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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined nineteenth to twenty-first periodic reports of Sweden, adopted by the Committee at its eighty-third session (12-30 August 2013)**

1. The Committee considered the nineteenth to twenty-first periodic reports of Sweden (CERD/C/SWE/19-21), submitted in one document, at its 2251st and 2252nd meetings (CERD/C/SR.2251 and 2252), held on 22 and 23 August 2013. At its 2260th meeting (CERD/C/SR.2260), held on 29 August 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the combined nineteenth to twenty-first periodic reports of the State party drafted in conformity with the Committee's reporting guidelines and addressing its previous concluding observations. The Committee also welcomes the State party's punctuality and regularity in submitting its periodic reports.

3. The Committee thanks the large delegation of the State party for its oral presentation and responses to the Committee's questions and comments and the opportunity thus provided to engage in a constructive and continuing dialogue.

B. Positive aspects

4. The Committee notes with appreciation a number of legislative and policy developments towards the elimination of racial discrimination, including:

(a) The entry into force of the new Anti-Discrimination Act (2008:567) on 1 January 2009, prohibiting discrimination associated, inter alia, with ethnicity, religion or other belief and offering protection against racial discrimination;

(b) The establishment of the Equality Ombudsman (2008:568) on 1 January 2009, mandated to monitor compliance with the Anti-Discrimination Act and promote equal rights, inter alia, by investigating complaints of discrimination and representing complainants in settlements or courts;

(c) The adoption of the Introduction Act which entered into force in 2010 and of the subsequent Integration Policy with the objective of increasing newly arrived migrants' access to the labour market, more effective language acquisition, better results in schools and creating a society in which everyone feels a sense of belonging;

(d) The adoption of the Act on National Minorities and National Minority Languages (2009:724), providing for measures to promote and revitalise national minority languages and improve the availability of mother-tongue teaching;

(e) The enactment of the new Education Act (2010:800) which entered into force on 1 July 2011, stipulating the right to mother tongue tuition in the minority languages;

(f) The amendment to the Swedish Constitution (art. 2), confirming the status of the Sami as a people and providing for the right to self-determination;

(g) The adoption in 2012 of the Strategy for Roma Inclusion for the period 2012-2032 with the overall goal of promoting equal opportunities in life for Roma, including enhanced participation in a public life;

(h) The adoption in 2011 of the National Action Plan to Safeguard Democracy against Extremism for the period 2012-2014, aiming to counter extremism by, inter alia, distributing funds for activities that seek to prevent individuals from joining violent extremist environments or that support individuals wishing to leave such environments.

5. The Committee welcomes the ratification, during the period under consideration, of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 15 December 2008.

C. Concerns and recommendations

Anti-Discrimination Act and its enforcement

6. The Committee welcomes that the protection against ethnic discrimination in the Constitution and the Anti-Discrimination Act extend to both Swedish citizens and others present in the country; however, it notes that the term ‘race’ was deleted in the new Anti-Discrimination Act and the Instrument of Government, which may lead to difficulties with qualification and processing of complaints of racial discrimination thus hindering the access to justice for victims (arts. 1(1), 2(1)(d), and 7).

The Committee recommends that the State party enforce the prohibition of discrimination associated, inter alia, with ethnicity contained in the Constitution and the Anti-Discrimination Act, ensuring that the new formulation of the prohibition of discrimination, which covers racial perceptions only indirectly under the term “other similar circumstances”, does not diminish the level of protection of victims of racial discrimination, as requested by the Convention. The Committee also requests the State party to disseminate relevant information to the public, in particular to minorities, informing the complainants about what constitutes discrimination and available legal remedies when facing racial discrimination.

Relevant statistical data

7. The Committee welcomes detailed statistics provided by the State party on citizenship, country of birth and mother tongue tuition, etc., and notes that the State party does not compile official statistics on people’s ethnic origin, colour or other indicators of their diversity as previously requested by the Committee (art. 2).

Recalling its revised reporting guidelines (CERD/C/2007/1, paras. 10 and 12), the Committee recommends that the State party diversify its data collection activities, using various indicators of ethnic diversity on the basis of anonymity and self-identification of persons and groups, to provide an adequate empirical basis for policies to enhance the equal enjoyment by all of the rights enshrined in the Convention and facilitate the monitoring thereof. In this regard, the Committee

recommends that the State party seek guidance from the study by the Equality Ombudsman on methods for determining the composition of the population in terms of relevant discrimination indicators, and living conditions of all components of the society, including immigrants, foreign-born citizens and members of indigenous and minority groups, with particular reference to the fields of employment, housing, education and health.

