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COMMITTEE AGAINST TORTURE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture

SWEDEN

1. The Committee considered the fifth periodic report of Sweden (CAT/C/SWE/5) at its 811th and 812th meetings (CAT/C/SR.811 and 812), held on 29 and 30 May 2008, and adopted, at its 827th meeting (CAT/C/SR.827), the following Concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of Sweden and the information presented therein. The Committee also expresses its appreciation for the State party's thorough written responses to the list of issues (CAT/C/SWE/Q/5/Add.1), which provided additional information on the legislative, administrative, judicial and other measures taken by the State party in order to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, the Committee notes with satisfaction the constructive efforts made by the multi-sectoral State party delegation to provide additional information and explanation during the dialogue.

B. Positive aspects

3. The Committee notes with appreciation that in the period since the consideration of the last periodic report, the State party has acceded to or ratified a number of international instruments, including:

a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 19 January 2007;

b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 1 July 2004;

c) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, on 24 April 2003; and

d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 20 February 2003.

4. Furthermore, the Committee welcomes the ratification of the Optional Protocol to the Convention (OPCAT), on 14 September 2005, and the recent visit of the Subcommittee on Prevention of Torture (SPT) to Sweden from 10 to 14 March 2008.

5. The Committee notes with satisfaction the ongoing efforts at the State level to reform its legislation, policies and procedures in order to ensure better protection of human rights, including the right not to be subjected to torture and ill-treatment, in particular:

- a) The amendment of the Swedish Aliens Act in 2006, which introduces a new appeal system, includes an explicit provision on non-refoulement and provides for the granting of refugee status to persons claiming fear of persecution on grounds of gender and sexual orientation;
- b) The adoption of new legislation on fundamental safeguards, including access to a lawyer and notification of custody that entered into force on 1 April 2008 (law no. 2008:67);
- c) The adoption of a national human rights plan of action for the period 2006-2009;
- d) The adoption, in November 2007, of the action plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships (Govt. Comm. 2007/08:39); and
- e) The common Action Plan developed by the Border Control Police, the Migration Board and the Social Services which aims to minimise the risks of unaccompanied asylum-seeking children disappearing and becoming victims of trafficking.

6. The Committee commends the State party for its commitment to international human rights obligations, in particular the clear and unequivocal stance that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute.

7. The Committee notes with satisfaction that the Government has allocated additional resources to the Prison and Probation Administration to create better facilities, both in prisons and remand prisons, and to build a number of new prisons and remand prisons to increase their capacity.

8. The Committee notes with appreciation that the State party is continuously reviewing and analyzing its compliance with international human rights obligations through commissions and studies established for such purpose and the appointment of special investigators.

C. Principal subjects of concern and recommendations

Definition of torture

9. Notwithstanding the State party's assertion that under the Swedish Criminal Code all acts that may be described as "torture" within the meaning of article 1 of the Convention are punishable, the Committee regrets that the State party has not changed its position with regard to

the incorporation into domestic law of the crime of torture as defined in article 1 of the Convention. (arts. 1 and 4)

The State party should incorporate into domestic law the crime of torture and adopt a definition of torture that covers all the elements contained in article 1 of the Convention. By naming and defining the offence of torture in accordance with the Convention as distinct from other crimes, the Committee considers that States parties will directly advance the Convention's overarching aim of preventing torture, inter alia, by alerting everyone, including perpetrators, victims, and the public, to the special gravity of the crime of torture and by improving the deterrent effect of the prohibition itself.

Statute of limitations

10. The Committee notes with concern that the offence of torture, which as such does not exist in the Swedish Criminal Code, is punishable under other provisions of the Criminal Code, and is, therefore, subject to the statute of limitations. While noting information provided by the delegation that a review of the statute of limitations will be conducted, the Committee is concerned that the statute of limitations applicable to provisions of the Criminal Code may prevent investigation, prosecution and punishment of these grave crimes, in particular when the punishable act has been committed abroad. Taking into account the grave nature of acts of torture, the Committee is of the view that acts of torture cannot be subject to any statute of limitations. (arts. 1, 4 and 12)

The State Party should review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention so that acts of torture, attempts to commit torture, and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.

