



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

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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 504th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 30 April 2002, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.504/Add.1.

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7)

Fourth periodic report of Sweden (CAT/C/55/Add.3; report of the Osmo Vallo
Commission (document without a symbol, in English only))

1. At the invitation of the Chairman, Mr. Ehrenkrona, Ms. Gustavson, Ms. Sundberg, Ms. Hellner and Ms. Schlyter (Sweden) took places at the Committee table.
2. The CHAIRMAN welcomed the Swedish delegation and invited it to present the fourth periodic report of Sweden (CAT/C/55/Add.3).
3. Mr. EHRENKRONA (Sweden) said that the Swedish Government was fully committed to respecting the obligations under the human rights instruments to which Sweden was a party. The situation was admittedly not perfect in the country, but the Government was keen to promote and protect human rights. The consideration of reports submitted to the Committee was a positive way of addressing problems in that sphere. The reporting procedures and hearings reinforced the efforts undertaken by the Swedish Government to improve its human rights record.
4. Before dealing with the latest changes, his delegation wished to say how much it appreciated the important work done by non-governmental organizations (NGOs) to promote human rights, especially their role in putting pressure on the authorities to fulfil their obligations in the field of human rights.
5. The Committee had considered the initial report of Sweden (CAT/C/5/Add.1) in April 1989, the second periodic report (CAT/C/17/Add.9) in April 1993 and the third (CAT/C/34/Add.4) in May 1997. Since the submission of the fourth periodic report in August 2000, several important measures had been taken and legislation had been amended.
6. In October 2000, the Government had appointed a Commission to look into certain aspects of Swedish penal law with regard to war crimes, crimes against humanity, genocide and other serious offences under international law. The Commission would also consider questions of jurisdiction and the possibility of abolishing the statute of limitations for certain international crimes. Under the Commission's terms of reference, in the light of recent developments and subsequent debate, it had been asked whether the Swedish courts had adequate means and jurisdiction to try allegations against foreign dictators, whether or not they were still in power, for example, in the event of allegations of torture. The terms of reference also stated that Sweden had ascertained that its law was in conformity with provisions of the Convention against Torture. The Commission would nevertheless review the effects that legislation might have on the possibility of the Swedish authorities trying crimes, including acts of torture, committed abroad. The Commission believed that legislation should consider the possibility of instituting proceedings in Sweden against persons who had committed serious violations of international law, irrespective of who they were and where the offence had been committed. It was anticipated that the Commission would submit its report in October 2002.

7. In some cases, including that of Ms. Shekarian, the Committee had concluded that Sweden would be in breach of article 3 of the Convention if it were to expel an asylum-seeker to his or her country of origin. Even if it did not always agree with the Committee's views, the Swedish Government attached very great importance to them. In any event, whenever Sweden had been criticized by the Committee, the asylum-seeker concerned had been granted a residence permit; in most cases, the decision had been taken by the Aliens Appeals Board after submission of a "new application".
8. As to decisions on expulsion following a conviction, the Ministry of Justice had decided to focus on cases in which the expelled person had children living in Sweden. The report which it intended to publish in spring 2002 would form the basis of future decisions on the need to amend legislation to improve the situation of children in that category.
9. Many complex issues raised by proposed new procedures and their financial implications, and also the question of recruiting new judges, were being examined in the context of the current reform of the Aliens Act. The aim of the reform was to secure increased legal security for asylum-seekers and to speed up decision-making procedures. The central idea was that cases should be decided by the administrative courts in second or third instance rather than by the Aliens Appeals Board. In addition to making changes to procedural matters, the reform was intended to completely recast the Aliens Act, without, however, changing the basic rules on protection. The Government planned to submit a bill to Parliament before summer 2002.
10. The provision on interference in a judicial matter had been amended in 1997. In November 2001, following a report by a parliamentary committee, the Government had proposed that the penalty for interference in a judicial matter should be made more severe. In addition, it had proposed that the punishment for serious crimes should be increased to a minimum of two years and a maximum of eight years in prison (instead of a minimum of one year and a maximum of six, as at present) and that less serious offences should attract a maximum penalty of four years (instead of two). In other words, the penalties would be the same as for the offence of perjury. Parliament had already adopted the amendment and it would become law on 1 July 2002.
11. Chapter 2, Section 3, of the Penal Code, which dealt with the jurisdiction of the courts in criminal cases, had been amended in 2001. Anyone who committed an offence outside the territory of the Realm would be tried according to Swedish law, before a Swedish court, even where the offence had been committed outside the Realm by a police officer, customs official or coast guard official performing transborder work in accordance with an international agreement to which Sweden was a party.
12. On 3 August 2001, Sweden had ratified the 1996 Convention on Extradition between the Member States of the European Union, which had entered into force on 1 October 2001. According to the Convention, the fact that a crime might be political in nature was not a basis for rejecting an extradition request from another member State of the Union.
13. The new Act on Mutual Legal Assistance in Criminal Matters, mentioned in the fourth periodic report, had become law on 1 October 2000.

