

## SWEDEN

### CCPR A/33/40 (1978)

68. The Committee considered the initial report (CCPR/C/1/Add.9 and Corr.1) submitted by Sweden at its 52nd and 53rd meetings on 18 and 19 January 1978 (CCPR/C/SR.52 and 53).

69. The representative of the State party stated that he did not think that it was necessary for him to introduce his country's report, which was self-explanatory.

70. With regard to the statement made in the report to the effect that it had not been found necessary to lay down provisions equivalent to those of the Covenant in an independent Swedish statute because existing domestic law was in full accord with the obligations to be assumed by Sweden under the Covenant, some members asked whether it was possible for an individual to directly invoke the provisions of the Covenant before a court or administrative tribunal, or to call for the annulment of a law which ran counter to the Covenant. One member observed that the report, like others describing mainly constitutional and legal provisions, was incomplete as regards the actual situation affecting, in the terms of article 40 of the Covenant, the progress made in the enjoyment of rights.

71. Information was sought on the manner in which the proclaimed equality between men and women was implemented, with particular reference to the rights of men and women regarding the devolution of property, succession and legal representation.

72. With regard to article 4 of the Covenant, it was noted that the report contained no information on what legal measures could be taken during a period of emergency. The representative of Sweden was asked how a public emergency could be declared, what the extent of the control exercised by Parliament was or whether such control was exclusively an executive prerogative. Some members requested clarification on the reference in the report to the limitation on certain rights and freedoms permitted in the Constitution in order to satisfy "a purpose which is acceptable in a democratic society" and on the authorities which were entitled to impose such limitations.

73. Concern was expressed at the forms of deprivation of liberty that might result from the application in Sweden of the law on "anti-social behaviour". More information was requested on the meaning of that expression, on the situations covered by the law and on the safeguards introduced to prevent its abuse.

74. With reference to the comments made in the report on article 9 of the Covenant, the representative was asked whether Swedish law provided for forms of conditional release pending trial in the absence of the system of bail, what reason other than a criminal charge could justify taking a person into police custody and for how long a person awaiting trial on a criminal charge

could be so detained.

75. As regards article 12 of the Covenant, clarification was requested on the authority involved in denying a passport to an applicant suspected of "pursuing relations" with a foreign power, on the meaning of the expression "pursuing relations" and on whether individuals had the right to challenge decisions denying them passports.

76. With reference to article 13 of the Covenant, it was observed that the pronouncement of a sentence against an alien residing in Sweden always being accompanied by an order of expulsion was a harsh measure, especially when made against an alien who had been residing in that country for many years and might even be married to a Swedish citizen. Various questions were asked: were there any cases in which the act of expulsion by the Executive was not justiciable? What distinction was made between expulsion and deportation? Why were some decisions taken by courts of general jurisdiction and others by regional administrative courts?

77. As regards the principle embodied in article 14, paragraph 1, of the Covenant, clarification was sought on the exceptions permitted in Swedish law from the principle of the openness of court proceedings, the cases in which a court decision was not made public, whether the circumstances which justified the holding of trials in camera were equally applicable to aliens and citizens, and, if they were, what grounds there were for providing that extradition proceedings in camera were admissible where they were conducted against aliens. With reference to article 14, paragraph 3, the representative was asked who could reject a counsel appointed by the accused and for what reasons such a decision could be made.

78. As regards article 17 of the Covenant, in the light of the principle of equality of all persons before the law as guaranteed in article 14, paragraph 1, the representative was asked why a court consent could be obtained for telephone-tapping where aliens only were involved. More information was requested on the circumstances in which searches were permitted and on any provisions in Swedish law for electronic surveillance by the police and other authorities.

79. Regarding article 18 of the Covenant, clarification was requested on the meaning of the statement in the report that everyone was free to practice his religion in so far as he did not provoke "public indignation" by doing so. It was observed that equal facilities were not afforded to all religious communities and the question was asked, What benefits were enjoyed by the Church of Sweden but not by others? It was also observed that the Swedish legislation concerned made no mention of the freedom not to profess any religion or to be an atheist, and the representative was asked whether religious instruction was compulsory in schools. Information was requested on any new steps that might have been taken by the Swedish Government to bring its legislation into line with the provisions of article 18 of the Covenant.

80. Referring to article 19 of the Covenant some members requested clarification on the statement made in the report that freedom of expression and of information might be restricted in the interests of the "security of the Realm" and of "the economic well-being of the people". The representative was also asked whether and how such restrictions had been applied and how they

were justified as being consistent with the Covenant. Similar requests for clarification were made on another statement in the report to the effect that films might not be allowed to be shown in Sweden if they were considered to be □conducive to coarseness□ or □dangerously inflammatory□, and the representative was asked whether such censorship could be challenged. In that connection, it was noted that radio and television were State monopolies. Information was sought on how far such media were controlled by the Government and what authority had been set up to ensure that radio and television broadcasting was not merely another instrument of the Executive.

81. Quoting a statement in the report that registration of persons who were considered to be security risks could be made in the interests of the protection of the democratic society, some members requested clarification on the meaning of that statement and asked which authorities decided who were security risks, whether individuals had any means of challenging such a designation and whether organizations could be so registered. The representative was also asked whether journalists and private individuals could consult the public records and thus discover that certain persons were regarded as security risks.

82. Referring to the provisions of articles 23 and 26 of the Covenant, one member asked whether Swedish men and women who married foreigners enjoyed the same treatment with regard to the right of residence and what conditions the foreign husband or wife would have to fulfil in order to acquire Swedish nationality.

83. As regards articles 26 and 27 of the Covenant, more information was requested on the steps that the Swedish Government and Parliament intended to take in order to bring existing legislation into line with the detailed provisions of article 2, paragraph 1, and article 26 of the Covenant concerning the prohibition of discrimination, as well as on the situation of the ethnic, linguistic and religious minorities in Sweden.

84. The representative of Sweden commented on the observations and questions summarized in the preceding paragraphs. He stated that the courts and the administrative authorities had the right to examine the constitutionality of laws and regulations. As regards article 3 of the Covenant, he stated that there were no legislative provisions relating to the principle of equality of the sexes and that a Government Commission was drafting a bill on the question. With reference to article 4 of the Covenant, he stated that no provision was made for the suspension of the Constitution in a public emergency and that in such a situation no law contrary to chapter 2 of the Swedish Constitution, which guarantees certain freedoms and rights, could be enacted.

85. Commenting on the concern expressed by several members of the Committee regarding the act on anti-social behaviour, he pointed out that the implementation of that act was subject to a court decision which could be taken only if it was apparent that the person concerned could not be helped in any other way to adopt a normal way of life. He also maintained that there was a safeguard against abuse of the possibility of committing an individual to an occupational institution, since an appeal against a decision to that effect could be lodged with a higher court.

86. As regards the comments made in respect of article 9 of the Covenant, he stated that existing

alternatives to the system of bail included prohibiting a suspect from leaving his place of residence or seizing his property for the approximate value of any damages a court might subsequently require him to pay. Replying to another question, he said that the period of detention in custody depended on the duration of the investigation but that, in any event, the court must ensure, at least every two weeks, that the investigation was being carried out as expeditiously as possible. If the court found that there were no longer any legal grounds for keeping the suspect in custody, his release must be ordered.

87. Referring to questions asked in connection with article 12 of the Covenant, he stated that it was for the Swedish authority responsible for issuing passports to decide whether any of the grounds for refusal to issue a passport were applicable in a particular case. Such a decision, he added, could be appealed against.

88. As regards article 13 of the Covenant, the representative of Sweden stated that an expulsion order was issued in connection with the imposition of a sentence of imprisonment of more than one year while deportation of an alien could be ordered for various reasons mentioned in the Aliens Act, such as failure to lead an honest life, misuse of drugs or failure to meet obligations to the community or private individuals. Commenting on the possibility that, in an exceptional case, the Government could expel or deport aliens directly, he explained that that provision had been introduced following an alarming increase in the number of international crimes involving violence. The Swedish Government had only rarely had recourse to that possibility and, in any event, the alien in question was entitled to counsel at public expense. He said that the Government, as the supreme authority for the execution of an expulsion order, gave due consideration to the human factors involved in the matter.

89. With reference to questions asked concerning court proceedings under article 14 of the Covenant, he indicated that when national security was involved, proceedings could be held in camera, but the verdict was generally made public. He also said that the court could reject a counsel on the grounds of misconduct, but that an appeal could be lodged against such a decision.

90. Replying to comments made under article 17 of the Covenant, he pointed out that the basic requirement for a search of premises was that there should be reasonable grounds for believing that an offence punishable by imprisonment had been committed. He added that more stringent rules applied to searches of premises other than the offender's place of residence. In that connection, he pointed out that telephone-tapping required a court decision.

91. In respect of article 18 of the Covenant, he pointed out that religious instruction was given in an objective and neutral manner, which should not be contrary to personal beliefs and that pupils exempted from religious instruction at school, in accordance with the provisions of the law, must, in every case, be given equivalent religious instruction outside school hours.

92. As regards the questions and comments made under article 19 of the Covenant, the representative of Sweden stressed that the possibility of registration of persons on account of their political opinions might exist in exceptional cases but that the records were not available to the

public. Furthermore, he added, there was an elaborate system of supervision and no one's political opinions would be recorded solely on the grounds that that person had committed a crime. Referring to queries on the meaning of the expressions "security of the Realm" and "the economic well-being of the people", mentioned in the report as possible justification for restricting the freedom of expression and of information, the representative of Sweden stated that the former expression corresponded to the concept of "national security" as used in articles 19, 21 and 22 of the Covenant whereas the latter expression related only to situations of serious economic crisis, and he stressed that no law had been passed under which the economic well-being of the people could be invoked to justify such restrictions. He also stated that no advance censorship was exercised over broadcasts despite State monopoly of radio and television. As to the question put to him on the meaning of the expression "democratic society" mentioned in the report in connection with article 19 of the Covenant, he pointed out that it must be interpreted in the light of the Swedish Constitution. As regards film censorship, he indicated that the expressions "conducive to coarseness" and "dangerously inflammatory" mentioned in the report were to be interpreted in the light of the moral values prevailing at the time when the decisions were taken. Moreover, an appeal against those decisions could be lodged with the Government.

93. Replying to a question concerning the rights to residence and nationality enjoyed in Sweden by foreigners married to Swedish women, he stated that normally a marriage duly entered into with a Swedish citizen would be taken into consideration for the purposes of issuing a work permit or granting Swedish citizenship. Referring to another question under article 26 of the Covenant, he said that the Penal Code provided for the punishment of unlawful discrimination.

94. The representative of the State party finally stated that his Government would supplement the answers he had given as it deemed appropriate.

## CCPR A/35/40 (1980)

76. The Committee considered the supplementary report submitted by Sweden (CCPR/C/1/Add.42), containing replies to the questions raised during the consideration of the initial report (CCPR/C/1/Add.9 and Corr.1), <sup>4/</sup> at its 188th and 189th meetings, on 23 October 1979 (CCPR/C/SR.188 and 189).

