



Submission by the United Nations High Commissioner for Refugees

**for the Office of the High Commissioner for Human Rights' Compilation Report
(Excerpts of Treaty Body Concluding Observations and Special Procedure Reports)
- Universal Periodic Review:**

SWEDEN

We would like to bring your attention to the following excerpts from Treaty Body Concluding Observations and Special Procedures' reports relating to issues of interest and concern to UNHCR with regards to Sweden.

Treaty Body Concluding Observations

**CCPR/C/SWE/CO/6, 95th session
7 May 2009**

12. The Committee notes that a common action plan has been developed by the State party's Border Control Police, the Migration Board and the Social Services, seeking to safeguard unaccompanied asylum-seeking children against the danger of human trafficking. The Committee is concerned, however, at the lack of detailed information on the effectiveness of the measures taken by the special units of the Migration Board to prevent the disappearance of children travelling without guardians (art. 24).

The State party should ensure that effective measures are taken to prevent the disappearance of unaccompanied asylum-seeking children.

17. The Committee notes that positive changes have occurred in the Migration Board's policies, decreasing the number of cases in which asylum seekers are subjected to detention prior to the resolution of their status. The Committee remains concerned that some asylum-seekers have been detained for lengthy periods. The Committee also notes that asylum-seekers said to be a risk to themselves or a threat to others have been placed in remand prisons that also house criminal suspects and convicted criminals. The Committee is further concerned that asylumseekers have been deported before the final resolution of their claims to refugee status. In addition, the Committee notes that

confidential information is sometimes used in expulsion decisions to which the applicant has no access (arts. 13 and 14).

The State party should permit detention of asylum-seekers only in exceptional circumstances, and limit the length of such detentions, also avoiding any placement in remand prisons. The State party should consider placement alternatives for asylumseekers, and should assure that asylum-seekers not be deported before the resolution of their claims. In addition, the State party should ensure that asylum-seekers have the right to access adequate information in order to answer arguments and evidence utilized in their case.

**CRC/C/SWE/CO/4, 51st session
12 June 2009**

26. The Committee recommends that the State party monitor and ensure full compliance with article 2 of the Convention and ensure the implementation of existing laws guaranteeing the principle of non-discrimination with respect to all children within the jurisdiction.

27. The Committee notes the new legislative measures incorporating the principle of the best interests of the child, including the Aliens Act (Swedish Code of Statutes – SFS 2005:716) and the amendments to the provision of the Children and Parents Code relating to custody, residence and access. However, the Committee is concerned that the principle of the best interests of the child is not sufficiently implemented in practice, including in the administrative spheres. The Committee also remains concerned that the best interests of asylum-seekers and migrant children are not sufficiently taken into consideration in asylum processes.

28. The Committee recommends that the State party strengthen measures to raise awareness about the meaning and practical application of the principle of the best interests of the child and ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures. It also recommends that the State party take appropriate and effective measures to ensure that the principle of the best interests of the child form the basis and guide the process and all decisions, especially in asylum cases involving children, including by providing regular training to staff at the Migration Board and the social welfare authorities.

54. While noting with appreciation the numerous efforts of the State party in the sphere of education, in order to guarantee the objectives set out in the Convention, the Committee remains concerned that children without residence permit, in particular “children in hiding” and undocumented children, do not enjoy the right to education. However, the Committee notes the statement by the State party in its replies to the List of issues that the Government plans to appoint a supplementary inquiry to propose how the right to education can be further extended. The Committee is also concerned that there is lack of systematic and consistent education on the Convention in schools.

55. The Committee recommends that the State party pursue its efforts to ensure that all children enjoy the right to education, including children without residence permit, such as “children in hiding” and undocumented children. The Committee further recommends that the State party incorporate the Convention and other relevant human rights treaties in the curricula in the context of the new Education Act and strengthen such education in both primary and secondary education.

60. The Committee welcomes the new Act on health care for asylum-seekers (2008:344) that provides asylum-seekers and former asylum-seekers or “children in hiding” with a right to health care and medical services under the same conditions as children legally residing in the country. However, the Committee is concerned that undocumented children only have a right to urgent medical care, with no subsidies.

61. The Committee recommends that the State party take the necessary steps to ensure that all children, including undocumented children, have a right to health care and medical services under the same conditions as children legally residing in the country.

63. The Committee urges the State party to strengthen measures to ensure that adequate support and supervision are provided to children living in reception centres, as well as adequate psychological and psychiatric care for traumatized asylum-seeking children. The Committee urges the State Party to take the necessary legislative steps to ensure the appointment of a temporary guardian (or “trustee”) for each unaccompanied asylum-seeking child within 24 hours of his or her arrival in the country, with a task of informing the child about his or her legal situation as well as available legal immigration procedures. The Committee also recommends that efforts be strengthened to ensure the suitability and adequate qualifications of such guardians. The Committee draws the attention of the State party to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.

