

SUMMARY RECORD OF THE 437th MEETING

Held on Wednesday, 1 August 1979, at 10.45 a.m.

Chairman: Mr. LAMPTEY

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 3) (continued)

Fourth periodic report of Sweden (CERD/C/48/Add.1) (concluded)

1. Mr. GOUNDIAM expressed satisfaction with the fourth periodic report of Sweden, which answered satisfactorily all the questions asked in connexion with the third periodic report.
2. The question of the right to marriage and choice of spouse was one which fell within the purview of international private law. Section 5 (g) of the report stated in that connexion that in the case of foreign nationals, Swedish authorities would sometimes consider their national law to be applicable. He was puzzled by the word "sometimes". Section 6 stated that the only quota system in effect concerned the admission of refugees into Sweden. He inquired what were the criteria used by the Swedish authorities in establishing the quota. Section 12 referred to court decisions in cases of alleged discrimination. In one case (sect. 12 (c)), the Göteborg District Court had convicted the manager of two restaurants of unlawful discrimination for ordering the restaurant staff "to limit the number of foreign guests and to admit only a small number of negro guests every night". He was surprised that the persons who had carried out the orders had not also been prosecuted.
3. Mr. NABAVI commended the Swedish Government on its efforts to comply with its obligations under the Convention. He was satisfied with the replies given to the questions asked in connexion with the third periodic report. He had doubts, however, concerning Sweden's interpretation, as reflected in section 4 of the report, of its obligations under article 4 (b) of the Convention. The provisions of article 2, which the report cited in that connexion, were of a general character, whereas those of article 4 were more specific. Article 2 did not dispense States parties from the obligation to declare illegal and prohibit organizations engaged in racist activities. He noted from section 11 (e) of the report that in August 1978 the Swedish Government had decided to appoint a senior official as commissioner with the task of considering the need for measures to prevent prejudice and discrimination against immigrants and ethnic, linguistic, national or religious minorities who had settled in Sweden. The commissioner would examine the implementation of the provision of the Penal Code concerning unlawful discrimination to see whether existing legislation against discrimination was sufficient or whether additional prohibitions should be included in the Code. He hoped that the results of the commissioner's study would convince the Swedish Government of the need to pass specific legislation or add provisions to the Penal Code declaring illegal and prohibiting organizations engaged in racist activities.

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4. Mr. DEVETAK said that he appreciated the sincerity of the Swedish Government in dealing with the problems of implementing the Convention and its willingness to take into account the Committee's comments and suggestions. There was a clear awareness in Sweden of the need to protect the rights and interests of the Lapps. The recent legislation in that field was commendable and constructive. He questioned, however, whether the measures to improve the economic situation of the Lapps by promoting reindeer breeding were adequate. More could perhaps be done to promote the further integration of the Lapps into the economic and social life of Sweden as a whole; for example, new investments in the areas where the Lapps lived might be encouraged and vocational training might be provided.

5. As to the educational and cultural development of the Lapps, he would like to have information on the results of the requests to the National Board of Universities and Colleges referred to in section 2 (c) of the report. Details should also be given on the number of schools and children involved. The fifth periodic report should include the full text of the suggestions made by the working group appointed to co-ordinate work on matters of special interest to the Lapps, as referred to in section 2 (g). In that connexion, he wondered why representatives of the Lapps had not been invited to join the working group. Consultation with them was not enough; they should be more directly involved.

6. In conclusion, he inquired as to the position of the Swedish Government concerning proposals to include the question of the protection of the rights of aboriginal populations in the declaration on the protection of the rights of ethnic, linguistic, national and religious minorities whose adoption was being considered by the Commission on Human Rights.

7. Mr. PARTSCH observed that Sweden had been largely responsible for the action taken in neighbouring Scandinavian countries on behalf of the gypsy population.

8. The fourth periodic report indicated that the right to leave Sweden was guaranteed by the Constitution. He wished to know what were the limitations on that right as they applied, for example, to convicted persons or soldiers in active service.