77. The Committee began its consideration of the supplementary report with the question of the implementation of the Covenant in Sweden. Some members of the Committee agreed that reflecting the relevant provisions of the Covenant in domestic legislation, as Sweden did, was in keeping with the Covenant. Other members wondered whether, from the standpoint of the individual, it was not preferable for the provisions to be incorporated directly into domestic legislation. They asked whether there was any particular reason for not incorporating the Covenant directly into Swedish legislation and whether laws could be declared null and void if found by the courts to be in conflict with the Covenant. Noting that the setting up in Sweden of a Parliamentary Commission to consider the authority of courts to examine the constitutionality of laws suggested that there might be some doubt in the matter, one member wondered whether there was any foundation for this doubt and asked whether there had been cases in which a law had been declared unconstitutional by a Swedish court. It was also asked if the Ombudsman could give an opinion on whether the rights set forth in the Covenant were respected in the legislation and practice of the State and if Swedish legislation enabled an individual to appeal against an administrative decision in all circumstances.

78. The representative of Sweden replied that the choice to implement the Covenant by reflecting its relevant provisions in the legislation rather than by directly enacting the Covenant into a special law mirrored Swedish legal tradition regarding the relationship between treaties and domestic laws; that, although the system of direct implementation would make it possible to challenge the conformity of Swedish legislation with the Covenant and not merely with the Constitution, the present system made it easier for the courts and administrative authorities to apply domestic laws which gave effect to the provisions of the Covenant. If a provision of Swedish law was difficult to interpret, the court would interpret it in the manner most in keeping with the treaty which such a law reflected. He added that, to his knowledge, there had never been a case of direct conflict between a domestic law and the Covenant in Sweden; that should such a conflict arise, domestic law would prevail and hence it would be the task of the Government to bring domestic law into line with Swedish international undertakings. As to the right of the courts to examine the constitutionality of laws, he indicated that, according to Swedish legal theory, the courts had the right to refuse to apply a law considered to be manifestly in conflict with the Constitution but there had never been a case to that effect. However, the bill submitted to Parliament pursuant to the Parliamentary Commission's report, referred to in the discussion, would make specific provisions in this matter. Replying to another question, he stated that the Ombudsman was not competent to deal with violations of the Covenant as such since his duties were to supervise the implementation of Swedish

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<sup>4/</sup> The initial report of Sweden was considered by the Committee at its 52nd and 53rd meetings on 18 and 19 January 1978, see CCPR/C/SR.52 and 53 and Official Records of the General

Assembly, Thirty-third Session, Supplement No. 40 (A/33/40), paras. 68-94.

legislation but that it was not impossible that, in his reports to Parliament, he might draw attention to the possible inconsistency of Swedish legislation with the Covenant or even adopt a definite position in that respect. As to the question of appeal to administrative courts, he indicated that the legislative texts provided that appeals should be made to a particular administrative court and that if there was no possibility of appeal, a superior administrative agency or the Government itself would settle the matter.

79. Members of the Committee asked several questions concerning the rights enjoyed by aliens in Sweden in the light of the principle of non-discrimination embodied in article 2, paragraph 1, of the Covenant. Questions were asked as to whether aliens enjoyed the rights enshrined in the Covenant to the same extent as Swedish nationals, including their rights before legal bodies without having to make deposits in the nature of the cautio judicatum solvi; why certain rights provided for in the Freedom of the Press Act were not recognized for aliens; what would be the position of an alien whose right under article 12, paragraph 2, of the Covenant was violated; what was the situation regarding the right of an alien, expelled with immediate effect in pursuance of a decision, to have his case reviewed by the competent authority, as provided for in article 13 of the Covenant; whether an alien sentenced to one year's imprisonment could be expelled from Sweden despite having already been resident there for five years; whether an alien who married a Swedish national acquired Swedish nationality ipso facto; and whether, in the case of divorce, the naturalized Swedish spouse could be expelled.

80. Commenting on the questions summarized in the preceding paragraph, the representative stated that in accordance with the Constitution foreigners enjoyed fundamental rights on an equal footing with Swedish nationals and that this principle applied to nearly all human rights with the exception of the right to remain in Sweden and the right to vote; that only aliens resident outside Sweden had to deposit the cautio judicatum solvi, unless an agreement had been signed between their country and Sweden; that the rights laid down in the Freedom of the Press Act were guaranteed to nationals under the Constitution and applied to aliens under conditions of equality except that, in the latter case, they could be limited by legislative provision; that the right to leave Sweden was guaranteed to Swedes and that there was no reason why it should be refused to aliens; that expulsion decisions affecting aliens could always be the subject of an appeal which could go to the highest court, the lodging of the appeal having a suspensive effect; that, in practice, an alien could not be expelled even if he had committed a serious offence, provided that he had resided in Sweden for five years, except in certain specific cases and for very special reasons; that an alien could normally acquire Swedish nationality if he had been resident in the country for not less than five years but that the required period was reduced in the event of a marriage with a Swedish national; and that a person who had acquired Swedish nationality by marriage could not be deprived of it as a result of a divorce or otherwise and could in no case be expelled.

81. Referring to the equal rights of men and women provided for in article 3 of the Covenant, in conjunction with article 26 which required the adoption of positive measures to prevent discrimination, some members of the Committee asked if the new Act on equal treatment of men

and women provided for affirmative action with respect to sexual equality, including social, economic and administrative measures and what budgetary resources were earmarked for the training of women.

82. The representative pointed out that the new Act had made it unlawful, on the ground of discrimination, to provide less favourable conditions of employment to one sex than to another in respect of the same or equal work; that the Act covered equality in employment, training and working conditions and provided a judicial remedy in case of complaint. He referred the Committee to the very full and detailed accounts of his Government's action contained in its reports submitted under the International Convention on the Elimination of All Forms of Racial Discrimination which required, as in the case of article 26 of the Covenant, positive action against discrimination.

83. With reference to article 9, 10 and 14 of the Covenant, it was asked whether the Police Board mentioned in the supplementary report qualified, for the purposes of article 9, paragraph 4, as a tribunal with all the necessary guarantees as to its composition and procedures and, if not, whether its decisions could be subject to an appeal to a judicial body; how compensation for a person unlawfully arrested or detained could be obtained and whether a foreigner held in custody on the basis of an expulsion order which was subsequently annulled would be entitled to compensation. Referring to the possibility of rejecting counsel for the accused, one member asked how often that rule was actually applied. The question was also asked as to what was the general trend of Swedish legislation with regard to the treatment of offenders.

84. The representative indicated that the Police Board's powers were confined to the taking of persons into provisional custody for a maximum of one or two days; that thereafter, it was for special bodies to take appropriate action, and that such action was subject to appeal to an administrative court or to another comparable body providing all the necessary guarantees as to its composition and procedure; that, under the Tort Act, the State was generally held responsible for wrongful acts committed by public bodies in Sweden and that the amount of compensation due in such cases was decided by a court; and that the correct procedure for a foreign victim of such a wrongful act would be to sue the State before an ordinary court, asking for compensation. As to the possibility of rejecting counsel for the accused, he stated that the relevant provision was applied only in very exceptional cases when the behaviour of counsel made it impossible to conduct proceedings in a reasonable way. He also pointed out that the objective of the Swedish penal system was primarily social rehabilitation in the spirit of article 10, paragraph 3, of the Covenant.

85. One member asked how restrictions to freedom of expression on the ground of the economic well-being of the people or of the national economy, as mentioned in the supplementary report, could fall within the restrictions permissible under article 19, paragraph 3, of the Covenant.

86. The representative of Sweden stated that the term "in the interest of the national economy" was not an adequate translation of the Swedish term, whose exact meaning was "in order to provide for the needs of the people"; and that what the legislators had in mind was the eventuality of war or some other emergency situation, in which special measures had to be taken to provide for the basic economic needs of the people.



87. Concern was expressed regarding the Swedish act on anti-social behaviour and the possible harmful consequences in other countries if that act were taken as a model. It was suggested that since the act had apparently never been applied in practice its repeal should be considered. The representative of Sweden said that he would take the matter up with the appropriate authorities in his country.

## CCPR A/41/40 (1986)

101. The Committee considered the second periodic report of Sweden (CCPR/C/32/Add.6 and 8) at its 635th to 638th meetings, from 29 to 30 October 1985 (CCPR/C/SR.635-SR.638).

102. The report was introduced by the representative of the State party who said that the same concept of basic human rights which inspired the Covenant also underlay his country's Constitution and that, therefore, Sweden had had to make only marginal adjustments to its legislation upon its accession to the Covenant. He recalled, however, that Sweden had entered a reservation relating to three points: the separation of young offenders from adults in prison, the prohibition against war propaganda, and the reopening of completed criminal proceedings when new evidence had come to light. Noting that Sweden had made the declaration under article 41 of the Covenant and had acceded to its Optional Protocol, he expressed regret that more States parties had not yet done likewise.

### Constitutional and legal framework for the application of the Covenant

103. Members of the Committee wished to receive information concerning substantive changes relevant to the implementation of the Covenant that had been introduced since the submission of the previous report, including specific steps to ensure that laws and regulations were consistent with the Covenant. In the latter connection, they wished to know how recent amendments to the Constitution provided better protection against the limitation of rights and freedoms proclaimed in the Covenant and whether Swedish law contained any provisions inconsistent with or derogating from the Covenant. They also asked how the Committee's desire for specific, more detailed information on legislation and regulations giving effect to the Covenant had been taken into account in the second periodic report, regarding both pre-existing and new laws and regulations. Additional information was also sought about activities furthering implementation of the Covenant and promotion of public awareness of its provisions and about factors and difficulties - at least those that were most obvious - affecting the implementation of the Covenant.

104. Noting that the provisions of the Covenant could not be directly invoked before Swedish courts, members wondered whether the Covenant could be used at least as a basis for interpretation by the judiciary and State institutions and whether judges were acquainted with its provisions or had ever referred to them in their rulings. Members asked further, in that regard, whether there was any procedure for questioning Swedish legislation on the ground that it was in conflict with the Covenant and whether anybody was empowered to consider the conformity of such laws with the Covenant. Referring to statements in the report, members also requested clarifications concerning a new constitutional provision, under which proposals affecting human rights were to remain pending for a specified period, and the procedure for review of new legislative proposals by a special Law Council, to verify their conformity with international agreements; they also asked whether there were any effective domestic remedies - in the area of racial discrimination, for example - if the Government or the parliament were to adopt provisions contravening the Constitution or the Covenant. One member also asked whether the ombudsman had jurisdiction to investigate alleged

breaches of fundamental rights guaranteed under the Swedish Constitution or the Covenant.

105. Replying to questions raised by members of the Committee, the representative of the State party explained that it was difficult for Sweden, because of its legislative traditions, to implement international conventions by incorporating them directly into the legislative framework. Before acceding to the Covenant, Sweden had developed a thorough system to ensure that its laws and regulations were consistent with that instrument and that system had been supplemented over the years, for example, through the establishment of the Equal Opportunities Ombudsmen and the reorganization of the Parliamentary Ombudsman's Office. Pre-existing laws and regulations had been modified as necessary upon Sweden's accession to the Covenant and Swedish law contained no provisions that were inconsistent with the Covenant except in the areas where reservations had been entered. Individuals claiming that Swedish legislation was not in accordance with the Covenant's provisions could invoke such provisions directly before the courts, with the latter being obliged to take account of any such disparities in applying the law. Some cases of alleged conflict between Swedish legislation or judicial practice and the Covenant had been adjudicated by the Supreme Court or referred to the European Court of Human Rights. Sweden also willingly accepted the individual complaint procedures established under the Covenant and other human rights instruments.

