Human Rights in Sweden

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1. Background

In Sweden, human rights are guaranteed by three of the four constitutional laws: the Instrument of Government, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. Press freedom has been constitutionally protected since the 18th century and is the oldest of all civil and constitutional rights in that country.

The very first chapter of the Instrument of Government (RF) provides that public power shall be exercised to ensure universal human equality and individual freedom and dignity. It further states that the Government shall guarantee the right to work, housing, education and shall promote social welfare, security and a good living environment.¹ The second chapter of the Instrument of Government (Fundamental Human Rights and Freedoms) contains provisions on basic rights and liberties, such as positive and negative freedom of opinion² and physical integrity.³ All citizens are guaranteed freedom of expression, of information, of assembly, of association and of worship. As far as freedom of expression is concerned, reference is made to the Freedom of the Press Act and the Fundamental Law on the Freedom of Expression, which regulate different areas of the media.

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¹ Chap. 1, Section 2 RF (Instrument of the Government)
² Chap. 2, Sections 1-2, RF
³ Chap. 2, Sections 4-6, RF
All citizens are protected (with respect to the State) against coercion to divulge an opinion in any political, religious or cultural association. One very controversial aspect of this so-called “negative freedom" of association, “the right not to belong to a trade union”, has been widely debated in Sweden and recent case law of the European Court of Human Rights in Strasbourg indicates that this is a right protected by the European Convention for Human Rights. However, this is a very delicate issue in Sweden as trade unions have always had a very strong and influential position in social and labor matters in Sweden. Another very delicate and controversial right under chapter 2 is that no entry in a public register may be based solely on a citizen’s political opinions. Private registers or registers on political opponents kept by political parties are not illegal as such, but what has caused a great stir in recent years in Sweden is criteria based “solely on political opinions". What has happened is that a large number of citizens have, in fact, been registered for having extreme left-wing opinions. The official explanation for this, which from a legal point of view does not seem to be constitutional, is that these persons have also been involved in extreme left-wing organizations, which for some time were thought to be a potential threat to the Swedish society.

The prohibition of capital punishment and torture or corporal punishment is one of the most fundamental human rights issues under the Constitution, as well as other kinds of physical violations. Other important acts that are prohibited under the chapter are house searches, examination of mail, eavesdropping, wire-tapping and similar operations. When necessary, the law permits wire-tapping. Freedom of movement within the country and the right to leave the country are also guaranteed under the Freedom Chapter so that no citizen may be deported or deprived of his citizenship.

Retroactive legislation is not allowed in criminal law or tax law. No court may be established for a specific case.

No law or any other statutory instrument may imply that any citizen is treated unfavorably on account of his or her sex, unless the provision is a part of efforts to achieve equality between men and women or concerns compulsory military service or some other

4 Bogdan Michael, Swedish Law in the New Millennium, 2000, p. 69
comparable duty of service.\textsuperscript{5} Other constitutional provisions indicate the conditions under which interference with the right to economic activity is permissible, and the rights of the Sami (a minority group in Sweden, which will be discussed later in this paper) to engage in reindeer herding is also a subject of legislation.\textsuperscript{6} Entitlement to free basic education in the public school system is also constitutionally safeguarded.\textsuperscript{7}

In some cases, foreigners have the same rights as Swedish citizens and have the right to the protection of the basic human rights provisions.\textsuperscript{8} A foreigner may be subject to special legislation under the same provision but this legislation has to be applied according to the “principle of proportionality”.\textsuperscript{9}

Other limitations of fundamental freedoms may be restricted by an Act of Parliament for the sole purpose of achieving means that are acceptable in a democratic society.\textsuperscript{10} They must never be disproportionate with regard to their purpose; they may not be carried so far as to constitute a threat to the free formation of opinion and they may never be imposed solely on grounds of political, religious, cultural or other such opinions.

The “proportionality principle” states that when a law restricts rights and liberties it be done in accordance with democratic principles and only in proportion to the rights and liberties that will be restricted.