9. With respect to the relationship between the ombudsmen and the Chancellor of Justice, it was stated in section 8 of the report that there was no conflict of competence. It was possible to complain about a public official first to an ombudsman and later to the Chancellor of Justice, or first to the Chancellor of Justice and later to an ombudsman. He wished to know what authority would decide which opinion was correct in the event of a conflict of opinion between the ombudsman and the courts concerning allegations of infringement of fundamental rights and freedoms.

10. The fourth periodic report of Sweden could serve as a model to other States for the preparation of such reports.

11. Mr. BAHNEV said that Sweden's report was very frank and informative. In section 2 reference was made to a bill adopted by the Parliament in May 1977

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(Mr. Bahnev)

stating that the Lapps were an ethnic minority in Sweden that, being an aboriginal population in the country, was in a special position as compared with the majority population and other minority groups. He wished to know specifically what were the consequences of the fact that that group was composed of aborigines. The Swedish Government was giving serious attention to the problems of the Lapps. A significant proportion of that population lived outside the reindeer-breeding area and it was important that opportunities for voluntary integration should be available. However, the authorities seemed to want to keep the Lapps in the reindeer-breeding areas. In the light of the obligations under the Convention to assist ethnic minorities and guarantee the equal enjoyment of human rights, he asked how Lapps wishing to be part of the mainstream of Swedish society were being integrated and how the over-all development of the reindeer-breeding area was proceeding. The fifth periodic report should give detailed information on the Government's efforts to strike the proper balance in that regard and to avoid the creation of "reservations".

12. Sweden had initiated discussions among the Nordic countries on the status of gypsies. The Committee had already requested the Swedish Government to formulate and begin implementing a programme designed to change the attitudes of the population towards gypsies. He wished to know what progress had been made in that field.

13. He had doubts as to whether enough was being done by the Swedish Government to implement the provisions of article 4 (a) of the Convention. He agreed with the statements made by Mr. Nettel and Mr. Nabavi concerning Sweden's attitude towards article 4 (b) and hoped that the Government would further clarify its position.

14. In section 11 (e) of the report, it was stated that in August 1978 the Swedish Government had decided to appoint a senior official as commissioner with the task of considering the need for measures to prevent prejudice and discrimination against immigrants and ethnic, linguistic, national or religious minorities who had settled in Sweden. He hoped that the results of that work would be made available in the fifth periodic report. He wished to know what rights migrant or minority workers enjoyed, and noted in that connexion that discrimination against such persons tended to take the form of imposing on them working conditions less favourable than those enjoyed by Swedish workers. It was to be hoped that the Commissioner's report would deal with such matters.

15. With regard to the application of article 7 of the Convention, he noted that as stated in the third paragraph of section 9 of the report, human rights was not taught as a separate subject in schools, but rather was dealt with within the framework of several general subjects, including religion. In that connexion, he noted that religious instruction probably did not have to be compulsory.

16. The inclusion in the report of information on six specific cases of discrimination showed the frankness of the Swedish Government and was an indication that the problem of racial discrimination, while not acute, nevertheless still existed in the country. Relations with the gypsies, in particular, could be further improved.

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17. Mr. BRIN MARTINEZ said that he was concerned over some aspects of the status of the ethnic minorities in Sweden, particularly the Lapps. For example, the Government's efforts seemed to be focused too narrowly on the promotion of reindeer breeding and might not be sufficient to ensure the integration of the Lapps into the mainstream of society, protect their human rights and guarantee their equality as required by the Convention.

18. The Swedish Government indicated in the fifth paragraph of section 2 of the report that it understood equality to mean equal opportunities, rights and obligations, and freedom of choice to mean that minority groups should be allowed to choose to what extent they would preserve and develop their individual identity. He was not certain whether such views were in keeping with the Convention, and he sought further clarification on that point. With regard to section 5 (a) of the report, he requested further clarification as to why, if the Government continued to believe that the 1886 Act requiring an alien who was a plaintiff in a civil case to post security, at the request of the defendant, for the costs of the legal proceedings was based on objective and defensible grounds, it was willing to repeal the Act.

