

european network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

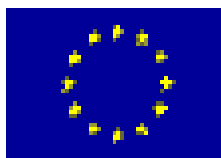
RACISM IN SWEDEN

Maria Bideke, Thema
Marcus Junkka, Thema
Paul Lappalainen, Centre against Racism

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network against Racism (ENAR) in Brussels, October 2007, supported by a grant from Compagnia di San Paolo and from Foundation Open Society Institute (Zug).



OPEN SOCIETY INSTITUTE

COMPAGNIA
di San Paolo

Table of contents

| | |
|--|----|
| Table of contents | 2 |
| 1. Executive summary..... | 4 |
| 2. Introduction | 5 |
| 3. Communities vulnerable to racism | 6 |
| 4. Manifestations of racism and religious discrimination | 8 |
| 4.1 Employment | 8 |
| 4.2 Housing | 9 |
| 4.3 Education | 10 |
| 4.4 Health..... | 11 |
| 4.5 Policing and racial profiling..... | 12 |
| 4.6 Racist violence and crime | 13 |
| 4.7 Access to goods and services in the public and private sector..... | 13 |
| 4.8 Media, including the internet..... | 14 |
| 5. Political and legal context | 15 |
| 5.1 Anti discrimination | 16 |
| 5.2 Migration and integration | 17 |
| 5.3 Criminal justice | 18 |
| 5.3.1 Racism as a crime..... | 18 |
| 5.3.2 Counter terrorism | 19 |
| 5.3.4 Racial profiling | 20 |
| 5.4 Social inclusion..... | 20 |
| 6. National recommendations | 22 |
| 6.1 General..... | 22 |
| 6.2 Anti discrimination | 22 |
| 6.3 Migration and integration | 22 |
| 6.4 Criminal justice | 23 |
| 6.4.1 Racism as a crime..... | 23 |
| 6.4.2 Counter terrorism | 23 |
| 6.4.3 Racial profiling..... | 23 |
| 6.5 Social inclusion..... | 23 |
| 7. Conclusion | 24 |
| 8. Bibliography | 25 |

1. Executive summary

Concerning developments in the fight against racism and ethnic and religious discrimination in Sweden during 2006, civil society organisations (NGOs) working in the field were alarmed by a number of issues. NGOs expressed concern that so few cases of ethnic and religious discrimination were brought to court by the Ombudsman against Ethnic Discrimination, that there was widespread ethnic discrimination in housing, that the police used racial profiling, and that Sweden had not ratified the *Additional Protocol to the Council of Europe Convention on Cybercrime*.

Concerning the legal and political context, one new anti-discrimination law came into force in Sweden during 2006, *the Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students*. Many NGOs, particularly local anti-discrimination bureaus, contributed to disseminating information about the law to schools and pupils. The Government also adopted the *Ordinance on Anti-Discrimination Clauses in Public Procurement Contracts*. In addition, a Parliamentary Committee submitted a report to the Government on comprehensive discrimination legislation. In the field of migration, a new *Alien Act* was adopted and with regards to social inclusion, a government inquiry published a report, which investigated the situation and social inclusion of the Sami people and also some of the other national minorities.

Reccomendations:

- The Government should ratify the *Additional Protocol to the Council of Europe Convention on Cybercrime* concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems;
- The Government should, in merging the existing Ombudsmen into one Ombudsman authority, take into account the Paris principles and the importance of ensuring an independent national human rights institution. The new law should also allow for affirmative action concerning ethnicity in the same manner as in regard to gender;
- The Government should co-operate with NGOs in the development of the situational testing method for research, quality control and as evidence in order to increase the possibility for victims of discrimination to gain redress in courts;
- The Government should comply with international law when deporting terrorist suspects to other countries and ensure that no one is deported to a country where he or she risks being subject to torture;
- The Government should initiate a critical review of the use of racial profiling;
- The Government should ratify *Additional Protocol 12 of the European Convention on Human rights and Fundamental Freedoms*.

2. Introduction

The situation of racism and discrimination in Sweden during 2006 can be described as both positive and disturbing.

In 2006, new legislation and government ordinances were adopted that strengthened the protection against ethnic discrimination. The *Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students* increased the protection in education. The *Ordinance on Anti-Discrimination Clauses in Procurement Contracts* ensured that 30 government authorities must include anti-discrimination clauses when awarding certain types of contracts to suppliers of services or building contractors.

However, 2006 was also characterised by increased support in elections for the nationalist party, the Sweden Democrats. This party supports restrictive immigration laws and so-called traditional values. Although the party did not manage to reach the minimum four percent level needed for a seat in the national Parliament, it came close and substantially increased its representation in local governments. Furthermore, an alliance of established right-wing parties won the election. One of the Government's first initiatives was to announce the funding cuts to the Centre against Racism, a national umbrella organisation for NGOs working against racism.

This report provides an overview of the situation and developments in Sweden in 2006 in the area of racism and religious discrimination, from the NGO perspective. The first section describes the communities vulnerable to racism and religious discrimination. The next section introduces specific developments and NGO activities, focusing on good practices from the NGO community as well as on areas of concern to civil society. Next, the report describes the political and legal context, highlighting developments in new legislation and political initiatives in Sweden during 2006, as well as the NGO assessment of these developments. Finally, the report concludes with a list of national recommendations.

3. Communities vulnerable to racism

There are several communities vulnerable to racism in Sweden and each vulnerable community faces various problems.

The Ombudsman against Ethnic Discrimination (*Ombudsmannen mot etnisk diskriminering*) identified some especially vulnerable groups in Sweden in its annual report for 2006¹. These groups include **the Roma, persons of African descent, Muslims, persons from the Middle-East and non-European women**.