106. Swedish courts and other authorities were required to consider the fundamental rights and freedoms laid down in the Covenant, but only indirectly, by virtue of their obligation to take account of the Constitution - which contained a lengthy chapter devoted to human rights equivalent to those set forth in the Covenant. Similarly, the ombudsman had a right to consider complaints alleging human rights violations - whether or not they were covered under the Covenant - but only against the background of Swedish legislation and allegations of the unconstitutionality of that legislation. Beyond recourse to the ombudsman system and the appellate courts, effective remedies could also be sought by referring cases to the Human Rights Committee or the European Commission of Human Rights. As to specific remedies against racial discrimination - which was a particularly important area of human rights - the subject had been dealt with by a Commission on Ethnic Prejudice and Discrimination, which had submitted a report in 1984. As a result, consideration was being given, among other things, to the possible appointment of an ombudsman on racial or ethnic discrimination, with functions similar to that of the Equal Opportunities Ombudsman.

107. The provisions of the Covenant were well known to judges and to all Swedish authorities and a knowledge of human rights instruments was required in law schools. All proposals for a change of legislation or for a new legislation were subject to review by a special Law Council, which had a duty to ensure that the proposal, if enacted, would be in conformity with Sweden's obligations under international agreements. The special procedure relating to postponement of consideration of any legislative proposal that could restrict the rights and freedoms set forth in the Constitution was intended to discourage possible infringement of such rights by enabling a group of only 10 members to parliament to delay action on the proposal unless overruled by a five-sixths majority.

108. Activities through which Sweden furthered the implementation of the Covenant included the use in Swedish schools of human rights information received from the United Nations Educational,

Scientific and Cultural Organization (UNESCO) and the establishment of an Institute of Human Rights at a Swedish university. All basic human rights texts were available in Sweden and were distributed on Human Rights Days, which offered an opportunity for publicizing what had been done and what still needed to be done in the human rights field.

### Self-determination

109. With regard to that issue, members of the Committee wished to know Sweden's position on apartheid and the right to self-determination of the peoples of Namibia and Palestine. Expressing satisfaction over the fact that Sweden regarded apartheid as a crime and spoke out against it, one member asked about measures taken by the Government to prevent its citizens, and corporations established under its laws, from having economic relations with or conducting any other type of activity in South Africa that would amount, in effect, to participation in that crime and to helping to perpetuate that system. Another member wondered why, given Sweden's opposition to apartheid, it had not ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid.

110. In his reply to the questions raised by members of the Committee, the representative of the State party said that the Nordic Governments had been participating in a joint programme of action against the South African régime since 1978, a programme that had been further elaborated and strengthened at a recent meeting in Oslo of Nordic Foreign Ministers. His Government believed that the Security Council should take wider mandatory sanctions against South Africa. Sweden's failure to ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid, did not reflect any unwillingness on its part to participate in measures designed to bring the abhorrent system of apartheid to an end. It had to do solely with the way the International Convention was formulated, which, in Sweden's view, entailed international legal obligations that could not be fully understood or implemented.

### Non-discrimination and equality of sexes

111. With reference to that issue, members of the Committee wished to receive information on how the provisions of article 2, paragraph 1, of the Covenant, which prohibited discrimination with respect to the rights recognized in the Covenant "without discrimination of any kind", were given effect under Swedish law and regulations. It was asked, in that regard, which constitutional and legislative provisions specifically reflected or reverted to the wording of article 2, paragraph 1, of the Covenant. Referring to certain proposals by the Swedish Commission on Ethnic Prejudice and Discrimination, mentioned in paragraph 6 of the report, one member asked for specific information regarding the problem of ethnic discrimination in the labour market that the Commission's proposal sought to address, and regarding the posts, currently reserved for Swedish citizens, which might in the future also be opened to aliens under the Commission's proposal. The member also asked whether aliens who were easily identifiable as such were exposed to greater discrimination than others and wished to have more details concerning ethnic discrimination in housing. Also with regard to ethnic discrimination, it was asked whether the Equal Opportunities Ombudsman and the Equal Opportunities Commission were empowered to deal with that type of discrimination.

112. Another member wished to have more detailed information on the protection of individuals against discrimination on political grounds, noting that in connection that the scope of articles 2, 3 and 12 of the Constitution - which were more recent than the Covenant - appeared to be more restrictive than the relevant provisions of the Covenant. He also asked whether measures had been taken to enable migrant workers in Sweden to enjoy all their rights under the Covenant. Still another member of the Committee wished to know what shortcomings there were in implementing the principle of non-discrimination in Sweden. Additional information was also requested concerning the application of section 27 of the 1980 Aliens Act, which provided for restriction of the residence of aliens to □within a specific part of Sweden□ and regarding the duration of such restrictions. Referring to the fact that discrimination was often aimed at groups rather than individuals, one member asked whether it was possible, under Swedish law, for associations involved in the struggle against racial discrimination to replace individuals in bringing charges for acts of discrimination.

113. Members of the Committee also wished to have further information concerning the status of women, especially relevant statistical data. Clarification of the term □positive special treatment□, mentioned in the 1980 Act concerning Equality between Men and Women, was also requested. Noting that hundreds of cases of discrimination had been submitted immediately after the establishment of the Equal Opportunities Ombudsman, it was also asked how many such cases were being submitted currently, what allegations of discrimination were made and what results were achieved through the Ombudsman□s interventions.

114. Responding to questions raised by members of the Committee, the representative of the State party said that the basic provisions against discrimination were contained in chapter 2, articles 15 and 16, of the Swedish Constitution, which were translated into prescriptions covering a wide range of legislation. As examples of the latter, he mentioned provisions in the Penal Code prohibiting defamation and agitation against ethnic groups, the prohibition of threats or contempt against ethnic, national or religious groups, contained in chapter 7, section 4, of the Freedom of the Press Act, the Act concerning Equality between Men and Women at Work, and the creation of the Equal Opportunities Ombudsman and Equal Opportunities Commission.

115. Turning to questions relating to the proposals of the Swedish Commission on Ethnic Prejudice and Discrimination, the representative explained that new legislation on ethnic discrimination would not be oriented exclusively to the job market but would also encompass other aspects of social life. Accordingly, the Swedish authorities were currently working on proposals to establish a new post of ombudsman, the incumbent of which would be empowered to negotiate with employers, initiate discussions with various social groups on discrimination issues, give advice, and otherwise play an active role, particularly in the field of education. He would also be responsible for taking cognizance of complaints and would be assigned powers similar to those of the Equal Opportunities Ombudsman, although each would have a clearly defined field of competence. The draft under preparation also envisaged the establishment of a racial discrimination council and a system of fines payable by employers who disregarded the recommendations of the ombudsman or the council. In addition, the system of sanctions applicable for acts of hostility against ethnic groups would be expanded and strengthened.

116. Regarding ethnic discrimination in housing, there was no doubt that Swedish property owners were sometimes less than forthcoming in their dealings with certain ethnic groups. Nevertheless, they were required by law to accept tenants regardless of their background, failing which the matter could be taken before a housing board or tribunal. Restrictions on the residence of aliens, which applied only in cases where residence permits were issued for a limited period, related mainly to military security areas and sometimes also applied to Swedish citizens. Thus, the distinction between aliens and citizens in that connection was not a very broad one. As to whether certain associations could replace individuals in filing charges of discrimination, that was not possible since, under Swedish tradition, only an individual could do so.

117. With respect to equality of the sexes, women comprised nearly half of the labour force and had the legal right to employment in all occupations, including military careers except for certain branches. Education was open to both girls and boys without restriction and an equal number of girls and boys went on to secondary education after the comprehensive schools. In 1983, 56 per cent of first-year students at Swedish universities and colleges were women, and they comprised 45 per cent of law and 43 per cent of medical students. On the negative side, 75 per cent of gainfully employed women worked at a total of only 30 types of jobs, most of which were low on the wage scale. In 1982, women working in manufacturing earned only 90 per cent of men's wage rates, which, although an improvement over the past, was still not satisfactory. Disputes in the area of the equality of the sexes were referred to the labour courts by the Equal Opportunities Ombudsman. A Cabinet Minister associated with the Ministry of Labour had final responsibility for government action relating to equality. The term "positive special treatment" used in the Act concerning Equality between Men and Women at Work referred to measures taken in various areas to favour the under-represented sex - whether men or women - for example, making technology and home economics courses compulsory for both boys and girls, in order to stimulate the interest of girls in non-traditional female employment fields. In 1982 and 1983, the Ombudsman had been notified of 100 cases of discrimination *per se*, 81 cases classified as "lack of active measures", and 109 cases classified as encompassing various other aspects of job discrimination. Often the Ombudsman had held that the rights of plaintiffs had not been infringed, but in other cases suits had been filed with the labour courts - a total of 23 in 1984.

### Right to life

118. Members of the Committee wished to know, with reference to the right to life, what practical measures Sweden had taken concerning the points raised in the Committee's general comments Nos. 6 (16) 1/ and 14 (23) 2/, what controls and instructions were in effect governing the use of weapons and other forcible measures by the security forces and the police.

119. In replying, the representative of the State party stressed that the death penalty had been abolished in Sweden long ago, the last execution having taken place in 1911. In various United Nations and other bodies, Sweden had striven to promote the gradual abolition of the death penalty and would continue to do so despite seemingly stiffening resistance. Sweden had also acceded to the Convention on the Prevention and Punishment of the Crimes of Genocide (General Assembly resolution 260 A (III)).

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1/ See Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V.

2/ Ibid., Fortieth session, Supplement No. 40 (A/40/40), annex VI.

In connection with the points raised in general comments Nos. 6 (16) and 14 (23) Sweden had, among other things, taken the initiative of elaborating a United Nations expert study on the relationship between disarmament and development. It had also followed up that study, as recommended by the General Assembly, by carrying out a national study on the economic and social effects of conversion from military to civilian production - the only Member State to have followed that recommendation thus far. It had supported the International Conference on the Relationship between Disarmament and Development, scheduled to be held in Paris in 1986, by participating in the work of the Preparatory Committee for the Conference. It had also, together with others, submitted draft resolutions urging, *inter alia*, a nuclear-weapon freeze and a comprehensive nuclear-test ban and had taken an active part in the Conference on Disarmament. In addition, Sweden had actively engaged in work on a convention on the prohibition of the development, production and stockpiling of chemical weapons and on their destruction, and had proposed measures banning the use of radiological weapons and attacks on nuclear facilities. It was a party to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (General Assembly resolution 31/72) and also attached great importance to disarmament and development issues.

120. Regarding the use of weapons by security forces, the representative noted that the mission of the military forces was restricted to the defence of Swedish territory. Only the police had civilian functions in maintaining public order; they were authorized to resort to the use of force, but only under circumstances that were clearly defined, primarily involving self-defence.

#### Liberty and security of person

121. With reference to that issue, members of the Committee wished to know about the circumstances and periods for which persons could be held in preventive detention without being charged with a criminal offence; about practices relating to preventive detention in institutions other than prisons or for reasons unconnected with the commission of a crime; what remedies were available to persons, and their relatives, who believed they were being wrongfully detained and how effective such remedies were; and how article 9, paragraphs 2 and 3, of the Covenant, particularly regarding prompt judicial control of conditions of arrest and detention, were being observed. Other questions concerned the maximum period of pre-trial detention, the adequacy of contact between arrested persons and lawyers, the limits placed on the discretionary authority of the police or immigration officials in case of temporary detention of aliens, and the promptitude with which the

families of arrested persons were informed. Clarification was also sought as to the reasons for Sweden's reservation concerning article 10, paragraph 3, of the Covenant and as to whether the provisions of the Code of Attachment of 1 January 1982, relating to the detention on remand of debtors, was consistent with article 11 of the Covenant. Members also sought additional information on the alternatives to detention on remand, provided for in the amendments of 1 January 1982 to the Code of Judicial Procedure, including information on the reasons for having extended the group of persons subject to supervision rather than detention.