64. The Committee notes with concern that the State party is considering the introduction of a support requirement (maintenance) as of 1 January 2010 as a condition for family immigration of foreign citizens and stateless persons.

65. The Committee reiterates its recommendation that the State party continue to strengthen the measures taken to ensure that family reunification procedures for recognized refugees are dealt with in a positive, fair, humane and expeditious manner and that they do not entail a risk of infringement of the rights of children under the Convention.

**E/C.12/SWE/CO/5, 41st session
1 December 2008**

16. The Committee reiterates its concern about the persistent occurrence of discrimination on the basis of ethnicity, in particular against the Roma minority and 'persons of foreign origin', regarding access to employment and working life, education, access to public places, and in the criminal justice system, in spite of the measures taken by the State party to enhance its legal and institutional mechanisms aimed at combating discrimination. (arts. 2.2, 6, 7, and 13)

The Committee encourages the State party to strengthen its efforts and to take additional steps to prevent discrimination on the basis of ethnicity in all aspects of daily life, and requests the State party to include in its next periodic report detailed information on the programmes and policies adopted to combat and prevent ethnic discrimination and to enhance tolerance and respect and on their results, in particular with regard to initiatives taken under the new Anti-Discrimination Act. It also requests the State party to provide updated statistical data on the number of complaints, prosecutions and convictions for crimes based on ethnic origin.

32. The Committee encourages the State party to consider ratifying the Council of Europe Convention on Action against Trafficking in Human Beings.

**CAT/C/SWE/CO/5, 40th session
4 June 2008**

13. The Committee welcomes the inclusion in the Aliens Act of a new ground for issuing a residence permit whereby an alien will normally be granted such a permit when the Committee, or another international complaints body, has found the State party to be in breach of its treaty obligations. The Committee also notes the statement by the delegation that the State party has not participated in any extraordinary renditions and that it has not obtained or tried to make use of diplomatic assurances in any case other than the cases concerning Mr. Agiza and Mr. Alzery. The Committee takes note of the extensive information presented by the State party on measures taken to implement the Committee's decision in *Agiza v. Sweden*, including the issuance of visas to family members and continued visits to the prison. The Committee also notes that the requests for residence permit and compensation are currently awaiting resolution. However, the Committee regrets the lack of full implementation of the key elements in this decision, in particular an indepth investigation and prosecution of those responsible, as appropriate. It further regrets the lack of full implementation of the Views of the Human Rights Committee in *Alzery v. Sweden*, including the recommended remedies. (arts. 3 and 14)

The State party should take all necessary measures to implement the decision of this Committee and the Views of the Human Rights Committee concerning Mr. Agiza and Mr. Alzery and provide them with fair and adequate compensation. Furthermore, the State party should undertake an in-depth investigation into the reasons for their expulsion and prosecute those responsible, as appropriate. Finally,

the State party should take effective measures to ensure that it complies fully with its obligations under article 3 of the Convention in order to prevent similar incidents from occurring in the future.

**CRC/C/OPAC/SWE/CO/1, 45th session
6 July 2007**

20. The Committee welcomes the entry into force of the Special Representative for Unaccompanied Children Act (2005:429) on 1 July 2005, which provides all unaccompanied children applying for asylum in Sweden with a representative (*god man*). However, it notes with concern that the appointment of representatives may take long time and that the number of representatives is not sufficient to respond to the actual need.

21. The Committee recommends that the State party consider amending the Special Representative for Unaccompanied Children Act (2005:429) in order to accelerate the appointment of a representative (*god man*) for unaccompanied children who have been recruited or used in hostilities and are applying for asylum in Sweden within 24 hours of the child having arrived in Sweden. The Committee recommends that the State party provide all representatives on the roster with adequate training, paying particular attention to the psychosocial needs of children who have been recruited or used in hostilities.

22. The Committee notes that responsibility for the accommodation of unaccompanied asylum-seeking children, including unaccompanied children who have been recruited or used in hostilities, was transferred in July 2006 from the Migration Board to the municipal authorities. It notes with concern that only a few municipalities have agreed to accommodate unaccompanied asylum-seeking children and that while waiting for placement these children are placed in temporary accommodation. Due to the fact that municipalities have extensive powers of self-governance and autonomy, the Committee is concerned that the service provision may not be adequate in all municipalities.