The number of people in **the Roma community** in Sweden is not known, but it is estimated that there are between 30,000 and 50,000 Roma and Travellers living in Sweden². This group is especially vulnerable to racism and discrimination. During 2006, there was one court case concerning a Roma family that was denied entry into a swimming pool and two Roma cases of ethnic discrimination where the Ombudsman against Ethnic Discrimination filed lawsuits. Moreover, during 2006, the Swedish Government appointed the Delegation for Roma Issues (*Delegationen för romska frågor*)³, in order to improve the situation for Roma people in Sweden.

The vulnerability of **the Muslim community** in Sweden was discussed in the survey Islamophobia (*Islamofobi*) from 2006⁴. This survey shows that young people that are born in Sweden are more negative towards Muslims than young people born outside Sweden. It also shows that persons that personally know Muslims are more positive towards the Muslim Community than those who do not. In another survey⁵, Swedish men from two generations were interviewed regarding their views on Muslims and Islam. The result was that the younger generation of men were more positive towards Muslims and Islam than the older generation.

Moreover, during 2006 the Ombudsman against Ethnic Discrimination conducted a special project on multiple discrimination to support **African women**, a particularly vulnerable group. The aim of the project was to develop tools to solve conflicts of ethnic discrimination involving African women at the local level⁶.

It is also important to mention the final report from the government inquiry into power, integration and structural discrimination entitled the Black Book of Integration – An Agenda for Equality and Social Cohesion (*Integrationens svarta bok - Agenda för jämlikhet och social sammanhållning*).⁷ The report was the culmination of a series of reports developed over several years that,

¹ Ombudsmannen mot etnisk diskriminering, *Annual Report 2006*.

² Integrationsverket (2007) *Rasism och främlingsfientlighet i Sverige – Antisemitism, antiziganism och islamofobi 2006*.

³ JU2006:10.

⁴ Otterbeck, Jonas, and Bevelander, Pieter, *Islamofobi* (Stockholm: Forum för levande historia, 2006).

⁵ Integrationsverket (2007) *Rasism och främlingsfientlighet i Sverige – Antisemitism, antiziganism och islamofobi 2006*.

⁶ Ombudsmannen mot etnisk diskriminering, *Annual Report 2006*.

⁷ SOU 2006:79.

among other things, focused on identifying structural discrimination on the basis of ethnicity or religion and on analysing the mechanisms as well as the consequences related to power and influence, particularly with regard to integration. The final report focused in particular on proposals for measures to counteract the structural discrimination affecting communities vulnerable to racism, including empowerment measures related to those communities.

Finally, new legal provisions regarding so-called **Third Country Nationals** (TCNs) were included in Alien Act (*Utlänningslagen*)⁸ during 2006. According to the new legal provisions, Third Country Nationals can now gain the status of long-term resident in Sweden, a status which grants certain rights similar to those granted to European Union nationals.

⁸ SFS 2005:716.

4. Manifestations of racism and religious discrimination

4.1 Employment

During 2006, the Ombudsman against Ethnic Discrimination received 273 complaints of ethnic and religious discrimination in employment. Two of these cases were brought to the Swedish Labour Court (*Arbetsdomstolen*) by the union, but both claims were rejected by the Court. Most of the other complaints made to the Ombudsman were either dismissed or settled out-of-court.

One settlement by the Ombudsman involved the wearing of religious clothing in the workplace. In this case, a young woman had applied for a job at an amusement park but was told that she was not allowed to wear the Islamic head scarf. In the settlement, the amusement park agreed to pay 15,000 Swedish Crowns in damages to the woman and also to allow the Islamic head scarf to be worn among the employees. This settlement is important in that it helps to establish a trend away from the Swedish court case from 1986 involving another kind of religious clothing, a turban. In that court case, a local government was allowed to dismiss an employee for wearing a turban.

Civil society⁹ has expressed concern during the year that so few cases concerning ethnic and religious discrimination in employment were brought to court by the Ombudsman against Ethnic Discrimination. NGO comments on the Report to the Government on Comprehensive Discrimination Legislation (*En sammanhållen diskrimineringslagstiftning*) revealed various important issues.¹⁰ In particular, concern was expressed over the fact that it is not possible to appeal the decisions of the Swedish Labour Court. The composition of the Court was questioned and it was suggested that all discrimination cases should instead be brought to the general courts.¹¹ While NGOs in general were positive about a comprehensive law and supervision, they criticised the failure to clearly propose the allowance of affirmative action for ethnicity in the same way that it is already allowed for gender.¹²

Examples of NGO good practice

During 2006 a local anti-discrimination bureau in the city of Umeå conducted a **survey in the field of employment discrimination**. In this survey the anti-discrimination bureau asked all employers in the city of Umeå with 150 employees or more if they had knowledge about the existing laws against discrimination and if the company had a plan for diversity. Of the companies

⁹ The 'concerns of civil society' refers in particular to the concerns expressed by NGOs that represent the groups vulnerable to racism and discrimination.

¹⁰ SOU 2006:22.

¹¹ Thema (2006) SOU 2006:22 *Betänkande En sammanhållen diskrimineringslagstiftning*.

¹² Center against Racism, *Positiv särbehandling viktig också på högskolorna (Affirmative action is important in higher education as well)* 24 February 2006 www.centrummotrasism.nu.

with 150 employees or more, 90 percent answered the survey. The survey results revealed that while all of the companies had knowledge about the discrimination legislation, only 40 percent had a plan for diversity. The anti-discrimination bureau, using these results, contacted the companies lacking a plan for diversity and offered support for when the company decided to create a plan for diversity.

In 2006, the local anti-discrimination bureau in Värmland started the **One Step Forward project** (Ett steg framåt). The aim of this project was to prevent discrimination and racism in companies, unions and government authorities. Within this project the bureau in Värmland offered education, conferences and workshops regarding discrimination and racism.

4.2 Housing

During 2006, the Ombudsman against Ethnic Discrimination received 60 complaints regarding ethnic and religious discrimination in the housing market. The Ombudsman also initiated a housing project, with the aim of raising awareness and counteracting discrimination in the housing market. The target groups in this project were landlords, tenants and politicians.