122. Noting that aliens could be detained, in cases of refusal of entry or expulsion, for up to two months - a very long period - and for up to two weeks in other cases, one member asked whether the maximum period of detention had ever been exceeded, and requested statistics regarding the average length of detention in such cases and the number of foreigners currently in administrative detention. Clarification was also sought as to why, in the Swedish Constitution, the rights of aliens were limited and separately enumerated (in chap. 2, sect. 20) despite the provision in article 2, paragraph 1, of the Covenant which required that rights be respected and ensured "to all individuals within [each State party's] territory".

123. With reference to chapter 2, section 9, of the Constitution, members requested clarification concerning the procedure used in cases where persons were being detained by administrative authorities, and asked whether it was not generally difficult for Swedish courts to review cases where rulings had been made by the National Immigration Board or the Government or a minister. It was also asked whether there was a legislatively stipulated maximum period of detention beyond which release of the individual could be ordered, and whether there was any procedure similar to that of habeas corpus or amparo, which would ensure that an accused person's arrest and detention was brought to the attention of a judge for review. It was also asked whether prison staff were acquainted with the international instruments that safeguarded the rights of detainees, such as the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169).

124. In replying, the representative of the State party explained that the maximum period of preventive detention was five days, with court proceedings having to be initiated within a further four days. A new proposal, which might be in force by July 1986, provided for court notification to be given by the public prosecutor within three days of detention and for the initiation of court proceedings within the succeeding three days. Regarding detention in institutions other than prisons, he stated that Swedish law provided for the detention of individuals in psychiatric institutions and establishments reserved exclusively for certain categories of detainees such as alcoholics, juveniles and aliens. In the case of children under 15 who had been arrested, the police were obliged to return them immediately to their parents or guardians or to hand them over to a social welfare unit. Those detained for psychiatric reasons had their cases reviewed by two councils, composed of legal and psychiatric experts and independent of the public authorities, which could decide either to release the persons concerned or to commit them to a psychiatric institution.

125. With reference to article 9, paragraph 2 and 3, of the Covenant, the provisions of the Code of Judicial Procedure ensured prompt judicial control of recourse procedures. The maximum period of detention pending trial was 14 days until the trial began; thereafter the court had to be convened



to decide on the issue of detention every 14 days. There were no restrictions on the opportunity for an arrested person to contact a lawyer. Families of arrested persons were informed of the circumstances as rapidly as possible. Restrictions were imposed in that regard only where there was a likelihood of complicity or of obstruction of the normal course of justice by the individual concerned through his contacts with members of his family or with his friends. Chapter 2, section 9, of the Constitution related to conditions affecting detention and not to procedures relating to trial on substantive charges. While detention could theoretically be extended any number of times beyond the initial 14-day period, statistics showed that in the overwhelming majority of cases trials began during the first two-week period. The question concerning habeas corpus could best be treated in Sweden's next periodic report since it related to the current process of reform of the entire judicial procedure in Sweden, including the status and functions of public prosecutors.

126. In clarification of Sweden's reasons for entering a reservation to article 10, paragraph 3, of the Covenant, the representative explained that, in the main, the Swedish Government endorsed the principle of separating young offenders from adults in prison. However, the Act containing Special Provisions on Young Offenders provided that young offenders should, whenever possible, be placed in local institutions close to their homes rather than in national institutions. Local institutions being very small, it was not possible to avert all contact between young offenders and older detainees. In 1983, there had been only 24 persons under 18 years of age in prison, most of them sentenced to terms of only one to three months. With regard to the detention of debtors, it was stressed that persons could not be detained, under the Code of Attachment, for inability to fulfil contractual obligations. Detention could be ordered only in case of refusal to disclose all relevant information concerning one's financial situation and assets and only when the creditor had been granted an enforceable title, by court order.

127. As to alternatives to detention on remand, the representative explained that her Government wished to avoid, as far as possible, resort to deprivation of liberty, which, in its view, constituted a violation of the integrity of the person. One possibility being studied would involve releasing certain accused persons from detention and placing them instead under "supervision" - meaning that they could live and work at home while awaiting trial. Prison staff were instructed on a continuing basis about how to deal with offenders or suspects and were acquainted with the provisions of the Code of Conduct.

128. Turning to questions relating to the treatment and detention of aliens, the representative stated that it was unfortunately not possible, at the Committee's current session, to supply statistics on the periods of detention, but that the issue would be treated in Sweden's next periodic report. Section 50 of the Aliens Act had been amended on 1 January 1985 in order to limit the number of cases of provisional detention on aliens. It was further provided, in section 52 of the Aliens Act, that aliens could be taken into custody only for reasons specified by the law and could seek release from detention by appealing to the courts. The protection concerning court proceedings, conferred upon citizens under chapter 2, section 9, of the Constitution, was also extended to aliens, under the Aliens Act. The proviso "unless otherwise provided by special rules of law", relating to the equality of treatment of aliens, was necessary since, for example, an alien claiming refugee status had to be questioned about his political views for the purpose of determining his status, whereas such

questioning would be prohibited by the Constitution if applied to citizens.

#### Right to a fair trial and equality before the law

129. With reference to that issue, members of the Committee wished to know how the rights set forth in article 14, paragraph 1, of the Covenant were respected when civil or criminal proceedings were held in camera or in the absence of the accused and, specifically, who decided that a trial should be held in camera and what conditions governed the holding of trials in absentia; what restrictions were placed on communication between detainees and their freely chosen lawyers and what other limitations or suspensions of procedural rights applied in the case of proceedings in camera; how the removal or rejection of defence counsel by the courts could be justified from the standpoint of the Covenant; and how the procedural rights of minors, mentioned in paragraph 67 of the report, were actually secured in practice. Additional information was also sought concerning the reasons for Sweden's reservation to article 14, paragraph 7, of the Covenant, which contained a universally acknowledged principle of law. Sweden's observations on the Committee's general comment No. 13 (21) g/ were also solicited. Furthermore, one member asked for clarification of the powers of administrative authorities to deny public inquiries under section 60 of the Aliens Act. Another member inquired as to the maximum period of pre-trial detention.

130. Responding to the questions raised by members of the Committee, the representative of the State party explained that the rights of the accused in a criminal trial, as established in the Code of Judicial Procedure, applied equally in the case of in camera proceedings. Such proceedings were aimed at protecting the accused and/or injured party, and the documents in the case, unless classified under the Secrecy Act, were open to the public. The procedural rights of minors during the course of such hearings were fully protected under rules specifically applicable to them. The decision as to whether a trial should be held in camera was exclusively within the jurisdiction of the courts. Hearings in absentia were held with respect to offences punishable by fines only and when the accused had failed to respond to numerous summonses. As to restrictions on communications between detainees and their freely chosen lawyers, no such restrictions were practiced in Sweden. The possibility for courts in Sweden to reject or remove defence counsel arose from the fact that under the Swedish judicial system anyone could act as counsel, even those without legal training. Where the person selected as counsel was manifestly unsuitable, the courts had to reject him, in accordance with criteria established by law. Such rules were not aimed at barristers or other members of the legal profession who normally served as defence counsel.

131. As to Sweden's position regarding the Committee's general comment No. 13 (21), the representative stated that Sweden fully adhered to it. In connection with Sweden's reservation to article 14, paragraph 7, of the Covenant, the representative reiterated Sweden's intention to limit the application of the provision permitting the reopening of cases to rare instances, such as where judicial misconduct had affected the original judgement. In other cases, the public prosecutor wishing to have a case reopened had to meet certain strict procedural requirements. In short, the option had been kept open only to allow for dealing with cases where the nature of the evidence that came to light after the trial might be such as to damage the credibility of the judicial system unless a retrial was ordered.

132. In replying to questions concerning the maximum length of pre-trial detention, the representative said that hearings had to take place no later than one week after charges had been filed by the public prosecutor, except in cases involving a travel prohibition, where the period was extendable to one month. Generally, judgements had to be pronounced immediately after the main hearing and, in any case, not later than two weeks thereafter.

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8/ See Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40 (A/39/40 and Corr.1 and 2), annex VI.

#### Freedom of movement; expulsion of aliens

133. With reference to that issue, members of the Committee wished to have additional information on the specific grounds for the expulsion of aliens mentioned in paragraphs 57 and 61 of the report. Referring to the fact that under section 43 of the Aliens Act □illicit sexual relations□ and leading to □a grossly disorderly way of life□ were listed as reasons for expulsion, one member asked for clarification of the legal definition of such terms and asked how such charges were applied in practice. In addition, questions were raised concerning the grounds for expulsion, the legal remedies available and their general effectiveness. Members also wished to know what limits there were on the discretion of the relevant authorities in respect of the issuance of passports, the control of the movement of aliens and orders for their expulsion, as well as how the activities of the authorities in the foregoing fields were monitored.

134. One member, while welcoming the information provided in the report concerning the provisions of the Swedish Passport Act, requested clarification about the right of appeal against withdrawal of a passport in cases where the holder had been ordered to return it. Another member noted that the Committee found it helpful for countries to explain any difficulties they were encountering and expressed surprise that the report made no mention of the group of Kurds in Sweden who were regarded as a threat to national security. Recalling that an expulsion order had been issued in their regard - without being executed since there was no safe place for them to go - and noting that the authorities had resorted to controlling the group□s movements, the member asked whether the controls had been instituted under section 27 of the Aliens Act and whether such a measure could continue to be applied indefinitely without a judicial review.

135. With regard to the refusal of entry of aliens into Sweden, it was noted that although entry was supposedly refused only if it did not involve any risk for the alien concerned, it seemed that a harder line had been pursued since 1984. In that connection, it was asked how, under current practice, it was ensured that individuals were not endangered, and what the normal period for reaching a decision on asylum was. With regard to the detention, prior to expulsion, of aliens lawfully in the country, it was asked what the maximum period for keeping such aliens in custody was under section 50 of the Aliens Act, and what appeal procedure was available against such a custody order. It was further asked whether an alien could be refused permission to leave Sweden. Regarding

refusal of entry, it was noted that the most common reason for such refusal was lack of a passport and entry permit or the money for the individual's upkeep and fare home. In that connection, it was asked whether an alien who was found outside the area to which his permit had been restricted was considered as lacking a permit, and what the criteria were for determining whether or not an alien had enough money for his upkeep.

136. In replying to the questions posed by members of the Committee concerning grounds for the expulsion of aliens, the representative of the State party noted that there were four main grounds upon which expulsion could be ordered: lack of passport or residence permit, criminality, anti-social behaviour, and terrorism. With regard specifically to the term "illicit sexual relations" mentioned in section 43, the reference was mainly to relations that were not punishable by law as such but where it was suspected, for example, that economic gain was involved. Since no cases had been brought under that heading, it was not possible to provide concrete examples. As to the division of functions among the various authorities in respect of expulsions, the representative explained that cases involving aliens lacking passports and entry permits were heard by the National Immigration Board, with appeals being heard by the Government itself; criminal cases were dealt with by the courts, which had the power to order expulsion as part of the penalty for the crime and whose decisions were governed by the Code of Judicial Procedure - with appeals being heard by the Court of Appeals and subsequently by the Supreme Court; cases of anti-social behaviour were decided by the county administrative courts and could be appealed to the Administrative Court of Appeal and ultimately to the Supreme Administrative Court; and cases involving terrorists were handled by the Swedish Government itself. Regarding detention, the authority that handled the substantive issue in the case also decided on detention. All decisions concerning passports could be appealed except where the revocation order had become final and the enforcement stage had been reached.

