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held at the Palais des Nations, Geneva,
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Chairman: Mr. MAVROMMATIS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 4)
(continued)

Report of Sweden (CCPR/C/1/Add.9)

1. The CHAIRMAN said that the first report to be considered by the Committee was that of Sweden (CCPR/C/1/Add.9). The Government of Sweden had designated Mr. Larsson, a Director of the Ministry of Foreign Affairs, to represent it at the meeting. He invited Mr. Larsson to take a place at the Committee table under rule 68 of the Committee's provisional rules of procedure.
2. Mr. LARSSON (Sweden) said he did not think that it was necessary for him to introduce his country's report, which was self-explanatory.
3. The CHAIRMAN invited the members of the Committee to put questions to the representative of Sweden concerning his country's report.
4. Mr. TARNOPOLSKY said that, although the Government of Sweden was to be commended for the comprehensive and detailed report it had submitted, he had some questions to put to the representative of that country. He was, for example, not sure about the precise nature of some of the freedoms and rights guaranteed in chapter 2 of the Swedish Constitution and, in particular, the "unwavering" rights referred to in paragraph 3 (page 4) of the report. He requested the representative of Sweden to provide further information concerning the possibility for individuals to challenge laws or practices which they considered to be contrary to the Constitution. Still with regard to paragraph 3 (page 4) of the report, in which a translation of chapter 2, section 12, of the Constitution had been provided, he said that he had read the entire report and had not been able to find any other reference to the limitations permitted by sections 13 to 16 of the Constitution. He would therefore appreciate further information on those limitations, as well as a more detailed explanation of the exact purpose of the Parliamentary Commission referred to in the penultimate paragraph on page 32 relating to articles 26 and 27 of the Covenant, since it was not clear how the work of that Commission, which would be entrusted with the task of submitting proposals for the strengthening of the protection of rights and freedoms embodied in the Constitution, would affect the laws and practices in force in Sweden.
5. Referring to one of the comments on article 9 of the Covenant (page 9 of the report), he asked whether Swedish law provided for forms of conditional release pending trial other than bail. It would also be interesting for the Committee to have further information on the comment made in connexion with article 12 of the Covenant (page 12 of the report), namely, that the rights and freedoms set out in section 8 of the Constitution could be restricted as provided by section 12 of the Constitution. Moreover, in subparagraph (iii) on page 13 of the report it was stated that a passport could be refused in certain cases, and he wondered whether individuals had the right to challenge such a refusal.
6. With regard to the comments on article 13 of the Covenant (page 13 of the report), he requested the representative of Sweden to provide information on the status and position of aliens working in Sweden. Could such aliens obtain work

permits, apply for citizenship, be expelled from the country and challenge expulsion orders? Were there any restrictions on their movements or on their right of appeal in the courts?

7. The comments on article 17 of the Covenant (page 19 of the report) referred, inter alia, to questions of privacy and protection from searches. He would appreciate more detailed information on circumstances in which searches were permitted and on any provisions in Swedish law for electronic surveillance by the police and other authorities.

8. Referring to the comments on article 18 of the Covenant and, in particular, those made on page 21 of the report concerning freedom of religion, as dealt with in the Act of 1954, he hoped that the representative of Sweden would explain what was meant by the statement that everyone was free to practice his religion insofar as he did not provoke "public indignation" by so doing. He had noted from the last paragraph on page 21 that equal facilities were not afforded to all religious communities. He would appreciate an explanation of the benefits enjoyed by the Church of Sweden but not by other religious communities. In the first paragraph on page 22, it was stated that exemptions could be granted to the religious instruction requirement in schools. In that connexion, he wondered whether persons who had no religious beliefs were required to receive religious instruction or whether they could receive other kinds of humanist or philosophic instruction.