Several reports were also published in the area of housing, discrimination and racism during 2006. One such report was on 'housing markets' institutions and gate keepers – the examples of Stockholm and Uppsala' (*Bostadsmarknadens institutioner och grindvakter - exempler Stockholm och Uppsala*).¹³ This report confirms earlier research results indicating the ethnically hierarchical structure of the housing market in Sweden.

Another report published during 2006 was the 'Fair and Equal Conditions in the Housing Market' (*Rättvisa och jämlika villkor på bostadsmarknaden*)¹⁴ published by the Ministry of the Environment and Society Building (*Miljö- och samhällsbyggnadsdepartementet*). This report addressed, among other things, the question of ethnic and racial discrimination as one of the main reasons explaining the uneven social and ethnic distribution of housing in Swedish cities.

Civil society expressed concern regarding discrimination in the housing market during 2006, particularly in the case of the Roma community. An example of this discrimination is a Roma case that the Roma Anti-discrimination Bureau (*Antidiskrimineringscenter Roma*) received during 2006. In this case, a Roma woman and her three children were discriminated against in the housing market, with the result that the family was forced to stay in a hotel for several months.

¹³ Bråmås, Åsa, Andersson, Roger, and Solid, Dennis, *Bostadsmarknadens institutioner och grindvakter i den etniskt segmenterade staden – exempler Stockholm och Uppsala* (Norrköping: Integrationsverket, 2006).

¹⁴ Miljö- och samhällsbyggnadsdepartementet (2006) *Rättvisa och jämlika villkor på bostadsmarknaden*, (DS 2006:9).

Example of NGO good practice

In March 2006, the Swedish Union of Tenants (*Hyresgästföreningen*) in co-operation with a large number of NGOs and researchers initiated the '**a room for everyone 2006**' project (*Ett rum för alla 2006*). The project aims to highlight issues such as discrimination, segregation and racism in Sweden. The participants of the project also adopted a set of recommendations for change in the field of discrimination, segregations and racism called **Charta 2006**.

4.3 Education

A new law on discrimination in the field on education came into force in 2006, the *Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students (Lag om förbud mot diskriminering och annan kränkande behandling av barn och elever)*.¹⁵ This new law applies to both public and private institutions including pre-schools, school-age childcare, primary and secondary schools and municipal adult education. The law prohibits discrimination in all spheres of education on the grounds of ethnic origin, religion or other belief, gender, disability and sexual orientation. Prior to this, there was only a prohibition against discrimination in higher education.

Five Ombudsmen are responsible for supervising the compliance with the new law and for providing information about the new law. These are the Ombudsman against Ethnic Discrimination, the Gender Equality Ombudsman, the Disability Ombudsman, the Ombudsman against Discrimination due to Sexual Orientation and the new Ombudsman at the National Agency for Education. During 2006, the Ombudsman against Ethnic Discrimination received 35 complaints regarding the new law.

When the new Act came into force on 1 April 2006, many organisations from the civil society contributed to disseminating information about it. In particular, the local anti-discrimination bureaus were involved in this work. Anti-discrimination bureaus are not-profit organisations that raise awareness about discrimination, as well as provide legal support to victims of discrimination.

Furthermore, during 2006 the Swedish Government appointed an inquiry to investigate if school age children who are subject to deportation decisions are entitled to school attendance. The result of this inquiry will be presented during 2007. Currently, children and youths that have been granted asylum are entitled to school attendance, but municipalities are not obliged to provide schooling to children and youth that are subject to deportation decisions. Even today however, municipalities are allowed to voluntarily offer schooling to these children.

¹⁵ SFS 2006:67.

Finally, during 2006 the second report on the situation of minority languages in Sweden was published by the Council of Europe Committee of Ministers¹⁶. The Committee of Ministers also published recommendations on the application of the *European Charter for Regional or Minority Languages* and some of these recommendations related to education. Among other things, the Committee recommends that Sweden should take immediate measures to strengthen access to education in regional or minority languages and improve the quality and availability of mother-tongue education.

Example of NGO good practice

The NGO **Örebro Rights Centre** (*Örebro Rättighetscenter*) is a local anti-discrimination bureau in the city of Örebro. During 2006 this NGO, in co-operation with the municipality of Örebro, participated in a **working group called Security, Respect and Responsibility**. This working group's aim was to help schools in the Örebro region to comply with the new *Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students*. The working group arranged conferences and developed a tool that schools could use when creating their own Equal Treatment Plans in accordance with the new legislation.

4.4 Health

During 2006, the Ombudsman against Ethnic Discrimination received 25 complaints regarding ethnic discrimination in the field of healthcare. In two of these cases the Ombudsman sued the perpetrator and these two cases were still pending as of June 2007.

In 2006, several reports were published in the area of health and discrimination in Sweden. On 18 August 2006, the Government Commission of Inquiry on Power, Integration and Structural Discrimination (*Utredningen om makt, integration och strukturell diskriminering*) presented its report on 'Health, healthcare and structural discrimination' (*Hälsa, vård och strukturell diskriminering*).¹⁷ The report examined access to healthcare for people with foreign backgrounds in Sweden and discussed how structural discrimination affects their state of health.

The final report for the project on 'Discrimination and health' (*Diskriminering och hälsa*) was also published. The report was titled 'Discrimination - A threat to public health' (*Diskriminering – ett hot mot folkhälsan*). The project was conducted between 2004 and 2006 by the National Institute of Public Health (*Statens folkhälsoinstitut*), the Ombudsman against Ethnic Discrimination, the Disability Ombudsman and the Ombudsman against Discrimination due to Sexual Orientation. The aim of this project was to highlight the correlation

¹⁶ The Council of Europe Committee of Ministers (2006), *European charter for regional or minority languages - Sweden*.

