

# Government Communication

## 2003/04:20

### Human Rights in Swedish Foreign Policy

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The Government presents this Communication to Parliament.

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### Brief summary of the Communication

This Communication is a sequel to the Government's Communication *Human Rights in Swedish Foreign Policy* (Comm. 1997/98:89), which was the first comprehensive presentation of the role of human rights in Swedish foreign policy.

The Communication describes the developments that have taken place in the relevant areas and how Sweden has been able to contribute in various ways to strengthening efforts to protect human rights in the world.

The Communication shows that the human rights principles on which Sweden's foreign policy is based, including the principle of the universality of human rights, rest on a solid foundation. The efforts to integrate human rights activities into actions in various policy areas, such as development cooperation, migration, security and trade, have continued and have helped to strengthen Sweden's human rights policy as a whole.

Human rights promotion is a Swedish foreign policy priority. The Government's aim is to continue to pursue a consistent and results-oriented human rights policy.

# Contents

Brief summary of the Communication .....	1
1 Introduction.....	4
2 Principles of Sweden’s human rights policy .....	5
2.1 It is legitimate to react.....	5
2.2 Human rights are universal.....	6
2.3 Human rights apply to individuals; their protection is the responsibility of governments.....	6
2.4 Human rights are indivisible and interdependent .....	7
3 An integrated and results-oriented human rights policy .....	8
3.1 Objectives and direction .....	8
3.2 A consistent and results-oriented policy .....	8
3.2.1 Multilateral activities .....	9
3.2.2 Bilateral activities .....	9
3.3 An integrated human rights policy.....	10
3.3.1 Human rights and peace and security .....	11
3.3.2 Human rights and international humanitarian law .....	12
3.3.3 Human rights, asylum and migration.....	14
3.3.4 Human rights and terrorism .....	15
3.3.5 Human rights and democracy .....	16
3.3.6 Human rights and development cooperation .....	17
3.3.7 Human rights and trade.....	19
3.3.8 Human rights and corporate responsibility.....	19
3.3.9 Human rights and the environment.....	20
4 Human rights issues: measures and objectives .....	21
4.1 Opportunities for enjoying human rights.....	21
4.1.1 Women’s rights .....	22
4.1.2 The rights of the child .....	24
4.1.3 Efforts to combat racism and ethnic discrimination .....	26
4.1.4 The rights of indigenous people and persons belonging to national or ethnic, linguistic and religious minorities.....	27
4.1.5 Discrimination and persecution on the grounds of sexual orientation .....	29
4.1.6 The rights of persons with disability.....	31
4.2 Serious violations of human rights .....	32
4.2.1 Abolition of the death penalty.....	32
4.2.2 Summary executions and involuntary disappearances .....	33
4.2.3 The fight against torture and other cruel, inhuman or degrading treatment .....	34
4.2.4 The fight against trafficking in persons .....	35
4.3 A functioning legal system with legal guarantees .....	37
4.3.1 The rule of law .....	37
4.3.2 The fight against impunity .....	38
4.4 Rights that promote democracy .....	38
4.4.1 Freedom of expression, association and the media.....	39

4.5	Realization of economic, social and cultural rights .....	40
4.5.1	An optional protocol to the International Covenant on Economic, Social and Cultural Rights .....	41
4.5.2	The right to education .....	41
4.5.3	The right to the highest attainable standard of health .....	42
4.5.4	The right to work and labour rights (the ILO’s fundamental conventions) .....	42
5	Improving the effectiveness of international efforts to promote and protect human rights .....	44
5.1	EU human rights activities .....	44
5.1.1	Instruments for EU cooperation .....	46
5.1.2	The Charter of Fundamental Rights of the European Union .....	47
5.1.3	The EC’s development policy .....	48
5.2	UN human rights activities .....	48
5.2.1	The UN Commission on Human Rights .....	49
5.2.2	The General Assembly Third Committee .....	50
5.2.3	The UN Sub-Commission on Human Rights .....	50
5.2.4	The United Nations High Commissioner for Human Rights .....	51
5.2.5	The UN treaty bodies .....	51
5.2.6	UN human rights mechanisms .....	53
5.2.7	The UN reform process .....	53
5.2.8	Human rights in UN development cooperation .....	54
5.3	OSCE human rights activities .....	54
5.3.1	The human dimension .....	54
5.3.2	The Office for Democratic Institutions and Human Rights (ODIHR) .....	55
5.3.3	The Representative on Freedom of the Media .....	55
5.3.4	The High Commissioner on National Minorities .....	55
5.3.5	Field missions .....	56
5.4	The Council of Europe’s human rights activities .....	56
5.4.1	The European Court of Human Rights .....	57
6	Dissemination of information on human rights .....	58
6.1	The Government’s national action plan for human rights	58
6.2	The Government human rights website .....	58
6.3	Country reports on human rights .....	58
7	Closing remarks – the future of human rights protection .....	59
8	The core human rights instruments .....	61
9	Abbreviations .....	63

