their religion. The Swedish colonial past is not merely a part of history but also a significant part of the present, with concrete socio-economic manifestations. However, Sweden has done little to reverse the effects of past policies, which were designed to extinguish the Saami culture. Sweden still adheres to policies and perceptions regarding the Saami people's right to traditional land and resources that evolved during the 1800s. Sweden still holds self-evident that all land and natural resources in the Saami territories belong to the state, unless privately owned. The racist overtones expressed by the majority society is still a reality in many areas and leads to the discrimination and harassment of Saami people in various contexts.

According to international law, states are obligated to remedy discrimination caused by historically institutionalized discriminatory policies. Sweden is bound under these provisions to address the historic race-based discrimination of the Saami people. Furthermore, it is established under international law that indigenous peoples, because of their special attachment and priority in time to their ancestral land, have particular rights to their traditional land, water and natural resources.<sup>49</sup> These international legal sources confirm the Saami people's right to their traditional land and resources and underscore that continued access to these lands and resources is a prerequisite for Saami people to maintain and develop their culture. The UN has on numerous occasions expressed concern over the ongoing violations of the Saami people's human rights.<sup>50</sup> The CERD Committee has emphasised that Art. 1 (4) and (5) of the CERD Convention, read in conjunction, provide for special measures to be taken to protect indigenous ownership and control of historically occupied lands and resources and demand indigenous consent with regard to matters that affect such land and calls upon states to:

*“recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories.”<sup>51</sup>*

An evaluation of whether the Saami people are subject to discrimination must therefore be based on these fundamental criteria.

#### THE SAAMI PARLIAMENT AND THE GOVERNMENT BILL ON GREATER SAAMI INFLUENCE

When the Saami Parliament was appointed as a state agency in 1993, it was assigned to work toward sustaining the Saami cultural heritage and monitor the community planning process to ensure that the needs of the Saami people were considered and, in those instances where deemed necessary, express its opinions on decisions where Saami interests were at stake.<sup>52</sup> It was, however, not prescribed that state authorities should take any special consideration of the opinions expressed by the Saami Parliament.<sup>53</sup> As far as its assignment to monitor and advise in matters relating to Saami culture, the Saami Parliament has likewise not been appointed any authority or power to influence cases where conflicts arise with private or public interests. It has been emphasized that the Saami Parliament’s task is not to facilitate the needs of the Saami but merely to ensure that they are not forgotten.<sup>54</sup>

A bill on greater Saami influence, submitted by the government in early 2006, proposes that policies regarding reindeer husbandry to a greater extent shall emanate from the Saami and that the Saami communities, based on their own regional and natural preconditions, shall control the provisions of developing and maintaining Saami livelihoods.<sup>55</sup> To achieve this, the government proposed the designation of the Saami Parliament as the central administrative agency responsible for reindeer husbandry and the transfer of several administrative tasks from county administrative boards and the Board of Agriculture to the Saami Parliament.<sup>56</sup> According to the bill, the influence of the Saami Parliament on decisions in key matters shall thus increase.<sup>57</sup> The government-appointed Reindeer Husbandry Commission had also concluded that matters concerning non-Saami landowners should be transferred to the Saami Parliament as their activities directly impact on reindeer husbandry.<sup>58</sup>

However, due to extensive criticism from several referral bodies regarding the transfer of responsibilities to the Saami Parliament in matters that also affect other interests, such as private landowners and other stakeholders in the reindeer husbandry areas, the bill did not result in a transfer of the administration of reindeer husbandry in its entirety, but was limited to certain internal matters.<sup>59</sup> Administration of land user rights and land utilization in the reindeer husbandry area, key administrative areas for the Saami communities, were not transferred and remain with the County Administrative Board. In other words,

administration of issues often linked to disputes with other stakeholders was not transferred to the Saami Parliament. The bill, aimed at increasing Saami self-determination, has not led to an increase in Saami influence in matters that directly affect Saami livelihoods.<sup>60</sup>

#### EXPLOITATION OF NATURAL RESOURCES, CLIMATE CHANGE, AND THE RIGHT TO PARTICIPATE IN DECISION-MAKING PROCESSES

The public and private-interest driven exploitation of natural resources directly impact and affect Saami livelihoods and land use, such as reindeer husbandry, fishing and hunting. Recently, the rate of exploitation has significantly increased in Saami areas. As a result of climate change and melting icecaps, mineral and other deposits are becoming more accessible. The Arctic region is becoming increasingly geopolitically important, and industrial development in the circumpolar Arctic in coming years and decades is expected to increase.<sup>61</sup>

The Arctic Climate Impact Assessment (ACIA), released in November 2004, notes potential land conflicts that can arise from increased resource exploitation in the Saami region.<sup>62</sup> Mineral prospecting, timber harvesting, plans for expanded hydropower plants and infrastructural developments affect the livelihood of many Saami communities. Such developments often claim vast land areas that are key for reindeer husbandry, hunting and fishing. Saami rights to traditional land use are rarely considered in the evaluation of permits for these activities. The right to participate in decisions that directly impact their lives should be granted the Saami. Therefore, it is of utmost importance that the Saami Parliament is given a central function in the decision-making process of such land use matters.<sup>63</sup>

#### THE NORDIC SAAMI CONVENTION

The draft proposal for a Nordic Saami Convention would give the Saami Parliament a position as key negotiator on Saami issues. It would ensure the Saami people's right to self-determination. During consideration of the draft proposal the convention has been criticised by many referral bodies, such as the Mining Inspectorate of Sweden and the Swedish Forest Agency, who fear the convention would give the Saami much too far-reaching rights to utilize land and water. One of the proposed changes for increasing Saami self-determination was that the Nordic governments involved would be obligated to negotiate with the Saami parliaments and that the Saami parliaments would have veto rights in matters concerning Saami interests. Today the governments are only obligated to consult the parliaments. While the Swedish Ministry for Foreign Affairs sees such a proposal as being in line with Sweden's international human rights obligations, many referral bodies have expressed concern that such a proposal, if instated, will hinder foreign investment and mining prospecting. Because of harsh criticism from the referral bodies, the Ministry of Agriculture has decided negotiations on the content of the convention can begin at the earliest in 2009. There is, however, a risk that the proposal will be cancelled altogether.<sup>64</sup>

National legislation regulating relations between the Saami communities and the mining and forest industries does not provide lasting solutions for conflicts of interest. Defending livelihoods against multinationals and large mining companies has become an enormous financial burden on the Saami communities. To influence decisions that affect their lands the Saami need to be involved in the early stages of the decision-making processes. Yet the Saami people are rarely consulted.<sup>65</sup>

Issues related to Saami land rights remain unresolved as Sweden has still not taken concrete measures to ratify ILO Convention No. 169, despite recommendations from the CERD Committee to accelerate work to ratify the Convention.<sup>66</sup> To make ratification possible the Swedish state decided to define the boundaries for reindeer breeding areas by appointing a Boundary Commission in 2002. The commission submitted its report<sup>67</sup> in 2006, two years after the deadline, and the recommendations are still being reviewed by the Government Offices.<sup>68</sup> Similarly, a study on hunting and fishing rights in reindeer breeding areas<sup>69</sup> is still being reviewed by the Government Offices. Hence, Sweden has not begun to assess conditions for ratification of ILO Convention No. 169. The state has not complied with the CERD Committee's recommendation to remove legal uncertainty related to Saami land rights and done little to secure Saami rights by incorporating human rights provisions in national legislation. According to the committee's General Recommendation No. 23 (5), states parties are called upon to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources, and where indigenous peoples have been deprived of their lands and territories, traditionally owned or otherwise inhabited, or where the lands have been used without their free and informed consent, to take steps to return those lands and territories. Sweden is in breach of its international obligations by not seeing to the protection of its Saami population and their land rights.

Reports from the Boundary Commission and the Fishing and Hunting Commission study have also been met by massive criticism from referral bodies concerned that a ratification of ILO Convention No. 169 would give much too far-reaching rights to Saami communities. The long, drawn out investigations by these inquiry commissions have resulted in a stagnation of Saami land rights issues. It is of utmost importance that these evaluations result in concrete legislative measures, formulated in close cooperation with the Saami Parliament and other Saami organisations, and that ILO Convention No. 169 is ratified promptly so that Saami land right issues can move forward.

#### LAND DISPUTES BETWEEN SAAMI AND NON-SAAMI IN COURTS OF LAW

In its latest periodic report to the CERD Committee Sweden notes that not a single Saami village has been sued in the past ten years, thus suggesting that land conflicts are no longer a pressing issue. In fact, land disputes continue and are severe in many areas. Especially critical is the situation for Saami communities

in southern Jämtland and Härjedalen. In these regions the Swedish court has not granted the Saami communities grazing rights for their reindeers, even though this right is supported by international law, as discussed above. As a result, major conflicts have erupted between Saami communities who lack the economic resources to pay for grazing land and private landowners who refuse to enter into written land use agreements with the Saami. A solution must be reached promptly to ensure that reindeer husbandry isn't jeopardised in the southernmost area of the reindeer husbandry region. The government has repeatedly made it clear that it is up to the conflicting parties to resolve the dispute, even though the conflicts are a direct result of institutionalized discrimination. The southernmost regions in question were the first to be colonized. Because the legislature was reluctant to demarcate which areas traditionally had been used for reindeer husbandry, there has been much room for interpretation and questioning of traditional Saami land rights. This in turn has led to conflict. The verdict the government is referring to in item 76 in the so-called "Nordmalingsmålet" case does not change or remedy the situation for the Saami communities in Härjedalen. Nor will it help that the landowners in Västerbotten are supposed to cover the court costs. The government has a responsibility, prescribed by international law, to provide for clear legislative measures and to have a central role in resolving this conflict.<sup>70</sup>

There is also an ongoing cross-border conflict between Norway and Sweden concerning Saami land rights. As a result of negotiations between Sweden and Norway, and pursuant to a court ruling in the Norwegian Supreme Court concerning cross-border grazing, the Swedish Saami communities have been forced off their traditional grazing ground. In the previous reindeer grazing agreement from 1972, the Saami lost 70 percent of their traditional grazing lands without receiving any form of compensation. A proposal for a new cross-border grazing agreement will be presented in 2008, and there are strong reasons to believe that disputes regarding grazing rights will emerge.

Moreover, it is likely that conflicts will arise between Saami communities and private companies exploiting Saami traditional land in the near future. Here, too, the Swedish state has an important role in making sure legislative measures ensure that basic conditions for reindeer husbandry are met, and that if forced off their traditional land by development projects, the Saami will receive adequate compensation. Saami land rights issues will likely be determined by court rulings more in the future because there is a lack of state guidelines or legal recourse. This will place an even heavier burden on already financially strained Saami villages and can in the long run jeopardize the survival of the Saami culture.<sup>71</sup>

## EDUCATION AND LANGUAGE

Swedish schools and municipalities are not meeting the needs for mother-tongue education among Saami students. Statistics presented by Sweden regarding the number of students entitled to subsidized mother-tongue education is misleading because they do not reflect actual demand. The Ombudsman Against Ethnic Discrimination is investigating cases where Saami schoolchildren were denied subsidized mother-tongue education. A report presented by the Swedish School Board shows that many municipalities fail to inform Saami students of their right to study the Saami language. Other factors that limit access to mother-tongue education include a lack of resources, difficulty recruiting certified teachers and a shortage of teaching materials. Furthermore, the requirements – there must be at least five students in a language class and students must be using the language at home – also limits access. These requirements should be removed to help preserve the Saami language. Moreover, access to subsidized mother-tongue education should be available to adults who do not have access due to current regulations. Clear instructions should be given to the responsible school authorities to adjust the mother-tongue education to ensure access for all Saami to their language. This is particularly urgent since institutionalized discrimination created the illiteracy in the first place.