23. The Committee further notes that the Swedish Migration Board shall inform other Swedish authorities when they encounter asylum-seeking children who have been involved in armed conflict, so that they are able to provide support and care to these children.

24. The State party should ensure that all unaccompanied asylum-seeking children have access to adequate services, including social and health services and accommodation, irrespective of the municipality in which they are accommodated. The Committee urges the State party to ensure that asylum-seeking children who have been involved in armed conflict receive all appropriate assistance for their physical and psychological recovery and social reintegration.

25. It also recommends that the State party systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who have been recruited

or used in hostilities abroad. In this regard the Committee recommends that the State party take note of the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.

Special Procedures Reports

A/HRC/4/28/Add.2, 4th session

28 February 2007

HUMAN RIGHTS COUNCIL, Item 2 of the provisional agenda

37. In contrast to Swedish residents and citizens, undocumented foreign nationals have to pay full fees for health care, including for emergency procedures (see paragraphs 67-75). The costs of such services are unaffordable for many undocumented foreign nationals.

41. The Ombudsmen on disability, ethnic discrimination and sexual orientation are currently undertaking a study on the impact of discrimination on health. The Swedish National Institute of Public Health (SNIPH: Folkhälsoinstitut) is also charged with undertaking surveys on discrimination and health. Sweden's national human rights action plan (2006-2009) proposes governmental measures to combat discrimination on grounds of gender, ethnicity, religion or other belief, sexual orientation and disability, and its impact on access to, and quality of, health care. **The Special Rapporteur welcomes these studies, surveys and proposals. He recommends that the Government take measures to combat inequalities in health status and access to care. These measures should focus not only on discrimination, but also on other closely-related obstacles, such as the costs of care which render health care inaccessible for some population groups.**

44. There is a high incidence of psychosocial disabilities among specific population groups, including homeless persons. Up to a quarter of refugees and asylum-seekers are affected by post-traumatic stress disorder (National Institute for Psychosocial Medicine, Migration and Stress, June 2004). Refugees, asylum-seekers and homeless persons all reportedly have difficulty accessing mental health care. [...]

47. The Special Rapporteur urges the Government to ensure the full realization of the rights of persons with psychosocial disabilities, as expressed in international and regional human rights treaties, and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

48. The Special Rapporteur welcomes the focus in the Public Health Objectives Bill on addressing the causes of psychosocial disabilities among the population, and urges the Government to ensure adequate funding for these measures. The Special Rapporteur urges the Government to ensure that it takes measures to address causes of psychosocial disabilities among vulnerable and marginalized groups, including children, adolescents, homeless persons, women, asylum-seekers, and lesbian, gay, bisexual and transgender persons.

49. He urges the Government to ensure that mental health care, including psychiatric care and other therapies, is made more accessible for marginalized groups. He also suggests that central Government, counties and municipalities should devote more attention to ensuring coordination between services, and the provision of more services and programmes for children and adolescents.

F. Asylum-seekers and undocumented foreign nationals

69. Asylum-seeking children have access to the same health care on the same basis as children domiciled in Sweden. However, asylum-seeking adults do not have access to the same health care as adults domiciled in Sweden. In the Special Rapporteur's opinion, such differential treatment constitutes discrimination under international human rights law.

70. The very difficult situation of undocumented people living in Sweden (*gömda*) has been brought to the attention of the Special Rapporteur. They represent one of the most vulnerable groups in society, consisting predominantly of rejected asylum-seekers, as well as immigrants who have never claimed asylum but overstayed in Sweden. There are an estimated 15,000 undocumented people living in Sweden.

71. Undocumented children receive health care on the same basis as resident children. Undocumented adults may receive immediate health care, but at their own expense. Undocumented people who seek medical care in a public health-care facility will receive the treatment required. However, they will have to pay the full cost of the treatment and medication. A further problem is that undocumented people fear being reported to authorities by medical staff and thus they often refrain from seeking medical assistance even in the most serious cases.

72. The Special Rapporteur is concerned that Swedish law and practice regarding the health care accessible to asylum-seekers and undocumented foreign nationals is not consistent with international human rights law. In 2000, the Committee on Economic, Social and Cultural Rights, which monitors and interprets ICESCR, advised: "States are under an obligation to respect the right to health by refraining from denying or limiting equal access for all persons, including ... asylum-seekers and illegal immigrants, to preventive, curative and palliative health services. In 2004, another United Nations committee of independent human rights experts took the same position. The Special Rapporteur sees no reason to take a different view. The Special Rapporteur notes that under international human rights law, some rights, notably the right to participate in elections, to vote and to stand for election, may be confined to citizens. However, human rights are, in principle, to be enjoyed by all persons.