137. Regarding refusal of entry, the representative stated that there were exceptions to refusal of entry under the Aliens Act in cases where a person claimed that he ran the risk of political persecution or of being sent to a theatre of war. The only case in which the police were not obliged to refer the matter to the National Immigration Board would be one in which it was apparent that the alien's claim was without foundation. If an alien holding a restricted permit went outside the community to which the permit related, the National Immigration Board would review the situation and, if necessary, refer the case to the county administrative court. Information regarding appeals against expulsion orders would be included in Sweden's next report. It was hoped that information regarding the average length of time it took to reach decisions on political asylum cases - which could not be estimated at present - could also be included in the next report.

138. In connection with questions raised regarding the case of the Kurds, the representative stated it was a very complex case, which did not fall within the purview of article 13 of the Covenant. Regarding permission to leave the country, those sentenced to a term of imprisonment were obliged to serve out that term before being allowed to depart. An alien who was detained but had committed no crime was free to leave the country as soon as transport could be arranged.

Interference with privacy or the family

139. With reference to that issue, members of the Committee wished to have information about measures taken to ensure protection against arbitrary or unlawful interference with privacy - by means of electronic surveillance or misuse of data - on the part of administrative or police officials and about the legal regime governing telecommunications, including its legal basis, authorization, and administrative and judicial control. It was asked in that connection whether, in national security cases, that authorities could engage in telephone tapping without there being any legal basis for such activities; whether adequate safeguards existed to prevent unauthorized persons from gaining access to information contained in data banks; and whether there was any immediate remedy, such as writ of prohibition, available to a victim of unlawful interference with privacy. Another member wished to have additional information on reported security police practices of registering people holding radical political views or belonging to radical political movements, and of responding to 100,000 requests for information concerning such individuals annually.

140. In connection with the right of families to live together, members asked whether any distinctions were made between men and women or single and married persons in the Aliens Act and the Passport Act of 1980. Members also wished to know about the conditions under which parents could be deprived of the custody of their children, whether in that connection children could be forced to adopt a different faith from that of their parents, and whether the children of immigrants had ever been taken away from their families. One member also asked how the welfare authorities were informed that a child was not properly cared for, what the exact composition of the Social Welfare Committees was, and what the term "in danger of developing in an undesirable direction", cited in the Young Persons Act, was interpreted to mean.

141. Responding to the questions raised by members of the Committee, the representative stated that under the Swedish Constitution interference with privacy was prohibited unless otherwise specified by law. The only exception authorized by legislation concerned telephone tapping to investigate particularly serious offences, such as drug trafficking, or when State security was endangered.

142. Regarding data banks, the representative stated that the only record covering the entire population in Sweden was a register of names and addresses. Sweden had acceded to several international agreements designed to ensure that personal privacy was not invaded. The problem of possible infringements of that right was kept under constant review by the Data Inspection Board. Under the law, most data were confidential and could not be used for purposes other than those for which they had been gathered. However, in certain instances, such as an investigation under the Penal Code, the police or other authorities could gain access to data files.

143. With reference to questions relating to the right of families to live together, the representative stated that no distinctions were made in the Aliens Act and the Passport Act of 1980 between men and women or between single and married persons. As to safeguards concerning the welfare of adopted children, the representative noted that permission to adopt was granted by courts only after a thorough investigation into the ability of the prospective parents to raise the child, both financially and from the point of view of the family environment, and, in the case of foreign children, after all the adoption formalities had been completed in the country of origin.

144. The representative explained that public care of a child could be decided upon, in the case of those under 18, only after all other measures had been exhausted, and whenever the lack of care or any other condition in the home entailed dangers to the child's health or development, and, in the case of those under 20 years of age, if the individual gravely endangered his own life or development by drug abuse, delinquency or similar behaviour.

#### Freedom of opinion, conscience and religion

145. With reference to that issue, members of the Committee wished to receive information on protection from religious discrimination and the guarantee of equal treatment of all religions, particularly in view of the existence in Sweden of an official religion. They also asked whether the privileges and financial advantages enjoyed by the Church of Sweden did not, in fact, constitute discrimination since other religions did not possess such advantages; whether religions other than that of the Lutheran State Church were taught in religious instruction classes at school and whether, for example, prisoners were visited by ministers of religion other than those of the State Church; whether Swedish law contained any reference to the right not to profess any religion; whether educational institutions offered compulsory religious instruction and, if so, whether parents could have their children exempt from such instruction; and whether the Church of Sweden was subsidized.

146. One member wondered whether a provision in the Act on Freedom of Religion of 1981 prohibiting the practice of a religion if it caused public indignation imposed restrictions beyond those permitted under article 18, paragraph 3, of the Covenant. Noting that proposals had been made in parliament for radical changes in the status of the Church of Sweden as the State Church, and that the Covenant contained no provision requiring the separation of Church and State, it was asked what action, if any, had been taken on such proposals.

147. In his reply, the representative stated that article 2 of the Constitution provided for protection against discrimination as well as protection for ethnic, linguistic, or religious communities. The right not to profess any religion was also guaranteed although that was not covered by a separate provision. The fact that there was a State Church in Sweden did not mean that there was an official religion. The Church's establishment reflected administrative arrangements dating back to the fifteenth and sixteenth centuries concerning the registration of individuals, and the Church of Sweden continued to perform certain administrative functions at the municipal level. Swedes were free to leave the Church of Sweden and could do so by merely asking to have their names removed from the register.

148. The representative acknowledged that the Lutheran State Church was financed by local taxes; its economic position was therefore distinct from that of other religious communities. He stated, however, that fears of discrimination on that or any other account were not justified by the facts, which showed that religions that were not dependent on the State were flourishing. Concerning religious instruction, the representative explained that religious instruction as such was not provided in the schools but could be made available in parishes on the initiative of the parents. A survey of religions course, designed to teach the history and basic theological features of a great variety

of religions in the world, was compulsory on the same basis as history or geography.

149. Proposals to separate the Church from the State had been discussed at length in Sweden. The issue tended to be very emotional and to date all proposals for change had been rejected.

Freedom of opinion and expression; prohibition of war propaganda and advocacy of national, racial or religious hatred

150. With reference to those issues, members of the Committee wished to receive information, inter alia, on the control of the media, including the right of ownership and influence on the media. In that connection, it was asked whether, in addition to the State radio and television monopolies, any private companies were currently broadcasting programmes; whether the expression of differing points of view was allowed in the State corporations; why an activist of a pacifist movement had been denied access to the media; whether the press was in the hands of a monopoly or hidden forces which controlled the media; whether the Government had applied any penalties in cases where newspaper articles had allegedly offended public morality; and to what extent private radio and television stations could be controlled if their programmes were morally offensive.

151. In addition, members of the Committee wished to know whether there were any controls on the production and sale of videotapes; whether there was censorship of the State-controlled media, or similar practices, and, if so, what the composition of the controlling bodies was; whether there had been any cases of arrest or detention for the expression of political views or any prosecutions for statements against nuclear weapons and in favour of peace; how article 20, paragraph 1 and 2, of the Covenant was actually implemented in practice; and why several neo-Nazi groups could propagate their ideas and were not prohibited. With reference to the Committee's general comments

Nos. 10 (19) and 11 (19) 10/ it was asked whether, in light of the Committee's statement in general comment No. 11 (19) that articles 19 and 20 were fully compatible, Sweden intended to withdraw its reservation concerning article 20, paragraph 1. It was also asked whether Sweden considered adopting laws against racial discrimination and against propaganda for war.

152. In his reply, the representative stated that the media were governed by the Freedom of the Press Act, which guaranteed freedom of the press. The right to own newspapers was subject to certain nationality and residence requirements. The production of videotapes was not subject to any control, but sales of such tapes were taxed. Censorship and other similar practices did not exist in Sweden.

153. Although radio and television stations were State-owned, they were independent entities, which took their own decisions concerning their activities and programmes and were not censored in advance. Television had a pre-screening procedure to avoid the broadcasting of violent or pornographic films; that was, however, an internal procedure and it was not governed by a law. An ethics board also made decisions concerning the nature of the programmes that were broadcast. Although different political parties were represented on the boards of directors they did not play a

dominant role in the choice of radio and television programmes. The public could lodge complaints with the Radio and Television Ethics Board concerning programmes that were allegedly biased or lacking in impartiality. No one had ever been or would ever be arrested or detained for having expressed political opinions or hostility towards nuclear weapons or for having made statements in favour of peace. Responsibility for the control of press articles lay with editors.

154. Replying to questions concerning Sweden's reservation in respect of article 20, paragraph 1, of the Covenant, the representative explained that the Swedish authorities continued to believe that paragraph 1 of article 20 was in conflict with article 19 of the Covenant. In addition, the Swedish parliament, which had thoroughly examined the question, considered that it was better to allow groups that advocated war to expose themselves.

#### Freedom of assembly and association

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10/ See Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 40 (A/38/40), annex VI.

155. With reference to that issue, members of the Committee asked why meetings, organizations or activities of a racist or neo-Fascist character were not prohibited by law. One member asked for information regarding the possibilities, under the Constitution and the Penal Code, for opposition to activities that encouraged racial discrimination and hatred. Regarding trade-union membership, it was asked whether there was a closed-shop system in Sweden.

156. In his reply, the representative said that under chapter 2, article 14, of the Constitution, freedom of association could be restricted where the activities of such associations were of a military or similar nature or involved the persecution of persons of a particular race, colour or ethnic origin. Racist activities of that kind were also prohibited under chapter XVI, article 8 of the Penal Code. In addition, the Freedom of the Press Act prohibited threats or any expression of contempt against a group of persons of a particular race, skin colour, national or ethnic origin or religion. The question whether certain associations should be prohibited was under constant discussion in Sweden but, for the time being, there were no associations of that type that were of any importance. As to trade-union membership, the representative stated that Sweden did not have a closed-shop system and that membership of a party or trade union was not compulsory.

#### Political rights

157. Regarding that issue, members of the Committee wished to receive information with respect to the exercise of and restrictions on political rights and concerning legislation and practice relating to access to public office.

158. In reply, the representative stated that all citizens could take part in the democratic process as



soon as they reached adulthood, at the age of 18. Foreigners who had been living in the country for at least three years could take part in local and regional elections and had also been able to vote in a national referendum on nuclear energy. Under the Constitution, the posts and functions of heads of government agencies and diplomats could be held only by Swedish nationals and military service was also so reserved.

### Rights of minorities

159. In connection with that issue, more detailed information was requested on the implementation of article 27 of the Covenant, particularly on possible threats to the environment and life-style of indigenous populations. Information was also requested regarding the measures being taken, especially in the areas of education and information, to allow minorities residing in the territory to preserve their own language and culture.