School has a central role in the work against discrimination. According to an evaluation carried out by the Swedish School Board, Swedish school literature is inadequate when describing the Saami population. Saami people are described using stereotypes that can be experienced as offensive and discriminatory. School literature should counteract discrimination, not reinforce stereotypes that cause it. The Swedish government should allocate resources for an information campaign about the Saami people in schools.

## DISCRIMINATION AGAINST SAAMI WOMEN

In her report on Sweden UN Special Rapporteur Yakin Ertürk expressed concern over the discrepancy between the legal framework to protect women from discrimination and the practical application of that framework. She noted that Saami women are victims of a strong patriarchal structure. As a result, many women do not feel that divorce is an option for leaving abusive situations.<sup>72</sup> Similar to other women who experience multiple forms of discrimination, Saami women are often reluctant to seek protection and support from institutions and authorities because there is a perception that the authorities have little understanding for their cultural circumstances and cannot provide them with the support they need. To understand the type of discrimination Saami women face more research is necessary. Furthermore, the state should support the establishment of Saami women's shelters, connected to Saami villages.

There is an unequal division of power between Saami people and the Swedish majority society. The unequal gender relations in Saami society represent one aspect of this asymmetrical power relation. This manifests in discriminatory ap-

plications of the Reindeer Husbandry Legislation. The Reindeer Husbandry Legislation is part of Swedish legislation and has a central function in regulating the conditions under which reindeer-herding Saami live. This legislation has origins in historic Swedish agricultural norms based on a patriarchal organizing principle of the “master” and “his household”. It does not stem from traditional divisions of labor in Saami society. It is in the application of this legislation – with the “master” as the organizing principle – that decisions are made without the participation of women. Saami women can lose their right to vote in the Saami village when they marry Saami men, and they also run the risk of being excluded from membership in the Saami village should they divorce their husbands. The legislation is not equally applied in all the Saami villages, since interpretations of the legislation depend on external conditions. When there are land right disputes, questions on how the group should regulate its internal affairs arise. It is under such circumstances that some villages have chosen to interpret the Reindeer Herding Legislation in ways that exclude women. The legislative branch in Sweden has a duty to reformulate current legislation so that no parts of it can be interpreted in ways that exclude women and strengthen patriarchal structures in Swedish society by legitimating such exclusions.<sup>73</sup>

## Recommendations

- Provide constitutional protection of the Saami as an indigenous people and enact certain affirmative action measures.
- Transfer administration of land user rights and land utilization in the reindeer husbandry area to the Saami Parliament, which should be given the authority and power to influence cases where conflicts arise with private or public interests. State authorities should take special consideration of the opinions expressed by the Saami Parliament.
- Involve the Saami people at an earlier stage of decision-making processes concerning exploitation of their traditional lands so that the Saami can influence decisions.
- Sweden should ratify ILO Convention No. 169. The process of investigations and studies, which have been ongoing for more than 12 years, should be concluded. Sweden should comply with the CERD Committee’s recommendations to remove the legal uncertainty related to Saami land rights.
- Allocate resources to oversee Swedish school literature and ensure that accurate and non-discriminatory descriptions of the Saami people are available to all children in the Swedish school system.
- Reformulate current legislation so that no parts of the Reindeer Herding Legislation can be interpreted in ways that exclude women.

## NATIONAL MINORITIES: THE ROMA PEOPLE

### *Main concerns*

- Structural discrimination and marginalisation of the Roma community is so widely spread that the Roma for the most part stand outside the democratic process. New initiatives have not been able to counteract discrimination against the Roma communities in all areas of social and political life. No significant changes since 2004 can be noted.
- Offensive studies, articles and reports on the Roma are continuously published and shown in the media.
- The majority of reported incidents of discrimination are not prosecuted, and there is reluctance among the Roma to report discrimination because of an inherent distrust of authorities and a sense that Roma claims and rights are not taken seriously.
- Significant discrimination within all sectors of social and economic life persists. Approximately 80–90 percent of Roma adults are unemployed; the average Roma child has a 40-percent absence rate in school. The vast majority of Roma people have not completed elementary school.
- Schools are not meeting their requirements to offer subsidized mother-tongue education, and Romani language teachers who are employed are not certified to teach. There is also a lack of information in the Swedish schools about Roma culture and about the status of the Roma as a national minority.
- Discrimination within the social services and within housing is very common.
- Roma people have a hard time getting access to adequate housing and their access to the trade and services sector is also limited.

The Roma community has for centuries experienced discrimination and socio-economic marginalisation in Sweden. In its recommendations to Sweden from 2004, the CERD Committee expressed concern over the difficulties faced by the Roma community in the areas of housing, education and employment. The Committee urged Sweden to intensify its efforts to implement strategies and programmes in these areas. New initiatives referred to by Sweden in its recent official report include the establishment of the Delegation for Roma issues and a study by the National Board of Education on the situation of Roma students in Swedish schools. These initiatives, however, have not led to any notable improvement in the situation of the Roma community compared to 2004.

The European Council Commissioner for Human Rights noted in a report on Sweden from 2004 that the Roma continue to be a common target of prejudice and discrimination, specifically in the areas of education, labor and housing. Because the Roma community has such limited access to these basic needs they are unable to participate in society on equal terms. Since 2003 the Ombudsman

Against Ethnic Discrimination, the Children's Ombudsman and the National Board of Education have on several occasions, called attention to serious expressions of structural discrimination against the Roma community and noted that the discrimination and marginalisation is so widely spread that the Roma for the most part stand outside the democratic process.<sup>74</sup>

It is difficult to analyze discrimination against the Roma community because reported incidents do not reflect the actual number of incidents. Roma are reluctant to report discrimination, in part because there is a lack of knowledge of what constitutes discrimination and what kind of protection is available, but also from an inherent distrust of state authorities. Since the majority of reported incidents of ethnic discrimination do not lead to prosecution and even more seldom to a conviction, there is a general sense among the Roma that reporting discrimination is difficult and meaningless.<sup>75</sup> Reports that are filed are often acute in nature, and thus the authorities' methods to process the reports are experienced as drawn out.

#### EMPLOYMENT AND EDUCATION

Of the roughly 50,000 individuals who identify themselves as Roma in Sweden about 80–90 percent of the adults are unemployed.<sup>76</sup> The unemployment rate appears to be high even among those who are trained in trades where there is a shortage of workers.<sup>77</sup>

According to a recent report from the European Commission Against Racism and Intolerance (ECRI), the Roma continue to occupy a disadvantaged position in the Swedish educational system, and Roma children are marginalized in Swedish schools. There is a 40-percent absentee rate in schools among Roma children. The vast majority of Roma youth and adults have not completed an elementary school education. Few Roma children attend pre-school.

Policies denying the Roma permanent residency status in Sweden were in place until the 1970s. Hence, access to education for all Roma children is fairly recent. There is a strong distrust of the educational system and many of the elders are illiterate.

According to the Ombudsman Against Ethnic Discrimination, many Roma believe that the school system will diminish their children's cultural identity and that the school's protection against unlawful discrimination of their children is inadequate. Furthermore, educating about the Roma culture is rarely enforced, despite required curriculum and course plans on this topic. According to the same survey, half of the participants do not dare to disclose their Roma background in school. As a consequence of the school's negative expectations of Roma children, those with learning difficulties and disabilities seldom have their needs assessed and thus do not receive the help they need. However, best practices from different municipalities have shown a clear connection between increased attendance and improved grades for Roma children and youth where

schools have employed Roma teachers' assistants and children's nurses. The Roma staff act as a liaison between home and school and help ensure that the Roma cultural identity is safeguarded and made visible in school. In so doing, distrust against the school decreases while school attendance increases.<sup>78</sup>

Swedish schools and municipalities do not meet the need for subsidized mother-tongue education among Roma students. Access to mother-tongue lessons vary from municipality to municipality. Statistics provided by Sweden in its recent official report to the CERD Committee are misleading because they do not reflect the actual demand for mother-tongue lessons within the Roma community. A recent survey found that one-third of the country's municipalities do not inform the public about the right of national minorities to receive mother-tongue education.<sup>79</sup> A further complicating factor is that many parents do not inform the school of their children's Roma ethnicity because they fear discrimination.<sup>80</sup>

In its report *They want me to be Invisible* the Children's Ombudsman argues that the low priority given to mother-tongue education for the Roma is partly due to discriminatory attitudes held by school personnel and administrators. Furthermore, according to a 2007 study by the National Board of Education, none of the 15 Romani Chib teachers who were employed in Sweden had formal pedagogical training or were certified to teach. This can partly be explained by the low level of education within the ethnic group, but also by the fact that there hasn't been any formal training of mother-tongue teachers in Sweden since the beginning of the 1990s.

Until recently, Romani Chib existed only as a spoken language with a number of dialects. The lack of literature, textbooks, teaching aids, radio programs, TV programs, and other media in Romani Chib is a serious challenge. Measures to secure the survival of the language need to be put in place. Advanced studies about the Roma culture and the Roma language should also be promoted.

#### SOCIAL SERVICES AND HEALTH

Many Roma people experience discrimination in dealing with social services. The National Board of Health and Welfare's study from 2006 points to systematic deficiencies in situations when the state takes temporary custody of Roma children. The study reports on cases where the social services have avoided intervention because it involved a Roma family. The study also shows that when in temporary custody the right of the children to their language and culture are not guaranteed. Directives are needed to ensure that the social services intervene on the same terms in all situations and provide adequate protection for Roma children. Measures are also needed to ensure that the Roma children's right to their language and culture is not jeopardized when in temporary custody.

Poor physical and mental health is disproportionately high within the Roma community. According to Roma representatives and municipal officials, poor health is on the rise among women and children, and drug abuse is starting at a younger age.<sup>81</sup> Poor health and drug abuse is inevitably connected to socio-eco-

conomic marginalisation and systematic structural discrimination. Roma women and children are particularly vulnerable within the Roma group. Yet, violence against Roma women and their lack of access to protection is not mentioned at all in the reports produced by the state delegation for Roma issues. According to Lina Plough, chairperson of the National Board of Women's Shelters, it is not uncommon for Roma women to be rejected from shelters. Many Roma women who need protection are also reluctant to seek help from state authorities. Hence, there is a need to establish women's shelters specifically for Roma women. One initiative in Stockholm by a Roma women's NGO has been very successful. Resources need to be set aside to assure that such initiatives can be replicated in other municipalities.