The European Convention for the Protection of Human Rights and Fundamental Freedoms has the status of Swedish law since 1995. Attached to the ratification of that Convention is an additional provision to the Instrument of Government to the effect that no law or other statutory provision may be promulgated that is contrary to Sweden’s commitments under the Convention.\textsuperscript{11} Laws passed prior to the incorporation of the Convention should be interpreted in

\textsuperscript{5} Chap. 2, Section 16 of RF  
\textsuperscript{6} Chap. 2 Section 20, RF  
\textsuperscript{7} Chap 2. Section 21, RF  
\textsuperscript{8} Cap 2, Section 22 (1), RF  
\textsuperscript{9} Chap 2, Section 22 (2), RF  
\textsuperscript{10} Chap 2, Section 12, RF  
\textsuperscript{11} Chap, Section 23, RF
accordance with the Convention and existing case law. No law or
other prescription may be promulgated contrary to Sweden’s
undertakings under the Convention or the available case law.

In addition to the constitutional provisions already mentioned,
provisions at other levels also have a practical bearing on the rights
and liberties of the individual. This is the case for the number and
variety of laws and regulations governing, among others, health care,
social services, criminal welfare, protection against different forms
of discrimination, education and civil and criminal proceedings.

Several issues falling within the ambit of Sweden’s commitment
to the European Union (EU) are supremely relevant to human rights.
The Union’s policy on asylum and gender are two such examples.
When legislation emanating directly from EU institutions to be
applied in Sweden, either through the transposition of a Directive or
through directly applicable Regulation, the human rights perspective
always has to be included. This view is strengthened by the
European Council, which proclaimed the Charter of Fundamental
That Charter has been implemented in Sweden as a declaration of
policy.

2. Human rights conventions ratified by Sweden

Sweden has signed and ratified most of the instruments relating
to human rights within the UN, the international Labour
Organisation (ILO), and the Council of Europe. The legal system
in Sweden is based on principles of a dualist state. This means that
international agreements do not automatically become part of its
national law. Treaties implemented by Sweden must in some way be
incorporated into Swedish law in order to be valid for Swedish courts
and national authorities. It is through ratification, accompanied by
the exchange of ratification instruments that Sweden incurs an
obligation in international law.

There are two main methods employed for incorporating
international agreements: incorporation and transposition.
Incorporation means the express indication in a law or other

See attached annexes “Human Rights Convention ratified by Sweden”.

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http://www.iidh.ed.cr/iidh/colabore/publique-libros/
statutory instrument that the provision of the treaty is directly applicable in Sweden. The authentic text of the treaty, in one or more languages, then forms the basis of its implementation. Transposition means either that a text is translated into Swedish and then included in a Swedish law or that the agreement is transformed into a Swedish statutory text. Transposition is the commonest method in Sweden. Before Sweden ratifies a convention, Swedish legislation is thoroughly reviewed in order to see whether Swedish law is in accordance with the treaty.

3. International commitments

Sweden’s human rights obligations are scrutinized in several different international fora. Among other things, Sweden sometimes incurs criticism or other viewpoints as to ways in which it could improve its fulfillment of a particular right or liberty. In certain cases criticism has been directed against Sweden under the complaints procedures established within the UN for certain conventions.

Sweden has also been found guilty by the European Court of Human Rights (in Strasbourg) of breaching the European Convention for Human Rights. Although the cases have not been gross violations of human rights that the drafters of the Convention originally appeared to envisage, they have rather been directed towards resolving deficiencies in domestic law of the states parties, and in the cases relating to Sweden, they have concerned expropriation rights, the right to stand trial within a certain amount of time and complaints about various social and labor rights. In cases that have been decided in favor of the complainant, the Swedish government has paid compensation set by the Court to the plaintiff. It should be noted that a case can only be brought before the court as a last resort after all domestic remedies have been exhausted.

Within the framework of the European system of protection, a State can also bring an action against another contracting State, the

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14 Art. 16 and 17 in the Covenant for Economic, Social and Cultural Rights, against the right of equality between men and women, Convention on Discrimination against Women, against art. 40 in the CCPR convention.
15 See Case 1976-02-06 ser. A No. 20, Case 1987-10-27, Ser. A No. 125
16 See art. 26 of the European Convention for human rights.
so-called “inter-State” complaint. Sweden has been very active in this field and has in various cases been one of the complainants when another contracting State was in breach of the Convention. One very famous case is that against Greece (Sweden, Norway, Denmark, and the Netherlands v. Greece.) where Sweden was very active in addressing the importance of contracting States acting whenever there is a grave violation of human rights in another contracting State that has an obligation under the Convention to act.

4. Human rights in the Swedish legal system

Human rights is of increasing importance in all countries. What has become a priority issue for Sweden, together with most of the member States of the European Union, are asylum rights. Other important human rights topics are rights of minorities, discrimination and the rights of the child. But before going into these topics, I will first discuss freedom of expression and freedom of religion under Swedish law.