160. Responding to the foregoing questions, the representative of the State party said that the rights of minorities were guaranteed under chapter 1, article 2, of the Constitution and that, in practice, immigrants had the same rights as Swedes. The State encouraged the cultural activities of immigrants and ethnic and linguistic minorities, for example, by subsidizing the publication of foreign works and providing financial assistance for a magazine for immigrants which was published in 12 languages and had over 50,000 subscribers. The children of immigrants had the possibility of studying their mother tongue in schools and, since 1977, all municipalities had been required to offer courses in the various mother tongues. The Government encouraged minorities to maintain their identity, but mixed marriages were common and differences would probably be less marked in the future. In the near future, Sweden would be submitting a report, containing a great deal of additional information on the subject, to the Committee on the Elimination of Racial Discrimination.

### General observations

161. Members of the Committee thanked the representative for presenting Sweden's second periodic report objectively and sincerely and for providing useful information in response to the Committee's questions and comments. Since it had not been possible for the representatives to provide full and detailed answers to a number of questions, the hope was expressed that the requested information could be provided in a supplementary report within a reasonable period of time.

162. The representative of Sweden, in turn, thanked all the members of the Committee for their patience and understanding of the time constraints which had faced his Government. All the additional information that had been requested would be made available as soon as the summary records of the Committee's meetings could be studied.

163. Additional information was received on 1 July 1986 (CCPR/C/32/Add.12).

## CCPR A/46/40 (1991)

313. The Committee considered the third periodic report of Sweden (CCPR/C/58/Add.7) at its 1042nd meetings, on 27 and 28 March 1991 (see CCPR/C/SR.1042-1044).

314. The report was introduced by the representative of the State party, who referred to important changes bearing on human rights that had occurred since the consideration of the second periodic report. In that connection, he noted that Sweden had ratified the Second Optional Protocol to the Covenant, aimed at the abolition of the death penalty, and had sought to improve the situation of children through the ratification of the Convention on the Rights of the Child. A study had also been conducted of various amendments to Code of Judicial Procedure in order to review the impact of new provisions on deprivation of liberty in criminal cases. In addition, new legislation on terrorism was under consideration in order to ensure a safe and controlled judicial procedure. Under the proposed legislation, execution of an expulsion order would be prohibited if a presumed terrorist risked persecution, and the movements of presumed terrorists within the country would not be restricted.

### Constitutional and legal framework within which the Covenant is implemented

315. With regard to that issue, members of the Committee wished to know whether there was any procedure whereby Swedish legislation could be questioned on grounds of inconsistency with the Covenant and requested information on the actual application of amendments to the Code of Judicial Procedure relating to the obligation of Public Prosecutor to prepare and present an injured party's claim for damages. Further information was also sought on the follow-up given to views expressed by the Committee under the Optional Protocol.

316. In his reply, the representative of the State party explained that international treaties had to be incorporated into Swedish legislation before they became applicable. Accordingly, the question of inconsistency did not arise. In order to ensure that domestic legislation was in conformity with international law, it was scrutinized from the standpoint of Sweden's international commitments and there was a general rule that domestic legislation was to be interpreted in the light of the country's international obligations. The principal effect of any judgments by the European Court of Human Rights or of the views expressed by the Committee was to alert the Swedish Government to possible flaws in its legislation. If Sweden was found to be in violation of the Covenant it would react by analysing whether the violation consisted of the improper application of Swedish law to a particular case or whether the law itself was faulty.

317. Amendments to chapter 22 of the Code of Judicial Procedure represented an attempt to strengthen the position of the victims of crime by making it easier for them to pursue claims for damages. The requirement for prosecutors to present an injured party's claim for damage at a preliminary stage expedited a thorough investigation. The initial impact of the amendments had been a drop in the number of cases in which claims for damages were separated from criminal aspects.

## Non-discrimination and equality of the sexes

318. With reference to that issue, members of the Committee wished to receive information concerning the activities of the Ombudsman against Ethnic Discrimination and of the Advisory Committee on Questions concerning Ethnic Discrimination; the effectiveness of these institutions; the linkage between the functions of that Ombudsman and the Parliamentary Ombudsman; the results of the evaluation of the Equal Opportunities Act by the special committee established by the Government; and the opportunities available to aliens in the job market, including jobs in the civil service. They also wished to know whether numerical equality between women and men was the only factor taken into consideration in the decision-making process for policies to combat sex-based discrimination; how the Government maintained a balance between the goal of non-discrimination and respect for indigenous cultures; whether there had been any cases in which aliens had been allowed to reside in Sweden but had not been allowed to work; and what difficulties the large number of asylum-seekers had generated for the Government.

319. In his reply, the representative of the State party said that the activities of the Ombudsman against Ethnic Discrimination included advice and assistance in individual cases of alleged discrimination, general investigative and information activities and advisory services to the Government. In order to avoid any controversy which could jeopardize the position of respect in which the Ombudsman against Ethnic Discrimination was held by ethnic minorities, the Act against Ethnic Discrimination had not authorized him to take action in court, nor had it given him supervisory powers over other authorities. The Parliamentary Ombudsman, on the other hand, did enjoy such powers and there was close cooperation between the two institutions.

320. The special committee to evaluate the Equal Opportunities Act had made a number of proposals to enhance the Act's effectiveness and, after various organizations had expressed their view on the report, the Government had submitted a bill to Parliament in February 1991 that included a proposal for a new Equal Opportunities Act, imposing stricter obligations on employers to strive towards greater equality in the labour market. The bill also included steps to combat violence against women and a proposal to establish a committee to investigate and to recommend measures to rectify differences in salaries between women and men. Progress towards the goal of equality of the sexes required changes in the attitudes of both men and woman that were not easy to measure. In that contest, numerical equality was a primary consideration because it was a visible sign of progress.

321. With the exception of security-related posts and certain professions such as those of judge and lawyer, which were not available to aliens, the Swedish labour market was open to aliens. The unemployment rate for non-Nordics was, however, much higher than for Nordics, and special allocations had therefore been made under labour market assistance programmes for activities to secure job opportunities for aliens. A newly established committee was considering possible legislation to ban discrimination against aliens in the workplace. Sweden had not been at war since 1814 and restrictions on certain categories of persons had been enforced only during the Second World War. A wide range of problems arose during the asylum-seeking process itself and during the subsequent process of absorption of those granted asylum. In that regard, the primary aim of all

the steps taken by the Government was to place aliens in jobs as soon as possible. The International Labour Board had been given government funding to help it achieve that goal.

322. About 2,500 Sami were currently engaged in their traditional livelihood or reindeer herding. Since such activity involved about one third of Sweden's land area, it had been felt necessary to limit the number of reindeer-herding groups and, consequently, Sami villages had been authorized to take decisions freely on which persons were to be admitted into the village as herders. The Government was currently considering the proposals of its Commission on the Legal Position of the Samis with respect to such questions as to whether reindeer herding should continue to be restricted to members of Sami villages. Sweden's policy towards the Sami people was the result of careful consideration of how to balance the interests of society in general and respect for the Sami culture.

#### Liberty and security of the person

323. In connection with that issue, members of the Committee wished to receive information concerning the results of the study on the application of the amendments to chapter 24 of the Code of Judicial Procedure in respect of deprivation of liberty; the conditions of compulsory care for alcohol and drug abusers; and safeguards against any abuses in the latter regard. They also wished to know whether there had been any departures from the 1989 Act in respect of the period of pre-trial detention for terrorists; whether the planned legislation to replace the Act on the Provision of Institutional Psychiatric Care had been enacted; and what the situation was with respect to the implementation of the 1989 act containing special provisions on the detention of aliens.

324. Clarification was also requested concerning provisions governing immediate care orders issued by the police; the difference between the justifications for a detention order based, respectively, on "reasonable suspicion", "probable cause" and "reasonable grounds"; reasons for detention other than criminal charges; reasons for placing juvenile offenders together with adult offenders; and remedies available under the new legislation on psychiatric treatment. Members also wished to know why an alien, unlike a citizen, could be detained for up to three days after having been taken into custody; whether there had been any cases of imprisonment on grounds other than criminal offences; for what length of time a court could authorize a prolongation of detention of on remand; how soon after arrest a person could contact a lawyer; and why the judicial authority did not grant bail.

325. In his reply, the representative of the State party said that since the adoption of new amendments to the Code of Judicial Procedures, the total time in detention, from the provision decision until a final decision was reached, had decreased and that more than 90 per cent of all cases of provisional detention had been examined by a judge within three days. On the other hand, many judges, prosecutors, defence lawyers and policemen felt that the quality of the investigative material available to the examining judge had deteriorated since less time was available to prepare it.

326. The use of the term "reasonable suspicion" to replace "probable cause" or "reasonable grounds" had not caused major differences in the number of detentions on remand but only in the speed with which decisions were taken. There was, however, a risk of abuse, and Parliament would

keep the application of the provision under review. Certain prerequisites had to be met for legal counsel to be provided to aliens in detention; however, the three-day period was a maximum. The period of custody was sometimes less, and when an expulsion order was issued legal counsel was always provided. The only difference in the treatment of Swedes and aliens with respect to detention on remand arose when an alien had no place of residence in Sweden, particularly in cases of attempts to enter Sweden unlawfully. In such situations, aliens had to be taken into custody to prevent them from going into hiding. Pre-trial detention for 14 days was provided for under the 1989 Act on Terrorists, with the possibility of requesting a decision of further detention provided there were strong grounds and after a hearing on the matter.

327. Turning to other questions, the representative of the State party explained that since very few people would have sufficient means to pay bail, the institution of bail system would be considered by Swedish society as an infringement of citizens' right to equality before the courts. On the other hand, if the person involved agreed, he or she might not be subject to detention on remand but might simply have to remain in the town and report to the police at certain intervals. With regard to the prolongation of detention on remand, the general rule was that, although possible, it should be avoided. The deadline for presentation of charges by the prosecution was specified by the judge ordering the detention on remand, but the usual deadline was two weeks. Under normal circumstance, the regulations concerning detention on remand provided specifically that if a prisoner wished to do so, he was free to mingle with other prisoners in the same place of detention.

328. The aim of the new Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act was to motivate the abuser to participate voluntarily in the treatment. The 1988 Act had expanded the provision of compulsory care because investigations had revealed a sharp rise in drug and alcohol abuse among the socially disadvantaged and rising deaths among abusers. It clarified the responsibilities of social welfare committees and included care at a stage when symptoms were less acute, so that an individual could be treated before his condition had deteriorated too far. The time-limit for compulsory care, which was six months, could not be exceeded, and compulsory care orders were decided upon by the courts. The number of persons under compulsory care had risen from 350 in 1988 to 750 in 1989. Decisions on admission to compulsory care had risen from 15,000 to 16,000 and the average period of care had increased from 75 to 130 days.

329. The main aim of the legislation on compulsory psychiatric care was to adapt the law to the evolution of psychiatry, which now favoured out-patient treatment and treatment at psychiatric clinics in ordinary hospitals. Compulsory care would therefore be more strictly limited, in order to strengthen the patient's capacity for living independently and for voluntarily continuing treatment and support. It also established legal time-limits for periods of psychiatric care and ensured greater judicial control by making court proceedings mandatory after an initial period of care.

#### Right to fair trial

330. With regard to that issue, members of the Committee wished to receive information on the procedure and criteria for the selection of professional and lay judges who served in the general

courts, as well as on their role in reaching decisions, and on the procedure for promoting judges. It was also asked what the number and proportion of women in the judiciary were; whether there were any restrictions on the nationality of lawyers practising in Sweden; and whether an acquittal could be reversed after a new trial solely in order to prevent the credibility of the judicial system from being called into question. Clarification was also requested of the regulations governing the implementation of article 14, paragraph 3 (g), of the Covenant.

