



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 813th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 29 April 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the second part (closed) of the meeting appears as document
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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Fifth periodic report of Sweden (CAT/C/SWE/5, CAT/C/SWE/Q/5 and replies to the list of issues)

1. At the invitation of the Chairperson, the members of the delegation of Sweden took places at the Committee table.

2. Mr. EHRENKRONA (Sweden), reiterating the commitment of his Government to uphold and respect its international human rights obligations, said that, while there had been a limited number of incidents involving police assault, there had been no reports of torture in the media or from other independent sources in modern times. The prevention of torture had been identified in a recent parliamentary submission on human rights as a priority in Swedish foreign policy. Although his Government was concerned by the challenges posed by terrorism, it was equally aware that the adoption of counter-terrorism measures was often used by States to justify human rights violations, including torture and cruel, inhuman or degrading treatment. Referring to the visit of the Subcommittee on Prevention of Torture in March 2008, he said his Government was awaiting the release of the final report of the Subcommittee.

3. Commenting on the list of issues (CAT/C/SWE/Q/5), he said that in preparing for its meeting with the Committee, his delegation would have preferred to have received the list sooner than it had. Furthermore, some of the issues raised seemed to be only remotely connected with the Convention, and were better suited to discussion within other human rights treaty monitoring bodies. Summarizing Sweden's reply to the list of issues, he provided an update on the material and criminal procedural rules in Swedish legislation that were of relevance to the Committee. For example, the Committee had raised issues such as the definition of torture, the use by courts of information obtained during torture, the right of persons under interrogation to a public defence counsel, and the provision of interpretation for non-Swedish speakers. The Committee had also been interested in the trade, production and export of goods and equipment specifically designed to inflict torture, and the existence of national preventive mechanisms. In that context, he outlined the functions of the Parliamentary Ombudsman and the Chancellor of Justice.

4. Since the submission of the fourth periodic report, amendments had been made to Penal Code provisions on the universal jurisdiction of Swedish courts, in an effort to more fully reflect the principles of territoriality, nationality and universality. Those concepts also included crimes committed by Swedish troops deployed abroad in the course of duty, regardless of the law of the State in which such crimes were committed. No extradition requests had been received by Sweden since the submission of the fourth periodic report.

5. Turning to issues regarding the police, detention centres and prisons, he said that there were no statistics available on the number of complaints of torture or ill-treatment, but that the standard of facilities and the range of recreational and vocational training activities was satisfactory. Action was being taken to expand the capacity of prisons and to increase the proportion of their staff members who were of non-Swedish background. He assured the Committee that Sweden had relatively short periods of detention and that the principle of

immediacy applied under Swedish procedural law. In March 2006, the Government-appointed special investigator had presented his proposal for a new Act on the Treatment of Persons Arrested or Remanded in Custody, which included regulatory changes aimed at securing a uniform and legally secure use of restrictions. Earlier, in December 2005, the Police Ordinance was amended to ensure that the investigation of complaints against police employees was independent, prompt and effective.

6. Sweden attached great importance to human rights training of law enforcement officials, the judiciary and prison staff, and had devised training programmes tailored to the needs of the various services.

7. With respect to asylum and migration issues, he highlighted the main features of the new Aliens Act that had entered into force in March 2006. The amendments introduced to the Act on Special Control in Respect of Aliens when the Aliens Act was adopted in 2005 had improved the rule of law and the legal rights of individuals in a number of ways. He took the opportunity to correct an error in his delegation's written response to question 4, pointing out that before the amendments were adopted, the Government was the first and only authority which made decisions on expulsion in accordance with the Act on Special Control. Nowadays, the Migration Board decided on such cases in the first instance and its decisions could be appealed to the Government.

8. He also elaborated on the steps taken by Sweden to implement the decision of the Committee against Torture and the views of the Human Rights Committee with respect to the cases of Ahmed Agiza and Mohammed Alzery, respectively. In that connection, he explained that apart from those cases, Sweden had not obtained or tried to make use of diplomatic assurances in cases handled under the Aliens Act, since such measures did not form part of Swedish migration policy. In an effort to clarify misunderstandings that had arisen, he stated categorically that Sweden had not participated in any form of extraordinary rendition. He also gave reassurance that following the incident in which a large number of unaccompanied asylum-seeking minors had disappeared from special units of the Migration Board, the border control police, the Migration Board and the social services had agreed on a common action plan to minimize the risk of such disappearances and exposure to trafficking in future. Furthermore, the Government had proposed that responsibility for accommodating unaccompanied children should be transferred to the municipalities.