Fundamental safeguards

11. The Committee notes with appreciation the new legislation on fundamental safeguards that entered into force on 1 April 2008 in respect of access to a lawyer and notification of custody. However, it is concerned that a public defence counsel will only be appointed once the person is considered to be a suspect. The Committee regrets that Swedish legislation does not include a legal provision on access to a doctor and that a request to see a doctor is evaluated by, and therefore left to the discretion of, the police officer in charge. It further regrets reports that notification of custody is not systematically delivered to family members and is frequently delayed with reference to possible interference with the investigation. The Committee notes that an information leaflet on the fundamental rights afforded to persons suspected of a crime and therefore detained and deprived of his or her liberty has been produced by the National Police Board, in cooperation with the Swedish Prosecution Service, and that this leaflet is currently being translated into the most commonly used languages. (arts. 2, 11, 13 and 16)

The State party should take effective measures to ensure that all detainees are afforded fundamental legal safeguards in practice, including the right to have access to a lawyer and a doctor and the right of detained persons to inform a close relative or another third party of their choice of their situation. The Committee emphasizes

that persons in custody should benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty and throughout the investigation phase, the whole of the trial and during appeals. Furthermore, the State party should finalize the translation of the information leaflet on fundamental rights as soon as possible and widely disseminate it to all places where a person may be deprived of his or her liberty.

Detention of asylum-seekers

12. The Committee notes that positive changes have occurred in the Migration Board's policy on reception of undocumented asylum-seekers and pre-deportation detention which have resulted in a decrease in detention rates. The Committee is, however, concerned that pre-deportation detention is common and it regrets that there is no absolute limit on the length of time that an asylum-seeker can be detained. The Committee is also concerned at information that asylum seekers who are a risk to themselves or others are sometimes placed in remand prisons. (arts. 2, 3, 11 and 16)

The State party should take effective measures to ensure that detention of asylum-seekers is used only in exceptional circumstances or as a measure of last resort, and then only for the shortest possible time. Furthermore, the State party should consider other placement alternatives for asylum-seekers who are in need of care that are suitable for their particular condition.

Non-refoulement

13. The Committee welcomes the inclusion in the Aliens Act of a new ground for issuing a residence permit whereby an alien will normally be granted such a permit when the Committee, or another international complaints body, has found the State party to be in breach of its treaty obligations. The Committee also notes the statement by the delegation that the State party has not participated in any extraordinary renditions and that it has not obtained or tried to make use of diplomatic assurances in any case other than the cases concerning Mr. Agiza and Mr. Alzery. The Committee takes note of the extensive information presented by the State party on measures taken to implement the Committee's decision in *Agiza v. Sweden*, including the issuance of visas to family members and continued visits to the prison. The Committee also notes that the requests for residence permit and compensation are currently awaiting resolution. However, the Committee regrets the lack of full implementation of the key elements in this decision, in particular an in-depth investigation and prosecution of those responsible, as appropriate. It further regrets the lack of full implementation of the Views of the Human Rights Committee in *Alzery v. Sweden*, including the recommended remedies. (arts. 3 and 14)

The State party should take all necessary measures to implement the decision of this Committee and the Views of the Human Rights Committee concerning Mr. Agiza and Mr. Alzery and provide them with fair and adequate compensation. Furthermore, the State party should undertake an in-depth investigation into the reasons for their expulsion and prosecute those responsible, as appropriate. Finally, the State party should take effective measures to ensure that it complies fully with its obligations under article 3 of the Convention in order to prevent similar incidents from occurring in the future.

14. The Committee notes that the State party is in the process of negotiating a Memorandum of Understanding with the Government of Afghanistan in connection with its participation in the International Security Assistance Force (ISAF) operation. (art.3)

It is the Committee's constant view, as reiterated in its General Comment on article 2 of the Convention (CAT/C/GC/2) that article 3 of the Convention and its obligation of non-refoulement apply to a State party's military forces, wherever situated, where they exercise effective control, de jure or de facto, over an individual. With regard to the possible transfer of detainees within a State party's effective custody to the custody of any other State, the State party should ensure that it complies fully with article 3 of the Convention in all circumstances.

Training

15. The Committee notes with appreciation the detailed information provided by the State party on training programmes for, *inter alia*, the police forces, the Prosecution Authority and the Prison and Probation Administration, including prison staff. The Committee also welcomes the information provided on the special police tactics, including employment of non-violent means and crowd control. However, the Committee regrets the limited information provided on monitoring and evaluation of such training programmes and the lack of available information on the impact of the training conducted for law enforcement officials and prison staff, and how effective the training programmes have been in reducing incidents of torture and ill-treatment. (art. 10)

The State party should further develop educational programmes to ensure that all law enforcement officials and prison staff are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. All relevant personnel, including Swedish embassy staff, should receive specific training on torture and ill-treatment and the Committee recommends that the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) become an integral part of such training. Furthermore, the State party should develop and implement a methodology to assess the effectiveness and impact of such training/educational programmes on the reduction of cases of torture, violence and ill-treatment.