331. In his reply, the representative of the State party explained that being a professional judge entailed holding a state office. When persons were considered for that office, only such objective factors as merit and competence were considered. Permanent judges were appointed by the Government and had to be Swedish nationals and possess law degrees. There were a number of safeguards against the Government's misuse of its power to appoint judges. Lay judges were chosen by means of elections, and efforts were made to ensure that they were representative of the population with respect to age, sex and occupation. Every Swedish national who was not a minor or legally incompetent could be elected as a lay judge for the municipality or the country in which he or she lived. In reaching decisions, professional and lay judges each had one vote; the majority opinion prevailed. There were many women in the legal profession, and they accounted for 50 per cent of all applicants for trainee posts in courts of appeal. All lawyers practising in Sweden had to be Swedish citizens, but a person appearing as counsel before a court did not have to be a member of the Swedish Bar Association except in criminal proceedings.

332. There was no requirement that a person appearing in court swear an oath to tell the truth, and a confession was not sufficient to justify a verdict against an accused person. It was for the courts themselves to determine the truth and to decide what kind of evidence was to be presented and whether the evidence submitted was germane. Since statements to the police might not have been made freely, or a defendant who told the police the truth might subsequently decide that would not serve him well in court, it was natural that a court should ask a defendant to explain if his testimony in court differed from what he had told the police.

333. The reservation to article 14, paragraph 7, of the Covenant was intended to cover cases in which evidence had come to light, after a defendant had been convicted, indicating that he was in fact innocent, or in which subsequent evidence made it clear that a defendant had been wrongfully acquitted of a serious charge. The credibility of the judicial system was not the only issue at stake. Rather, it was thought that the public might be alarmed to learn that guilty persons were at large.

#### Freedom of movement and expulsion of aliens

334. With reference to that issue, members of the Committee requested information concerning the findings and proposals of the National Council of Crime Prevention based on its review of how legislation concerning restraining orders had been implemented. They also wished to know whether any new measures designed to make that legislation more effective had been adopted; whether the review by the Parliamentary Committee of the provisions of section 3 of the Act on Terrorists had been completed; what appeals procedures against expulsion orders was available in cases of refusal of entry or of expulsion on the grounds of an expired residency permit; and whether absence of any

possibility of appeal in case of expulsion on grounds of national security and presumed terrorist activities was compatible with article 13 of the Covenant. Concerning the specific situation of several Turkish citizens of Kurdish descent, clarification was sought as to the length of time before their arrest could be challenged; why the normal rules governing telephone-tapping and searches had not been applied; and whether the non-reviewable designation by the Government of a person as a potential terrorist affected only those aliens who would otherwise be subject to expulsion.

335. In his reply, the representative of the State party explained that restraining orders served as one means of protecting individuals who had already been victims of crime or who were being pursued and harassed by others. Under the amendment to the Act on Restraining Orders adopted in April 1990, a person who failed to abide by the prohibition against visiting or contacting another individual could be sentenced to one year's imprisonment.

336. Concerning the matter of expulsions, the representative stated that a balance had to be struck in any legislation governing expulsion on grounds of national security and presumed terrorist activities between ensuring the effectiveness of measures and guaranteeing the individuals involved the best possible safeguards. The proposed new legislation in that area would give the courts a more prominent role, although not the right to make a decision. The proposed expulsion of a presumed terrorist could be submitted to a court for an opinion as to whether the evidence was sufficient and the criteria for expulsion had been met, but ultimately such matters concerned national security and foreign policy and had to be left to the Government to decide, thereby ruling out the possibility of an appeal. Since the legislation came into force in 1975 it had affected only 20 individuals who, in the view of the Government, represented a threat to national security. Furthermore, presumed terrorists could not be expelled to countries where they could face torture, death or similar treatment, and proposals had been made to strengthen the role of the courts in that regard. If a presumed terrorist was allowed to remain in the country for humanitarian reasons, the need for control would still exist and the normal rules restricting telephone-tapping and searches could not be applied. Expulsions other than those under the Act on Terrorists could be appealed. Where an appeal related to the asylum process or to the withdrawal of a right, it could be directed to the highest instance, the Government.

337. The Swedish Government had deemed persons connected to the PKK organization to be potential terrorists, and as such to be extremely dangerous to Swedish society, particularly in view of the fact that two murders had been committed on Swedish territory and of their suspected involvement in other actions. Of the nine people originally in the group, one was serving a prison sentence, the expulsion orders on two others had been waived, and the remaining six had only to report once a week to the police.

#### Right to privacy

338. In connection with that issue, members of the Committee wished to know whether the Parliamentary Committee that had been looking into questions relating to the registration of personal information had issued a report and, if so, what the main conclusions and recommendations had been; whether any action had been taken on the Data and Publicity Commission's proposal aimed

at strengthening the protection of personal information contained in computerized files used in the health field; what measures were envisaged under the proposed legislation aimed at prohibiting the sale of personal information without the permission of Parliament and under proposals for regulating and limiting the use of personal identification numbers (PINs); and what remedies were available in cases of interference with a citizen's privacy by means of data banks and electronic surveillance.

339. In his reply, the representative of the State party said that the Parliamentary Committee dealing with the registration of personal information had delivered its report in June 1990 and had recommended, inter alia, that it should be made easier for individuals to have access to personal information and that decisions as to what information concerning a person was to be released should be taken by an independent board. The Data and Publicity Commission's report had resulted in the submission of a bill to Parliament to regulate the flow of information within municipal and county health-care systems for statistical, research and administrative purposes. The Government considered that under the existing provisions the sale of personal information was ruled out except as specifically authorized by law or agreed to by the Government and had proposed that the Data Act should be clarified to avoid misunderstandings. It had also been proposed that PINs could be included in a file only under certain circumstances, such as when careful identification of the registered person was necessary.

340. Referring to safeguards under the Data Act, the representative stated that if an individual alleged that a computerized file contained incorrect information on him he was entitled to know what steps had been taken in response to his complaint. If an individual was harmed by incorrect or misleading information in a file, the keeper of the file was liable to pay damages. The Data Inspectorate could revoke permits to maintain files. Legislation relating to electronic surveillance provided that the county administrative board had to give permission for the placement of surveillance cameras that monitored areas accessible to the general public. Illegal wire-tapping was punishable under chapter IV of the Penal Code by fines or imprisonment of up to five years.

Freedom of religion and expression; prohibition of propaganda for war and of incitement to national, racial or religious hatred

341. With regard to that issue, members of the Committee wished to know what were the current status and prospects of the debate on the separation of Church and State and what the current status of plans was for legislative action on proposals adopted by the Commission on Freedom of Expression, whether there had been any prosecutions under chapter 16, section 8, of the Penal Code, as amended, relating to dissemination of racist statements; and whether any action had been taken on the envisaged amendments to the Ordinance on Cinema Performances.

342. In his reply, the representative of the State party emphasized that the ties between Church and State in his country were centuries old, which was why the question had not yet been resolved. The Church, to which more than 90 per cent of the population belonged, had acquired a structure which enabled it to take decisions in most matters through representative bodies. At the request of the General Senate of the Church, the Government had appointed a committee to propose solutions to the economic and legal problems that could arise if the current relationship between Church and



State was to be radically altered.

343. A new bill on freedom of expression, which in essence would extend the same protection to new electronic media as had already been extended to print media, was currently before Parliament. There had been five or six cases in 1990 in which individuals had been found guilty of breaches of chapter 16, section 8, of the Penal Code, and new legislation concerning freedom of performances had been enacted in 1990. Problems relating to the use of video technology for the distribution of violent images were being dealt with through intensified surveillance of the market and harsher penalties.

#### Protection of the family

344. In connection with that issue, members of the Committee requested information on the status of the proposed bill to replace the Care of Young Persons Act and inquired whether the new legislation, if enacted, would provide divorced parents with increased access to their children. Clarification was also sought of the provision relating to the detention of immigrant children while the status of their parents was being investigated.

345. In his reply, the representative of the State party stated that since the entry into force of the new Care of Young Persons Act. The criteria for the public care of children had been rendered more precise, taking into account either conditions at home or the young person's behaviour. When a decision to prohibit removal of a child was taken by the social welfare committee, the committee was also authorized to decide on the parents' access to the child during the period of prohibition. Such decisions were subject to review by the country administrative courts. Legislation in Sweden made provision for remand in custody of the children of asylum seekers if it was evident that the children would conceal themselves in order to avoid an impending order. In 1990, some 30,000 asylum seekers and 260 children had been taken into custody. The normal practice, however, was not to separate the child from his or her legal guardian.

#### Rights of persons belonging to minorities

346. With regard to that issue, members of the Committee wished to know whether any action had been taken to resolve the questions raised in the main report submitted by the Governmental Commission on the Legal Position of the Samis and whether Sweden had experienced any difficulties in reconciling the rights conferred under articles 26 and 27 of the Covenant with the traditional values of specific minorities, for example with regard to the equality of the sexes. In addition, information was requested on provisions governing State funding of religious communities.

347. In his reply, the representative of the State party said that information on the bill resulting from the report of the Governmental Commission on the Legal Position of the Samis would be provided in the next periodic report. Where the rights of minorities were concerned, every effort was made to ensure that minorities would be able to preserve their own cultural heritage. However, the exercise of that right had to be consonant with public order and Swedish legislation. The practice of female circumcision, for example, was illegal in Sweden.

## Concluding observations

348. Members of the Committee commended the Swedish delegation for its report and for having engaged in a constructive dialogue with the Committee, noting that Sweden had one of the most outstanding human rights records in the world. At the same time, it was noted that some of the concerns expressed by members of the Committee had not been fully allayed. In common with many other States parties, Sweden had not incorporated the Covenant into its domestic legislation, as a result of which there were some gaps between the provisions of the Covenant and Swedish law. Concerns were also expressed about the absence of remedies for persons expelled from Swedish territory because of suspected terrorist involvement; the possibility of extended periods of solitary confinement; the procedure for admitting refugees to Swedish territory; and rules regarding the censorship of extreme violence in the media. The provisions of articles 16 and 17 of the Constitution, which did not bar discrimination based on the grounds of language, political opinion, property, birth or other status, did not appear to be compatible with the Covenant. It was also regretted that article 9(3) was not yet the basis of Swedish practice concerning bail. It was also not evident from the Swedish Constitution that the judiciary was completely separate from the legislative and executive branches.

349. The representative of the State party recalled that his Government had contributed to the formulation of various international human rights instruments and had supported the establishment of monitoring bodies to which States parties should report regarding the fulfilment of their obligations. It was therefore quite natural for Sweden to engage in a constructive dialogue with the Committee.

350. In concluding the consideration of the third periodic report of Sweden, the Chairman thanked the representative of the State party for his cooperation. The discussion of provisions relating to discrimination had been particularly useful because in societies where gross violation did not occur such issue constituted a central element in the protection of human rights.

## **CCPR A/51/40 (1996)**

73. The Committee considered the fourth periodic report of Sweden (CCPR/C/95/Add.4 and HRI/CORE/1/Add.4) at its 1456th and 1457th meetings (fifty-fifth session), on 23 and 24 October 1995, and at its 1470th meeting, on 1 November 1995, adopted the following observations.

### Introduction

74. The Committee welcomes the detailed report presented by Sweden, which contains relevant information about changes and developments that have occurred since the consideration of the third periodic report. The Committee also welcomes the answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the frank dialogue engaged in with a competent delegation and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

### Factors and difficulties affecting the implementation of the Covenant

75. The Committee finds that there are no significant factors or difficulties which should prevent the effective implementation of the Covenant in Sweden.