19. With regard to the basic old age pension in Sweden, which, according to section 5 (p) of the report, was currently reserved for citizens, he would welcome more detailed information in the next report concerning the bill submitted to Parliament to extend the right to non-citizens who had resided in the country for a specific period of time.

20. He commended the Swedish Government on its sympathetic policy towards refugees and asked whether there was any welfare programme for the refugees admitted that protected their rights to health, housing and access to the courts.

21. He looked forward to receiving more information concerning the report of the senior official (sect. 11 (e)) appointed to investigate discrimination against ethnic, linguistic, national and religious minorities, and it was to be hoped that the findings of the investigation would be reflected in specific provision in the country's Penal Code.

22. The report indicated that a restaurant owner had been convicted of discrimination against gypsies, but provided little other detail concerning the Government's efforts to assist the gypsies in the enjoyment of their rights, and he would welcome more information on that subject in future reports.

23. Sweden had consistently distinguished itself by its support of the liberation struggle in southern Africa. He would welcome further information concerning the Government's views on the bi-racial Government in Zimbabwe-Rhodesia, the apartheid régime in South Africa and the national liberation movements in southern Africa generally. It would also be useful to have additional information concerning the Government's position on actions undertaken in the international sphere with regard to the situation in southern Africa and on its contribution to programmes benefiting children, women and refugees who were victims of apartheid.

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24. Mr. DECHEZELLES said that the Swedish report was exemplary and could serve as a model in many respects for the reports of other countries. The report confirmed his view that Sweden was one of the countries in the forefront of the struggle to ensure respect for human rights in general and non-discrimination in particular. Given its excellent record in applying the Convention, the Swedish Government itself was the best judge of what remained to be done in its ongoing efforts to realize the objectives of the Convention in its territory.

25. Mr. VIDELA ESCALADA commended the Swedish Government on the "home language teaching" which it had introduced in response to the increase in the number of migrant workers in the country (sect. 11 (a) of the report). The programme of instruction in the home languages represented a highly constructive step in the application of the Convention.

26. It was to be hoped that the report of the Commissioner appointed to investigate prejudice and discrimination against immigrants and ethnic minorities, mentioned in the annex prepared by the Minister of Labour, would lead to the amendment of the Penal Code in order to bring it fully into line with the requirements of the Convention.

27. He would welcome further information in future reports concerning developments affecting the Lapp minority. While appreciating the Government's efforts to raise the Lapps' level of development, he continued to have doubts as to whether that minority had full access to the same benefits as other Swedes. He requested that specific data should be provided on the cultural, economic and social levels of the Lapps in comparison with the rest of the population, and information on the positions attained by individual Lapps in Swedish society.

28. Mr. DAYAL said that the Swedish Government was endeavouring to meet its obligations under the Covenant in a far-sighted and enlightened manner. Contrary to popular belief, Sweden was a multiracial society, as nearly 1 million of the total population of 8 million were immigrants. He noted with satisfaction that the importance of the problem was fully recognized in Sweden, as evidenced by the report itself and the document prepared by the Ministry of Labour which was annexed to the report. The question of race relations was a practical and immediate one, affecting the social cohesion and harmony of the nation, and he welcomed the fact that the Government's policies were constantly subject to review and reform.

29. It had often been emphasized in the Committee that immigrant groups should not be reduced to the status of mere objects of governmental concern, but should be actively involved in the shaping of their own future. In that connexion, he asked whether there was sufficient consultation with immigrant groups in Sweden with regard to the policies and programmes designed to protect their interests. He noted with satisfaction that one of the ombudsmen had held a meeting with some 100 immigrants to discuss their problems, and that similar meetings were planned for the future. He asked whether there were plans to institutionalize such consultations.