# 1 Introduction

Since the Government's Communication *Human Rights in Swedish Foreign Policy* (Comm. 1997/98:89) was presented to Parliament, the international work for human rights has significantly changed.

The linkages between human rights, sustainable development and peace and security have become increasingly clear and widely accepted. Increasing emphasis is placed on the linkages and necessary interaction between human rights promotion, democratic processes and institutions that support the rule of law.

Human rights are everyone's concern. The success of human rights activities depends on an integrated approach in which different policy areas and their relevant instruments are coordinated. Human rights issues must be mainstreamed into all aspects of foreign policy, including development cooperation, migration, security and trade.

Sweden's commitment to human rights is in its own interests and also reflects the hope for a world in which people can live safe and free, without fear and want.

Human rights are a central element of international law and of the UN Charter's broad approach to international peace and security. The UN's human rights activities were previously seriously hampered by a one-sided focus on the principles of non-interference and national sovereignty laid down in the Charter. Now, however, the focus is shifting from the sovereignty and rights of states and regimes to the security and rights of the individual. This trend has met with considerable resistance in certain countries. But the shift is necessary to make it possible to address the serious, large-scale violations of human rights and humanitarian law that are often committed in today's armed conflicts. The challenge for the international community is to act more forcefully than before, but at the same time to act in accordance with international law and on a multilateral basis. The instruments for legitimate interference must be sharpened.

There is a growing global consensus on the need to share responsibility for human rights. The international human rights conventions have laid a solid foundation for these efforts. The Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States and the European Community and its Member States (the Cotonou Agreement) has opened up opportunities for a political dialogue based on human rights and democracy as essential conditions for sustainable development. On the African continent the New Partnership for Africa's Development (NEPAD) has established human rights, democracy and the rule of law as normative principles. This has improved the prospects of critical dialogue and constructive cooperation in this field.

Human rights promotion is one of the main priorities of Swedish foreign policy. Our efforts at the national level, through the EU and in international organizations are achieving results. Sweden is a strong and respected international player in this area. The Government's ambition is to further strengthen our international human rights activities by pursuing a results-oriented and integrated policy.

This Communication was prepared under the leadership of the former Foreign Minister Anna Lindh. As was mentioned in the Statement of Government Policy on 16 September of this year, foreign policy will

continue to be conducted in the spirit of Anna Lindh's last foreign policy declaration on 12 February of this year: "In today's world, security must be built globally and collectively, and ensure freedom and safety for all. ... Respect for human rights, international law and democracy is a precondition for security".

## 2 Principles of Sweden's human rights policy

Sweden will seek to reinforce the principles on which international human rights activities are based:

- It is legitimate to react – Sweden can and should exert influence on other countries to respect human rights.
- Human rights are universal – they apply to all persons, all over the world, irrespective of country, culture or specific situation.
- Human rights apply to individuals; their protection is the responsibility of governments.
- Human rights are indivisible – all rights are important and mutually dependent.

Ten years ago, representatives of the world's countries gathered in Vienna for the 1993 World Conference on Human Rights (the Vienna Conference). The Declaration that was adopted at the Vienna Conference established a number of fundamental principles for international human rights activities. In Communication 1997/98:89 the Government emphasized that it was important that Sweden should apply, promote and strengthen these fundamental principles in its foreign policy.

These principles are briefly discussed below.