Imposition of restrictions on remand prisoners

16. The Committee expresses its concern at information that between 40 to 50 per cent of remand prisoners are subjected to restrictions and that remand prisoners are currently unable to effectively challenge and appeal decisions to impose or maintain specific restrictions. The Committee also regrets the lack of official statistics on the use of such restrictions. However, the Committee notes that a proposal of the special investigator appointed by the Government, which includes regulatory changes aimed at securing a uniform and legally secure use of restrictions, is currently under consideration in the Ministry of Justice. (arts. 2, 11 and 16)

The State party should take appropriate measures to further reduce the imposition of restrictions as well as their length. The Committee is of the view that restrictions should always be based on concrete grounds, individualised and proportionate to the case at hand and lifted immediately when the grounds for their imposition no

longer exist. As an exceptional measure, they should be interpreted narrowly, and in case of doubt, in favour of the individuals.

Furthermore, the Committee notes that the Government has recently enjoined the Prosecution Authority to, by the end of the year, account for the number of persons in detention in 2008 and the number of cases where restrictions have been imposed and encourages the State party to submit this information to the Committee.

Coercive measures, including physical restraints and isolation

17. The Committee regrets that the State party could not provide aggregated data on the average length of the use of physical restraints or isolation in psychiatric institutions and hospitals. However, it notes that the National Board of Health and Welfare is currently preparing an on-line register for compulsory mental care and forensic mental care with the aim, *inter alia*, to produce reliable statistical data on the use of coercive measures. (arts. 11 and 16)

The State party should review the use of physical restraints and further limit the use of solitary confinement as a measure of last resort and for as short a time as possible under strict supervision. The State party is encouraged to complete the on-line register as soon as possible.

Prompt and impartial investigations

18. The Committee notes that the National Police-related Crimes Unit was established in 2005 and that the 2007 report *Summa Summarum- an independent authority for investigations of criminal allegations against police officers and prosecutors?* did not recommend the establishment of an independent authority for such investigations but rather a more clearly separated unit for internal investigations within the police. However, the Committee is concerned at information that the basic precepts of independence, effectiveness and promptness may not have been observed in all cases of complaints of police misconduct. (arts. 12 and 16)

The State party should strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. The Committee is of the view that such investigations should not be undertaken by or under the authority of the police, but by an independent body.

19. The Committee notes that Swedish courts have jurisdiction with regard to all crimes committed by Swedish troops deployed abroad in the course of duty, regardless of the law of the state where the criminal act may have been committed. The Committee also takes note of the information provided by the delegation in respect of the incident that took place during the international UN/EUFOR operation Artemis in the Congo in 2003. However, the Committee expresses its concern at allegations that a prisoner was tortured by French soldiers in the presence of Swedish soldiers and that the State party did not call for a prompt and impartial investigation in this respect. (arts. 5 and 12)

The State party should call for prompt and impartial investigations if it receives information indicating that there are reasonable grounds to believe that acts of torture or ill-treatment have been committed while conducting its international

operations. The State party should also ensure that Swedish troops are instructed to report such incidents and take other measures, as appropriate.

Compensation and rehabilitation

20. While noting information on treatment and social rehabilitation services provided to, *inter alia*, victims of torture and ill-treatment, the Committee is concerned that, as these services are conducted in many different ways, it is difficult to get an overview of the actual situation, including possible regional discrepancies. In this respect, the Committee regrets the lack of aggregate information on how often these different kinds of services have been utilized or on what resources are allocated to victims of torture or ill-treatment for psychiatric services. Furthermore, the Committee is concerned that there has been no case decided by or is currently pending before any Swedish courts concerning claims for compensation or other kinds of redress to victims of torture. (art. 14)

The State party should continue to strengthen its efforts in respect of compensation, redress and rehabilitation in order to provide victims with redress and fair and adequate compensation, including the means for as full rehabilitation as possible.