30. With regard to education, in addition to language training for children of immigrants it was important to teach in schools the cultural values of countries

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(Mr. Dayal)

from which immigrants came so as to instill in school children respect for young people from other countries. He was satisfied with the reply provided by the Government to the question asked at the preceding session concerning the respective functions of the ombudsmen and the Chancellor of Justice. The ombudsmen were active in the field of race relations, their functions having evolved over the years. For example, the ombudsmen no longer functioned as special prosecutors but rather had the power and the responsibility to admonish and criticize public officials who were found to be at fault. In many cases, the mere fact that a complaint was lodged with an ombudsman was enough to bring about immediate rectification of the situation, the very existence of the ombudsmen serving to check abuses.

31. Mr. SVIRIDOV said that the thoroughness of the Swedish report attested to the responsible attitude of the Government and its willingness to continue to co-operate with the Committee.

32. Like Mr. Brin Martinez, he regretted that the report contained no information concerning Sweden's attitude towards the racist régimes of southern Africa. Such information was important in assessing the progress being made in implementing the programme of the Decade for Action to Combat Racism and Racial Discrimination.

33. A question that arose was to what extent the measures taken with regard to the Lapps, which were designed merely to preserve their status as an ethnic minority and accorded them a special and unequal position as compared with the majority of the population and other minority groups, were consistent, in particular, with article 1, paragraph 4, of the Convention. He wished to receive some clarification on that question.

34. A number of questions about the gypsies had been asked in connexion with the previous report, and there had been a request for details on the implementation of the information programme designed to change attitudes towards the gypsies. He regretted that the fourth periodic report did not contain the information requested. The comments made by members in connexion with the third periodic report should be taken into account by the Swedish Government in preparing its next report to the Committee.

35. As had been noted by other speakers, the impression had arisen that the implementation of the provisions of article 4, subparagraphs (a) and (b), was inadequate in comparison with the obligations under that article.

36. He wished to obtain further information regarding the Swedish Government's policy towards the mass media. He inquired whether the statement made by the representative of Sweden at the time of the consideration of the preceding report (see the 332nd meeting, para. 64) to the effect that the Government was powerless to control the mass media meant that no measures could be taken if a newspaper or a radio or television station propagated racist ideas. He asked whether, for example, any measures had been taken with regard to the newspaper Hallands Nyheter, published at Falkenberg, which had allowed attacks against migrant workers.

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(Mr. Sviridov)

37. One member of the Committee had stated at the preceding meeting that he welcomed the references to court cases and decisions in the Swedish report and that, in general, it would be desirable to include as many court decisions as possible in country reports. That view was based on the assumption that racial discrimination, and court decisions on the subject, existed in all countries; however, it would be incorrect to equate, for example, the Western and the socialist countries in that respect, since such practices did not exist in the socialist countries. The very existence of court decisions in Sweden showed that there were manifestations of racism in that country, a fact which one could not but regret. The importance of court decisions should not be over-emphasized since the basic means of implementing the Convention should be not court decisions but the adoption of the measures envisaged in the Convention, the genuine implementation of the Convention and, to that end, the achievement of the radical socio-economic transformations necessary to eradicate racism from a society.

38. He would welcome information on the results of the work of the human rights tribunal which had met at Stockholm in April 1978 to discuss the question of discrimination against immigrants.

39. Mr. SHAHI expressed satisfaction at Sweden's faithful implementation of the provisions of the Convention. He looked forward to learning of the results of the study by the newly appointed government commissioner into the problems of prejudice and discrimination against immigrants in Sweden (sect. 11 (e)).

40. He also inquired about the birth rate among the Lapps, and whether their population was currently increasing or decreasing.

41. Mr. NETTEL, referring to the point made by Mr. Sviridov, said he took the view that there was almost no country in which racial discrimination did not exist. When he read a report which did not refer to court cases involving discrimination, he assumed it was because the man in the street in the country in question had no access to the courts, was discouraged from making use of the courts, or did not understand how to use the legal system. Sweden's submission demonstrated that it did not fear to show that discrimination existed; he preferred that attitude to the position taken by some who claimed that under their particular social or economic system there was no discrimination.