#### HOUSING

The Roma community experiences significant discrimination within the housing market, and the majority of complaints received by the Ombudsman Against Ethnic Discrimination regard discrimination of Roma by housing corporations and realtors. According to one survey, 30 percent of the participants said they had been denied housing (buying or renting) because of their ethnicity. Half of the participants said they had experienced insults and harassment from neighbours for being Roma.<sup>82</sup> The same study showed that exclusionary lists and roll calls among neighbours is commonly used to prevent Roma families from moving into the communities because of a fear that a Roma presence will lower property values.

Housing companies and realtors determine requirements and choose tenants based on discretionary decisions, which allows for uncontrolled ethnic discrimination in the housing sector. Choice of housing for Roma families is limited. They are often referred to segregated and socially vulnerable areas. Moreover, getting a housing lease most often requires permanent employment. This is a considerable impediment for Roma who have significant difficulties finding employment due to discrimination in the labor market and/or lack the necessary training or education.

#### TRADE AND SERVICE SECTOR

Discrimination within trade and service areas are regulated by the law on Prohibition Against Discrimination (2003:307) and in the Swedish Penal Code 16:9. According to a survey, 27 percent of the participants in 2007 were denied access to stores and 40 percent were denied access to restaurants. Despite numerous convictions in cases where Roma were denied access to restaurants, camping sites and public baths, this type of discrimination continues to be reported to the Ombudsman Against Ethnic Discrimination. Many reports about cases were, for example, business owners who denied access to Roma and posted signs saying, "Gypsies not allowed". These cases have not resulted in convictions, which are fundamentally important in setting legal precedence. Furthermore, most discriminatory incidents go unreported.

Addressing the majority of the abovementioned issues where structural discrimination of the Roma people prevails requires initiatives and responsive measures on a municipal level. Several municipalities, however, state that they lack resources and the capacity to handle the size and complexity of these challenges. National policies on minorities are treated as recommendations, and municipal initiatives are most often done within the framework of the municipal integration work. Roma representatives are also limited in their ability to influence issues on a municipal level. According to the Delegation on Roma Issues, not a single Swedish municipality has a strategy for dialog with the Roma group. Measures are needed on the national and municipal levels to counteract negative trends of marginalisation and discrimination. Participation is fundamental to making the work of preventing ethnic discrimination credible.

Knowledge about Roma culture, history, language, traditions and the structural discrimination that the Roma communities face is limited among the general public and authorities. Prejudice, discriminatory attitudes and discrimination are seldom questioned. A study by the Ombudsman Against Ethnic Discrimination shows that few officials are aware that the Roma are a recognized national minority and that Sweden has policies regarding the protection of minorities. Responsible authorities should be commissioned to produce information in consultation with Roma experts about the Roma and their rights. This would help provide officials with useful data.

Swedish authorities should improve the situation of the Roma, take measures against racism and discrimination, and increase the influence of the Roma by introducing platforms for consultation nationally, regionally and locally. It is important that the Delegation for Roma Issues receives continued support for its initiatives to support municipal projects and activities aimed at improving the situation of the Roma. Most initiatives mentioned in Sweden's report to the CERD Committee center on describing the problem and suggesting measures that would allocate funds to map and to clarify the scope of discrimination of the Roma.

## **Recommendations**

- Implement concrete methods and strategies to counteract discrimination, to increase knowledge among the Roma of their rights, to disseminate knowledge about the Roma through information campaigns and to build trust between the Roma and public authorities.
- Counteract embedded and widespread discrimination against the Roma community with legislation.
- Monitor negative messages spread by the media that reinforce prejudices against the Roma.

- Enforce Swedish policies regarding the protection of national minorities more rigorously.
- Determine best practices, such as the introduction of Roma teachers and teaching assistants to increase Roma school children attendance and the opening of Roma women's shelters, and replicate them in other locations.

#### **OTHER VULNERABLE GROUPS: IMMIGRANTS**

##### *Main concerns*

- The religious and ethnic diversification of immigration to Sweden is not being met by adequate measures to protect immigrants against structural and institutional forms of discrimination. As a result, many immigrants are met by openly racist attitudes that prevents them from participating equally in Swedish society.
- Many groups of immigrants are particularly targeted by discrimination. These include immigrants of African descent, Muslims as well as persons perceived as Muslim.
- Immigrant women face double discrimination and run the highest risk of being isolated from protection against violence and other types of violations.
- Immigrants with disabilities are also a particularly vulnerable group. They face multiple forms of discrimination. Furthermore, they are not always offered information about the assistance they are entitled to.
- Structural and institutionalized discrimination against Muslims stems from prejudices against Islam that are produced and reinforced by the one-sided information presented in the media and in school literature. The discrimination manifests in the exclusion of individuals from all areas of social and public life. Certain expressions of Islamophobia fall under current national legislation against discrimination, while others do not and are seen as morally defensible expressions and questioning of Islam.

The religious and ethnic diversification of immigration constitutes an ongoing challenge for Swedish society. Although many ethnic Swedes express support for increased diversity, immigrants are also seen as a threat to Swedish society by some and are met by openly racist attitudes. Although there are commonalities in the experience of discrimination by individual immigrants, discrimination can be experienced differently among the various groups. This section highlights discrimination faced by immigrants of African decent, immigrant women, immigrants with disabilities, and immigrants who are Muslim or are perceived to be Muslim.

Of general concern is that Swedish migration policy is becoming more restrictive and that this trend has a negative impact on the integration of ethnic minorities

and immigrants.<sup>83</sup> The right to asylum underpins the international protection of human rights, but this fundamental right is compromised by asylum law, policies and application processes.<sup>84</sup> Discrimination of asylum seekers within the administration of justice is further discussed under article 5 (a).

Ethnic and religious minorities who have a harder time integrating, in particular those who are not prepared to assimilate, are especially targeted by ethnic discrimination and racist attitudes.<sup>85</sup> A solutions-oriented evaluation must acknowledge such diversification when working out measures that are effective in combating marginalisation and discrimination.

#### IMMIGRANTS OF AFRICAN DESCENT

Immigrants of African descent face discrimination and racism on a daily basis.<sup>86</sup> A recent report reveals that immigrants of African descent face discriminatory acts that manifest in racial language, often with reference to the color of their skin and their African background, violation and threats to physical integrity and racial profiling. Young African women are targets of sexual harassment, and young African men are often the victims of hate crimes and acts of violence.<sup>87</sup> Furthermore, it has been found that when victims of these acts report such acts of discrimination to the school staff or to the police, they often feel that their claims go unheard or are quieted down.<sup>88</sup> The government needs to address the specific problems that this group faces with measures to counteract societal prejudices and emphasise the common responsibility of society and its agencies to eliminate discrimination and offer victims of discrimination restitution.<sup>89</sup>

#### IMMIGRANT WOMEN

Minorities within minorities, such as immigrant women, are especially vulnerable since they experience multiple forms of discrimination. Yakin Ertürk, special rapporteur on violence against women, and the CEDAW Committee have, in their recent examination of Sweden, highlighted the precarious and vulnerable situation of immigrant and minority women within their own communities and in society at large and called for proactive efforts to combat discrimination against them. The areas where these women face tangible multiple discrimination are the labor market, education and healthcare. Furthermore, there is a need to increase the availability of social services and legal remedies for these women and a need for special measures to combat violence against them.<sup>90</sup>

A recent study showed there is widespread institutionalized discrimination in prenatal healthcare provided to immigrant women.<sup>91</sup> This study, which included over 200,000 women, found that discrimination in the form of generalisations, stereotypes and prejudices experienced by female immigrant patients can have negative health consequences.<sup>92</sup> Patients are required to fit into certain patterns to receive adequate care and to be heard. It is important that healthcare providers are provided information and education that can challenge certain patterns of behavior in meeting and treating women from various backgrounds.<sup>93</sup>

Women with immigrant, asylum-seeking or refugee backgrounds often face a higher risk of violence, due in part to their residency status. Women without valid residency permits are often reluctant to approach state authorities and are more likely to remain in violent situations and relationships.<sup>94</sup> Immigrant women face other obstacles as well because they frequently are unfamiliar with the Swedish language, institutions and law and are generally distrustful of authorities.

Because of experiences with discrimination many people feel excluded from the Swedish majority society and therefore reject ethical norms that are often presented to them as “Swedish”, even though these norms are in fact based on universal human rights. Attitudes about gender equality are one manifestation of this dynamic. The experience of marginalization and the simultaneous need to preserve one’s identity can result in attitudes based on intransigent views on what is appropriate behaviour for women.<sup>95</sup> This, in turn, can lead to further isolation of women and girls.

Special attention and efforts are required to combat isolation and eliminate the multiple forms of discrimination women face. It is also important to increase awareness among immigrant women of the availability of social services and legal remedies and to familiarize them with their rights to equality and non-discrimination.<sup>96</sup>

#### IMMIGRANTS WITH DISABILITIES

Immigrants with disabilities can face multiple forms of discrimination. The challenges of being functionally impaired become even more serious when a person lacks prior knowledge of how the Swedish healthcare system works and what type of help is available from government authorities. Studies illustrate how cross-cultural challenges can hinder immigrants with disabilities from seeking assistance and help.<sup>97</sup> Immigrants can bring with them their own country’s attitudes toward disabilities and government authorities. They may also be unaware of the function of the regional social insurance office or the role of the municipality and, hence, have a difficult time accessing adequate help from healthcare providers and government officials. Studies show that knowledge of municipalities and social insurance vary greatly among functionally impaired immigrants and the studies also reveal the tangible silence surrounding these persons’ dual vulnerability.<sup>98</sup> There is, therefore, an immediate need to offer these individuals and their families information and appropriate assistance. Families with immigrant backgrounds in which a family member has a disabilities must receive information about the Swedish social service structure and the various forms of support to which the family is entitled. To ensure adherence to acts concerning the support and service for persons with disabilities a regulatory framework needs to be created that safeguards access to adequate help by providing all family members, regardless of gender, functional condition or language skills access to information about the assistance that is available.<sup>99</sup>

Muslims are the largest and fastest growing minority group in Sweden with approximately 400,000 Muslims in Sweden in 2006 of which approximately 350,000 came to or were born in Sweden after 1985.<sup>100</sup> In our previous shadow report to the CERD committee, submitted in 2004, the structural and institutionalized discrimination faced by Muslims and persons perceived as Muslim were highlighted and seen as a direct consequence of the post- September 11 “War on Terror.” A study published by the Swedish Integration Board in 2005, shows that little has changed during the past four years and that Muslims remain disproportionately targeted by harassment, verbal threats, sabotage and vandalism.<sup>101</sup> Today, when Muslims are mentioned in the media or school literature, it is mostly with reference to genital mutilation, religious slaughter, private schools with strict religious curricula, religious dress in public places, honour-related violence, Sharia law and the building of mosques. The practical manifestation of intolerance created by such one-dimensional information is the structural and at times institutionalized discrimination against Muslims in areas such as the housing market, schools, media, the labor market, and social and public life.<sup>102</sup> In this report we have looked at the discrimination against Muslims in these areas separately under the equal rights section.