9. In the comments on article 19 of the Covenant (page 23 of the report), it was stated that freedom of expression and freedom of information could be restricted. He requested the representative to Sweden to give examples of restrictions which could be placed on those freedoms "in the interests of the security of the Realm". He made a similar request in respect of section 14 of the Constitution (referred to in the comments made on page 27 of the report concerning articles 21 and 22 of the Covenant) relating to freedom of assembly and freedom of demonstration. In the third paragraph on page 25, it was stated that various circumstances constituted grounds for not allowing films to be shown in Sweden. Such grounds were that a film was "conducive to coarseness" or "dangerously inflammatory". He wished to know whether such censorship could be challenged. He would also like to have examples of films that were considered to be "dangerously inflammatory". On page 26, in the last paragraph dealing with article 19 of the Covenant, reference was made to the registration of persons who were considered to be security risks. He wished to know which authorities decided who were security risks and whether individuals had any means of challenging such a designation.

10. In the comments on article 25 of the Covenant made on page 31, paragraph 3, of the report, it was stated that certain posts within the State administration were reserved for Swedish nationals. Did the words "Swedish nationals" apply only to native-born Swedes or to naturalized citizens as well?

11. On page 32 of the report, in the comments relating to articles 26 and 27 of the Covenant, reference was made to the International Convention on the Elimination of All Forms of Racial Discrimination, which had been ratified by Sweden. In that connexion, he wondered whether the Swedish Government had established a system to

eliminate discrimination by private citizens. He also wondered whether the Swedish Government intended to amend the wording of chapter 2, section 15, of the Constitution (referred to on page 2 of the report) in order to bring it into line with that of article 2, paragraph 1, and article 26 of the Covenant, which gave exhaustive lists of grounds for the prohibition of discrimination.

12. Mr. MOVCHAN said that he had some questions to put to the representative of Sweden concerning the reservations that country had made to article 10, paragraph 3, article 14, paragraph 7, and article 20, paragraph 1, of the Covenant.

13. With regard to article 10, paragraph 3, of the Covenant, it was stated on pages 11 and 12 of the report that, in exceptional cases, it might be "in the interests of a juvenile offender to be placed together with adult offenders". He would be interested to know why Sweden considered that such detention of juvenile offenders might be useful and which authorities could decide such matters.

14. In most countries, it was a rule of law that a person could not be tried again for the same offence (article 14, paragraph 7, of the Covenant). In the last paragraph of the comments on article 14 of the Covenant contained in the Swedish report (page 18), it was stated that "in certain cases, however, a request for a new trial may be granted also to the detriment of the convicted person". He hoped that the representative of Sweden could clarify that statement, and explain when such cases occurred and which authorities had power to grant such requests.

15. He would also appreciate clarification of the reference made in subparagraph (i) on page 26 of the report concerning Sweden's reservation to article 20, paragraph 1, of the Covenant relating to the prohibition of war propaganda. In particular, he wished to know whether Sweden intended to enact legislation to eliminate the contradiction between international law and domestic law constituted by its reservation to that article. The speedy enactment of such legislation would enable Sweden to fulfil its international obligations under the Charter of the United Nations and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which prohibited war and the threat or use of force, which were fraught with war propaganda.

16. With regard to paragraph 1, subparagraph 3, of the report (page 1), he would be grateful if the representative of Sweden could explain what his country considered to be "another procedure of international investigation or settlement" for the examination of communications from individuals.

17. The comments made in the report (page 4) on article 3 of the Covenant relating to the principle of equality of men and women contained a reference to chapter 2, section 16, of the Swedish Constitution, which implied that, in some cases, unfavourable treatment of men or women was permitted. He would appreciate additional information on cases in which a departure from the principle of equality of the sexes was permitted.

18. Referring to the paragraph which appeared at the bottom of page 4 and the top of page 5 of the report, he said he agreed with Mr. Tarnopolsky that the concept of a limitation on certain rights and freedoms which was permitted in order to satisfy "a purpose which is acceptable in a democratic society" was extremely vague. He hoped that the representative of Sweden would agree that that concept could be made more specific and explain which authorities were responsible for such limitations.