### Positive aspects

76. The Committee notes with appreciation the high level of achievement of Sweden with regard to the protection of the rights guaranteed in the Covenant.

77. The Committee welcomes the adoption of provisions prohibiting ethnic discrimination in the labour market, as well as the additional powers given to the Ombudsman against Ethnic Discrimination by conferring upon him a litigating role in the Labour Court proceedings. It also welcomes the setting up of two parliamentary commissions on migration and immigration policies to identify gaps in legislation and to consider improvements, and the incorporation into the Penal Code of the concept of aggravating circumstances when a crime has had racial, ethnic, religious or similar motivations.

78. The Committee welcomes the various steps taken by the Government, through legislation, studies, education programmes and integration of gender perspectives in all policy areas, with a view to ensuring equality between men and women.

79. The Committee notes with satisfaction the adoption and entry into force on 1 January 1992 of the new Compulsory Mental Care Act and Forensic Mental Care Act, restricting the use of compulsory care.

80. The Committee expresses its appreciation for the creation of the Office of the Children's Ombudsman, for the provisions introduced in the Penal Code to protect children against sexual

abuse, and for the monitoring system of inter-country adoption.

81. The Committee welcomes the amendment to the Code on Judicial Procedure extending judicial review to the restrictions ordered by the public prosecutor to persons deprived of their liberty. The Committee also welcomes the extension of the right to free legal aid for the victims of crimes of violence and crimes involving infringement of physical integrity.

#### Principal subjects of concern

82. The Committee regrets that the Covenant as such cannot be directly invoked before Swedish courts and administrative authorities.

83. The Committee regrets the decision of the State party not to withdraw any of the reservations it made at the time of ratification of the Covenant.

84. The Committee notes with concern that there is not yet any mechanism to implement views adopted by the Committee under the Optional Protocol to the Covenant.

85. The Committee notes that there remain areas where women are subject to de facto discrimination, in particular with regard to equal remuneration. It notes with concern that in certain areas, in particular in public offices, the situation of women with regard to equal remuneration for work of equal value has significantly deteriorated recently.

86. Despite efforts by the Government to eliminate racial and ethnic discrimination, the Committee expresses concern about the rise of racism and xenophobia within Swedish society and about the high rate of racist crimes and the increase of racist behaviour among younger people.

87. The length of detention of illegal immigrants, asylum seekers and persons ordered to be expelled is a cause of concern.

88. The Committee is also concerned that the Board of Immigration and the Aliens Appeals Board may in certain cases yield their jurisdiction to the Government, resulting in decisions for expulsion or denial of immigration or asylum status without the affected individuals having been given an appropriate hearing. In the Committee's view, this practice may, in certain circumstances, raise questions under article 13 of the Covenant.

89. In the Committee's view, the amendment to the Code on Judicial Procedure stipulating that in certain cases both the convicted person and the public prosecutor need leave to appeal to the Court against a decision in a criminal case may in certain circumstances raise the question of compatibility with article 14, paragraph 5, of the Covenant.

90. The Committee notes that legislative provisions adopted recently by the Riksdag and providing for the right of everyone to fish and hunt on public lands may have adverse consequences for the traditional rights of the Sami people.

### Suggestions and recommendations

91. The Committee recommends that all necessary steps be taken by the Government to give legal effect to the rights enshrined in the Covenant in the domestic legal order.
92. The Committee recommends that measures be taken for the establishment of a mechanism to implement the views adopted by the Committee under the Optional Protocol to the Covenant.
93. The Committee recommends that the reservations made to the Covenant be reviewed with a view to withdrawing them.
94. The Committee encourages the Government to continue its efforts to ensure that the principle of equal pay for equal work is effectively implemented.
95. The Committee strongly urges the Government to take appropriate measures to fight the emergence of racist and xenophobic attitudes among some elements of Swedish society. The Committee particularly stresses the importance of educational campaigns in schools and at all levels of society and of media campaigns aimed at building a society where diverse cultures can coexist in a spirit of harmony and enrich one another.
96. The Committee urges the State party to review its legislation governing asylum seekers and the expulsion of aliens in order to limit the possibility and extent of detention. The right to have a case reviewed by a competent authority should be available for all decisions of detention, expulsion and refusal of immigration or asylum.
97. The Committee wishes to receive ample information in the next periodic report of Sweden on the implementation of the legislation on leave to appeal in criminal cases in the light of article 14, paragraph 5, of the Covenant.
98. The Committee recommends that the recognized customary rights of the Sami people be fully protected in the light of article 27 of the Covenant.

## CCPR A/57/40 vol. I (2002)

### (79) Sweden

(1) The Committee considered the fifth periodic report of Sweden (CCPR/C/SWE/2000/5) at its 1989th and 1990th meetings, held on 20 March 2002, and adopted the following concluding observations at its 2003rd and 2004th meetings, held on 1 April 2002.

#### Introduction

(2) The Committee welcomes the timely submission of the report by the State party in accordance with the guidelines. The Committee notes with appreciation that the report contains useful information on developments since the consideration of the fourth periodic report. The Committee also welcomes the responses given to the questions raised and the concerns expressed during the consideration of the report. Moreover, the Committee draws attention to the frankness of the dialogue with the delegation and to the useful oral clarifications provided. Lastly, the Committee takes note with appreciation of the importance accorded by the delegation to the role of non-governmental organizations in promoting and protecting human rights and to their contributions to the observance of the Covenant.

#### Positive aspects

(3) The Committee welcomes the adoption:

(a) In January 2002, of the National Plan of Action for Human Rights, whose priorities include protection against discrimination, the rights of the disabled, children and the elderly, the right to housing, national minorities, the Sami people, deprivation of freedom, and freedom of expression and religion;

(b) In February 2001, of the National Plan of Action against Racism, Xenophobia, Homophobia and Discrimination; and

(c) In 1997, of the National Plan of Action against the Sexual Exploitation of Children for Commercial Purposes.

(4) The Committee notes with satisfaction the legislative amendments giving access, as from 1 January 2002, to pre-school, primary and secondary education, and health care to children requesting asylum, on the same conditions as children residing in Sweden.

(5) The Committee commends the State party for its sustained role in the international community's efforts to abolish the death penalty.

#### Principal subjects of concern and recommendations

(6) The Committee, while commending the way in which the courts refer to the Covenant in interpreting rights, regrets that the Covenant as such may not be directly invoked before Swedish courts or before the administrative authorities. In this connection, it notes that in certain areas (arts. 25, 26 and 27) the Covenant gives greater protection than is accorded under the European Convention on Human Rights, which has been incorporated in Swedish domestic law.

The State party should ensure that its domestic legislation gives full effect to the rights embodied in the Covenant and that remedies are available for the exercise of those rights.

(7) The Committee notes with concern the persistence of domestic violence despite legislation adopted by the State party (articles 3 and 7 of the Covenant).

The State party should pursue its policy against domestic violence and, in this framework, should take more effective measures to prevent it and assist the victims of such violence.

(8) The Committee notes with concern cases of female genital mutilation and □ honour crimes □ involving girls and women of foreign extraction (articles 3, 6 and 7 of the Covenant).

The State party should continue its efforts to prevent and eradicate such practices. In particular, it should ensure that offenders are prosecuted, while promoting a human rights culture in the society at large, especially among the most vulnerable sectors of immigrant communities.

(9) The Committee expresses its concern at the recognition of early marriage involving girls of non-Swedish nationality who are resident in Sweden (articles 3 and 26 of the Covenant).

The State party should take vigorous measures to provide better protection for minors in the matter of marriage and eliminate all forms of discrimination among them.

(10) The Committee notes with concern several cases of excessive use of force by the police which led to serious injury and death, for example of persons in custody or during the Goteborg summit (articles 6, 7 and 10 of the Covenant).

The State party should ensure the completion of investigations into such use of force, in conditions of total transparency and through a mechanism independent of the law enforcement authorities. Depending on the results of the investigations, it should expedite the prosecution of law enforcement officers implicated. The State party should also guarantee better human rights training of police officers. During demonstrations, the State party should ensure that no equipment that can endanger human life is used.

(11) The Committee notes the lack of clarity relating to the right of the accused to an assigned lawyer and to an interpreter (article 14 of the Covenant).

The State party is invited to provide the necessary clarifications to assure the Committee that

legislation and practice in this area are compatible with article 14 of the Covenant.

(12) While it understands the security requirements relating to the events of 11 September 2001, and takes note of the appeal of Sweden for respect for human rights within the framework of the international campaign against terrorism, the Committee expresses its concern regarding the effect of this campaign on the situation of human rights in Sweden, in particular for persons of foreign extraction. The Committee is concerned at cases of expulsion of asylum-seekers suspected of terrorism to their countries of origin. Despite guarantees that their human rights would be respected, those countries could pose risks to the personal safety and lives of the persons expelled, especially in the absence of sufficiently serious efforts to monitor the implementation of those guarantees (two visits by the embassy in three months, the first only some five weeks after the return and under the supervision of the detaining authorities) (articles 6 and 7 of the Covenant). The Committee also stresses the risk of violations of fundamental rights of persons of foreign extraction (freedom of expression and privacy), in particular through more frequent recourse to telephone tapping and because of an atmosphere of latent suspicion towards them (articles 13, 17 and 19 of the Covenant):

(a) The State party must ensure that measures taken under the international campaign against terrorism are fully in conformity with the Covenant. The State party is requested to ensure that the concern over terrorism is not a source of abuse;

(b) In addition, the State party should maintain its practice and tradition of observance of the principle of non-refoulement. When a State party expels a person to another State on the basis of assurances as to that person's treatment by the receiving State, it must institute credible mechanisms for ensuring compliance by the receiving State with these assurances from the moment of expulsion; and

(c) The State party is also requested to undertake an educational campaign through the media to protect persons of foreign extraction, in particular Arabs and Muslims, from stereotypes associating them with terrorism, extremism and fanaticism.

(13) The Committee expresses its concern at reports of persistent manifestations of racism and xenophobia, whether refusal of access to public places because of ethnicity or difficulties for foreigners in the job market (articles 19 and 26 of the Covenant).

The State party must make a sustained effort to improve the application of laws punishing racially motivated crimes, the integration into society of members of minority groups and the dissemination of a culture of tolerance, in particular as part of primary and secondary education.

(14) The Committee is deeply concerned at the existence and considerable activism of neo-Nazi organizations and by the production and distribution of so-called "white power" music preaching the superiority of the white race (article 20 of the Covenant).

The State party should take steps to review its policy towards the establishment and



operation of racist, xenophobic and, especially, neo-Nazi organizations. It should also review its attitude towards the production and distribution of so-called "white power" music.

(15) The Committee is concerned at the limited extent to which the Sami Parliament can have a significant role in the decision-making process on issues affecting the traditional lands and economic activities of the indigenous Sami people, such as projects in the fields of hydroelectricity, mining and forestry, as well as the privatization of land (articles 1, 25 and 27 of the Covenant).

The State party should take steps to involve the Sami by giving them greater influence in decision-making affecting their natural environment and their means of subsistence.

(16) The State party should disseminate widely the text of its fifth periodic report and the present concluding observations.

(17) In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year the relevant information on the implementation of the Committee's recommendations in paragraph 12 above concerning, in particular, the monitoring of the cases of persons expelled. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 April 2007, information on the other recommendations made and on the Covenant as a whole.