42. Mr. VIDELA ESCALADA said he could not agree that racial discrimination was a universal phenomenon: his own country was an example of a land where there was no discrimination. He did agree, however, that it was beneficial for the Committee to receive information on legal cases in countries where there was discrimination, and he was very interested in receiving information on legal proceedings in the reports submitted to the Committee.

43. Mr. SVIRIDOV said he had wished to make the point that court cases should not be given exaggerated importance, as they had been at the preceding meeting. Legal proceedings were one of the means of combating racism, and he had not meant to imply that countries in which the legal practice of investigating cases of racial

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(Mr. Sviridov)

discrimination existed should not supply information on such proceedings in their reports. However, it would be better if people living, for example, in Sweden had no need at all to go to the courts to seek redress against discrimination because such discrimination did not exist.

44. Mr. DECHEZELLES said he wished to make it plain that Mr. Sviridov was not expressing the point of view generally held in the Committee. It was paradoxical that when a country identified instances of racial discrimination, took specific measures to combat it and then provided the Committee with information on those measures, it was upbraided for the racism which it was trying to root out. In his view, it was sheer sophistry to suggest that a vast region of the world, spanning almost an entire continent, was free of racial discrimination owing to the social system adopted there.

45. The CHAIRMAN, speaking in his personal capacity, said that one measure was as important as any other in the struggle to eliminate racial discrimination. It was easy to pass legislation against racial discrimination, but it was important that the victim of discrimination should have recourse to the courts, and for that reason the Committee had always requested information on court cases related to racial discrimination.

46. Mr. NORDENFELT (Sweden), replying to members' questions and comments, said that some of the questions raised seemed to indicate a persistent misunderstanding of the aims and scope of the measures taken in Sweden in support of Lapp culture. The difference between the Lapps and other minority groups in Sweden as well as the majority of the population, lay in the fact that the Lapps were the aboriginal population: there had been contact between Swedes, Norwegians and Lapps since about the time of Christ. Measures had been taken in Sweden to promote minorities in general and immigrants, whether they were guest workers or refugees, but special measures had been judged necessary to protect the Lapp minority.

47. One of the concepts guiding Sweden's approach to its minorities was that of freedom of choice: a member of a minority should be able to choose to what extent he was integrated into the mainstream of Swedish society, and to what extent he would retain his minority identity. The traditional Lapp village had been based on reindeer breeding and associated activities. The vast majority of the 15,000 Lapps living in Sweden no longer supported themselves by such means or even lived in the reindeer region, but the Government considered it important to afford protection to the 2,500 Lapps - about 600 households - who still supported themselves by reindeer herding in order to prevent the practice from disappearing altogether, which would take away the very basis of the Lapp culture. The fact that only 2,500 Lapps still maintained that way of life showed that the remaining 12,500 had become integrated with the rest of society. He refuted absolutely the suggestion that the special legislation for the Lapps was contrary to the provisions of the Convention. Its aim was not to push the Lapps back into a reservation - Lapps enjoyed all the rights of other Swedes, but some were accorded additional rights in order to secure the continued existence of their traditional economy for those who wished it.

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(Mr. Nordenfelt, Sweden)

48. Lapp children could complete their nine-year compulsory education either in the State schools, like any other Swedish children, or at one of the eight State-run nomad schools, which had the same aims as other schools except that the Lapp language was also taught. There was also a State college to give older Lapps an educational opportunity they had previously missed.

49. Sweden's position regarding the special mention of the position of aboriginal citizens in the draft declaration discussed at Geneva was the same as that voiced in the Norwegian statement at that time.

50. Turning to the problem of the implementation of article 4 (b) of the Convention, he confirmed that the newly appointed commissioner would look into the question of whether legislation was needed to ban racist organizations. If the commissioner concluded that legislation was necessary, he would make the commissioner's views known.