19. In the comments on article 8 of the Covenant (page 6 of the report), reference was made to the 1964 Act concerning anti-social behaviour, which provided that "a person failing to endeavour ... to gain an honest living and leading such an asocial life so as to be manifestly prejudicial to public order or security" could be admitted to an occupational institution, where there was a duty to work. He would appreciate examples of cases in which persons who had not committed any offence had been admitted to such institutions and obliged to work.

20. In the comments relating to article 9 of the Covenant (page 8 of the report), it was stated that, under Swedish law, a person might be "taken into police custody for a reason other than a criminal charge". He wished to know what such a reason might be and in what cases such custody could occur. Similarly, he would like to know how long a person awaiting trial on a criminal charge could be "detained in custody", as stated in the first paragraph on page 9 of the report.

21. Referring to the comments on article 12 and, in particular, the statement in subparagraph (iii) (page 13) that "A passport may ... be refused in certain cases, e.g. when the issuing authority knows or has reason to suspect that the applicant is pursuing relations with a foreign power", he asked what issuing authority was involved and what would be the basis for suspecting a person of pursuing such relations. Furthermore, the expression "pursuing relations" was in itself rather vague and required some clarification.

22. In the comments on article 14, mention was made of "exceptions permitted from the principle of the openness of court proceedings" (page 14), and he would welcome information on the nature of such exceptions. The possibility given to courts "to order that judgements delivered in camera be kept secret" was a little unusual since, even when proceedings were conducted in camera, the verdict was generally made public. It would be interesting to hear in what cases the court's decision was not made public and whether there was any likelihood that the provision in question might be modified.

23. The comments on article 17 included a statement to the effect that court consent could be obtained for telephone-tapping "in the case of an alien who ... is believed to belong to an organization or group which, as far as is known, may ... use violence, threat or coercion for political purposes" (page 20). He hoped that the representative of Sweden could clarify the situation because, first, the provision was applicable only to aliens, whom he had understood to be on an equal footing with Swedish citizens; secondly, the wording used implied that such action could be taken on the basis of mere speculation; and finally, it was not easy to see how the provision could be reconciled with the right to freedom of political convictions.

24. As to the provision concerning the checking of correspondence of patients under institutional psychiatric care (page 20), there might well be legitimate medical grounds for such checks of correspondence addressed to the patient, although there seemed to be far less justification for doing so in the case of outgoing mail. He asked whether the person responsible for such checks was a medical specialist, and whether executive authority in the matter lay with a medical or an administrative body.

25. Turning to the question of religious freedom, he associated himself with the questions put by Mr. Tomuschat. Article 18 of the Covenant guaranteed the right to freedom of thought, conscience and religion, and therefore included the freedom not to profess any religion or to be an atheist, which did not appear to be provided for under the 1951 Act to which reference was made (page 21). Similarly, the legislation concerning religious instruction in schools (page 22) made no provision for respect of the right not to practice a religion. Neither did there appear to be equal opportunities for the individual to practice the religion of his choice, since certain privileges were vested in the Church of Sweden. He asked when it was intended to amend Swedish legislation in that field in order to bring it into line with the provisions of the Covenant.

26. With regard to article 19, the report stated that "the question of registration of persons on account of their political opinions has been widely debated in Sweden", but that the possibility of such registration was not excluded (page 26). It would be interesting to know what registration would amount to in practice and what was meant by the expression "in the interests of the protection of the democratic society".

27. Referring to the 1977 Act concerning surveillance by closed circuit television (CCPR/C/1/Add.9/Corr.1), he observed that if a television camera could be secretly installed in a person's home, all visitors, suspect or not, would be under surveillance.

28. Finally, he noted that films could be banned in Sweden if they were "dangerously inflammatory" (page 25), and requested clarification of that expression.