Discrimination against Muslims stem from prejudice against and stereotypes of Islam. These prejudices are also referred to as Islamophobia, and the practical consequence of such prejudices is the exclusion of Muslims from public and social life. Today there is a tendency for the term “Muslim” to be a homogenous culture creating identity and thus functionally analogous to “race”.<sup>103</sup> UN Special Rapporteur Doudou Diene pays specific attention to Islamophobia in European countries. Muslims, he notes, are seen as opposed to so-called Western values and are often portrayed as enemies and a threat to national values and social compatibility. This creates a social discourse that aims to assimilate Muslims in local cultures by requesting that they abandon their cultural and religious heritage and even their visibility. These trends, along with the overall climate of widespread and systematic suspicion against Muslims, are a direct consequence of the “War on Terror,” and lead to individual and institutionalized expressions of discrimination and intolerance.<sup>104</sup>

Recently published studies have sought to analyze the extent to which Muslims are targeted due to their religious affiliation. In a study on witnessing racial harassments it was shown that almost half of the persons interviewed had witnessed verbal harassment against Muslims.<sup>105</sup> A different study from 2006 showed that Muslims and persons perceived to be Muslim were the single most targeted group for ethnic discrimination in Sweden, and that every fourth Muslim child had been the subject of harassment and violations in school or elsewhere during a one-year period.<sup>106</sup> Seven out of ten cases of ethnic discrimination reported to the Ombudsman Against Ethnic Discrimination concern persons with a Muslim background being discriminated against with reference to their religious affilia-

tion. One example of such reports concern Muslim men who felt discriminated against in job interviews, during which they were questioned about their views on women.<sup>107</sup> Studies also show that in areas and municipalities where right-wing extremist groups are present and visible there is a significant increase in expressions of intolerance against Muslims.<sup>108</sup>

School curriculum is one cause of Islamophobic attitudes. According to an evaluation carried out by the Swedish School Board, school literature is inadequate when describing Islam and Muslims. When mentioned, Muslims are described through the use of stereotypes that can be experienced as highly offensive and discriminatory, and Muslim students can feel negatively targeted. The presentation of Islam and Muslims in school material is almost exclusively about militant Islam. Such comparatively one-sided exposure of the Muslims, most often in the context of war, conflict and terrorist attacks, can further contribute to and enforce stereotypes and Islamophobia. School literature should counteract discrimination, not engender the stereotypes that cause it.<sup>109</sup>

One problematic aspect in the discussion on Islamophobia is that the distinction between the moral and the legal dimensions tends to disappear. Certain types of Islamophobia fall under current national legislation against discrimination while others do not and are seen as morally defensible expressions and questioning of Islam.<sup>110</sup> It is therefore essential that it is made clear which expressions of Islamophobia are protected and which ones a person is protected against. It is important to keep in mind that which seems to be a logical legal division between a critique of ideas and the violation of a group's human rights is not necessarily that easily applicable when looking at how individuals react and argue. An important tool to create more visibility about Islamophobia is to record hate crimes with Islamophobic motives separately so that the extent of Islamophobia can be made more visible.

## Recommendations

- Conduct a solutions-oriented evaluation that acknowledges the difficulties faced by ethnic and religious minorities who have an especially hard time to integrate, in particular those who are not prepared to assimilate and those who are especially targeted. The evaluation should result in effective measures to combat their concrete experiences of marginalisation and discrimination.
- The government should address the specific problems that especially vulnerable groups such as immigrants face by creating measures to counteract societal prejudices and emphasise the common responsibility of society and its agencies to eliminate discrimination and offer victims of discrimination restitution.
- Create a regulatory framework to ensure adherence to acts concerning the support and service for all persons with disabilities. Safeguard access

to adequate help by providing all family members, regardless of gender, functional condition or language skills with access to information about the assistance that is available.

- Give special attention to and make proactive efforts to combat isolation and eliminate multiple forms of discrimination that women face. Increase awareness among immigrant women of the availability of social services, legal remedies and their rights to gender equality and non-discrimination.
- Develop a legal infrastructure that can deal more effectively with cases of multiple discrimination.
- Examine and rewrite school literature to present a nuanced representation of Islam and Muslims and, thus, through information, counteract Islamophobic discrimination, not engender the stereotypes that cause it.
- Record hate crime with Islamophobic motives to highlight the extent of Islamophobic discrimination.

# Article 4: Racist propaganda and racist organisations

## Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia: (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 4 requires countries to condemn and penalize all dissemination of propaganda and organisations that are based on ideas of superiority of one race or ethnic origin, or which incite racial hatred or violence. The Convention statutes and the Committee's General Recommendations 7 and 15, explicitly urge states parties in Article 4 to establish legislative measures to ban racist organisations, racist propaganda, memberships in racist organisations as well as the financing of these structures.

### *Main concerns*

- Sweden is still not in compliance with its obligations under Article 4 and thereby undermines the international legal system by not adhering to binding provisions.
- There is continued promotion and incitement to acts of racial discrimination and a continuous increase in reported racially motivated crimes in Sweden.
- Racist propaganda and so-called White Power music is spread openly without restriction, targeting vulnerable groups, such as school children who are the largest recruitment base for racist and Nazi organisations.
- Requirements in complaint mechanisms may impede access to effective remedies in cases of racial discrimination.

With respect to Article 4, the Swedish Government insists that, consistent with the limitations of the Fundamental Law on Freedom of Expression and Association, Sweden has enacted laws that prohibit violence or intimidation motivated by racial, ethnic or religious hatred. Sweden continues to uphold that while criminal acts committed by individual members of racist organisations may be penalized, the existence of and participation in such racist organisations cannot. In its eighteenth periodic review to the Committee, Sweden refers to a Parliamentary Committee opinion, supported by a number of referral bodies,

that there is no predominant reason to expand criminalization of participation in and support of racist organisations. The state does not see a need for legislative measures to ban racist organisations as the activities of such organisations are countered through existing legislation.<sup>111</sup> Sweden continues to maintain this interpretation of the provisions under Article 4, despite repeated recommendations from the CERD Committee to adopt the necessary legislation to ensure full compliance with Article 4 of the Convention.

As the following examples will indicate, there is cause for concern in terms of the promotion of and incitement to acts of racial discrimination in Sweden. Racist organisations are flourishing, their propaganda is spread openly, especially on the Internet and in schools. Moreover, it is of utmost concern that racist organisations are allowed to expand their operations. Regretfully, the effectiveness of existing legislation and measures taken to address racist violence are not sufficient to counteract developments in racial violence or provide protection to victims of racist propaganda and, by racist organisations agitated, acts of violence.

By not complying with its obligations under Article 4, Sweden undermines international law. Regarding those states party to Article 4 who maintain that legislation banning participation in and the existence of racist organisations would conflict with existing national legislation, the CERD Committee stated in General Recommendation 15 that it is of utmost importance that these states are attentive to the operations of racist organisations at an early stage.<sup>112</sup>

This section has been divided into four subsections that cover the main areas of concern, namely: the attorney general as sole prosecutor for offenses concerning ethnic discrimination; racist propaganda and the Internet; Nazi and racist political organizing; and White Power music.

#### THE ATTORNEY GENERAL AS SOLE PROSECUTOR FOR OFFENSES CONCERNING ETHNIC DISCRIMINATION

While the provision on agitation against a national or ethnic group states that speech intended to cause imminent violence may be penalized, it is only under certain narrow circumstances that this is implemented. An appeal for prosecution on such charges and any instructions on the restriction of freedom of speech can be initiated by the attorney general only.<sup>113</sup> By assigning one prosecutor, whose possibilities to start proceedings are significantly restricted,<sup>114</sup> the efficiency of the rule of law is compromised. A public court proceeding would encompass the elaboration of a clearer praxis.

During 2007, 155 cases of agitation against ethnic minorities were reported, but the attorney general initiated further measures to be taken in only six of them. The reported cases were either not considered criminal offenses or they were carried out in a medium, such as the Internet, flyers and graffiti, not covered by the Freedom of the Press Act or the Fundamental Law on Freedom of Expression. Since 2003 only four cases have been considered by the Supreme Court and only one of these actually led to conviction.<sup>115</sup> Many of these cases regard publi-

cations on the Internet, which is not covered by the so-called database provision in Chapter 1, §9 of the Freedom of Speech Act.<sup>116</sup> Several recent acquittals by the Supreme Court concerning the Internet and other publications<sup>117</sup> show that the existing legislation and its implementation is ineffective in restricting agitation against ethnic minorities.

#### RACIST PROPAGANDA ON THE INTERNET

For the right-wing extremist and racist organisations that are active in Sweden the Internet is the most powerful tool for garnering support and increasing activity within the organisation. Current legislation is ineffective in providing protection against this vehicle of racist propaganda, which therefore circulates freely.<sup>118</sup>

Swedish legislation provides space and opportunities for organisations to operate freely and publish racist propaganda on the Internet. Statistics show that over 1 000 racist activities and campaigns were carried out by different Nazi and racist organisations during 2007.<sup>119</sup> Groups such as the National Socialist Front (NSF), the Swedish Resistance Movement (SMR) and Info-14, have, during 2007, carried out 1 142 activities. These racist and Nazi activities can be divided into several categories: spreading propaganda material, such as flyers and newspapers; organized forms of vandalism, such as putting up posters and spray-painting messages in public spaces; arranging meetings, concerts, and public manifestations, e.g., the annual Nazi march in Salem.

Perhaps the most important recruitment base for Nazi and racist organisations is school children. A survey based on interviews with 1 300 headmasters indicates that racist propaganda circulates in 20 percent of the schools in Sweden.<sup>120</sup> Almost half of all schools lack a plan for dealing with right-wing extremist groups.<sup>121</sup>

One of the most active right-wing extremist groups, NSF, has favourable views on ethnic cleansing and anti-Semitism, and denies that the holocaust took place. According to the spokesperson for NSF, a significant number of young persons are recruited during their school campaigns.<sup>122</sup> Many activities organised by the NSF are criminal in nature and the young recruits are quickly drawn into such activities, especially assault and battery, often in connection with manifestations. This is also confirmed by the Swedish Secret Service Police (Säpo). Still, there are no preventive measures, such as information campaigns, to counteract this development.<sup>123</sup> Stronger measures are necessary to protect vulnerable groups such as children.

#### NAZI AND RACIST POLITICAL ORGANIZING

To gain respect in the public sphere many Nazi and racist organisations adopt what resemble traditional party platforms. They create political parties, recruit members and get financial support through political campaigns, publishing newspapers and running Internet shops.

Over time, such activities legitimize the organisation in the public eye, and it is able to enter the public political sphere where there are greater possibilities to influence people through the mass media.

The largest racist organisation in Sweden is the political party the Sweden Democrats. The party was established by persons previously active in the Nazi movement and who now do what they can to shed past associations and appear mainstream.<sup>124</sup> Their connection with and direct support of racist manifestos and propaganda becomes clear in the following examples.