73. A fundamental human right, the right to the highest attainable standard of health is to be enjoyed by all without discrimination. It is especially important for vulnerable individuals and groups. Asylum-seekers and undocumented people are among the most vulnerable in Sweden. They are precisely the sort of disadvantaged group that international human rights law is designed to protect.

74. As well as human rights and humanitarian reasons, there are also compelling public health grounds for treating all asylum-seekers and undocumented people on the same basis as Swedish residents. While on mission, it was not suggested to the Special Rapporteur that the estimated cost of extending the same medical services on the same basis to residents, asylum-seekers and undocumented individuals would be prohibitively expensive. The issue does not appear to be primarily one of cost. Indeed, relatively speaking, the costs of including asylum-seekers and undocumented individuals are unlikely to be significant.

75. Accordingly, the Special Rapporteur encourages the Government to reconsider its position with a view to offering all asylum-seekers and undocumented persons the same health care, on the same basis, as Swedish residents. By doing so, Sweden will bring itself into conformity with its international human rights obligations.

Asylum-seeking children with severe withdrawal behaviour:

76. The Special Rapporteur notes with particular concern the high incidence of severe withdrawal behaviour among asylum-seeking children in Sweden (the so-called “apathetic children”). These children appear to have become severely withdrawn, with some refusing to eat and/or communicate. The most difficult and severe cases present symptoms akin to a psychological condition known as Pervasive Refusal Syndrome: those affected often require tube-feeding to stay alive.

81. While the Special Rapporteur, for a number of compelling reasons, is unable to make assessments of a clinical nature about these children, he wishes to emphasize the following remarks.

82. First, while the debates about the condition partly reflect the inadequate medical understanding of the problem, the Special Rapporteur is concerned that these debates may sometimes have been caught up in highly politicized public discussion about asylum and immigration in Sweden. Crucially, the plight of these children must be understood as a health and human rights issue, not as a political or immigration issue.

83. Second, the right to health demands evidence-based health policies and interventions. The Special Rapporteur recommends that the Government actively and urgently support more research into the medical, environmental and psychosocial causes of severe withdrawal behaviour, as well as its most appropriate medical treatment.

84. Third, the Special Rapporteur is aware that human rights have not been absent from discussions about children with severe withdrawal behaviour. Nonetheless, in his view the human rights dimensions of the issue should receive more attention. In addition to the necessity of greater medical research, he wishes to emphasize that all relevant policies and interventions must be guided by human rights. In particular, all parties concerned should ensure that the best interests of the child, and the right

of the child to the highest attainable standard of health, “including to necessary medical assistance and health care”, guide policies and interventions, without discrimination.

85. Fourth, as a way of ensuring that the human rights dimensions of the problem receive more systematic and considered attention than hitherto, the Special Rapporteur recommends that the Ombudsman on children be given the formal and important role of closely monitoring this problem in general, as well as individual cases, from the perspective of the rights of the child. The Ombudsman should make recommendations and report publicly, regularly and officially on her findings.

G. Expulsion of foreign nationals with life-threatening conditions

86. As is the case in other European countries, health problems generally do not entitle a foreign national to a residence permit in Sweden. Sweden’s revised Aliens Act, which entered into force in March 2006, recognizes that health considerations amounting to “particularly distressing circumstances” may constitute grounds for a residence permit.

88. While welcoming inclusion of health considerations in the legislation, the Special Rapporteur is concerned that decisions under the old Aliens Act only took into account the availability of a required treatment in the applicant’s home country, but not the accessibility of the treatment to the particular individual in question.

89. The European Court of Human Rights has made several decisions about whether the deportation of an alien with a life-threatening illness would constitute inhuman or degrading treatment in the event that treatment was unavailable in the country of destination. The Court has found a violation only in the most exceptional of circumstances, such as imminent death or severe physical and mental suffering. In 2000, the Court gave an admissibility decision in *S.C.C. v. Sweden*, a case involving the potential return to Zambia of a woman living with HIV. The Court found the case inadmissible. The Court declined to take into consideration the applicant’s claim that she did not have the financial means to access in Zambia the drugs that she needed to maintain her health and prolong her life.