14. In December 2001, the Government had appointed an investigator to draw up a national programme for witness and victim protection. The investigator's assignment included looking into the possibility of partially reimbursing witnesses for costs incurred and proposing the necessary legislative amendments. It was anticipated that the investigator would present his conclusions in September 2003 at the latest. Sweden and the other Nordic countries had recently initiated a discussion about future cooperation in relation to witness protection.

15. In January 2002, the Government had adopted a National Action Plan for Human Rights, which, among other things, included education activities and an information strategy. The Plan would be implemented over a three-year period from 2002 to 2004.

16. A human rights web site aimed at the general public had been set up. The site would allow people to consult periodic reports submitted to the United Nations and the concluding observations of the different committees. The core international instruments would also be disseminated to the Swedish public. Sweden's reports to the six committees responsible for monitoring the implementation of human rights instruments, documents relating to the consideration of the reports and the concluding observations thereon would be translated into Swedish and distributed in municipalities.

17. Human rights education, which included related training for public officials, was one of the most important aspects of the National Action Plan. The Government had requested a number of agencies and social insurance offices to train their staff in 2002. The programme also applied to administrators in executive positions. The Government intended to entrust the National Council for Quality and Development with formulating education programmes targeted at managers in public agencies. In December 2001, the National Police Board and the Office of the Prosecutor-General had been instructed to strengthen human rights education for their personnel. Similar initiatives had been undertaken within the judiciary. Seminars on human rights were organized regularly and human rights education had been included in judges' training, especially with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

18. Under the Swedish Police Act, law enforcement officers were obliged to apply the principles of "proportionality" and "need" when taking measures to disperse demonstrators. In other words, they could resort to force only when necessary and the measures taken should be in proportion to the result sought. Other regulations laid down the circumstances in which tear gas and firearms could be used, as an exceptional measure.

19. Lastly, his delegation had circulated to the Committee a summary of the report of the Commission handling the inquiry into the death of Mr. Osmo Vallo and was ready to provide any additional information that the Committee might require.

20. The CHAIRMAN thanked the delegation for its presentation and noted that the decision to formulate a national plan of action was especially eloquent testimony to Sweden's willingness to promote and protect human rights. It would be useful if the delegation could provide a brief overview of the content of the report of the Osmo Vallo Commission because members of the Committee had not had time to acquaint themselves with a document which had only just been distributed to them.

21. Mr. EHRENKRONA (Sweden) said that the Commission had severely criticized the action of the prosecutor who had initially handled the case, the way in which the forensic medical report had been drawn up and the Prosecutor-General's decision to reopen the investigation after the police officers had already been acquitted, it therefore being impossible to retry the case. It had also made proposals to ensure that the same thing never happened again. For example, the prosecutor should be notified immediately of instances of police brutality and should direct his own staff to conduct an inquiry.

22. Mr. CAMARA, speaking as Country Rapporteur, said that the fourth periodic report of Sweden had been submitted on time and adhered closely to the Committee's guidelines on the submission of periodic reports. It should be read and considered in conjunction with the previous reports and the corresponding observations of the Committee. However, considering the time that had elapsed since the submission of the initial report in 1998, it would have been preferable to recycle parts of previous reports and thereby facilitate the task of the Rapporteur and the other members of the Committee.