¹⁷ SOU 2006:78.

between health and discrimination, to develop methods for measuring health and discrimination, to develop indicators for discrimination and then to disseminate the results of the project to actors at international, national, regional and local levels. In the final conclusions, several proposals for action were presented including the creation of an in-depth population survey of discrimination and health, the allocation of research funding concerning discrimination and health, and the establishment of a national, regional and local monitoring system for discrimination.

4.5 Policing and racial profiling

In Sweden, it is doubtful that the current laws are effective in preventing ethnic or religious discrimination carried out by the police. However, many complaints are nevertheless filed to the Ombudsman against Ethnic Discrimination concerning police violations. Since there is no specific law covering this area, the Ombudsman has limited options in assisting victims of discrimination by the police. However, the Ombudsman has the ability to act on its own in these cases in accordance with *Law on the Ombudsman against Ethnic Discrimination (Lag om Ombudsmannen mot etnisk diskriminering)*.¹⁸ The law states that the Ombudsman has a mandate to investigate discrimination occurring in all parts of society (including areas without legal protection against discrimination). During 2006, the Ombudsman against Ethnic Discrimination received 101 complaints that were not covered by any specific law. Many of these complaints involved ethnic or religious discrimination by the police. However, none of the cases concerning discrimination by the police were resolved.

Racial profiling as a police method has not been discussed much in Sweden. It is only recently that some researchers have started to analyse racial profiling from a Swedish perspective. In a report from 2006¹⁹, Sophie Hydén concludes that racial profiling in Sweden is used mostly informally by the police, compared to in the United States where racial profiling has been used as an official method. Moreover, Swedish police officers use this method when conducting controls of foreigners and when conducting other kinds of controls. The persons in Sweden that are most commonly victims of racial profiling are persons originating from countries outside Europe.

Moreover, one Government report was published during 2006 concerning police and discrimination. This report was published by the Government inquiry on Power, Integration and Structural Discrimination and was titled 'Is justice fair? - Ten perspectives on discrimination of ethnic and religious minorities within the justice system' (*Är rättvisan rättvis? Tio perspektiv på diskriminering av etniska och religiösa minoriteter inom rättssystemet*).²⁰ The aim of this report was to examine structural discrimination in the judicial system. One main conclusion in the report was that structural discrimination

¹⁸ SFS 1999:131.

¹⁹ Hydén, Sophie, 'Diskriminering på köpet - etnisk profilering i polisarbete', in Fransson, Ola, and Fryklund, Björn (eds.), *Migration och professioner i förändring* (Malmö: Malmö Högskola, 2006).

²⁰ SOU 2006:30.

exists throughout the Swedish justice system; from the first contact with the police to the final court judgement.

Example of NGO good practice

During 2006 an anti-discrimination bureau in Värmland conducted a **training programme for all police personnel** in the county of Värmland. The programme included seminars and workshops on the topics of discrimination and the main objective of this programme was to increase the acceptance of and tolerance for other cultures among police personnel, as well as to increase their knowledge regarding discrimination and discrimination legislation.

4.6 Racist violence and crime

The Forum for Living History (*Forum för levande historia*) in co-operation with the Swedish National Council for Crime Prevention (*Brottsförebyggande rådet*) published the report 'Anti-Semitic Attitudes and Perceptions in Sweden' (*Antisemistiska attityder och föreställningar i Sverige*)²¹ in March 2006. The report was based on questionnaires that were sent to almost 3,000 people in various age groups with questions concerning anti-Semitism in Sweden. The results of these answers showed that five percent of the people questioned had strong anti-Semitic views, 26 percent believed that there is a 'Jewish influence' over the world's economy and that well-educated people were less inclined to show prejudice than less-educated people.

The official statistical data regarding hate crimes in Sweden during 2006 include data concerning crimes with xenophobic, anti-Semitic and Islamophobic motives. During 2006, a total of 2,575 hate crimes with xenophobic, anti-Semitic or Islamophobic motives were reported, of which 2,189 crimes had xenophobic motives, 134 crimes had anti-Semitic motives and 252 crimes had Islamophobic motives.

4.7 Access to goods and services in the public and private sector

Access to goods and services in the public and private sector in Sweden is covered by the *Law prohibiting discrimination (Lag om förbud mot diskriminering)*.²² During 2006 the Ombudsman against Ethnic Discrimination received 332 complaints concerning access to goods and services and in six of these cases the Ombudsman won lawsuits in District Courts on behalf of the victim. All of these six cases have, however, been appealed. The compensation to the victims in these cases ranged between 15,000 and 40,000 Swedish Crowns.

²¹ Forum för levande historia and Brottsförebyggande rådet (2006), *Antisemistiska attityder och föreställningar i Sverige*.

²² SFS 2003:307.

In particular, two cases in this field were especially highlighted during 2006. These were the cases concerning ethnic discrimination in night clubs, where situational testing was used. This method involves the use of test persons in real situations in order to provide evidence in court proceedings concerning discrimination. In these two cases, law students used situational testing to prove ethnic discrimination when trying to gain entrance into night clubs in the cities of Stockholm, Gothenburg and Malmö. The law students used secret video and audio recordings to prove discrimination and the recordings were accepted by the courts as valid evidence. The cases are significant as they were the first civil cases of discrimination in Sweden in which this method was accepted and such acceptance by the Court has implications for future discrimination cases, since it opens up new ways of proving discrimination.

Example of NGO good practice

During 2006 the Director of the Swedish national non-governmental organisation **Thema** in co-operation with external researchers conducted a **research project in the area of situational testing**. The project's aim was to clarify the legal situation regarding testing as a way of proving discrimination in court proceedings in Sweden and also to create practical guidelines for Swedish NGOs on how to use situational testing in a way that will create proof that can be used in court proceedings.