29. Mr. HANGA commended the Swedish Government on its comprehensive report which had, moreover, been drafted in accordance with the Committee's recommendations.

30. It was stated on page 2, subparagraph (ii) of the report that it had not been necessary to lay down provisions equivalent to those of the Covenant in an independent Swedish statute because existing domestic law was in full accord with the obligations to be assumed by Sweden under the Covenant. He asked whether it would be possible for an individual to invoke the provisions of the Covenant before a court or administrative tribunal, or to call for the annulment of a law which ran counter to the Covenant under a procedure similar to that used to declare laws unconstitutional. He would also welcome information on any practical steps taken by the Swedish Government to implement the provisions of the Covenant and, in particular, to improve the situation with regard to religious freedom, since Swedish law on the matter did not comply fully with the provisions of the Covenant. In that connexion, he supported the comments made by Mr. Tarnopolsky concerning

religious instruction in schools, and observed that there was some contradiction between the provision exempting pupils from religious instruction and the requirement that such pupils should be given equivalent instruction outside school hours (page 22).

31. The Swedish Government had, as it was perfectly entitled to do, entered a reservation to article 20, paragraph 1 of the Covenant, on the grounds that the provision in question constituted "a further restriction of the freedom of expression dealt with in article 19" (page 26, subparagraph (i)). In his view, there was no contradiction between articles 19 and 20; on the contrary, the provisions of article 20 were designed to promote a healthy international climate and international détente.

32. Mr. KOULISHEV said that the report by Sweden contained a wealth of information and was set out in a clear and logical manner which corresponded very closely to the guidelines adopted by the Committee. He particularly welcomed the information which had been provided on the measures being taken to improve the enjoyment of human rights (page 32). It would be interesting to know whether the new chapter of the Constitution on rights and freedoms mentioned in paragraph 5 on page 32 was the same as the chapter 2 of the Constitution mentioned in paragraph 3 on page 4. Indeed, the chapter relating to human rights might usefully have been annexed to the report.

33. Referring to the comments on article 3 of the Covenant (page 4), he requested information on the practical steps taken to implement the relevant provision of the Swedish Constitution, which was drafted in somewhat more negative terms than that article.

34. Like Mr. Tarnopolsky, he would also welcome more information on the situation of immigrant workers in Sweden. Furthermore, aliens did not appear to enjoy the same status as Swedish citizens with regard to the openness of court proceedings, and he asked whether the circumstances which justified the holding of trials in secret were equally applicable to aliens and citizens.

35. He endorsed the view that the reasons for Sweden's reservations to articles 10 and 14 of the Covenant were not perfectly clear. Furthermore, he regretted that the Swedish Government had found it necessary to enter a reservation to article 20. War propaganda was prohibited under several international instruments, and he hoped that the Government would find it possible to withdraw its reservation.

36. Finally, he would welcome additional information about the situation of the ethnic, linguistic and religious minorities mentioned in the comment on article 27 (page 32).

37. Mr. TONUSCHAT congratulated the Swedish Government on a careful and comprehensive report which could justifiably be used as a model by other Governments.

38. The assertion that "existing Swedish law, save on the three points where a reservation was made, was in full accord with the obligations which were to be assumed by Sweden under the Covenant" (page 2) was rather bold. It would be interesting to know whether there was any procedure in Sweden under which an individual could lodge a complaint to the effect that Swedish legislation was not in harmony with the Covenant. The two had perhaps been in full accord at the time of ratification, but the provisions of the Covenant might well evolve in the course of their interpretation and application, and care should be taken to ensure that there was complete consistency at all times between the international legal order as embodied in the Covenant and the domestic legal order. The Swedish Government had chosen a technique of implementation which consisted of bringing domestic legislation into line with the Covenant without, however, formally incorporating the latter in the domestic legal order. In his view, the rights accorded by the Covenant to the individual could not be dependent upon the way in which they were incorporated in the legislation of various countries. Consequently, even in a country which had not made the Covenant part of its domestic law, an individual should have the right directly to invoke its provisions before domestic courts. On that point, he fully shared the views expressed by Mr. Hanga.