4.1 Freedom of expression

Protection of freedom of expression is manifested in several different international instruments (Article 19 of the UN Universal Declaration of Human Rights, Article 19 of the UN Covenant on Civil and Political Rights and Article 10 of the European Convention).

In Sweden, freedom of expression is guaranteed under Chapter 2, Section 1 of RF. Freedom of expression in different media has been given special protection in the Freedom of the Press Act (TF) and the Fundamental Law on Freedom of Expression (YGL). Freedom of expression, as manifested in the Swedish fundamental law, is accompanied by universal freedom to publish information. Freedom to publish information under the Swedish law means that a person employed as a public authority is permitted to divulge certain secret information by word of mouth for the purpose of publication and that the authority may not inquire who divulged the information.

17 Applications nos. 3321/67
4.2 Freedom of religion

Under Article 18 of the UN Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change one’s religion or belief and freedom, either alone or in community with others and in public or private, to manifest their religion or belief in teaching, practice, worship and observance. Freedom of religion is also guaranteed by Article 18 of the UN Covenant on Civil and Political Rights and by Article 9 of the European Convention. In Sweden, freedom of religion is protected under Chapter 2, sections 1 and 2 of RF. The fact that Sweden’s constitutional freedom of religion is absolute does not, however, prevent the exercise of religious freedom being limited by the general law governing people’s action and behavior in society. This means that under Swedish criminal law, a punishable act cannot be protected on account of being religiously motivated. Nor is discrimination permitted by virtue of being religiously founded and the duty of care incumbent on parents cannot be set aside for religious reasons. But the safeguard for freedom of religion does rule out provisions expressly aimed at a particular religious observance or manifestly intended to counteract a certain religious persuasion.

The exercise of freedom of religion has on some occasions in Sweden entailed encroachment on other people’s rights and freedoms. For example, the question of protection of animals and freedom of religion is a highly debated issue in Sweden. Several representatives of Judaism and Islam are dissatisfied with the Swedish legislation on kosher and halal slaughtering. On one hand, you have the religious groups that require, among other things, the practice of ritual slaughter and want Sweden to carry out this ritual slaughter methods in order to follow their religion and, on the other hand, the State that says they cannot practice methods that are contrary to Swedish provisions on the protection of animals during slaughter.

4.3 The right to seek asylum and the right of aliens

The right to seek asylum is set forth in Article 14 of the UN Universal Declaration of Human Rights. In the field of refugee law, there is the UN Convention relating to the Status of Refugees, which
was supplemented in 1976 by the New York Protocol, by which the ratifying States provided that the Convention have no geographic limitations and restrictions to events occurring before January 1, 1951.

The Convention relating to the Status of Refugees defines a refugee as a person with a well-founded fear of being persecuted in the country of his nationality for reasons of race, nationality, membership in a political or social group or religious or for political convictions. Under current Swedish legislation, such persons may remain in Sweden as being in need of protection. The Aliens Act states the qualifications for entitlement to asylum in Sweden. Persons granted asylum in Sweden on the grounds indicated in the Convention relating to the Status of Refugees are sometimes referred to as Convention refugees. Persons in danger of torture, capital punishment or other inhumane or degrading treatment are referred to as being otherwise in need of protection. This category also includes persons with a well-founded fear of persecution for reasons of sex or homosexuality.

Persons in need of protection who, in collaboration with the UNHCR, are transferred to Sweden for resettlement include those with reasons based on the Convention relating to the Status of Refugees and those with other reasons. As of 1997, those selected for resettlement are not automatically counted as Convention refugees. Most persons obtaining protection in Sweden do so on grounds other than the Convention and fall under the category of “otherwise in need of protection.”

4.4 The rights of the child

The most important international document governing the rights of the child is the United Nations Convention on the Rights of the Child (UNCRC), which was adopted in 1989. This Convention defines a child as any human being under 18 years of age, unless under the law applicable to the child, majority is obtained earlier. The Convention sets forth civil, political, economic, social and cultural rights.

Sweden was among the first countries to ratify the Convention and did so without reservation. Sweden has signed both the Optional
Protocols of the UNCRC, referring to the involvement of children in armed conflict and to the sale of children, child prostitution and child pornography. The Protocol on Children in armed conflicts came into force in February 2002. Ever since Sweden ratified the UNCRC in 1990, a succession of different measures have been taken to improve knowledge concerning the Convention and to bring Swedish law into line with its requirements.