9. Responding to questions relating to the Swedish mental care system, he detailed legislative steps taken to strengthen the laws concerning compulsory mental care and forensic mental care, and a corresponding regulation that had been adopted. Due to the organization of the Swedish health services, psychiatric care and physical treatment of victims of torture and ill-treatment were provided in many ways, and it would therefore be difficult to present a comprehensive overview of the system within the current forum.

10. A bill submitted to the Swedish Parliament in March 2008 had proposed the merger of existing anti-discrimination laws into a single Anti-Discrimination Act. Similarly, the functions of the four Ombudsmen dealing respectively with ethnic discrimination, disability, equal opportunity and sexual orientation, would also be merged into a single national authority

designated as the Discrimination Ombudsman. He wished to point out, however, that the Parliamentary Ombudsman, which had been created in 1809 as a separate institution and reported only to Parliament, was not affected.

11. In conclusion, he said that a review commission had made several suggestions on improving the effectiveness of Swedish criminal legislation and on strengthening the protection of victims. In addition, two national action plans against trafficking in human beings were being prepared, and a national strategy to combat terrorism had recently been presented.

12. The CHAIRPERSON (Country Rapporteur) commended the State party for its ratification of the Optional Protocol to the Convention and its cooperation with the visit by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in March 2008. The Committee would investigate why the Government had not received the list of issues more promptly. The Committee would also strive to continue improving its working methods in order to avoid duplicating questions posed by other treaty bodies. There were, however, many issues that were relevant to more than one treaty body.

13. The lack of a definition of torture in Swedish domestic legislation created several problems, such as a lack of relevant data, as detailed in the alternative reports submitted by the International Commission of Jurists and the Swedish Red Cross. He urged the reporting State to consider incorporating the definition of torture that appeared in article 1 of the Convention into domestic legislation. It would be useful to know whether the crimes typified by the State party prohibited the infliction of all the types of treatment covered in articles 1 and 16 of the Convention. The delegation should also indicate whether current domestic legislation prohibited such treatment as deprivation of sleep, food and water, prolonged exposure to loud music or to red light, uncomfortable cell temperatures, incommunicado detention, forced nudity, or other forms of coercive interrogation that could constitute torture. He wished to know whether there were statutory limitations that applied to the crimes listed.

14. Turning to article 3 of the Convention, he asked whether disciplinary action had been taken against any of the staff in charge of the cases of Mr. Agiza and Mr. Alzery, the two Egyptian asylum-seekers who had been handed over to the Egyptian authorities and allegedly tortured in spite of the diplomatic assurances given to Sweden. It would be useful to learn whether the Penal Code admitted criminal liability for acts of torture through the chain of command. He welcomed the fact that the State party was considering providing the victims in that case with compensation, and asked when that compensation would be paid. It would also be interesting to learn when the Government would make a decision regarding the issue of residence permits for those two individuals.

15. He enquired whether the three regional Migration Courts and the Supreme Migration Court that had replaced the Aliens Appeals Board had heard any cases involving asylum requests or the State party's obligations under article 3. He requested further information on the new subsidiary ground for protection that had been introduced in the reform of the judicial system in matters pertaining to aliens and citizenship. Details of cases in which protection had been requested pursuant to that subsidiary ground, and the outcome of any such cases, would be welcome. It would be interesting to know whether the State party could introduce a system to provide statistics on asylum requests disaggregated by gender and sexual orientation, particularly as that would provide a role model for other States parties. With regard to the last paragraph of the

reporting State's reply to question 14 on the list of issues, he asked whether asylum-seekers whose applications were rejected on the basis of evidence provided by embassy staff had the right to dispute that evidence.