A recent survey shows that six leading figures in the party who have held office during the past two years have in various ways supported the Nazi movement by donating money to militant Nazi groups.<sup>125</sup> The Sweden Democrats received more than 164 000 votes in the 2006 parliamentary election, that is 2,93 percent of the general vote, which is twice as much as they received in the previous election in 2002, and which, furthermore, qualifies them for financial support from the government.<sup>126</sup> Both the Sweden Democrats and the National Democrats have received financial party support from the Swedish state. In other words, the Swedish state finances the activities of parties that openly proclaim racist views, and in the case of the National Democrats are participants in demonstrations organized in collaboration with the Nazi movement.<sup>127</sup>

#### WHITE POWER MUSIC

White Power music and other racist propaganda circulate freely in Sweden. Sweden is also one of the leading producers and distributors of White Power music. According to a recent survey from 2003, 50 of the world's estimated 250 White Power music groups are based in Sweden.<sup>128</sup> This is as many as there are in the United States. According to the statute of limitations, legal proceedings must be initiated within a year of when the material was disseminated. Since it most often is impossible to determine when the material was distributed it also becomes difficult to initiate legal proceedings.<sup>129</sup> The fact that Sweden belongs to the few countries that did not implement legislative restrictions against Nazi propaganda after the Second World War has had a significant impact on the distribution of all kinds of Nazi propaganda, including White Power music.<sup>130</sup>

Free distribution of White Power music strengthens the Nazi movement through record revenues, magazine publications and concerts. The concerts are central to the recruitment of new members to Nazi organisations.<sup>131</sup> The Nazi record company Ragnarock Records, established in 1993, has invested much of its revenue in organizing the Nazi network Blood & Honour. The network arranges concerts, publishes newspapers and sells records. Moreover, the same individuals who established the record company are prominent figures in the National Socialist Front Party. Their concerts function as a meeting place for various Swedish and foreign-based Nazi organisations, especially within the former Eastern block.<sup>132</sup>

## CONCLUSION

Swedish legislation does not provide sufficient protection against organized forms of racist expression and has proved insufficient in those cases when the attorney general has initiated legal proceedings against persons charged with agitation against ethnic groups. Legislation should be compatible with the Fundamental Law on Freedom of Expression in banning racist organisations and participation in these organisations.<sup>133</sup> It is also of utmost importance that Sweden complies with its international legal obligations and acts in accordance with the CERD Committee's repeated recommendations to implement a ban on racist organisations and where incompatible with constitutional provisions introduce other protective measures to counteract racist propaganda and organisations.

### Recommendations

- Develop comprehensive legislation to address racism as a crime and implement a ban on racist organisations in line with international obligations.
- Make efforts to ensure greater effectiveness of legislation on racist crime.
- Introduce aggravated sentencing on the basis of racist motives.
- Re-examine the attorney general's role as sole prosecutor in crimes related to agitation against an ethnic group and consider handling such cases in public court.
- Introduce appropriate and effective measures to deal with racist propaganda and the presence of racist organisations in schools.

# Article 5: Equal rights

## Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; (d) Other civil rights, in particular: (i) The right to freedom of movement and residence within the border of the State; (ii) The right to leave any country, including one's own, and to return to one's country; (iii) The right to nationality; (iv) The right to marriage and choice of spouse; (v) The right to own property alone as well as in association with others; (vi) The right to inherit; (vii) The right to freedom of thought, conscience and religion; (viii) The right to freedom of opinion and expression; (ix) The right to freedom of peaceful assembly and association; (e) Economic, social and cultural rights, in particular: (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; (ii) The right to form and join trade unions; (iii) The right to housing; (iv) The right to public health, medical care, social security and social services; (v) The right to education and training; (vi) The right to equal participation in cultural activities; (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

This section is divided into several subtopics: employment, housing, education, health and access to goods and services in the private and public sectors. Each subtopic includes an overview of key problem areas and highlights relevant developments in the area of discrimination. Issues such as intersectionality, multiple forms of discrimination and data collection are cross-cutting, as has been pointed out earlier in this report. Although this report examines key areas separately, the intersectionality is important to recognize, since developments in one area may impact on another area. One example of this is how segregation in housing leads to segregation in education or how the quality of housing may impact on health status. Furthermore, access to employment and income directly impacts on a person's access to goods and services.

We have earlier in this report noted the phenomenon of multiple discrimination. The development of appropriate responses and the potential for legislation to address this largely depend on the availability of disaggregated data. Data is essential to comprehensively identify problem areas and measure the extent of the problems, which in turn is necessary to develop appropriate responses and reach effective solutions. The availability of data is complicated by the fact that it is not possible to collect data on the basis of ethnicity in Sweden. In specific areas, such as the police and court systems, it has been shown that the collection and availability of data is further complicated by underreporting and that some cases are not recorded as racist. A number of factors impinge on accurate data collection such as trust between communities vulnerable to racism, lack of awareness and knowledge about racism among authorities, and availability of resources. There is a need to develop data collection methods and data dissemination.

## 5.a: DISCRIMINATION IN THE JUDICIAL SYSTEM

### *Main concerns*

- Judicial authorities have the lowest proportion of employees with foreign or minority backgrounds.
- Not all individuals are treated equally before the law in the Swedish judicial system. The risk for discrimination as a consequence of discretionary decisions is considerable due to prejudices about crime tendency, truthfulness and trustworthiness of persons with foreign or minority backgrounds.
- Language plays a central role when it comes to discrimination in the judicial system. Limited knowledge of Swedish can significantly limit a person's access to preliminary investigation and to due process. Interpretation is a particularly important tool in bestowing equal treatment before the law, but the judicial system faces serious challenges when it comes to consistently providing access to proficient interpreters. In many cases unauthorised interpreters are used.

A report from 2008 on discrimination within the judicial process elucidates attitudes among prosecutors, lawyers, judges and court interpreters towards persons with a foreign background and minorities. The report reveals discrimination in all aspects of the judicial system, from initial police interrogations to sentencing. In discussing discrimination in the judicial system it is important not to limit this dialog to cases that constitute direct discrimination. It is equally important to increase the understanding for indirect discrimination, when situational subtleties can be misconstrued as equal treatment.<sup>134</sup> The question is relevant for two reasons: the judicial system's inability to handle language differences and the judicial system's unrealistic expectations that persons with foreign backgrounds will adapt to and understand the judicial system.<sup>135</sup> Institutionalized discrimination is manifested in the staff composition, discussed under Article 2. Since judicial agencies have the lowest number of employees of foreign background, they face a big challenge in adapting to a population that has become more heterogeneous.

### DISCRIMINATION AND DISCRETIONARY DECISIONS

Within the judicial system there are different decision points where administrators have greater freedom to decide which criteria a particular decision will be based on or how prescribed decision criteria should be interpreted from case to case. Such decisions are called discretionary. Swedish research and studies from the National Council for Crime Prevention suggest the risk of discrimination as a consequence of discretionary decision-making can be considerable in situations concerning police intervention; these include decisions about initiating and carrying out a preliminary investigation, arrest decisions, and determination of the type and length of sentences.<sup>136</sup> Prejudices about crime tendency, truthfulness and trustworthiness of persons with foreign or minority backgrounds are

examples that can influence the judicial system's assessments.<sup>137</sup> A person with a "foreign appearance", from a different region, dressing in a certain way, speaking with a particular accent or responding to questions in a certain way,<sup>138</sup> will be considered guilty more often than an ethnic Swede in the same situation. As a consequence, judges and prosecutors are not uniformly patient, sentences are allotted readily and based on inadequate evidence, and at times harsher penalties are dispensed.<sup>139</sup>

Researchers highlighted measures that could decrease risk of discrimination in connection with discretionary decisions. Measures include requirements that would force administrators to put their reasons for decisions in writing. An important step to decrease discretionary space for arbitrary decisions within the judicial system is to carry out a review of criteria that are currently applied in connection with legal decisions. Such a review would allow for a much-needed analysis of how the criteria used in the existing decisions affects different minority groups.<sup>140</sup>

Explicit actions are needed to increase sensitivity within the judicial system towards groups that are marginalized in society. By initiating and maintaining close cooperation with organizations that represent persons with foreign backgrounds, the experiences of persons with foreign backgrounds can be made more visible. An important measure here would be for the judicial system to collaborate with organizations that represent these groups.<sup>141</sup>

#### LANGUAGE AND ACCESS TO INTERPRETATION

Language has a central role when it comes to discrimination in the judicial system. Legal language is inherently complicated and difficult for someone with inadequate Swedish language skills to understand. Someone who has trouble expressing him- or herself in Swedish will also have difficulty providing detailed and nuanced responses to questions in an interrogation, which can damage the perceived reliability of statements given in court. On the other hand, a person with proficient Swedish language skills will have a greater advantage in court if s/he is able to read the preliminary investigation, understand all its components and then use that information to his or her benefit.<sup>142</sup>

Interpretation is the most important tool in providing individuals with a limited knowledge of Swedish equal treatment before the law. The lack of legal interpreters in the Swedish judicial system is a considerable problem. According to a survey conducted by the National Council for Crime Prevention, interpreters are not provided on many occasions despite the need, and trials are sometimes allowed to continue due to a pressed time schedule, even though it is evident that interpretation is necessary. At times interpretation is conducted via telephone, which is an ineffective method, often leading to miscommunication and misunderstanding.<sup>143</sup>

Moreover, unauthorised interpreters are hired frequently, and interpretation to

an individual's second or third language (not the mother-tongue) is common. In one documented case the judge had called on an individual in the audience to act as interpreter when he realized during the hearing that the respondent couldn't communicate in Swedish.<sup>144</sup>

Additional issues with interpretation can occur when a victim has to reveal something sensitive, such as an assault or violation. In an already difficult and sensitive situation a person must not only describe their experience to a person of authority, e.g., police or prosecutor, but also retell it to the interpreter.<sup>145</sup> In these cases it is important that a professional court interpreter is provided. Failure to handle language differences in the judicial system can in the worst case scenario lead to inadequate decisions and court rulings. Language interpretation is not only about translating that which is being said. Many cultural differences in ways of speaking, narrating and responding to questions can, by a court under a tight time schedule, be misinterpreted.

Accordingly, legal security is jeopardized in all of these cases.<sup>146</sup> In cases where the language barrier prevents fluent communication an interpreter has to be engaged or the hearings must proceed at a slower pace. The parties involved experience disproportionate time pressure in the various stages of the judicial system (particularly in court proceedings) and this is clearly a disadvantage for those who are not fluent in Swedish. The report of the National Council for Crime Prevention shows that despite investments made this year to train staff within the judicial system in diversity and discrimination, the need is still immense.<sup>147</sup> In light of this, educational initiatives should be launched for the staff in the judicial system. If it is the judicial system's intent to accommodate a multiethnic society, the status of court interpreters must be increased. Authorized interpreters today are underpaid because of the agreements that the National Courts Administration have with interpreting companies.<sup>148</sup>

The National Council for Crime Prevention points out that the judicial system is not covered under the surveillance of the Ombudsman Against Ethnic Discrimination. The legal provisions on rights to equal treatment within the judicial system are guaranteed by the system of government and the criminal code. But since indirect forms of discrimination are not covered by this legislation the National Council for Crime Prevention sees a significant need to review current legislation. Moreover, possibilities to establish an independent authority that would present complaints, conduct investigations and make appropriate measures necessary to combat ethnic discrimination within the judicial system should be assessed.