90. While the facts in the *S.C.C.* case may not have reached the threshold to be considered a violation of the prohibition against inhuman and degrading treatment, the Special Rapporteur has no doubt that they have major right to health implications. Returning an individual with a life-threatening condition to a country where life-saving treatment is inaccessible to the individual in question is prima facie inconsistent with the individual’s right to the highest attainable standard of health. **The Special Rapporteur recommends that in their assessment of “particularly distressing circumstances” under the new Aliens Act, migration courts consider whether or not the individual, in practice, would be able to access life-saving treatment.**

91. In cases under the Aliens Act, the Swedish Embassy in the country in question is often requested to provide an assessment of whether an alien may be able to receive treatment in his or her home country. These reports are one of several sources available to

the Swedish migration authorities for assessing the situation in a particular country. The Special Rapporteur was concerned at reports that the Embassy assessments drew on limited sources, were of poor quality, and limited to the question of availability. **He recommends that efforts be made to improve the quality of, and integrate considerations about the accessibility of drugs into, these assessments. After all, how helpful is an assessment that finds a treatment is available in the home country, when it is well known that the treatment lies beyond the reach of all but the country's rich elite?**

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32. Swedish crime statistics are generally not broken down by the nationality or ethnicity of the perpetrators or victims. However, some studies suggest that women in Sweden with an immigrant, asylum-seeker or refugee background face a higher risk of violence than native Swedish women. Special vulnerabilities within this group of women result to some extent from their residence status. Immigrant or asylum-seeking women without a valid residence permit are often naturally reluctant to approach State authorities for protection and remain trapped in violent relationships. Women whose legal residence status in Sweden depends on their relationship with a Swedish national or permanent resident face similar problems.

33. A lack of familiarity with the Swedish language, institutions and law, sometimes coupled with a general distrust towards State authorities, may pose additional obstacles for non-native women. Women coming to Sweden on the basis of arranged marriages are particularly affected by these problems. Swedish privacy protection legislation prohibits the Swedish Migration Board, which processes entry visas, to match and link their computer files with local authorities. Therefore, the local authorities often do not know about foreign women moving into their community and cannot provide them with information on available language courses, legal literacy programmes or other integration support measures. Women who have no other connection to Sweden than their arranged husband and his family are therefore often isolated and vulnerable to entrapment in violent relationships.

34. While these types of vulnerabilities are generally not disputed and to some extent are also addressed by special legal provisions (see below), it is hotly debated whether cultural specificities contribute to the vulnerability of women with a foreign background. In this context, the phenomenon of "honour-related violence" has commanded much public attention, especially after the murder of Fadime Şahindal in January 2002. The term - widely used by Swedish policymakers, researchers and practitioners without being clearly defined (which is a problem) - is generally employed to describe cases in which women or girls are subjected to, or threatened with, violence because they are seen as defying their family's expectations of "honourable" social or sexual behaviour. Some also use the term to refer to cases concerning homosexual or bisexual boys and men

suffering violence at the hands of homophobic family members. The Swedish National Police Board calculates that about 400 cases of honour-related violence come to the attention of the authorities every year.

63. Additional progress also has to be made with regard to the particular protection needs of women facing honour-related violence, who often encounter particular security risks because of the collective nature of the threat against them. The county administrative boards estimate that sheltered housing facilities with enhanced security arrangements are needed for 150-300 women facing honour-related violence. So far, the Government has created just over 100 places. Non-governmental initiatives such as the Somayah Women's Shelter, which I visited, or the Terrafem Network, have filled the gap.

65. Sweden has introduced specific legislation to address the vulnerabilities of non-Swedish women stemming from their non-permanent resident status. Under the Aliens Act, a foreign woman who holds a temporary residence permit that depends on her marriage to a Swedish national or a permanent residence can only receive a permanent residence permit after two years of marriage. This dependency can trap women in violent relationships. For this reason, a special provision has been introduced into the Aliens Act which allows women to receive a residence permit of her own in cases where the relationship with the partner ended before two years had passed because she or her children suffered substantial violence or other violations of freedom and integrity at the hands of her partner. It is sufficient that the victim document the violence through reports from a hospital or a shelter; she does not have to take the often difficult – and sometimes dangerous – step of reporting her former partner to the police in order to legalize her status. Women's organizations and local officials have informed me that this excellent norm is unfortunately still underused, because foreign women exposed to violence are either not aware of its existence or are afraid to pursue this option.

71. In view of the measures already taken and the remaining deficiencies, I would like to make the following recommendations:

(a) To the Government:

(iii) Prosecute and punish perpetrators of violence against women by:

Fostering international cooperation in cases of violence against women with a transnational dimension, especially honour-related violence, and consider re-establishing a special unit on such violence in the National Criminal Investigation Department which can coordinate Sweden's work with that of other countries. At the same time, local police and justice sector personnel should continue to receive special training on the specific challenges related to particular manifestations of violence against women in different communities.

**Protection Policy and Legal Advice Section
Division of International Protection Services
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