16. With regard to articles 6 and 7 of the Convention, he requested confirmation that the State party had never taken any individual alleged to have committed torture into custody. The State party's written reply to question 29 on the list of issues referred to a report on the system of investigation into complaints against police officers. While the proposed new system had been rejected, he asked whether the Government had considered other conclusions and recommendations made in that report and, if so, what measures were being taken to implement them. He requested an update on the Ministry of Justice's consideration of the Summa Summarum report referred to in the reporting State's reply to question 25 on the list of issues. It would be interesting to learn how many cases of offences under article 4 of the Convention had been submitted for investigation to the police since the consideration of the State party's fourth periodic report, and how many had resulted in prosecution. He also asked how much cell space was allocated to each inmate in prisons. The delegation should confirm whether solitary confinement was ever applied in Swedish prisons and, if so, under what circumstances.

17. He asked whether the State party planned to allocate sufficient resources to the Parliamentary Ombudsman and the Chancellor of Justice in order to equip them to carry out their roles under the new National Preventive Mechanism. He asked the delegation for its reaction to comments by some of the State party's Ombudsmen warning of the risk that new legislation on security issues could be implemented in a discriminatory manner, and that courts were not obliged to exclude evidence obtained using torture. He also asked why decisions to delay notification of custody were rarely recorded.

18. Mr. EHRENKRONA (Sweden) said that under the new Alien's Act, there were three relevant judicial authorities - the Migration Board, the Migration Court and the Migration Court of Appeal. Applicants required leave to appeal to have a case examined on the merits by the Migration Court of Appeal.

19. Mr. WANG Xuexian (Alternate Country Rapporteur) asked the delegation for its comments on reports that systematic restrictions had been applied to remand prisoners. He requested confirmation that new legislation had allowed persons whose residence applications had been rejected to have a new assessment, which had resulted in the granting of some 30,000 residence permits.

20. He asked after the high number of unaccompanied asylum-seeking children that had disappeared from the Migration Board's special units in 2006 and 2007. He asked why such a high incidence of severe withdrawal behaviour had been found among young people in the reporting State.

21. The delegation should comment on reports of racism and discrimination in areas such as employment, education and housing, and of hate crimes. Discrimination had also been reported regarding the land rights of the Sami people and against the Roma population.

22. The Swedish Bar had argued that it was unacceptable from a rule of law perspective that persons interrogated by the police for the first time, before they were formally considered suspects, had no right to legal counsel. The Bar had also indicated that, under the Code of Judicial Procedure, the right to an interpreter in court was not guaranteed. He requested the delegation's reaction to those points.

23. Ms. BELMIR said that, while the system of ombudsmen provided a role model for the protection of human rights, it was unclear whether that system was in full conformity with the State party's international obligations to protect those rights. Given that the protection of some rights was the responsibility of institutions rather than the judiciary, it would be useful to know what procedures those institutions followed, and which institutions were responsible for protecting which rights, particularly detainees' rights. She requested clarification of whether the Government had the power to overturn decisions reached by the Migration Court of Appeal. It was unclear who took the decision to place detainees in solitary confinement. Turning to the treatment of minors in conflict with the law, she asked what criteria were taken into consideration for their detention and treatment, and whether those criteria were in conformity with the relevant international standards.

24. Mr. EHRENKRONA (Sweden) said that the Government could make decisions on migration cases only in so-called "security cases". Before such a case was decided by the Government, it was submitted to the Migration Court of Appeal, which gave its opinion on whether there were impediments against enforcement. If the Court ruled that there were such impediments, the Government was prevented from expelling the person concerned. The Migration Court of Appeal therefore had the power to veto expulsion orders.

25. Ms. GAER, responding to the delegation's assertion that some of the Committee's questions had been only remotely connected to the Convention, drew the State party's attention to the Committee's general comment No. 2. Paragraph 21 of that comment provided a long list of groups of people that the Committee had often found to be at risk owing to discrimination against them. The Committee had concluded that gender-based violence, including domestic violence, was among the issues that States parties should address in order to take effective measures to prevent torture and ill-treatment under the Convention. The Committee was therefore obliged to examine gender-related dimensions of torture and ill-treatment in its monitoring activities.

26. In its reply to question 34 on the list of issues, the State party had referred to an action plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships. It would be interesting to learn how the aspect of oppression in the name of honour had worked on a national level, particularly whether any cases dealing with honour crimes had been brought and resolved, and whether that aspect had affected particular communities.