51. Chapter 2, article 14, of the Swedish Constitution provided that "freedom of association may be restricted only as regards such associations the activities of which are of a military or similar nature or which involve the persecution of a national group of a particular race, of a particular skin colour, or of a particular ethnic origin", which made it clear that the provisions of chapter 16, section 8, of the Penal Code, referred to in section 4 of the current report, had the necessary restrictive effect required by the provisions of the Convention.

52. Mr. Sviridov had been concerned at the possibility that expressions of racist views could not be controlled in the Swedish mass media. No such danger existed: in that connexion he drew attention to article 4 of the Freedom of the Press Act, which read: "With due regard to the purpose of a universal freedom of the press ... any ... representation which is punishable under law shall be considered an unlawful statement in printed matter if it involves ... threats against, or contempt for a group of people of a particular race, skin colour, or national or ethnic origin, or of a particular religious confession".

53. Concerning the Act of 1886, referred to in section 5 (a) of the report, obliging an alien to furnish security for the costs of legal proceedings, he said that although the Government considered that the requirement was based on objective and defensible grounds, it had found it preferable to suggest to Parliament that it should repeal the Act. The Swedish Parliament, however, had chosen to repeal the Act only in part: aliens resident in Sweden were no longer under such an obligation but the Act continued to apply to aliens not resident in Sweden.

54. Normally, the national law of the spouse was applicable when a marriage was contracted in Sweden. Thus, for example, where the legally marriageable age as established by Swedish legislation and the national legislation of the prospective spouse differed, the latter prevailed. If, on the other hand, the spouse's national legislation prohibited marriage to persons of another ethnic origin or colour - as, for example, in South Africa - the provisions of that legislation would not be respected in Sweden.

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(Mr. Nordenfelt, Sweden)

55. All persons had the right to leave Sweden except in the certain cases mentioned by Mr. Partsch. The Swedish Government had just submitted an extensive report on that subject to the Human Rights Committee.

56. The Swedish Government would make every effort to give full and complete answers to the points raised by the Committee in its following report.

57. Mr. SVIRIDOV, replying to the remarks made by the Chairman in his personal capacity, said that he continued to believe that the most important way to eradicate racial discrimination was to implement socio-economic measures in the country concerned. He could not agree with the comment made by one of the speakers at the preceding meeting that racism was an inherent evil in every man. If that were true, the aims of the Convention could never be realized. He recalled that many members of the Committee had, on the previous day, expressed agreement with the conclusion stated in the report of Mauritius, which had also stressed the vital importance of social and economic change in bringing about an end to racial discrimination.

58. He thanked the representative of Sweden for his reply concerning the mass media in that country, but hoped that the text of the relevant act would be annexed to the next report.

59. The CHAIRMAN, speaking in his capacity as Chairman, pointed out to Mr. Sviridov that almost all the members of the Committee were outstanding jurists, diplomats and professors of law, most of whom had been dealing with human rights for many years. None could have been elected to the Committee had he believed that racism was inherent in all human beings. However, it was their generally held opinion that racial discrimination existed almost everywhere. It could not be said of any country that no one had, at any time, claimed to be the victim of racial discrimination. It was most important for the victims of discrimination to have access to the courts. The Committee, in fighting to eliminate racial discrimination, believed that all measures to that end were equally important.

60. Mr. DAYAL pointed out that the function of the Committee was to consider the implementation of the Convention, article 6 of which required States parties to assure effective protection and remedies, through the competent national tribunals and other State institutions, against any act of racial discrimination, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. Where there were tribunals, there were decisions, and examples of such decisions had been submitted in the Swedish report for consideration by the Committee. The value attached by any particular member to the significance of such decisions was a matter of subjective judgement. From the point of view of the Convention, the provisions of article 6 were of crucial importance to the implementation of the provisions of the Convention.

61. The CHAIRMAN announced that the Committee had completed its consideration of the fourth periodic report of Sweden.

The meeting rose at 1.00 p.m.

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