#### RACIAL PROFILING

The construction of certain racial or ethnic characteristics or behaviors and using these as a key factor in determining whether an individual might be guilty of a crime and therefore worthy of investigation, also called racial profiling, is a potential abuse by law enforcement officials. Racial profiling leads to a dispro-

portionate number of convicted persons from a minority or foreign background. CERD Article 5 (a) requires that everyone be treated equally before the law. Racial or ethnic characteristics should never be considered the primary or motivating factor for suspicion or police action.

Studies show that individuals with a foreign or minority background are disproportionately targeted in police controls in Sweden. They are also more likely to be stopped and interrogated on looser grounds than ethnic Swedes. They are more likely to be arrested and charged, and they are also held in detention for longer periods of time because they are considered at higher risk of escaping.<sup>149</sup>

As a result of racial profiling, offenses committed by persons from a foreign or minority background are more often recorded than offenses committed by persons with an ethnic Swedish background. Similar results can be seen when police specifically target predominantly minority populated areas.<sup>150</sup>

Qualitative and quantitative social justice markers are needed and should be developed to follow up the judicial system's activities. Data gathered and analyzed should include the following: differing police response times for crimes committed in different parts of a city; which groups are more frequently targets of police controls; police lead times on comparable crime investigations when suspected persons have different backgrounds including which cases lead to prosecution and when warrants are submitted, which judgments are appealed; differing sentences and penalties for different groups of indicted persons which should include follow up.<sup>151</sup>

#### POOR LEGAL SECURITY DURING ASYLUM INVESTIGATIONS

All asylum seekers that come to Sweden are allocated a public defender. However, these representatives are often inadequately informed regarding specific asylum issues or do not have time to acquaint themselves with the specifics of the client's case. Justification for poor representation is blamed on lack of time and heavy caseload. Written petitions submitted to describe client cases are often short and inadequate, excluding important information that could be used in deciding an asylum claim. Examples of this include accurate assessments of the living conditions from which the person is seeking asylum, whether the claimant belongs to a targeted ethnic group or sexual orientation, or if he or she has been the victim of torture or would risk torture or ill-treatment upon return to the country of origin. Representatives of the Swedish Migration Board are aware of this problem. Despite poor performance, many lawyers remain on the list of qualified public defenders for asylum cases. Not providing adequate representation is a breach of the right to equal treatment before the law.<sup>152</sup>

## Recommendations

- Actively recruit legal staff with foreign backgrounds to increase awareness about and understanding of ethnic and cultural differences. This would help persons with foreign backgrounds who come in contact with the various areas of the judicial system to feel safer and have more faith in the judicial system.<sup>153</sup>
- Launch educational initiatives for judicial system staff to counteract ethnic discrimination.
- Encourage the judicial system to take responsibility for creating conditions that make it possible for non-Swedish persons to attend court proceedings on equal terms.<sup>154</sup>
- Guarantee access to certified interpreters whenever necessary.
- Conduct an integrated diversity and equality analysis on political initiatives in the penal field. It's important to analyze the effects of new laws, working methods or strategies and whether these new initiatives lead to additional disadvantages for foreign persons. Review effects of political initiatives on different minorities.<sup>155</sup>
- Develop qualitative and quantitative social justice markers to follow up the judicial system's activities to counteract racial profiling and ensure equal treatment before the law.
- Implement measures to increase sensitivity within the judicial system towards groups that are marginalized. Encourage cooperation between the judicial system and organizations that represent people with a foreign backgrounds as it will help highlight their experiences of the judicial system.<sup>156</sup>
- Remove public defenders who knowingly performed inadequately in asylum cases. Legal proceedings in asylum cases should ensure equality before the law.

### 5.e (i): EMPLOYMENT

#### *Main concerns*

- Despite legislation that forbids discrimination in the labor market, ethnic discrimination prevails. Hence, legislative measures are not adequately implemented.
- Ethnic and religious discrimination prevail in the labor market and people are excluded for reasons other than qualifications and experience.
- Socio-economic segregation is correlated to unemployment rates. Persons who reside in disadvantaged suburbs are more likely to be unemployed than others. Poor schooling in disadvantaged suburbs helps sustain unequal access to the labor market.

- Institutional barriers such as language and citizenship requirements directly affect employment opportunities for immigrants and minorities, who are, due to discrimination in the formal labor market, forced to seek employment in the informal labor market where they receive no protection against violations and discrimination.

Ethnic discrimination continues to prevail in the area of employment despite legislation against it. Employment discrimination in Sweden is multilayered and encompasses access, progression, underemployment, the non-recognition of foreign qualifications, and worse, at times dangerous, working conditions and exploitation, especially of undocumented immigrants. Institutional barriers, such as language proficiency and citizenship requirements directly affect employment opportunities for immigrants and minorities who continue to be disproportionately affected by unemployment.

Although it is prohibited in Sweden to collect disaggregated data based on ethnicity or religious affiliation there are figures that indicate that people with a foreign background, especially those who live in disadvantaged areas, are more likely to be unemployed than the rest of the population. At the same time, people who are unemployed are more likely to live in disadvantaged areas. The most disadvantaged groups in terms of housing segregation are immigrants, in particular people from Africa and the Middle East. In 2005, 81 percent of the population between the ages of 20 and 64 born in Sweden were employed, whereas the equivalent figure for people born outside Sweden was 64 percent.<sup>157</sup> Non-European immigrants have considerably higher unemployment rates and earn less than native Swedes.<sup>158</sup> Particularly Muslims who wear a veil or a beard or who try to observe time for prayer face major obstacles in the Swedish labor market. The unemployment rate among the Roma population was discussed earlier in this report and includes direct and indirect forms of discrimination. Furthermore, it has been found that students with a foreign background have significantly lower scores in school, which may contribute to the high number of persons aged 20–24 with a foreign background who neither work nor study.<sup>159</sup>

The extent of inequality in the labor market cannot be determined by employment and unemployment rates alone. One also has to look at where ethnic minorities are employed since employment in low-skilled jobs and underemployment is very common. High unemployment may result from the non-recognition of foreign qualifications. Career progression and the “glass ceiling” effect are also issues for ethnic minorities. There are indications that confirm that discrimination is higher for ethnic minorities with higher levels of education. Due to discrimination ethnic minorities are more likely to find employment in the informal sector than in the formal sector. Here, language proficiency has particular relevance.

Not all members within minority groups are treated equally. Women from minority groups are particularly vulnerable. Furthermore, some groups, such as the

Roma and undocumented persons, are especially vulnerable to discrimination. Undocumented persons are vulnerable to exploitation and have limited access to protection in the workplace. Evidence of multiple discrimination can be seen in trafficking, the informal labor market and domestic work. Trafficking and forced labor are so-called “invisible” issues and are likely to be far more widespread than is known. Migrants are particularly vulnerable to trafficking, forced labor and forced prostitution.<sup>160</sup>

## **Recommendations**

- Improve effectiveness and efficiency of legislation against discrimination based on ethnic or religious background in the labor market.
- Instate affirmative action measures to diversify the formal labor market and to counteract the socio-economic segregation that prevails in Swedish society.
- Establish measures to protect victims of violations in the informal labor market.

### **5.e (iii): HOUSING**

#### *Main concerns*

- Ethnic discrimination in the housing sector, particularly concerning access and quality of housing is significant. Based on their ethnic or religious background individuals face systematic discrimination from landlords, housing authorities, and money lending institutions. Their ability to buy or rent apartments is also limited.
- Ethnic minorities are also discriminated against as a result of social exclusion and poverty.
- Homelessness rates have increased mostly among immigrant women.
- Private housing companies and realtors can apply discriminatory measures arbitrarily and are not held responsible by any state authorities.

Discrimination in the housing sector is significant, particularly in relation to access and quality of housing. Discrimination in the area of access can be direct and indirect, and protection from discrimination is not guaranteed. The existence of spatial segregation of ethnic minorities is systematic. The housing market has become a socio-political problem where landlords and the social services apply exclusionary measures, specifically against ethnic minorities.

Ethnic minorities are more likely to live in disadvantaged areas directly affected by segregated housing. They experience discrimination when purchasing property, as it is more difficult for them to secure bank loans because of discrimination in the financial and banking sector and lower income levels. Ethnic minority groups are vulnerable to extreme poverty as a result of discrimination and

social exclusion and are in turn discriminated against because they are poor. Because they are less likely to own property, they are more dependent on the private rental sector and social housing where they face additional difficulties such as substandard quality housing and segregation. The Roma minority, for example, is systematically discriminated against by housing companies (see section 2.2).

Asylum seekers and undocumented migrants are particularly vulnerable in the area of housing. The condition of reception centers and other types of detention and accommodation centers for asylum seekers can be deplorable and should be improved.

Housing companies and realtors determine requirements and choose tenants based on discretionary decisions, which enables uncontrolled ethnic discrimination. Protections that apply in the area of public housing do not apply to the private market. A study examining attitudes of landlords at private and municipal housing companies revealed widespread discrimination towards immigrants and ethnic minorities.<sup>161</sup> The study showed that frequently what yielded an invitation to view an apartment was a “Swedish-sounding” name, which indicates that ethnic minorities are not given equal rights to acquire housing.<sup>162</sup> Limited access to the housing market leads to limited access and possibilities in other socio-economic areas and inevitably results in increased segregation. Housing companies need routines to ensure equal treatment for all applicants, regardless of ethnic background. Transparency in the housing sector would limit discrimination.<sup>163</sup> Private housing companies, housing authorities and tenants’ organisations have to assume responsibility. The rental criteria of housing companies should be made public, and housing queues based on queue time should be established. Such measures would prevent arbitrary evaluations and limit opportunities for discrimination.

#### HOMELESSNESS AND ETHNIC DISCRIMINATION

Accurate statistics on homelessness in Sweden is not available because many homeless people fall outside the criteria used in official statistics. For example, a person who temporarily sublets an apartment from the social services is not counted as homeless. Hence, the homelessness problem is much higher than accounted for by the Health and Human Services Department. The largest group among unidentified homeless people are refugees who have been denied residency permits and asylum seekers. The Health and Human Services Department usually distributes questionnaire forms to investigate levels of homelessness among homeless persons who these “new” homeless persons are not in contact with.