4.8 Media, including the internet

During 2006, the government inquiry on Power, Integration and Structural Discrimination presented a report on 'The us and them in the media - media's role in structural discrimination' (*Mediernas vi och dem – Mediernas betydelse för den strukturella betydelsen*).²³ In this report several researchers gave their view on the role of media in structural discrimination. A key area of concern in this field during 2006 was that Sweden had not yet ratified the *Additional Protocol to the Council of Europe Convention on Cybercrime*, concerning the criminalisation of acts of racist and xenophobic nature committed through computer systems.

Example of NGO good practice

Quick Response is an independent part of the Swedish Red Cross (*Svenska Röda korset*). The aim of Quick Response is to review how the Swedish news media reports on immigration, integration and xenophobia. In 2006 Quick Response participated in the project **School election 2006** (*Skolval 2006*) and within the framework of this project, Quick Response developed guidelines for teachers on how to teach pupils to analyse and question images and texts in the media regarding the topics of immigration, integration and xenophobia.

²³ SOU 2006:21.

5. Political and legal context

Developments in the Swedish political scene during 2006 have been extensive. Sweden's general election, held in September 2006, resulted in a defeat for the governing Social Democratic Party (*Socialdemokratiska partiet*) and its supporting parties the Green Party (*Miljöpartiet*) and the Left Party (*Vänsterpartiet*). The opposition consisting of the Moderate Party (*Moderaterna*), the Centre Party (*Centerpartiet*), the Liberal Party (*Folkpartiet*) and the Christian Democrats (*Kristdemokraterna*) secured the election victory with a margin of 2.2 percent. The opposition's choice for the new Prime Minister was Fredrik Reinfeldt, the head of the Moderate Party. One of the new Government's first actions in the field of racism and discrimination was an announcement of funding cuts to the Centre against Racism, a national umbrella organisation for anti-racist NGOs. The Government also announced that it was shutting down the Swedish Integration Board.

A crucial tendency of the 2006 Swedish general elections was the increase in support for the nationalist party, the Sweden Democrats (*Sverigedemokraterna*). This party has its origins, among other things, in the racist organisation called Preserve Sweden Swedish (*Bevara Sverige Svenskt*). Since its founding in 1988, the party has promoted restrictive immigration laws and so-called traditional values. Though the party did not manage to reach the four percent level, which ensures a seat within the national Parliament, it had the third largest increase in voters compared to the results of the previous election. Furthermore, the party reached the 2.5 percent level that is the minimum requirement for obtaining government financing for a political party.

The rise of the Sweden Democrats has dramatically changed the political handling of nationalist parties. Following the election several traditional political parties have changed their previous 'ignore and non-argument policy' and have now started to participate in debates with the Sweden Democrats.

Example of NGO good practice

Due to the failure of the political parties to seriously address racism and discrimination and the low voting rates of immigrants, the **Centre against Racism** initiated an **awareness and mobilisation campaign** prior to the election. The idea was that NGOs should set their own priorities in this field prior to the election and ensure that they were put onto the political agenda, thus giving people concerned with racism and discrimination a greater reason to vote.

At the annual general meeting of the Centre, five issues were given priority: 1) A comprehensive law against discrimination; 2) Anti-discrimination plans in all government agencies; 3) Anti-discrimination clauses in public contracts; 4)

Anti-racist education in schools; and 5) Equal voting rights. Although not in terms of the actual results, the campaign was nevertheless a success as a learning experience. It established the idea that the proponents of equality and non-discrimination have the possibility of affecting the political and social agenda in Sweden. It also established an agenda for the future.

5.1 Anti discrimination

In Sweden, the Ombudsman against Ethnic Discrimination is the equality body responsible for counteracting discrimination relating to ethnic origin, religion or other belief. This government authority received 757 complaints of ethnic and religious discrimination during 2006, but only six of these cases resulted in a court verdict during 2006. The rest of the complaints were either dismissed or settled out-of-court.

Several of the cases that were brought to court by the Ombudsman against Ethnic Discrimination during 2006 were cases concerning discrimination in nightclubs and restaurants, where the situational testing was used. Situational testing is a method that can be used for the development of reliable evidence in court proceedings through the use of test persons or groups of test persons that are identical in every aspect but the aspect that is to be tested. In the court cases from 2006, a group of law students used the method to test for ethnic discrimination when trying to gain entrance to nightclubs in the cities of Stockholm, Gothenburg and Malmö. The law students used four groups of persons for the test. The persons in two of the groups were of Swedish origin and the persons in the other two groups were of foreign origin. In a number of situations, the result was that only the 'Swedish' groups were allowed to enter the nightclubs. There has been substantial reluctance concerning the use of situational testing in Sweden. However, two court cases from 2006 show that the courts are willing to accept the results of situational testing as proof in court proceedings.

There is concern within civil society that too few victims of discrimination are assisted by the Ombudsman in gaining redress. There is a concern that this in turn will lead to a lack of trust by victims in government authorities. At the same time the Ombudsman has been developing new methods for focusing on groups that are particularly vulnerable to discrimination, which in turn seems to be leading to an increased mutual respect and understanding between the Ombudsman and the groups involved. The results have also included an increase in the number of complaints submitted. Initially these efforts were developed in a project focused on the Roma community.²⁴ Similar methods are being developed with regard to persons of African descent, Muslims and non-European women.

In the field of anti-discrimination the Swedish Government engages with civil society through local anti-discrimination bureaus. These bureaus are local

²⁴ See e.g. *Discrimination against Romanies in Sweden* - A report on the DO project in the years of 2002 and 2003 on counteracting and forestalling ethnic discrimination against Romanies. <http://www.do.se/upload/do/filer/roma/rappporteng05.pdf>.

NGOs that receive government funding. The anti-discrimination bureaus exist in various cities in Sweden. They provide legal advice to victims of discrimination free-of-charge. During 2006, two new bureaus were established, which resulted in a total number of 21 bureaus.