The Swedish government has made it as a special concern and an urgent matter that children should be able to exercise their human rights on equal terms.\textsuperscript{18} The child’s right to basic welfare shall be guaranteed in whatever part of the country the child is living and independently of the child’s parents.

\section*{4.5 National minorities, indigenous population - The Sami people in Sweden}

Article 27 of the United Nations Covenant on Civil and Political Rights gives a description of the human rights of minorities. The Article indicates that their rights shall be protected especially with regard to the rights of enjoying their culture, exercising their religion and using their own language. Other important international rules are the United Nations Convention on Biological Diversity, Article 8, on traditional knowledge; the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries; the Council of Europe Charter for Regional or Minority Languages; and the Council of Europe Framework Convention for the Protection of National Minorities. Sweden has ratified all these conventions except the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries.

Sweden has a long historical tradition of ethnic and cultural diversity. Several of the groups, which for a long time have constituted minorities in Sweden, have actively safeguarded their own cultural language in such a way that they remain a living part of Swedish society. They have their own religion, language or culture and desire to preserve their identity. The national minorities in

\textsuperscript{18} “svensk plan för insatser för de mänskliga rättigheterna”, 2000
Sweden are Sami, Swedish Finns, Tornedalians, Roma and Jews. The languages covered by the Minority Language Charter are Sami, Finnish and Meänkieli. In connection with the resolution on a minority’s policy, Sweden ratified the Framework Convention and the Minorities Language Charter.

For the most part, an indigenous population is also to be regarded as a minority, with all the rights that this implies. An indigenous population is descended from ethnic groups that lived in the country or in a geographic region to which the country belonged at the time of conquest or colonization or when the present state boundaries were fixed and that have retained part or all of their own social, economic, cultural and political institutions. Through their special relationship to land and water, indigenous people are in need of other rights than minorities in general, self-determination above all, in order to develop their identity and culture. The rules of international law for indigenous population go further than those for other minorities.

Sweden has acceded to several international conventions of direct importance to ethnic minorities and indigenous populations, conventions that, accordingly, apply to the Sami people. The Sami people have been regarded as an indigenous population in Sweden because of their status, having their origins in Sweden. The Sami culture originated some 2000 years ago, through an amalgamation of several trapping cultures at that time existing in the Arctic region. Since then, the Sami people have continued to live and work in this region, which today forms parts of Sweden, Finland, Norway and Russia. Thus the Sami have a long, continuous historical connection with the regions where they live, and this connection they date back beyond the formation of the national state. The Sami people are therefore to be regarded as an indigenous population in Sweden and international law entitles them to demand special cultural treatment. In most connections an indigenous population is also to be regarded as a minority, with all the rights implied.

The aim of the minority rights is to give protection to national minorities, strengthen their opportunities to influence and support
the historical minority languages so that they will be kept alive. In spite of the efforts of Sweden in this field, Sweden has received complaints from the United Nations Committee for Elimination of All Forms of Racial Discrimination,\textsuperscript{21} which expressed concern, among other things, over the situation of the Roma people in Sweden as regards to their rights of social participation and that greater measures should be taken to promote the teaching of minority and immigrant languages. Further complaints have also been made about the Sami people’s land rights and fishing rights being threatened by the privatization of traditional Sami lands.\textsuperscript{22}

\textbf{4.6 Protection against discrimination}

The prohibition against discrimination is common to all instruments addressing human rights. Article 1 of the United Nations Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights. Under Article 2, everyone is entitled to the rights set forth in the Declaration, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. A prohibition of discrimination on these grounds is also contained in Article 26 of the United Nations Covenant on Civil and Political Rights and in Article 2(2) of the United Nations Covenant on Economic, Social and Cultural Rights. Article 14 of the European Convention states that the enjoyment of the rights which it sets forth shall be guaranteed without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, associated with national minority, property, birth or other status. An additional Protocol No. 12 to the Convention, containing an independent prohibition of discrimination, was adopted recently. Sweden has not yet signed this Protocol.

The prohibition of discrimination in the United Nations Universal Declaration, the two United Nations Covenants and the European

\textsuperscript{21} The UN Committee for Elimination of All Forms of Racial Discrimination has commenting on Sweden’s thirteenth and fourteenth reports, August 2000.