Homelessness is frequently attributed to individual factors such as drug addiction or psychological problems, but the structural causes, including housing politics and discrimination in employment, should be given more attention. To accurately assess homelessness nationally and in order to be able to make compari-

sons with other European countries and measure changes over time, statistics must be based on a more inclusive and operational definition. The social group where the most significant increase of homelessness since 1999 can be identified is women born outside Scandinavia. Statistics suggest that individuals born outside of Scandinavia are overrepresented compared to the overall population. Causes for such an increase include economic changes and ethnic discrimination in the employment and housing markets.<sup>164</sup>

Homelessness among ethnic minorities is increasing and is further evidence of the difficulties experienced by ethnic minorities in accessing housing. Homelessness is evidence also of the vulnerability of ethnic minority groups to extreme poverty as a result of discrimination and social exclusion. This is a vicious circle for ethnic minorities. Discrimination is in itself a cause of poverty. People are discriminated against because they are poor. Hence, ethnic minorities find themselves in a cycle that is difficult to break.

### **Recommendations**

- Conduct an in-depth study on discrimination in the housing sector looking at institutional discrimination in banks and financial institutions and the extent to which banks refuse mortgages to persons with temporary residency permits and other immigrant groups and ethnic minorities.
- Address increase in homelessness among immigrants with measures that will guarantee housing.
- Enact legislation that requires housing companies to make rental criteria public. Housing queues based on queue time need to be established for all housing companies, limiting arbitrary evaluations and possibilities for discrimination.
- Encourage transparency in the housing sector including routines for housing companies to ensure that criteria are equally applied to all applicants regardless of ethnic background.
- In identifying measures to counteract discrimination cooperation between the housing sector and civil society actors, such as ethnic organisations and NGOs that have knowledge and experience working with people who live in socially excluded and disadvantaged neighbourhoods, should be encouraged.

#### **5.e (iv): HEALTH**

##### *Main concerns*

- Immigrants and persons who reside in disadvantaged neighbourhoods are more likely to suffer from poor health than the rest of the population.
- Many immigrants suffer from stress-related disorders for which they do not receive adequate healthcare.

- Sweden has the most restrictive rules for access to healthcare for undocumented migrants. Discriminatory practises are in breach of the right to receive the highest attainable standard of healthcare without discrimination.

Studies have shown that immigrants and people living in disadvantaged areas are more likely to suffer from poor health than the rest of the population.<sup>165</sup> The structural mechanisms of ethnic discrimination discussed above, including discrimination within housing, poor socio-economic prospects, stigmatization and marginalization, affect health and possibilities for a better health standard.<sup>166</sup>

#### HEALTHCARE FOR ASYLUM SEEKERS AND UNDOCUMENTED PERSONS

Sweden has one of the most restrictive rules for access to healthcare for undocumented migrants, according to a recent EU report.<sup>167</sup> Asylum seekers are entitled to “emergency” healthcare and healthcare “that cannot wait”, such as maternity care, while undocumented persons may only receive emergency healthcare and are required to pay the full cost of treatment and medication. Demarcations, such as “emergency” healthcare and healthcare “that cannot wait” are vague categories and allow for interpretations that are unjustifiable from a patient perspective. The demarcations also engender insecurity among the medical staff because they are in direct breach of legal demands under international law and medical work ethics, which dictate that medical personnel shall act out of principles set forth in medical science and always see to the patient’s best interest.<sup>168</sup>

The use of the abovementioned categories is regulated by an agreement between the Government and healthcare providers.<sup>169</sup> The Swedish government is currently drafting a proposal to legislate the agreement. If passed, the law would take effect on 1 July 2008.<sup>170</sup>

One positive aspect of the draft proposal is that it guarantees children with asylum-seeking status the same right to healthcare that is guaranteed children with a permanent residency. However, the agreement would not provide undocumented children with the right to healthcare. Medical personnel find themselves in pressing situations when expected to follow such government regulations since they are forced into situations where they have to discriminate among patient groups. Medical ethics require of them to provide equal access to healthcare, while the Swedish government’s guidelines violate those principles. Medical personnel are furthermore guided by the Convention on the Rights of the Child.

Special Rapporteur on Health Paul Hunt noted after his recent country visit to Sweden that the abovementioned discriminatory practices are in direct breach of a fundamental human right, i.e., that the right to the highest attainable standard of health is to be enjoyed by all without discrimination. This is especially important for vulnerable persons in Sweden since they are precisely the sort of disadvantaged group that international human rights law is designed to pro-

fect.<sup>171</sup> His findings are supported by the Committee on Economic, Social and Cultural Rights which stated in its 14th General Comment in 2000 that “States are under an obligation to respect the right to health by refraining from or denying or limiting equal access for all persons, including [...] asylum seekers and illegal immigrants, to preventive, curative and palliative health services.”<sup>172</sup> This is also endorsed by the CERD Committee’s General Recommendation No. 30, paragraph 36, from 2004.

The Swedish Red Cross<sup>173</sup> and medical personnel have reported cases when patients have died from preventable causes or risked dying because they had not received adequate healthcare.<sup>174</sup> There are also known cases where asylum seekers and undocumented persons have been reluctant to seek medical assistance, even in the most critical cases, because they are afraid of being reported to the authorities by medical staff.<sup>175</sup> A study conducted by Médecins Sans Frontières showed that 82 percent of undocumented persons have faced direct or indirect obstacles when seeking medical assistance.<sup>176</sup> Furthermore up to 25 percent of refugees and asylum seekers suffer from various forms of stress disorder but have great difficulties accessing mental healthcare.<sup>177</sup>

This situation highlights the need for clear and readily available instructions for medical personnel on equal access to medical treatment for asylum seekers and undocumented persons. The National Board for Health and Welfare has suggested that the government conduct a study on how healthcare and dental care could be provided to asylum seekers and undocumented persons on an equal term basis with everyone else living in Sweden. Minister for Health and Social Affairs Göran Hägglund has, however, in a recent statement indicated that such a study probably won’t be initiated in the near future.<sup>178</sup>

## Recommendations

- State authorities need to ensure that adequate healthcare is accessible, available and affordable for all persons residing in the country.
- The recommendation by the Special Rapporteur on Health should be supported and the Swedish government should reconsider its position and offer all asylum seekers and undocumented persons equal access to healthcare to bring itself into conformity with its international obligations.

### 5.e (v): EDUCATION

#### *Main concerns*

- Segregation in the educational system is a persistent problem and leads to lower educational achievement among ethnic minorities.
- Other structural forms of discrimination include lack of provisions for education that accommodate language and culture. Subsidized mother-

tongue education for ethnic and national minorities is not provided by Swedish schools and municipalities. Official statistics regarding the number of students entitled to mother-tongue lessons is misleading since it does not reflect actual demand.

- Educational materials promote and reinforce prejudices about different cultures by presenting stereotypical images of ethnic minorities and their cultures. Because of this, some families are unwilling to send their children to school, as they fear they will not be protected from discrimination.

Ethnic discrimination in the area of education continues to be a problem. Educational attainment of ethnic minorities is lower than that of the rest of the general population and the rate of leaving school early also tends to be higher. These difficulties arise from a combination of factors, such as segregation and other indirect and structural forms of discrimination. Segregation is a persistent problem, both as a result of segregation in the educational system itself and spatial segregation in housing.

The Roma remain among those who experience disproportionately high levels of segregation in education, and a vast majority of Roma youth and adults lack a complete elementary education. There is a strong distrust of the educational system within the Roma community and parents fear that their children will be subject to discrimination, which is reflected in the 40-percent absence rate in school attendance among Roma children. Furthermore, as a consequence of the school's negative expectations of Roma children, those with learning difficulties and disabilities are seldom assessed and do not have access to the help they need.

#### MOTHER-TONGUE EDUCATION

Other structural forms of discrimination include lack of provisions for education that accommodate language and culture. As discussed in Section 2.2, the need for subsidized mother-tongue lessons among Roma and Saami students is not being met by Swedish schools and municipalities, and official statistics on the number of students entitled to subsidized mother-tongue education is misleading since it does not reflect actual demand.

A recent survey by the Swedish School Board found that one-third of the country's municipalities do not inform the public about national minorities' specific rights to receive mother-tongue lessons.<sup>179</sup> Access to subsidized mother-tongue lessons can also vary from municipality to municipality. The Ombudsman Against Ethnic Discrimination is currently investigating cases where Saami schoolchildren have been denied mother-tongue lessons. Low priority given to Roma mother-tongue lessons is partly due to discriminatory attitudes among school personnel and administrators. A further complicating factor is that many parents choose not to inform the school of their children's ethnicity because they fear discrimination.<sup>180</sup>

Other factors that limit access to subsidized mother-tongue lessons are a lack of resources, difficulty recruiting certified teachers and a shortage of teaching materials. According to a study on Roma children in school conducted by the National Board of Education in 2007, there is a lack of authorized teachers in Romani Chib, the Roma language. The study shows that of the 15 mother-tongue teachers in Romani Chib who were employed in the entire country at the time of the study, none were authorised or had formal pedagogical training. This can partly be explained by the low level of education among Roma, but also by the fact that there hasn't been any formal training of mother-tongue teachers in Sweden since the beginning of the 1990s. The lack of literature, textbooks, teaching aids, radio programs, TV programs, and other media in Romani Chib is a serious challenge. Therefore, clear instructions should be given to school authorities to adjust mother-tongue education according to the abovementioned to ensure access for all to their language. This is particularly urgent for the Roma and Saami since institutionalized discriminatory practices created their illiteracy in the first place.

#### EDUCATION ABOUT CULTURE

Curriculum can also be a part of the problem. According to an evaluation by the Swedish School Board, Swedish school literature is inadequate when describing minority populations. When mentioned, groups are described with stereotypes that can be experienced as offensive and discriminatory. The presentation of Islam and Muslims in school material is almost exclusively always about militant Islam. Such one-sided exposure to the Muslims, most often in the context of war, conflict and terrorist attacks, can further contribute to and reinforce stereotypes and Islamophobia.

History curriculum gives a one-sided and very limited presentation of the history of and current situation of the Jews and Saami people. Students belonging to these minorities have a hard time identifying with the images portrayed. The three other national minorities – the Roma, the Sweden Finns and the Tornedalian people are not mentioned at all. School literature should counteract discrimination, not reinforce the stereotypes that cause it.

Limitations in the curriculum contribute to low school attendance and achievement by the Roma. According to the Ombudsman Against Ethnic Discrimination, many Roma believe that the school system will diminish their children's cultural identity and that the school's protection against unlawful discrimination of their children is inadequate. Furthermore, education about the Roma culture rarely takes place, despite required curriculum and course plans on this topic. The school has a central role in the work against discrimination.

## Recommendations

- Instruct school authorities to ensure mother-tongue literacy education for all. This is particularly urgent for the Roma and the Saami people as institutionalized discriminatory practices created their illiteracy in the first place.
- Evaluate best practices in different municipalities and replicate elsewhere. For example, there is a clear connection between increased attendance and improved grades for Roma children and youth when schools have employed Roma teacher assistants and children's nurses.
- Evaluate and update Swedish school literature to ensure that accurate and non-discriminatory descriptions of different cultures and ethnic minorities are available to all children in the Swedish school system. Materials regarding the Roma, the Saami and the Muslim cultures, especially, need to be developed to enrich curricula for all students.
- Allocate resources for an information campaign in schools about ethnic minorities.