### 2.1 It is legitimate to react

Sweden rejects the view that calling attention to violations of human rights is an unjustified interference in the affairs of other states. The principle of non-interference expressed in article 2 (7) of the UN Charter should not be interpreted as a modification of the Charter's explicit requirement for action to promote respect for human rights. The sovereignty of states cannot be taken as justification for violations of human rights.

By acceding to the international human rights conventions of their own free will the parties agree to allow other states to call attention to violations of the conventions. It was reaffirmed at the Vienna Conference that the promotion and protection of human rights is a legitimate concern of the international community. In addition, the conventions are so widely ratified and universally accepted that they can, as regards the majority of the rights, be considered an expression of international customary law, i.e.

they are binding on all states, including those that have not yet ratified the conventions.

## 2.2 Human rights are universal

The rights set forth in the 1948 Declaration of Human Rights are universal. They apply to everyone without distinction of any kind, and they are to be respected everywhere in the world irrespective of country, culture or specific situation.

Regimes that violate human rights have sometimes defended themselves by arguing that there are special conditions in their particular country that justify these actions or that human rights must not be allowed to prevent the exercise of traditional cultural customs, for example as regards the status of women and girls. The view has also been expressed that the international standards are a Western imposition. These arguments must be rejected.

The 1993 Vienna Conference confirmed the universality of human rights, and in the last ten years this principle has been increasingly accepted in international forums.

## 2.3 Human rights apply to individuals; their protection is the responsibility of governments

The international rules on human rights regulate the relationship between the state and the individual. The rights relate to the individual, who must be able to enjoy them alone or together with others, while the state, i.e. the country's government, is responsible for ensuring that these rights are respected.

The state must accept responsibility for implementing the rights in practice by means of a functioning judicial system, legislation, education, social support etc. The state must see to it that its representatives comply with human rights obligations and must take various measures to prevent these representatives from violating human rights. When persons or organizations that do *not* represent the state breach the restrictions imposed by the state they do not, in Sweden's view, violate human rights but commit an offence against national law.

This balance between individuals' rights and the obligations of the state must be maintained to make it possible to protect human rights. Sweden does not accept the view that non-governmental entities such as terrorists groups can be said to violate human rights, even though their acts may prevent people from enjoying their human rights.

Sweden also rejects the proposal for universal obligations – instead of rights – for individuals which is sometimes put forward in international forums.

## 2.4 Human rights are indivisible and interdependent

The rights enshrined in the Universal Declaration of Human Rights consist, to put it simply, of:

- 1) *fundamental freedoms*, such as the right to hold or express opinions, to practise a religion, to form or join an organization or to organize meetings;
- 2) *the right to protection from abuse*, for example the right not to be subjected to arbitrary arrest or torture;
- 3) *the right to satisfy basic needs*, for example the right to an adequate standard of living, health care and education.

The adoption of the Universal Declaration of Human Rights in 1948 was followed by many years of negotiations between the UN member states on binding conventions incorporating the rights set forth in the Declaration. This resulted in the adoption of two conventions in 1966. The fundamental freedoms and the right to protection from abuse were set forth in the *International Covenant on Civil and Political Rights* (ICCPR), while the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) largely covers rights relating to basic needs. The latter convention also contains a provision under which states parties may achieve the full realization of the rights progressively as resources become available.

There is a tendency in international human rights activities to give lower priority to economic, social and cultural rights than to other rights. In Sweden's view, it is important to emphasize that the presentation of the rights does not indicate any order of precedence; all the rights are important. They are mutually dependent, forming parts of one and the same whole. The principle of the indivisibility and interdependence of human rights was proclaimed at the Vienna Conference and has gained ground ever since.

The Government intends, as before, to attach greater importance to economic, social and cultural rights in its foreign policy and development cooperation, and these efforts have, since the presentation of the Communication *Human Rights in Swedish Foreign Policy* (Comm. 1997/98:89), achieved results in several areas.

### 3 An integrated and results-oriented human rights policy

#### 3.1 Objectives and direction

*The overall objective* of Swedish foreign policy with respect to human rights is to contribute to helping people in other countries to enjoy the rights established within the UN and in other international forums.

*Intermediate objectives:*

- Influence will be exerted to persuade governments to respect human rights.
- Human rights will be mainstreamed into the work of global and regional organizations.
- International human rights standards must be established more firmly and disseminated more widely.
- The mechanisms for ensuring respect for the agreed standards must be made more effective.