23. As to articles 1 and 4 of the Convention, the Swedish legal system was characterized by a dualism with regard to the application of international standards. In order to be invoked, such standards had to be specifically incorporated into internal law. In criminal matters, where the law was strictly interpreted, it seemed obvious that the only way for the State party to conform to the Convention was to reproduce word for word the definition of torture contained in article 1. That Sweden had not done, an oversight which, in practical terms, could have implications for the preparation of statistics on torture.

24. Regarding article 3, it was not clear whether Sweden had expelled Africans who had been refused the right to asylum to third countries (Ghana, Senegal and Burkina Faso), taking no account of their nationality; if those reports were true, the State party should explain why and under what conditions the expulsions had taken place. It appeared that, in the case of Ghana, some of the persons concerned had been abused and imprisoned and one person had disappeared. The delegation should also provide fuller information about the presumed terrorists who had allegedly been repatriated and about the special law on the aliens police, the so-called anti-terrorism law, because, according to some reports, by invoking it the Government arrogated to itself the power to decide whether the threat to national security justified the expulsion of the suspected alien, there being no possibility of an appeal against such a decision.

25. It would also be helpful to know whether criminal prosecutions were subject to rules of legality or expediency. In such cases, was the competent authority obliged to institute proceedings every time an offence was committed or did it have discretionary power to discontinue proceedings if it was deemed inadvisable to press charges? The issue was important to the extent that it related to Sweden's respect for the provisions of the Convention because, whereas article 6 permitted a State party some degree of latitude, article 7 imposed an absolute obligation which left no room for discretion.

26. Mr. YU Mengjia, speaking as Alternate Country Rapporteur, congratulated the delegation on its concise and solid report and for the additional information provided in the oral introduction. The Committee had been informed by representatives of NGOs that the Swedish Parliament had discussed the question of expulsions to third countries of people refused the right of asylum; what had been the substance of that debate? What measures did the Government intend to take in order to remedy the situation?

27. With regard to cases in which excessive force had been used to disperse demonstrators, for example, at the Göteborg summit, it was clear that, in relation to the number of complaints filed, very few cases had been properly investigated and only two police officers had been punished. Moreover, the delegation should provide more details about three other cases in which lack of education had been invoked as a justification for reducing the penalty.

28. Regarding the application of article 15 of the Convention, Sweden had stated in its initial report that confessions obtained under torture were inadmissible. Had that rule been unambiguously incorporated into legislation? It would be interesting to hear more about the scope of the amendments to the rules on the arrest of suspects by the police. More details would also be welcome on the measures that had been taken to end ill-treatment of conscripts by officers.

29. Mr. MAVROMMATIS said that he was mightily impressed by the action taken by Sweden in the field of human rights, although there remained some room for improvement. In the Shekarian case, the Committee had never intended to criticize the State party; it was simply that, after considering the case, the Committee had reached a different conclusion. He noted with satisfaction, however, that, in all the cases where the Committee had opined that expulsion would be contrary to the Convention, Sweden had complied with the Committee's recommendations. In that context, what had the delegation meant by its reference to a "new application" to the Aliens Appeals Board? Did such a procedure mean that the Committee's recommendations, or those of the Human Rights Committee, could not be applied automatically? And what about the decisions of the European Court of Human Rights?

30. The Osmo Vallo case, of which the Committee had been informed at its pre-session meeting, was instructive in that it demonstrated that it was necessary for a country like Sweden to review certain procedures concerning, inter alia, the way in which autopsies were carried out and to ensure that every death of a detainee was systematically made the subject of a judicial inquiry.

31. Concerning recourse to violence by the police force, in carrying out an arrest, for example, the question arose whether, in the course of their training and in the performance of their duties, police officers were informed what measures were judged reasonable and acceptable. In addition, what provisions were in place to protect and prevent injury to innocent persons, such as journalists, during demonstrations?

32. The delegation should indicate whether the Swedish Government had paid money to African refugees to persuade them to return to their countries and, if so, why. He was astonished that lack of education could be invoked to justify a less severe punishment.

33. Mr. RASMUSSEN thanked the Swedish delegation for its presentation and said that he had only two questions. First, regarding asylum-seekers subject to an expulsion order who had filed a complaint with the Committee, he wished to know whether the Government, when requested by the Committee not to expel a person whose case was pending, always applied a custodial measure. Second, the existence of five re-adaptation centres for torture victims was to be thoroughly commended, but how were those institutions funded?