Special measures

8. While noting that the State party has taken steps to facilitate, inter alia, access of newly arrived immigrants to employment as well as education and equal opportunities for members of national minorities, the Committee expresses concern at the State party's position that 'special measures is a controversial concept which is not defined in Swedish law' and that there is not an accepted definition of the concept of special measures (CERD/C/SWE/19-21, para. 62). The Committee recalls its previous concluding observations (CERD/C/SWE/CO/18), as well as the general recommendation No. 32 (2009) on the meaning and scope of special measures (arts. 1(4), and 2(2)).

The Committee recommends that the State party amend its legislation (Anti-Discrimination Act and other rules) to provide for the possibility of adoption of special measures to promote equal opportunities, to address structural discrimination and to enhance strategies against inequality and discrimination faced by immigrants, foreign-born citizens, indigenous and minority groups including Afro-Swedes and Muslims, in accordance with article 1, paragraph 4, of the Convention. Such special measures may take various forms, depending on their purpose.

Equality Ombudsman

9. While welcoming the establishment of the Equality Ombudsman on 1 January 2009, consolidating the four different ombudsmen offices, the Committee notes with concern the lack of a broad mandate of the Ombudsman beyond the limits of the Anti-Discrimination Act - excluding e.g. protection against wrongful acts of private individuals or public officials, the Ombudsman Office's accountability towards the Government and the limitations of its independence due to the appointment and dismissal procedures. The Committee is also concerned at the very low number of cases in which discrimination was established, despite the reported prevalence of ethnic discrimination at the workplace, housing, access to goods and services and in education (CERD/C/SWE/19-21, paras. 46-47) (art. 2(2)).

The Committee recommends that the State party strengthen the Equality Ombudsman by broadening its mandate to effectively protect the members of vulnerable groups against all forms of discrimination, providing it with adequate financial and human resources, and ensuring the operational and perceived independence of the Ombudsman by establishing proper appointment and dismissal procedures. The Committee requests that the State party undertake a thorough analysis of the reasons for the low number of cases in which discrimination was established by the Ombudsman and take steps to address this problem. Finally, the State party should assess the effects of consolidation of the Ombudsman's mandate on combating discrimination.

National Human Rights Institution

10. The Committee welcomes the functioning of the Ombudsman's Office, nevertheless it is concerned about the absence of an independent National Human Rights Institution, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party also consider establishing an independent national human rights institution for the protection and promotion of human rights in conformity with the Paris Principles, and be provided with adequate financial and human resources in order to efficiently fight against discrimination.

Racially motivated hate crimes

11. The Committee takes note of the enhanced data on xenophobic and racially motivated hate crimes and welcomes the State party's efforts at the level of the police, prosecution and justice to fight hate crimes by introducing, inter alia, the special hate crime investigators and on-call hate crime units. However, the Committee is concerned about the limited effectiveness of the measures against hate crimes which are applied only in some parts of the country. It is also concerned at the reported discrepancy between the increased reports to the police of hate crimes and the decrease in numbers of preliminary investigations and convictions, in particular as regards the agitation against a national or ethnic group. The Committee expresses further concern about the consideration of forms of hate speech under "agitation" which may result in a restrictive interpretation, the use of differing definitions of hate crime by individual law enforcement agencies and the State party's information that it is not possible to track all reported hate crimes throughout the justice system (arts. 2(1)(c) and (d), 4(a), and 6).

The Committee recommends that the State party develop a clear strategy to ensure scrutiny of the way police and prosecutors deal with hate crimes and that it replicate measures such as hate crime units and special investigators in all parts of the country. The State party should extend the training to the police, prosecutors and judges to effectively investigate, prosecute and punish hate crimes to all parts of the country, in order to close the gap between reported incidents and convictions thereof. The Committee reiterates its request that the State party introduce a common and clear definition of hate crime so that it is possible to track all such reported crimes throughout the justice system. The State party should also follow up on the report of the State party's special investigator on further measures to combat xenophobia and similar forms of intolerance.