\textsuperscript{22} Report of November 2001 by the UN Committee for Economic, Social and Cultural Rights.
Convention also applies to discrimination on grounds of sexual orientation. The European Convention law also contains provisions whereby discrimination is prohibited. Under Article 12 of the EURO Treaty, all discrimination on grounds of nationality within the scope of the treaty is prohibited. Furthermore, Article 13 of the European Convention empowers the Council, within the scope of powers conferred on the Community by the treaty, to take suitable measures in order to combat discrimination on grounds of sex, race, ethnic origin, religion or conviction, functional impairment, age or sexual orientation. All these treaties and directives have been implemented into the Swedish law and under the rights granted by the Constitution.

4.7 Discrimination against women - Equality between women and men

The right of women not to be subject to discrimination is addressed above all in the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Sweden was one of the first countries to ratify this Convention, which came into force in 1981. An Optional Protocol, in force since December 2000, enables complaints to be lodged by individuals. Sweden has not yet ratified the Optional Protocol.

Switzerland has received complaints in this area in the fourth and fifth Swedish reports from the CEDAW, which expressed concerns that the wage gap between women and men, in both the private and public sectors, had not narrowed during the past ten years. The Committee also expressed concern with the existence of gender-based segregation at all levels of the education system, and over the continuing prevalence of violence against women, despite the considerable efforts made to combat it. In particular the Committee drew the Government’s attention to the violence inflicted on women with disabilities and on migrant and minority women. The Committee has expressed concern that the new legislation (in effect since 1998) criminalized the purchase of sexual services which might have increased the incidence of clandestine prostitution, thereby making prostitutes more vulnerable, and even becoming a recipient country for the trafficking of women. Finally, it expressed concern over the continuing discrimination against immigrant,
refugee and minority women in Sweden, including the areas of education and employment, and discrimination against Sami and Roma women.

Government policy states that equal opportunities promotion shall be part of regular policy-making of the government. Each ministry is responsible for the follow-up and evaluation of equal opportunities promotion. Special measures have been taken to strengthen safeguards for female students against discrimination. A special Bill of Equal Treatment for Students was adopted in 2001. That legislation forbids discrimination on grounds of gender, sexual orientation and functional impairment.

5. Right to a fair trial and custodial matters
   5.1 The right to a fair trial and court matters

Several international instruments, among them Article 10 of the UN Universal Declaration of Human Rights, have provisions concerning the right to a fair trial with reference to rights and obligations in connection with criminal charges. European law also contains rules on the right to a fair trial. Under Article 6 of the European Convention, everyone is entitled, in the determination of his civil rights and obligations or of any criminal charge against him, to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. In European Convention law, the stipulations concerning a judicial hearing are not contained in a single enactment but are to be found in various parts of European Convention primary law, in European Convention Regulations and Directives. The European Convention law also includes right of trial, which has evolved through European Court of Justice (ECJ) precedent and ties in with Article 6 of the European Convention. The ECJ case law makes the European Convention a part of Community law.

Sweden has several times been found by the European Court of Human Rights in default of its obligations under this Article regarding the right to a fair trial.

In connection of Article 6 of the European Convention and the right to a fair trial, it could briefly be mentioned that decisions that have been taken within the UN and the EU to freeze assets connected
with terrorism. International law, as we know, makes UN Security Council Resolutions on the freezing of assets binding on Sweden. Those Resolutions are implemented at EU level mainly through the adoption of common standpoints and through EC Regulations, the latter of which are directly applicable as Swedish law. The Resolutions and the EC Regulations do not specifically address the question of legal remedy for persons whose assets have been frozen. Even so it may be possible for these persons to take the matter to court. A couple of these cases are at this moment under investigation in Sweden.

5.2 Custodial measures

A safeguard exists against arbitrary deprivation of liberty (see Article 9 of the UN Universal Declaration of Human Rights, Article 9 of the UN Covenant on Civil and Political rights and Article 5(1) of the European Convention), applying to every person who is deprived of his or her liberty. Anyone who is arrested on suspicion of a crime is entitled to be informed, at the time of his arrest, of the reason for his arrest (see Article 9(2) of the UN Covenant on Civil and Political Rights and Article 5(2) of the European Convention), but also – and this applies to every person deprived of his or her liberty – to have a court handle promptly the lawfulness of the detention and release the person if the detention is not lawful (see Article 5(4) of the European Convention). Finally, there is the right of all persons deprived of their liberty to be treated humanely and with respect for the inherent dignity of the human person (see Article 10(1) of the UN Covenant on Civil and Political Rights), which also applies to every person deprived of his or her liberty.