### 5.f: THE RIGHT TO ACCESS TO PLACES AND SERVICES USED BY THE GENERAL PUBLIC

#### *Main concern*

- Discrimination against ethnic minorities in public places has increased, however, few reported cases lead to prosecution.

The Ombudsman Against Ethnic Discrimination has received an increased number of complaints about discrimination at public places. Access to public places, mainly to nightlife, such as bars and clubs, remain limited in Sweden for many young people of foreign background. There is a structural discrimination against young people with dark skin and dark hair, and in many places security guards are ordered by the owner of the establishment to deny access to people who look like they have a foreign background, especially those who look African. An organisation that initiated a series of situational testing managed to get one restaurant convicted in court for discrimination.<sup>181</sup> This created media attention and awareness. Since then a number of cases<sup>182</sup> were settled in court where the court ruled on behalf of the claimants. Unfortunately, this type of discrimination has not vanished and remains a significant problem in Sweden. Despite an increasing number of reports about discrimination, very few cases are actually heard in court as most cases are settled out of court. Proactive measures are needed to eliminate discrimination in this field and raise awareness on the right to non-discrimination. Information of these rights should also be available in public places, e.g., at the entrances of bars and campsites.

## **Recommendation**

- Take proactive measures to eliminate discrimination in terms of access to public places and services and initiate awareness-raising campaigns about the right of all people to be free from discrimination and the right to access all public places and services. Information about these rights should be made available in public places, such as at the entrances at bars, campsites etc.

# Endnotes

- 1 The National Council for Crime Prevention (BRÅ) Hatbrott 2006 (translated: Hate crimes 2006), Report 2007:17, p. 16.
- 2 *Ibid.*, p. 89.
- 3 Ekman, Almén, Transcript from lecture by the Stockholm Police Department hate crimes unit, held at the offices of UNA Sweden, March 2008.
- 4 The Yearly Report from the Office of the Prosecutor 2007 (Åklagarmyndighetens årsredovisning 2007), p. 42.
- 5 The National Council for Crime Prevention (BRÅ) Hatbrott 2006 (translated: Hate crimes 2006), Report 2007:17, p. 15 and p. 44.
- 6 Ekman, Mikael, head of the Stockholm Police Department Hate Crime Unit. Cited in lecture held at UN-forum conference, Stockholm, May 25, 2008.
- 7 Alhem, Sven-Erik in an interview by the Crime Victims Unit, article published at [www.brottsoffermyndigheten.se/default.asp?id=2685](http://www.brottsoffermyndigheten.se/default.asp?id=2685), p. 1.
- 8 The National Council for Crime Prevention (BRÅ) Hatbrott 2006 (translated Hate Crimes 2006), Report 2007:17, p. 48.
- 9 *Ibid.*, p. 48.
- 10 *Ibid.*, p. 44; and as has been referred to in Sweden's Eighteenth Periodic Report to the CERD Committee, 2006, p. 5.
- 11 Alhem, Sven-Erik, cited in presentation made at UN-forum conference, Stockholm, May 25, 2008.
- 12 Ruwaida, "Stoppa hatbrotten," *Aftonbladet*, January 2008.
- 13 The Yearly Report from the Office of the Prosecutor 2007, (Åklagarmyndighetens årsredovisning 2007) p. 42.
- 14 Fredrik Ingblad, prosecutor for Stockholm Police Department Hate Crimes Unit cited from telephone interview, March 2008.
- 15 The Yearly Report from the Office of the Prosecutor 2007, (Åklagarmyndighetens årsredovisning 2007) p. 43.
- 16 Ekman, Almén, Transcript from lecture by the Stockholm Police Department Hate Crimes Unit, held at the offices of UNA Sweden, March 2008.
- 17 The National Council for Crime Prevention (BRÅ) Hatbrott 2006 (translated: Hate Crimes 2006), Report 2007:17, p. 33.
- 18 Ekman, Almén, Transcript from lecture by the Stockholm Police Department Hate Crimes Unit, Held at the offices of UNA Sweden, March, 2008.
- 19 *Ibid.*
- 20 *Ibid.*
- 21 *Ibid.*
- 22 Office of Crime Prevention (Brottsförebyggande-myndigheten), Offer för hatbrott (translated: Victims of Hate Crimes), Report 2007, p. 25-26.
- 23 The National Council for Crime Prevention (BRÅ) Hatbrott 2006 (translated: Hate Crimes), Report 2007:17, p. 91.
- 24 Integrationspolitikens resultat (translated: Integration Policy Results), Integrationsverkets rapportserie (translated: Integration Department Report Series) 2007:05, p. 80.
- 25 *Ibid.*
- 26 Amongst the selected police cadets in the same year, "16 percent were from other ethnic and cultural background than Swedish." This categorization is different from the established category of people with foreign background (foreign born and domestic born with two foreign born parents) and Swedish background (domestic born with least one domestic given birth to parent). Integrationspolitikens resultat (translated: Integration Policy Results), Integrationsverkets Rapportserie (translated: Integration Department Report Series) 2007:05, p. 72.
- 27 *Ibid.*
- 28 Hammarnäs "Polisen behöver fler unga från utsatta förorter," (translated: "The Police need more youth from the suburbs") Göteborgs-Posten (Gothenburg Newspaper) Gothenburg, September 26, 2007.
- 29 This according to a survey among 1000 young people in vulnerable suburbs. *Ibid.*
- 30 *Ibid.*
- 31 Ekman, Almén, Transcript from lecture by the Stockholm Police Department Hate Crimes Unit, held at the offices of UNA Sweden, March, 2008.
- 32 *Ibid.*
- 33 Government official presentation of program for reforms of the SFI education, published at [www.regeringen.se/sb/d/9984/a/98336](http://www.regeringen.se/sb/d/9984/a/98336).
- 34 *Ibid.*
- 35 Håkansson, Linder, Jonsson "Ständigt denna SFI!" (translated: "Constantly this SFI!"), *KOM*, December, 2007.
- 36 Carlsson, Marie "Swedish language courses for immigrants (SFI): bridge or border?," Department of Sociology, Gothenburg University, 2002.
- 37 *Ibid.*
- 38 From the Attorney-General's closing statement before the High Court of Justice in case regarding unlawful ethnic discrimination at Uppsala University, summary published at: [www.jk.se/Beslut/XmlToHtml.asp?XML=Files/879-04-45.xml&XSL=../xsl/JK\\_Beslut.xsl](http://www.jk.se/Beslut/XmlToHtml.asp?XML=Files/879-04-45.xml&XSL=../xsl/JK_Beslut.xsl)
- 39 *Ibid.*
- 40 This latter argument is, for example, supported by former Ombudsman for Equal Opportunities, Claes Borgström, who sees more room for applying affirmative action measures in higher education. He presented these arguments at a lecture at the Helsinki Committee's offices in April, 2007.
- 41 Prop. 1976/77:80, bet 1976/77KrU43.
- 42 Sweden's seventeenth and eighteenth periodic report to the CERD Committee, p. 16.
- 43 CERD Committee's Concluding Observations on Sweden's 13th and 14th Report, CERD/C/304/Add.103.
- 44 Human Rights Committee's Concluding Observation on Sweden's 5th Report, CCPR/CO/74/SWE.
- 45 SOU 1975:99 Samerna i Sverige, p. 44.
- 46 Nordisk Samekonvention (translated: Nordic Saami Convention), p. 130.
- 47 Nobel, Peter, Transcript from lecture on the Saami in International Law held at Red Cross Conference in Jokkmokk, Sweden. February, 2006.
- 48 Based on the argument that a people belonging to an inferior nomadic culture are not to acquire title to land, the Saami people's traditional lands were declared to be the property of the Swedish crown in 1886. Henceforth, the Saami could only pursue reindeer husbandry in the traditional territories. They were, however, not allowed to establish residence by building houses, which was a right reserved for persons of Swedish decent. Substantial areas of traditionally Saami territories were systematically given to non-Saami settlers. It was not until the 1960-70 that this discriminatory system was eased as to the right to housing. But even with the introduction of new policies the Saami were not allowed to represent

themselves in administrative issues concerning their traditional lands. See Lundmark, Lennart, *Lappen är ombytlig ostadig och obekvämt, svenska statens samepolitik i rasismens tidevarv*, Umeå (2002), p. 57 f, p. 120, and Lundmark, Lennart, *Så länge vi har marker, Samerna och staten under sexhundra år*, Falun (1998), p. 74.

49 We refer here e.g. to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (the "ILO Convention No. 169") Art. 14 and 15, the ILO Convention no. 169's predecessor, ILO Convention No. 10749 Art. 11, Art. 27 of the CCPR and the findings of the Human Rights Committee, which on several occasions has pointed out that cultural rights pursuant to Art. 27 include a right to traditional land and territories, means of subsistence and participation rights. See for example *Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada*, Report of the Human Rights Committee, 45 UN GAOR Supp. (No. 43), UN Doc. A/45/40, vol. 2 (1990), *Kitok vs. Sweden*, Report of the Human Rights Committee, 43 UN GAOR Supp. (No. 40) UN Doc. A/43/40 and *I. Länsman et al vs. Finland* (Communication No. 511/1992), CCPR/C/52/511/1992, General Comment No. 23 (50) (art 27), adopted by the Human Rights Committee at its 1314th meeting (15th Session) and Concluding observations of the Human Rights Committee: Australia 28/07/2000, CCPR/CO/69/AUS. (Concluding Observations/Comments), para. 10 and 11. We refer also to the Inter-American Commission on Human Rights (the "IACHR"), Art. 30 of the Convention on the Rights of the Child and the United Nations Expert Seminar on Practical Experience Regarding Indigenous' Land Rights and Claims.

50 We refer here particularly to the Committee on Economic, Social and Cultural Rights' Concluding Observations on Sweden (UN document E/C.12/1/Add. 70, para. 28.), the CERD Committee's Concluding Observations on Sweden, the Human Rights Committee's Concluding Observation on Sweden (UN document CCPR/CO/74/SWE para. 15.) and Norway (UN document CCPR/C/79/Add.112 ), and the CERD Committee's Concluding Observations regarding the 16th Periodic Report of Finland (UN document CERD/C/63/CO/5, para. 11) and Norway (UN document CERD/C/63/CO/9 para. 19).

51 See Committee on the Elimination of Racial Discrimination, General Recommendation XXIII, on indigenous peoples, adopted at the Committee's 1235th meeting, 18 August 1997, CERD/C/51/Misc. 13/Rev. 4.

52 The Saami Council, L 2 chapter 1

53 Prop. 1992/93:32 p.42.

54 Swedish Section of the International Commission of Jurists, "Samernas rätt till deltagande och samråd: fysisk planering och infrastruktur", 2007 April, p. 19. and Council of Europe, Advisory Committee on the Framework Convention for The Protection of National Minorities, November 2007, p. 30-35.

55 2005/06:86 *Ett ökat samiskt inflytande*

56 Sweden's seventeenth and eighteenth periodic report to the CERD committee, p. 17.

57 2005/06:86 *Ett ökat samiskt inflytande*, p. 33.

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