In Sweden during 2006 one new law came into effect in the field of anti-discrimination, the *Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students*²⁵. At least in part this law was created as a result of *Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*. This new legislation aims at preventing discrimination, harassment and other degrading treatment in schools (between students, as well as between teachers and students). The law came into force on 1 April 2006 and compliance is supervised by the four existing Swedish Ombudsmen against discrimination²⁶ and the new Ombudsman at the National Agency for Education.

During 2006 the Swedish Government also adopted the *Ordinance on Anti-Discrimination Clauses in Procurement Contracts*²⁷ which applies to 30 government authorities. This Ordinance was created as a result of the government inquiry 'the Blue and Yellow Glass House: Structural Discrimination in Sweden' (*Det blågula glashuset – strukturell diskriminering i Sverige*).²⁸ According to the Ordinance, the 30 government authorities must include anti-discrimination clauses when awarding certain types of contracts to suppliers of services or building contractors.

Moreover, on 24 February 2006, a Parliamentary Committee submitted a report to the Government on Comprehensive Discrimination Legislation (*En sammanhållen diskrimineringslagstiftning*).²⁹ One objective of this report was to review the Swedish discrimination legislation. In its final report, the Committee proposed the introduction of a new comprehensive law that covers all grounds of discrimination as well as the merging of the four existing ombudsmen against discrimination into a single ombudsman authority. This Parliamentary Committee report should result in new legislation in Sweden by 2008 at the latest.

5.2 Migration and integration

On 31 March 2006, the new Alien Act (*Utlänningslag*)³⁰ came into force in Sweden, with new rules regarding appeal procedures for alien and citizenship cases. According to the new law, decisions from the Swedish Migration Board (*Migrationsverket*) can now be appealed to three new migration courts.

²⁵ SFS 2006:67.

²⁶ The Ombudsman against Ethnic Discrimination, the Equality Ombudsman, the Disability Ombudsman and the Ombudsman against Discrimination due to Sexual Orientation.

²⁷ SFS 2006:260.

²⁸ SOU 2005:56.

²⁹ SOU 2006:22.

³⁰ SFS 2005:716.

Decisions from these courts can, if a review permit is issued, be appealed to the new Supreme Migration Court.

The new Alien Act also replaces the term 'humanitarian grounds' with 'particularly distressing circumstances', and expands the definition of 'refugee' to include people who are persecuted as a result of their gender or sexual orientation.

Yet another change introduced by the new Alien Act involves the introduction of a new legal definition, namely the status of long-term resident in Sweden for Third Country Nationals (TCNs). This change was an implementation of *Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*. The main rule states that the status of long-term resident in Sweden is to be granted to TCNs that have permanent residence permits in Sweden and have lived in the country for five consecutive years. Persons that have been granted this new status of long-term residence for TCNs are given certain rights similar to those granted to European Union nationals.

Previous to the new Alien Act a temporary asylum law, the *Law on changes in the Alien Act (Lag om ändring i utlänningslagen)*³¹, was in force between 15 November 2005 and 31 March 2006. This temporary law gave asylum seekers that had previously had their asylum applications denied a chance to stay in Sweden while their applications were reviewed. The majority of those that were allowed to stay after the review were families with children. This temporary law was created in large part as a result of an extensive NGO campaign conducted during 2005 called 'Refugee Amnesty 2005' (*Flyktningamnesti 2005*) and as a result of a petition by the Christian Council of Sweden called 'the Easter Petition' (*Påskuppropet*), which was signed by almost 100 NGOs.

5.3 Criminal justice

5.3.1 Racism as a crime

In Sweden there are several legal provisions addressing racism as a crime; for example agitation against a national or ethnic group³² and unlawful discrimination³³ are both crimes. Moreover, Swedish penal law also includes a provision regarding sentencing and hate crimes. The law states that a court shall determine that an aggravating circumstance exists if it finds that a motive for the specific crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstance³⁴.

³¹ SFS 2005:762.

³² *Brottsbalken* (Swedish Penal Code), SFS 1962:700, Chapter 16, § 8.

³³ *Brottsbalken* (Swedish Penal Code), SFS 1962:700, Chapter 16, § 9.

³⁴ *Brottsbalken* (Swedish Penal Code), SFS 1962:700, Chapter 29, § 2.

Some of these legal provisions are relatively ineffective. This can be shown by the fact that only three percent of the complaints filed with the police regarding the crime of unlawful discrimination (in 2006 or in earlier years) led to prosecution during 2006.

One case regarding unlawful ethnic discrimination in a night club was decided during 2006. In this case the bouncer at the night club was convicted of the crime of unlawful discrimination by a District Court in 2005. The case was appealed and on 22 December 2006; the Court of Appeal changed the previous verdict and acquitted the bouncer. This case was significant because it was the first time in Sweden that the method of situational testing was used as evidence in a criminal case concerning discrimination and that both the District Court and the Court of Appeal accepted the tests as evidence.

The National Council for Crime Prevention is responsible for the collection of data concerning hate crimes in Sweden. Data is divided into three categories depending on the motive for the crime: xenophobic, anti-Semitic and Islamophobic. In 2006, a total of 2,575 hate crimes with xenophobic, anti-Semitic or Islamophobic motives were reported, of which 2,189 crimes had xenophobic motives, 134 crimes had anti-Semitic motives and 252 crimes had Islamophobic motives. The number of xenophobic hate crimes reported remained about the same during the years 2004 and 2006; during 2006 a marginal decrease was noted.³⁵

5.3.2 Counter terrorism

According to the *Act on Special Control in Respect of Aliens (Lag om särskild utlänningskontroll)*³⁶, the Swedish Security Service is allowed to recommend that an alien should be deported for reasons of national security. During 2006 one such case received considerable attention in Sweden³⁷. In this case the Swedish Security Service and the Swedish Government decided to expel a terrorist suspect to Jordan, without informing the suspect or his legal counsel of the charges against him. NGOs expressed strong concern regarding this case and accused the Swedish Government of failing to adhere to international law when deporting a person to a country where he risks being subjected to torture. Civil society also criticized the Swedish Government for withholding the information regarding the charges that were made against the suspect.