Accountability for hate speech including racism in political discourse

12. The Committee expresses its concern about the increase in reported racially motivated hate speech against visible minorities, including Muslims, Afro-Swedes, Roma and Jews, in particular by some far-right politicians. The Committee is also concerned about the reported increase of hate speech in the media and on the Internet, including by certain media professionals. The Committee believes that additional measures need to be taken to address the issue of hate speech in the media (arts. 2(1)(a), 4(a),(b) and (c), and 7).

Recalling its general recommendation No. 7 (1985) on legislation to eradicate racial discrimination and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party effectively investigate, prosecute and punish all hate crimes and take effective measures to combat hate speech in the media and on the internet, including by prosecuting the perpetrators, where appropriate, regardless of their official status. The Committee urges the State party to take necessary measures to promote tolerance, intercultural dialogue and respect for diversity, aimed also at journalists.

Racist and extremist organizations

13. The Committee notes with concern the reports that the racist and extremist organizations continue to function despite the State party's position that its legislation effectively prohibits all forms of racist expression including the operation of groups advocating racial discrimination (CERD/C/SWE/19-21, para. 120). In this regard, the Committee is concerned that the State party's legislation does not fully respond to the requirements of article 4 of the Convention, taking into account the absence of any explicit legal provisions declaring illegal and prohibiting organizations promoting and inciting racial hatred (arts. 2(1)(a) and (d), and 4(a),(b) and (c)).

Drawing attention to the general recommendation No. 15 (1993) on Article 4 of the Convention, the Committee reiterates its previous recommendation that the State party amend its legislation to declare illegal and prohibit organizations promoting and inciting racial hatred, in line with article 4 (b) of the Convention.

Economic segregation

14. The Committee is concerned by the reports that several metropolitan areas show a stark line of division of the type and areas of residence along ethnic and socio-economic lines, impacting mostly on foreign-born persons, and in particular Afro-Swedes and Muslims. It is also concerned by similarly stark discrepancies along ethnic and socio-economic lines in access to employment between native Swedes and foreign-born persons, which prevails even after a long stay in Sweden, disproportionately affecting also the second generation. The Committee is particularly concerned by the level of likelihood for the foreign born-persons to be unemployed, to occupy unskilled, low paying jobs, or to live in a de facto segregated area, consequences of which resurfaced during the May 2013 riots which started in Stockholm's suburb of Husby (arts. 3, and 5(e)(i) and (iii)).

The Committee recommends that the State party study the sources of the 2013 riots with a view to assessing the effectiveness of its strategies against prevailing de facto segregation in Sweden along ethnic and socio-economic lines and the need for their adjustments. The Committee also recommends that the State party take further legal and policy measures to address the problem of social exclusion and segregation along ethnic lines.

Integration policy

15. The Committee welcomes the steps taken by the State party as part of its Comprehensive National Strategy for Integration 2008-2011 to increase newly arrived migrants' access to the labour market, facilitate effective language acquisition and better results in schools by persons of foreign origin and enhance their sense of identity within the Swedish society. However, it remains concerned that persons of foreign origin continue to suffer from de facto discrimination in employment, demonstrated by higher occupation of low-income jobs and lower employment rates. The Committee is also concerned by the limited access of immigrants to higher education and skills and higher drop-out rates from schools (arts. 2(1)(c), and 5(e)(i) and (v)).

The Committee recommends that the State party evaluate the results of the Comprehensive National Strategy for Integration with a view to addressing prevailing discrimination against persons of foreign origin throughout the country. The State party should in particular take further effective measures to increase access to education and employment by persons of foreign origin.

Racial profiling

16. While noting that the State party's legal system requires a high level of proof in cases of arrest and detention of a suspect, the Committee is concerned about the reported discrepancy between the number of arrests and number of convictions under the Swedish Terrorism Act, which gives rise to concerns as regards racial profiling due to unwarranted arrests (arts. 2(1)(a) and (c), 4(c), and 6).

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take measures to evaluate the effects of application of the Terrorism Act, including on minority communities, and ensure the application of relevant guarantees to prevent possible police profiling and any discrimination in the administration of justice.

Indigenous Sami

17. The Committee notes with concern that a bill on Sami rights was to be submitted to the Parliament in March 2010, reflecting on the outcomes of various inquiries in regard to Sami land as well as resources rights, but the draft bill was rejected by the Sami Parliament and other interest groups during the process of preparations. The Committee also expresses its concern that the State party allows major industrial and other activities affecting Sami, including under the Swedish Mining Act, to proceed in the Sami territories without Sami communities offering their free, prior and informed consent (arts. 5 (d)(v)).