34. Mr. MARIÑO MENENDEZ said that he welcomed the State party's report. Focusing on the methods used to maintain law and order, he asked in what circumstances, apart, obviously, from the need to protect the lives of others, were the police authorized to use certain methods, such as the use of dogs. As to asylum procedures, it would be useful to know whether, in considering applications for refugee status, the Swedish authorities canvassed the opinion of the Office of the United Nations High Commissioner for Refugees. If so, was the role of the High Commissioner's Office purely advisory or more substantive?

35. Mr. EL MASRY said that he associated himself with other members of the Committee in welcoming Sweden's attitude towards human rights; he personally wished to note Sweden's commitment to human rights throughout the world, especially in the Middle East. The criteria used to check the nationality of asylum-seekers were unclear. He had been told that a linguistic criterion was used, but that would be almost unworkable in the case of Africans, for example, who often spoke the same language without having the same nationality.

36. Mr. GONZÁLEZ POBLETE thanked the Swedish delegation for the numerous clarifications it had made during its introductory remarks and praised the punctuality with which the State party had met its obligation to submit reports. The Osmo Vallo case had become symbolic. It was hard to understand why five years had elapsed before the authorities had taken effective measures, despite the attention which Amnesty International had focused on the case year after year. The establishment of a commission of inquiry was to be welcomed and the fact that it was called the "Osmo Vallo Commission" could be seen as a form of moral compensation for the victim's close relatives. The Commission's report contained very many recommendations; were they official recommendations that would be transformed into legislative provisions?

37. Mr. YAKOVLEV said that he associated himself with other members of the Committee in acknowledging Sweden's profound commitment to human rights. The excellent relations between the State party and the Committee against Torture, and the regularity with which Sweden gave effect to the Committee's recommendations, should also be noted. His main area of concern focused on the application of article 3: mindful that the onus was on the

asylum-seeker who feared torture if he or she was repatriated to prove that he or she had been ill treated, he would like to know what material needed to be adduced in support of an asylum application. Asylum-seekers were usually penniless, traumatized and in strange surroundings. The criteria should therefore be fairly flexible; was a medical certificate stating that torture had taken place an indispensable requirement?

38. The CHAIRMAN said that the consideration of the fourth periodic report of Sweden had not raised many questions. That showed that the Committee was following developments and that the information provided in the report and the oral presentation had been sufficiently enlightening. It should be stressed that, if, upon receipt of a communication from an asylum-seeker whose application had been turned down, the Committee concluded after due consideration that no grounds existed for the expulsion of the individual concerned, the Committee's finding should under no circumstances be construed as a criticism of the immigration authorities or the authorities responsible for considering applications for asylum in Sweden. It was simply a diverging opinion, of which the Committee always endeavoured to justify the merits. That said, and considering that Sweden was one of the countries that accepted the most refugees, it was inevitable that rejected asylum-seekers would appeal to the Committee and it was not surprising that many issues should arise in connection with article 3. Meanwhile, the Committee would welcome clarification on the number of suspected terrorists who, in the view of the Swedish Government, were not covered by the 1951 Convention on the Status of Refugees. The Swedish Government had concluded agreements with certain countries providing for the return of suspected terrorists in exchange for an assurance that they would not be subjected to ill-treatment. What form of control did the Swedish Government exercise over the other party's respect for the bargain and had that contractual arrangement operated to Sweden's satisfaction?

39. Mr. EHRENKRONA (Sweden) said that he would reply to all the questions at a subsequent meeting, but he could offer an immediate answer to Mr. González Poblete. The Osmo Vallo Commission was an official body presided over by the former chief editor of a major national newspaper who was currently a district governor; the other members were a law professor, a professor of political science and a renowned former prosecutor who had also sat on the International Tribunal for the Former Yugoslavia. It was thus a very competent body. The report had been submitted the previous day to the Minister of Justice, who would certainly propose any legislative reforms that he considered necessary. It was too soon for the time being to know which of the recommendations would be translated into legislative provisions.

40. The CHAIRMAN thanked the Swedish delegation and invited it to attend a subsequent meeting to answer other questions.

The public part of the meeting rose at 11.15 a.m.