The individual has several rights while deprived of liberty, regardless of the reasons for the deprivation. Among other things, the individual is entitled not to be subject to treatment contrary to Article 3 of the European Convention. That Article prohibits torture or inhuman or degrading treatment or punishment. (See also Article 5 of the UN Universal Declaration of Human Rights, Article 7 of the UN Covenant on Civil and Political Rights, Article 16 of the Torture Convention and the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment). The right to not being subjected to treatment contrary
to Article 3 of the European Convention also applies when the individual comes into contact with the police.

Sweden has come under criticism by the UN Committee Against Torture, which examined the Swedish report of 1997 and noted that the term “torture” is not defined in Swedish law. The Committee had reservations about prisoners that were kept isolated for long periods of time while remaining in custody pending trial and while in prison. It was also of concern the use of excessive violence in certain cases by the police and the way the police, in a number of cases, had handled their dogs in connection with demonstrations.

Chapter 2, Section 5 of the Instrument of Government (RF) safeguards every citizen from corporal punishment, from torture and from medical treatment for the purpose of exacting or preventing statements. Chapter 2, Section 8 of RF safeguards every citizen against deprivation of liberty by public authorities and Chapter 2, Section 9 of RF entitles persons deprived of liberty to a judicial process without unreasonable delay.

**Deprivation of liberty on suspicion of crime**

The Committee of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has visited Sweden in its task to investigate how prisons and people that have been deprived of their liberty are placed and treated in member States of the Conventions. Its mandate also included observing the risk of abuses in the prisons, remanding centers and at police stations. In its reports following visits to Sweden, the Committee drew attention to shortcomings of Swedish legislation. One recurrent question has been Swedish rules that restrict a remanded person’s contacts with the outside world. The Committee has also criticized Swedish provisions concerning the right of a person deprived of liberty to inform his next-of-kin, to be represented by counsel and to have access to a particular physician.

**Extradition to another state – Terrorist arrest warrant**

Deprivation of liberty is a measure often taken when a person suspected of a criminal offense is to be extradited to another State in
order to stand trial. The question of being able to extradite persons quickly and efficiently has been raised especially following the terrorist attacks in the USA on September 11, 2001. Within the EU, a resolution concerning a European arrest warrant has been drawn. That instrument is based on a judicial authority in a Member State issuing a warrant for arrest. When the wanted person is found in another State, he or she shall be arrested and promptly delivered to the first mentioned State on the basis of the arrest warrant.

**Use of force by the police**

The law defines the conditions for the use of force by the police. Excessive violence or humiliating treatment in connection with intervention may not occur. The Police Act\(^{23}\) and the Remainders and Detainees Treatment\(^ {24}\) state in close detail when and how coercion or force can be resorted to and under what circumstances a person may be handcuffed. In all cases, the important rule of “proportionality” has to be considered and a policeman should not use more force than is necessary for the case. Police Ordinance\(^ {25}\) contains provisions on how to place a complaint against the police if a person believes it has used more violence that was necessary. These complaints always go direct to a prosecutor.

**6. How are human rights protected in Sweden?**

**6.1 The Courts**

Article 6 of the European Convention requires the determination of civil rights, among other things, to take place before an independent and impartial tribunal established by law. The Instrument of the Swedish Parliament (Riksdag) states that no authority, not even the Parliament, may determine how a court is to judge the individual’s case or how to apply the law in a particular case. From this provision in Swedish law it follows that the courts are independent of the Government as far as involving the

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\(^{23}\) Swedish Act 1984:387  
\(^{24}\) Swedish Act 1976:371  
\(^{25}\) Swedish Act 1998:1558
application of the law. The courts are the ultimate guarantor of the protection of rights set out in the constitutional laws and ordinary legislation. This is underscored by judges being subject to special rules for the filling of appointments and, in principle, being appointed for life.\textsuperscript{26}

The right of judicial review is provided for in the same Chapter.\textsuperscript{27}

6.2 Ombudsmen

Sweden has several Ombudsmen who are accountable to the Government and whose duties are related to the protection of human rights. The first is the “Parliamentarian Ombudsmen” and second, the National Administrative Authorities which are the six Ombudsmen reporting to the government: “The Equal Opportunities Ombudsman” (JämO); “the Ombudsman Against Ethnic Discrimination” (DO); “The Disability Ombudsman” (HO); and “the Ombudsman against Discrimination Because of Sexual Orientation” (HomO), each responsible for countering discrimination based on various grounds, “the Consumer Ombudsman” and the sixth Ombudsman, “the Office of the Children’s Ombudsman” (BO). All of them play an important role in the protection of human rights in Sweden.