In 2006, the Swedish Government was also criticised by the UN Committee for Human Rights concerning the case of deportation of two Egyptians to Egypt in 2001. In its decision the UN Committee declared that Sweden had violated the prohibition against torture and that Sweden had not investigated the criminal liability related to the deportation³⁸.

³⁵ Brottsförebygganderådet (BRÅ) *Hatbrott 2006*, 9.

³⁶ SFS 1991:572.

³⁷ The case of Hassan Asad.

³⁸ CCPR/C/86/D/1416/2005 - date of adoption of views: 25 October 2006.

5.3.4 Racial profiling

Racial profiling is not an issue that is widely recognised in Sweden. Some research has been conducted in the area, but the concept is not known among the general public. In one research publication, Sophie Hydén states that the police do not use racial profiling as a conscious tool when carrying out general work³⁹. Racial profiling is used more on an unconscious level.

However, in police work concerning alien controls within the national borders the police authority itself has described racial profiling as a frequently used method. Alien controls within the national borders are regulated in the *Alien Act*. According to chapter 9, § 9 of this law, the police have the right to request documentation and passports from aliens in Sweden if they have good reason to assume that the alien lacks the right to remain in the country or if there are other special reasons. According to the police themselves, racial profiling in these cases is based on the police officer's own 'gut feeling'.⁴⁰

Civil society in Sweden has expressed concern that the use of racial profiling by the police in alien controls and other situations can result in ethnic discrimination.

5.4 Social inclusion

In regard to the social inclusion of new refugees, the Swedish Integration Board (*Integrationsverket*) was responsible for providing funding for the introduction procedures related to new refugee arrivals during 2006. However, in accordance with a government report from December 2006, it has been decided that the Swedish Integration Board shall be dissolved on 1 July 2007. The Swedish Migration Board in co-operation with the County Administrative Boards will then be responsible for the arrival and social inclusion of new refugees.

During 2006, civil society also conducted some projects regarding social inclusion. Previous to the 2006 Swedish elections, for example, the Centre against Racism⁴¹ engaged and mobilised minority groups in the political process. This mobilisation campaign resulted in a list of five demands directed toward Swedish politicians. The five demands included stronger anti-discrimination legislation, anti-discrimination plans in government authorities, anti-discrimination clauses in public contracts, anti-racism education in schools and equality in voting rights. Unfortunately however, in 2006 the new Government decided to cut funding to the Centre.

Sweden recognises five national minorities; Jews, Roma, Sami, Swedish Finns and Tornedalers. The policy of the Swedish Government in the field of

³⁹ Hydén, Sophie, 'Diskriminering på köpet - etnisk profilering i polisarbete', in Fransson, Ola, and Fryklund, Björn (eds.), *Migration och professioner i förändring* (Malmö: Malmö Högskola, 2006).

⁴⁰ Ibid.

⁴¹ An umbrella organisation for over 100 NGOs.

social inclusion of these minority groups has three main objectives; to protect the national minorities, to increase their influence in society and to support minority languages.

During 2006 the government inquiry 'To Reclaim My Language - Measures to Strengthen the Sami Language' (*Att återta mitt språk - åtgärder för att stärka det samiska språket*)⁴² investigated the situation and social inclusion of the Sami people and other minorities. The inquiry examined, for example, the possibility of extending the administrative area for minority languages and making minorities and their languages more visible. The inquiry suggested that fundamental administrative law statutes and statutes that affect national minority rights should be translated into Sami and other minority languages (Finnish and Meänkieli - the language of the Tornedalers). According to the inquiry, this would improve the use of the rule of law concerning the application of government powers within the administrative areas and would also develop the minority languages.

⁴² SOU 2006:19.

6. National recommendations

6.1 General

- The Swedish Government should ratify the *Additional Protocol to the Council of Europe Convention on Cybercrime* concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems;
- The Swedish Government should amend the law so that equal voting rights apply to all immigrants regardless of their country of origin.

6.2 Anti discrimination

- The Swedish Government, during the legislative process involving merging the existing Ombudsmen into one Ombudsman authority, should take into account the Paris principles⁴³ and the importance of ensuring an independent national human rights institution;
- The Swedish Government, in the same process, should allow affirmative action for ethnicity to the same extent that affirmative action is allowed for gender - both in working life and in education;
- The Swedish Government, in the same process, should move jurisdiction over cases concerning ethnic and religious discrimination from the Swedish Labour Court to the general courts;
- The Swedish Government, in the same process, should specify that the new law also prohibits discrimination within the judicial system;
- The Swedish Government should co-operate with civil society in the development of situational testing as a research method, as a quality control method and in particular as a method of evidence that will increase the possibility for victims of discrimination to gain redress in court;
- The Swedish Government should ratify *Additional Protocol 12 of the European Convention on Human rights and Fundamental Freedoms*;
- The Swedish Government should establish a special trust from which NGOs and private lawyers can seek financial support for bringing test cases on behalf of victims of discrimination.

6.3 Migration and integration

- The Swedish Government should require local governments receiving funding for immigrant integration to develop and submit long-term equality/non-discrimination plans.

⁴³ Principles relating to the Status of National Institutions (the Paris Principles), adopted by General Assembly resolution 48/134 of 20 December 1993.

6.4 Criminal justice

6.4.1 Racism as a crime

- The Swedish Government should review the reasons for the apparent failure of the judicial system, in spite of a government order, to give priority to the prosecution of hate crimes.

6.4.2 Counter terrorism

- The Swedish Government should ensure that it complies with international law when deporting terrorist suspects to other countries and also ensure that no one is deported to a country where he or she risks being subject to torture;
- The Swedish Government should review the laws adopted in recent years in the area of counter terrorism, with a view toward ensuring that they do not become an excuse for the violation of the due process of law or for enforcement of the laws in a discriminatory manner.