39. With regard to the comments on article 2, he said he had doubts about the remedies available to individuals. The first paragraph on page 3 of the report referred to the setting up of certain courts, but it was evident from the fourth paragraph on the same page that, in principle, the remedies available were not judicial proceedings which an individual could institute on his own, and that the public prosecutor was obliged to undertake an investigation if there were reasonable grounds to believe that an offence had been committed. He would like to know whether that was merely a theoretical manner of ensuring implementation of the Covenant and whether there had been specific cases in recent years of the prosecution of public officials for offences they had committed. Furthermore, he would like to know whether an individual was in fact able to institute criminal proceedings on his own and to conduct them to their conclusion. He would also welcome clarification of the scope of the jurisdiction of the administrative courts. Did they have comprehensive jurisdiction with regard to all disputes between the State and the individual, or was there a system under which only certain types of cases could be submitted to such courts?

40. Referring to the comments on article 8 (page 6 of the report), he expressed concern at the existence of a law on anti-social behaviour, and would welcome clarification in that regard. In view of the danger that such a law might be misused, he would like to know what was meant by anti-social behaviour. It could even be said that the question of that law should be dealt with under article 9 because it was clearly a case of an individual being deprived of his liberty.

41. He noted that, with regard to article 9, aliens in Sweden enjoyed the same protection as Swedish citizens against deprivation of their liberty, unless otherwise provided by law. He would welcome information on those exceptions, which related only to aliens.

42. Referring to article 13, he drew attention to the statement in the last paragraph (on page 13 of the report) that an order of expulsion was always made together with the pronouncement of a sentence for an offence. In his opinion, that was a harsh rule because an alien convicted of a minor offence might have been a resident of Sweden for many years and might even have married a Swedish citizen. The order of expulsion might therefore amount to a violation of the rights of the family, and he doubted whether, from the legal standpoint, it should be made automatically. Reference was also made (page 14 of the report) to the fact that extradition proceedings in camera were admissible where they were conducted against an alien. He saw no specific grounds for restricting the rights of aliens in that manner and considered that they should have the same rights as Swedish citizens.

43. Referring to article 19, he drew attention to the statement made in section 13 on page 23 of the report that "the freedom of expression ... information may be restricted in the interests of the security of the Realm" and of the economic well-being of the people. He would like to know whether any public acts had been based on that reservation. For example, if an economist stated that the Swedish economy was not as sound as claimed by the Government, could his scientific statement be prohibited on the grounds that it might be detrimental to the economic well-being of the people? He would welcome further information in that regard. Furthermore, a distinction was made between Swedish citizens and aliens. For instance, the excerpt from the 1949 Freedom of the Press Act on page 24 stated that "Freedom of the press means the right of every Swedish national, ... to ...". He would like to know whether that statement was still true at the present time. The same comment applied to articles 21 and 22. In that regard, he drew attention to the statement made in the penultimate paragraph on page 27 of the report that aliens in Sweden enjoyed the same status as Swedish citizens unless otherwise provided by law. He would like to know whether the Swedish Parliament had enacted any laws which discriminated against aliens.

44. Mr. ESPERSEN congratulated the Swedish Government on its extensive report and on the fact that it mentioned difficulties encountered in certain respects. The report also provided more information than members had expected: for example, it referred to the question of the registration of persons on account of their political opinions. That was a problem which arose in many countries and the report dealt with it openly.

45. Referring to the comments on article 13 (page 13 of the report), he asked what distinction was made between expulsion and deportation, and why some decisions were taken by courts of general jurisdiction and others by regional administrative courts.