The Parliamentary Ombudsmen

The office of the Parliamentary Ombudsmen (JO) comes under the Swedish Parliament and is part of its controlling power.\textsuperscript{28} It is a genuine Swedish innovation and is nothing but a public prosecutor. The Ombudsmen are elected by the Parliament and their general obligation is to supervise public administration, including the courts and may also act on their own initiative after an individual’s complaint. They bring criminal action against public officials, including judges, for conduct that in their opinion is punishable under the law. In order to carry out their responsibilities, the

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\item \textsuperscript{26} Chap. 11, Sections 5 and 9, of the Instrument of the Government (RF).
\item \textsuperscript{27} Chap. 11, Section 14 of the RF.
\item \textsuperscript{28} See Chap. 12, Sect. 6 of the RF
\end{itemize}
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Ombudsmen are entitled to have access to the records of the decisions made in the Cabinet and all documents pertaining to such matters.

**The Ombudsmen for Equal Opportunities**

They have the obligation to attempt to persuade employers to follow up the rules stipulated on a voluntary basis, promoting equality in employment. However, the Ombudsmen also have the power to impose an administrative fine to employers who fail to submit information required and also to employers who do not observe the rules on active measures in accordance with the Equal Opportunities Act. Despite its formal gender neutrality, the Act aims to improve the conditions of women who work, promote equal opportunities for both men and women and enable an employee to combine parenthood with work. Furthermore, the Ombudsman also has the responsibility to instruct employers that equal work should be given equal pay.

**The Ombudsmen against Discrimination**

These Ombudsmen have the general function to promote the elimination of discrimination on the grounds of race, color, national or ethnic origin and religious belief. The Act against Ethnic Discrimination contains both rules on active measures and rules prohibiting discrimination in individual cases.

**The Disability Ombudsmen**

The Disability Ombudsmen have the task of combating discrimination against persons with disabilities. Direct discrimination against someone with a disability refers to a situation where a disabled person is treated less favorably in terms of how

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29 Act of 1991, JämO.
30 SFS 1991:433
31 SFS 1999:130
32 SFS 1999:130
33 SFS 1999:132
another person without such a disability has been or would have been treated, although the disabled person actually has the same ability to carry out the job.34

The Ombudsman against Sexual Orientation Discrimination

The Ombudsman against Sexual Orientation Discrimination has the duty to act on discrimination cases on grounds of sexual orientation in the labor market. The Act on Prohibition of Discrimination in the Workplace based on Sexual Orientation35 states that every individual has the right to his or her private life and his or her ability to be employed should be judged on the basis of his/her personal and professional conditions. The Acts further forbid discrimination in the workplace on the basis of sexual orientation and the Ombudsmen have the right to fine the employer in case of a violation.

The Consumer Ombudsmen

The Ombudsmen for the Consumer is responsible for consumer affairs.36 The Ombudsman is mainly there for protection of the collective rights of consumers with respect to unfair marketing of goods or dangerous goods on the market. This institution has also been the most important one in the development of consumer protection.

The Office of the Children’s Ombudsman

This Office has the task of monitoring issues relating to the rights and interests of children and young persons. This Ombudsman differs from other Ombudsman in that it is not responsible for counteracting discrimination. Instead, the Act requires the Children’s Ombudsman to monitor issues relating to the rights and interests of the child and also observes the compatibility of laws and regulations
and their applications with Sweden’s commitments under the UN Convention on the Rights of the Child.\(^{37}\)

### 7. Summary

The importance of information on human rights and of a better understanding of the underlying reasons for the existence of various international conventions makes it even more important for the government and other activists in the field of human rights to make sure the general public has access to information and education on human rights. Sweden has a very advanced system on human rights and its protection, but unfortunately most of the population is not aware of them. The Swedish authorities should therefore make human rights documents more available to the public so that laymen are able to understand their individual human rights.

\(^{37}\) SFS 1993:335
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