Rights of vulnerable groups and discrimination

21. The Committee notes that the 2001 action plan against racism, xenophobia, homophobia and discrimination has been incorporated in the new human rights action plan for the period 2006-2009 and it welcomes the recent initiative of the Government to merge the current anti-discrimination legislation into one single Anti-Discrimination Act that will cover seven grounds of discrimination.¹ However, the Committee expresses its concern at reports of continued discrimination of vulnerable groups, in particular the Roma. The Committee is also concerned at reports of hate crimes in the State party, including a high number of racial hate crimes. (arts. 2, 12, 13 and 16)

The State party should intensify its efforts to combat discrimination against vulnerable groups, including the Roma. In this respect, the State party should take further steps to combat racial discrimination, xenophobia and related violence as well as hate crimes, ensure prompt, impartial and thorough investigations into all such motivated violence and prosecute and punish perpetrators in all cases with appropriate penalties which take into account the grave nature of their acts.

Prohibition of any statement obtained under torture from being invoked as evidence

22. The Committee takes note of information provided that the Swedish penal and procedural system, which is based on the principle of free examination of evidence, contains several provisions, including procedural safeguards, to prevent public officials from using torture in criminal investigation. The Committee, however, expresses its concern at the fact that Swedish law does not contain specific provisions ensuring that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, as required by article 15 of the Convention.

¹ Discrimination on the grounds of sex, sexual orientation, gender identity, ethnic background, religion or other religious beliefs, disability, and age.

The State party should ensure that legislation concerning evidence to be adduced in judicial proceedings is brought in line with the provisions of article 15 of the Convention so as to exclude explicitly any evidence obtained as a result of torture.

Domestic violence

23. The Committee, while noting various measures undertaken by the State party, including the 2007 Action Plan on Men's Violence against Women, expresses its concern about the persistence of violence against women and children, including domestic violence and crimes committed against women and children in the name of honour. The Committee further regrets the lack of State-wide statistics on domestic violence, including statistical data on complaints, prosecutions and sentences. Furthermore, the Committee is concerned at information that the provision of social services varies between municipalities and that some municipalities are unable to offer sheltered housing to all women victims of violence, including women with special needs such as women with disabilities. (arts. 2, 12 and 16)

The State party should increase its efforts to prevent, combat and punish violence against women and children, including domestic violence and crimes committed against women and children in the name of honour. The State party should also monitor the provision of social services with a view to ensuring the availability of a sufficient number of shelters, equipped to accommodate women with special needs, including women with disabilities, throughout the territory of the State party, and their adequate financing.

Data collection

24. While noting that some statistics have been provided, the Committee regrets the lack of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement officials, violence against women and children, including domestic violence and crimes committed against women and children in the name of honour, as well as compensation and rehabilitation. (arts. 12, 13 and 16)

The State party should establish an effective system to gather all statistical data relevant to monitoring of the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, violence against women and children, including domestic violence and crimes committed against women and children in the name of honour, as well as on compensation and rehabilitation provided to the victims. The Committee recognizes the sensitive implications of gathering personal data and emphasizes that appropriate measures should be taken to ensure that such data collected is not abused.

National preventive mechanisms under the Optional Protocol to the Convention

25. The Committee notes that the State party has designated the Parliamentary Ombudsman's Institution and the Chancellor of Justice as its national preventive mechanisms (NPMs) under the OPCAT. However, it expresses its concern at the fact that these institutions are reactive, not preventive, in nature, that neither organizations have multi-professional staff and that the Government has not allocated any additional resources which would allow these institutions to

deal with the new tasks, as it has been brought to the Committee's attention by the NPMs themselves.

The Committee recommends that the State party should re-examine the decision taken by the Swedish Government to designate the Parliamentary Ombudsman's Institution and the Chancellor of Justice as the Swedish NPMs or, alternatively, ensure their effective functioning as preventive mechanisms by, *inter alia*, allocating the necessary resources in order to ensure that it meets the requirements under the OPCAT.

26. The Committee notes with appreciation the State party's previous contributions to the United Nations Voluntary Fund for Victims of Torture and encourages it to resume its support.
27. The Committee invites the State party to consider ratifying the United Nations human rights treaties to which it is not yet a party, i.e. the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and the International Convention for the Protection of All Persons from Enforced Disappearance.
28. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, as approved by the international human rights treaty bodies and contained in document HRI/GEN/2/Rev.4.
29. The State party is encouraged to disseminate widely the reports submitted by Sweden to the Committee and the Concluding observations and summary records, in appropriate languages, through official websites, the media and non-governmental organizations.
30. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 11, 13, 16 and 17 above.
31. The State party is invited to submit its seventh periodic report by 30 June 2012.