27. It would be useful to learn what measures the State party had taken to implement the amendment to the Social Services Act obliging the social welfare committee to provide support and assistance to women who had been subjected to violence and to children who had witnessed violence. She requested information on any new legislation, investigations, prosecutions or services that had been introduced or implemented since that amendment had entered into force in July 2007.

28. Turning to the State party's reply to question 27 on the list of issues, she asked whether the February 2008 report of the National Centre for Knowledge on Men's Violence against Women had enabled the Government to establish priorities for action to be taken to address the care of victims of sexual crimes. She asked whether the State party had found the terminology "men's violence against women" to be more useful than "sexual violence" or "domestic violence" and if so, why.

29. She asked whether the legislative amendments that had taken effect on 8 April 2008 on the issue of custody had provided that the time of notification should be recorded in writing, that reasons should be given for delays, and that any delay in notification would be reviewable by a second official.

30. Mr. MARIÑO MENÉNDEZ, referring to legislation governing detention and the right of detainees to legal protection, expressed concern about the remark in the introductory statement to the effect that the conduct of a defendant must not be detrimental to proceedings. He would welcome further details on the practice of recording interrogations on video, in particular regarding the accountability of the persons conducting such interrogations. He inquired whether ill-treatment or torture committed outside Swedish territory was punishable under the law irrespective of whether it had been committed by individuals or legal entities. He asked what the maximum period of detention was for persons awaiting expulsion or seeking asylum. He sought more information on the system for granting residence permits on humanitarian grounds.

31. Mr. EHRENKRONA (Sweden) asked Mr. Mariño Menéndez to clarify his question concerning interrogation procedures. He observed that in general only individuals who had committed acts of ill-treatment or torture outside Swedish territory were liable to penalties, although there were some exceptions.

32. Mr. MARIÑO MENÉNDEZ inquired whether the Security Service had its own special procedures for conducting interrogations. Were they subject to supervision by judicial or parliamentary bodies?

33. Ms. SVEAASS said that in some of the complaints submitted under article 22 of the Convention involving Sweden the question of medical certificates documenting torture seemed to be a cause of concern. How often did the immigration authorities request medical certificates documenting the torture of asylum-seekers? Did medical personnel dealing with asylum-seekers receive any training based on the principles contained in the Istanbul Protocol? Was documentation of torture a regular feature of medical screening for immigrants?

34. In connection with some of the complaints involving Azerbaijani asylum-seekers, reference had been made to seeking information from the Swedish Embassy. She sought some clarification in that regard, in view of concerns about the reliability of the sources of information in question. She also inquired how much training embassy personnel were given on how to deal with people seeking protection.

35. She welcomed the fact that under the new Aliens Act some women had been granted residence permits on the grounds of the risk of forced marriages or genital mutilation in their country of origin. Exactly what kind of residence permit had they been granted? Were they protected by the Convention or was there some form of subsidiary protection?

36. Mr. KOVALEV, echoing concerns expressed about disappearances, especially of children, enquired whether Sweden planned to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

37. Ms. KLEOPAS asked whether the detention of migrant children, which was not in line with current legislative trends, was allowed under the Aliens Act. Noting that it was often difficult for asylum-seekers themselves to prove that they risked torture if returned to their country of origin, she inquired whether the Swedish migration authorities sought information from independent sources, such as the Office of the United Nations High Commissioner for Refugees (UNHCR), in addition to information from embassies and other State bodies.

38. Mr. EHRENKRONA (Sweden) said that although the burden of proof regarding the risk of torture rested with asylum-seekers, Sweden applied the UNHCR principle whereby it was not necessary for them to provide full evidence, but merely to show that the risk of torture was likely. Furthermore, the migration authorities were obliged to take into account all relevant information regarding the human rights situation in the country in question, from UNHCR, NGOs such as Amnesty International, and other States.

39. Mr. GALLEGOS CHIRIBOGA sought clarification regarding the apparent contradiction in the introductory statement to the effect that, while there was legislation aimed at preventing and prohibiting the trade and export of equipment specifically designed to inflict torture, there was no legislation relating to its production.

40. Mr. EHRENKRONA (Sweden) gave his assurance that no equipment specifically designed to inflict torture was produced in Sweden.

41. The CHAIRPERSON thanked the delegation for its attention and invited it to answer the questions raised at the next meeting.

42. The Swedish delegation withdrew.

The public part of the meeting rose at 5.25 p.m.