Recalling its general recommendation No. 23 (1997) on indigenous peoples and previous concluding observations, the Committee recommends that the State party take further measures to facilitate the adoption of the new legislation on Sami rights, in consultation with the concerned communities, building on the studies undertaken into Sami land and resource rights which are considered mutually acceptable. The Committee also recommends that the State party adopt legislation and take other measures to ensure respect for the right of Sami communities to offer free, prior and informed consent whenever their rights may be affected by projects, including the extraction of natural resources, carried out in their traditional territories.

18. The Committee notes the problem of inadequate compensation by the State party for damages due to killings of reindeer of Sami herders by predators protected under the Swedish wildlife policy (art. 5 (d)(v) and 6).

The Committee recommends to the State party to continue its efforts to find ways to compensate the Sami reindeer herding communities for damages caused to them by predators, based on a negotiated settlement.

19. The Committee is concerned at the lack of progress as regards the development of a Nordic Sami Convention as well as the postponement by the State party of a ratification of International Labour Organization (ILO) Convention No. 169 (1989) on Indigenous and Tribal Peoples in Independent Countries (art. 5(e)(vi)).

The Committee reiterates its previous encouragement to the State party to contribute to the timely negotiation and adoption of a Nordic Sami Convention and to ratify ILO Convention No. 169.

Stigmatization and discrimination against Roma

20. While welcoming the steps taken by the State party to prevent discrimination against Roma, including the efforts of the Ombudsman and the adoption of the Strategy for Roma Inclusion for the period 2012-2032, the Committee is concerned about the lack of progress in the equal enjoyment of rights by Roma, in particular about the continued stigmatization

of, and discrimination against Roma in access to services, the on-going precarious socio-economic situation due to low levels of employment, inadequate enforcement of the Education Act and the Anti-Discrimination Act regarding discrimination in education, and the prevailing lack of access of Roma to adequate housing (arts. 2(1)(c) and (2), 3, and 5 (e)(i),(iii) and (v)).

In light of its general recommendation No. 27 (2000) concerning discrimination against Roma, the Committee recommends that the State party:

(a) Enhance its efforts aimed at combating discrimination against Roma including by implementing temporary special measures, in accordance with the general recommendation No. 32 (2009) on the meaning and scope of special measures, to improve the enjoyment of economic, social and cultural rights by Roma;

(b) Combat prejudice and stereotypes, and provide redress to individuals based on the Anti-Discrimination Act;

(c) Take further steps to alleviate the precarious socio-economic situation of Roma including by increasing their access to public and private employment through training, requalification and counselling;

(d) Ensure the effective and systematic enforcement of the Education Act;

(e) Increase the access to adequate housing for Roma without discrimination and segregation, including by facilitating access to public and low-cost housing and improving living conditions of Roma.

Access to remedies

21. The Committee is concerned at the reports that the levels of compensation in discrimination cases are relatively low which may deter victims of discrimination from claiming their rights instead of deterring discrimination. The Committee also notes with concern a report by the Ombudsman stating a lack of measures to encourage actors to litigate in discrimination cases (art. 6).

The Committee recommends that the State party guarantee remedies, including compensation to the victims of discrimination, by making appropriate use of the Anti-Discrimination Act. To that end, the Committee encourages the State party to consider raising the levels of compensation available to victims of discrimination and implement the proposed measures by the Ombudsman in order to provide financial assistance to individuals and associations to facilitate litigation in discrimination cases, increase resources for the local and regional anti-discrimination offices and strengthen legal aid system.

D. Other recommendations

Ratification of other treaties

22. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying international human rights treaties which it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Follow-up to Durban Declaration and Programme of Action

23. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

Consultations with organizations of civil society

24. Welcoming the broad consultations with the civil society undertaken by the State party in the context of preparation of the present report, the Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report and the follow-up to these concluding observations.

Dissemination

25. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

Follow-up to concluding observations

26. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 12, 14 and 16 above.

Paragraphs of particular importance

27. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 6, 9 and 11 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

Preparation of the next periodic report

28. The Committee recommends that the State party submit its twenty-second and twenty-third periodic reports in a single document by 5 January 2017, taking into account the specific reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1), and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).