46. With regard to the statement made on page 16 of the report that "if the accused had not appointed counsel or if counsel appointed by him was rejected ..." he would like to know who could reject a counsel and for what reasons a counsel could be rejected.

47. As to the statement in the first paragraph on page 26 that annotations about a citizen in public records should not be made without his consent solely by reason of his political opinion, he wondered whether a citizen could be registered on account of his political opinions if he was already registered for some other reason, e.g. for having committed a crime. It would also be interesting to know whether organizations could be registered.

48. Mr. LALLAH congratulated the Swedish Government on its comprehensive report, which contained a good deal of information about the remedies available for the protection of the interests of the individual. For example, reference was made to the existence of a Parliamentary Ombudsman, and in his view it would be useful, if the Ombudsman produced a report at the end of the year, to make a copy available to the Committee so that it could understand better the efforts made by the Swedish Government to deal with cases of maladministration that resulted in injustices to its citizens.

49. The report contained no information on what legal measures could be taken during a period of emergency. He would therefore like to know how a public emergency could be declared, the extent of the control exercised by Parliament or whether such control was exclusively an Executive prerogative.

50. Another point on which he would welcome information was the manner in which effect was given to the proclaimed equality between men and women, not only in law but in all administrative contexts, with particular reference to the rights of men and women with regard to devolution of property, succession and legal representation. For example, was the wife able to initiate defence proceedings only if she was authorized to do so by her husband?

51. It was of course for each sovereign State itself to decide to what extent it would allow foreigners the right of residence or the right to acquire nationality. However, it would be interesting to know whether Swedish men and women who married foreigners enjoyed the same treatment with regard to the right of residence. For example, if a Swedish woman married a foreigner, did the husband have the same right of residence as in the reverse case, and what conditions would he have to fulfil in order to acquire Swedish nationality?

52. Referring to the powers enjoyed by the judicial authorities to expel an alien, he asked whether there were any cases in which the act of expulsion by the Executive was not justiciable.

53. Lastly, with respect to the question of freedom of expression, he noted that radio and television were monopolies in Sweden (page 24 of the report); that was one way of institutionalizing freedom of expression. However, he would like to know how far radio and television were controlled by the Government and what authority had been set up to ensure that radio and television broadcasting was not merely another instrument of the Executive.

54. Sir Vincent EVANS associated himself with the remarks made by members concerning the quality of the report submitted by the Swedish Government.

55. However, he was somewhat concerned at the forms of deprivation of liberty referred to on page 6 in respect of anti-social behaviour. Deprivation of liberty was a serious matter and under some régimes, such a provision could be used in an abusive manner. However, although that was clearly not the case in Sweden, he pointed out that Governments obviously read the reports submitted and might use the information they contained as a basis for their own legislation. The mere existence of the provision in question was therefore a cause for concern and he would like to know what safeguards had been introduced to prevent its abuse.

56. Referring to the comment on page 9 that the system of bail or other financial guarantees for the purpose of securing appearance at trial did not exist in Sweden, he said that in many countries, including his own, the system of bail was used as a method to avoid depriving an individual of his freedom in circumstances in which he was required to appear before a court to answer criminal charges. In the absence of that system persons would have to be deprived of their liberty. It would be useful if the representative of Sweden would comment on that point.

57. He would also appreciate clarification of the words "means of coercion in criminal law" in the sixth paragraph on page 19 of the report.

58. Referring to the information concerning section 13 on page 23, he said that the restrictions on the freedom of expression and the freedom of information seemed to go considerably beyond those permitted in article 19 of the Covenant because the section also mentioned the economic well-being of the people and other special important reasons. He therefore wondered whether those provisions were consistent with the provisions of the Covenant.

59. With regard to the question of registration of persons on account of their political opinions (page 26 of the report), he asked whether journalists and private individuals could consult the public records and thus discover annotations indicating that certain persons were regarded as security risks. If so, that would raise very serious questions.

The meeting rose at 6.05 p.m.