6.4.3 Racial profiling

- The Swedish Government should require the police to critically examine the use of racial profiling, regardless of whether its use is formal or informal.

6.5 Social inclusion

- The Swedish Government should ensure that schools not only provide an education concerning the dramatic violations of human rights carried out in other countries, but also concerning the violations of human rights that are part of Swedish history; for example, in relation to the treatment of the Sami, the Roma, the Jews, immigrants and others.

7. Conclusion

The three most significant developments in the realm of anti-racism and anti-discrimination in Sweden during 2006 are the increased support for the right-wing nationalists in the Swedish elections, the new anti-discrimination legislation that came into force and the ongoing legislative procedure based on the Parliamentary Committee report on Comprehensive Discrimination Legislation.

During the Swedish general elections in September 2006, the nationalist party, the Sweden Democrats, had the third largest increase in voters when compared to the results in the previous election. Although they failed to attain the four percent minimum needed to ensure a seat in Parliament, they did reach the 2.5 percent level which is the minimum requirement to obtain a government subsidy for a political party. This development has forced established political parties in Sweden to change their view on how to respond to racism within the political context. After the election, many of the traditional political parties decided that the best way to counteract racism in politics is to start participating in debates with the right-wing nationalists.

The second significant development during 2006 was in the legal field. During 2006, a new law came into effect in the area of discrimination and education. It was adopted at least in part as a result of *Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*.

The third development concerned the Parliamentary Committee report on Comprehensive Discrimination Legislation. This report suggested that all existing anti-discrimination laws should be merged into a single law. It also proposes the merging of the four current discrimination Ombudsmen into a single Ombudsman authority. The legislative procedure concerning these proposals should result in a new law during 2008.

Civil society played a significant role in the developments of 2006. The NGO community, in particular the Centre against Racism, was involved in raising awareness about racism and discrimination as part of the political process. Raising awareness about the new law regarding anti-discrimination in education was a role in which the local anti-discrimination bureaus were especially active.

Many organisations from the civil sector also contributed to the legal changes that will result from the Parliamentary Committee report on a Comprehensive Discrimination Legislation. The NGOs were active both previous to the release of the report, as well as in the referral process of the Parliamentary Report. Most NGOs were positive about the proposal to create one comprehensive anti-discrimination law and to merge the Ombudsmen into one single authority.

8. Bibliography

Publications

Bråmås, Åsa, Andersson, Roger, and Solid, Dennis, *Bostadsmarknadens institutioner och grindvakter i den etniskt segmenterade staden – exempler Stockholm och Uppsala* (Norrköping: Integrationsverket, 2006)

Hydén, Sophie, 'Diskriminering på köpet - etnisk profilering i polisarbete', in Fransson, Ola, and Fryklund, Björn (eds.), *Migration och professioner i förändring* (Malmö: Malmö Högskola, 2006).

Otterbeck, Jonas, and Bevelander, Pieter, *Islamofobi* (Stockholm: Forum för levande historia, 2006).

Reports

Brottsförebygganderådet (BRÅ) (2007) Rapport 2007:17 *Hatbrott 2006*
http://www.bra.se/extra/measurepoint/?module_instance=4&name=Hatbrott%202006.pdf&url=/dynamaster/file_archive/070628/e2e092219bcfcb377a4ea056da25cf03/hatbrott%255flgupplst070626.pdf.

Center against racism (2006) *Positiv särbehandling viktig också på högskolorna* 24 February 2006 www.centrummotrasism.nu.

Council of Europe Committee of Ministers (2006) *European charter for regional or minority languages - Sweden*.

Forum för levande historia and Brottsförebyggande rådet (2006) *Antisemitiska attityder och föreställningar i Sverige*.

Integrationsverket (2007) *Rasism och främlingsfientlighet i Sverige – Antisemitism, antiziganism och islamofobi 2006*.

Miljö- och samhällsbyggnadsdepartementet (2006) *Rättvisa och jämlika villkor på bostadsmarknaden*, (DS 2006:9).

Ombudsmannen mot etnisk diskriminering, *Annual Report 2006*.

Ombudsmannen mot etnisk diskriminering, Ombudsmannen mot diskriminering på grund av sexuell läggning and Statens folkhälsoinstitut (2006) *Diskriminering – ett hot mot folkhälsan*.

SOU 2005:56 (2005) *Det blågula glashuset – strukturell diskriminering i Sverige*.

SOU 2006:22 (2006) *En sammanhållen diskrimineringslagstiftning*.

SOU 2006:19 (2006) *Att återta mitt språk - åtgärder för att stärka det samiska språket.*

SOU 2006:21 (2006) *Mediernas vi och dem – Mediernas betydelse för den strukturella betydelsen.*

SOU 2006:78 (2006) *Hälsa, vård och strukturell diskriminering.*

SOU 2006:79 (2006) *Integrationens svarta bok - Agenda för jämlikhet och social sammanhållning.*

Thema (2006) *SOU 2006:22 Betänkande En sammanhållen diskrimineringslagstiftning.*

National legislation

Brottsbalken (1962:700).

Förordning (2006:260) om antidiskrimineringsvillkor i upphandlingskontrakt.

Lag (2003:307) om förbud mot diskriminering.

Lag (2006:67) om förbud mot diskriminering och annan kränkande behandling av barn och elever.

Lag (1999:131) om Ombudsmannen mot etnisk diskriminering.

Lag (2005:762) om ändring I utlänningslagen.

Utlänningslagen (2005:716).

International legislation

Council Directive 2000/43/EC (29.06.2000).

Principles relating to the Status of National Institutions (the Paris Principles) adopted by General Assembly resolution 48/134 of 20 December 1993.

Legal decisions

CCPR/C/86/D/1416/2005.