The objectives of Sweden's foreign policy with respect to human rights were set out in the Government Communication *Human Rights in Swedish Foreign Policy* (Gov. Comm. 1997/98:89). In the last five years these objectives have provided useful guidance for the Government's continuing efforts and remain valid.

Swedish foreign policy must aim to promote and increase respect for human rights. Protection of human rights is a priority in Sweden's foreign policy and must be integrated into all its components, including development cooperation, migration, security and trade. The Government is committed to pursuing a human rights policy that is consistent and results-oriented.

In its Bill *Shared Responsibility: Sweden's Global Development Policy* (Gov. Bill 2002/03:122) the Government proposed mainstreaming a rights perspective, of which human rights are an essential component, into all policy areas.

#### 3.2 A consistent and results-oriented policy

An effective human rights policy calls for consistent efforts to increase respect for human rights. During the five-year period the Government has, on the basis of the declared objectives, actively pursued efforts to use and refine the tools that are available for *promoting, preventing and reacting*.

### 3.2.1 Multilateral activities

The conventions and mechanisms that were drafted and adopted during the second half of the twentieth century by *the UN, the Council of Europe* and *the OSCE* represent the framework for international human rights activities. Sweden is playing an active part in continuing efforts to strengthen the mechanisms for monitoring compliance with the conventions and to improve their effectiveness.

The human rights situation in various parts of the world is reviewed annually by the UN Commission on Human Rights and the General Assembly Third Committee. Through the adoption of resolutions and through statements by a large number of governmental and non-governmental actors, including non-governmental organizations (NGOs) attention is drawn to the situation in specific countries or with regard to specific types of abuse. Sometimes such resolutions also lead to the setting up of temporary mechanisms, such as a UN Special Rapporteur for a specific issue, so that the international community can keep itself informed of developments. During the period since the first Communication on human rights in foreign policy Sweden has, alone or together with the other EU member states, continued to initiate and participate in the examination of human rights-related issues in particular countries, as well as various thematic issues.

The UN's human rights forums are important meeting-places for various players in the field of human rights, where dialogues can be conducted and pressure applied with respect to the situation in individual countries or to specific human rights issues. Nevertheless, the sessions held in the last few years, especially in the UN Commission on Human Rights, indicate that there is an urgent need for new thinking and reforms if these forums are to fulfil their full potential (see section 5.2).

In the OSCE Sweden attaches great importance to *the human dimension* and advocates giving this dimension an operational role in the Organization's activities (see section 5.3).

Sweden has also proposed a sharper focus for the Council of Europe's efforts to promote human rights and the rule of law. The Council is currently engaged in extensive monitoring and advisory activities among its members. Respect for human rights is at the core of the Council of Europe's mission and a criterion for membership (see section 5.4).

### 3.2.2 Bilateral activities

Attention may be called to the human rights situation in a particular country in public declarations or statements or by approaching (carrying out a demarche to) the authorities in a specific country. It is also important to recognize *positive* measures taken by a country. The strengthening of the EU's Common Foreign and Security Policy as a result of the adoption of the Treaty of Amsterdam in 1997<sup>1</sup> has in turn progressively strengthened the member states' cooperation in this area, not least on human rights. The member states present more and more joint declarations

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<sup>1</sup> The Treaty of Amsterdam incorporated a large number of amendments to the Treaty on European Union (Maastricht Treaty) and the EC Treaty.

and démarches to countries, thus putting the weight of the entire Union behind an important message. Since 1997 Sweden has continued to take initiatives and otherwise contribute to the EU communicating more effectively important messages relating to human rights, both in general and in individual cases, for example relating to political prisoners or the use of the death penalty.

It is also important to discuss human rights issues on a regular basis in connection with exchange visits at all levels and political dialogue with other countries. Since 1997 the Government has continued to contribute to the EU giving human rights a more prominent place in its contacts with other countries. The Government has also continued to strengthen the focus on human rights as an essential dimension of Sweden's national contacts with other countries.

Human rights are an important component of the Association Agreements concluded by the EU with several countries around the Mediterranean within the framework of the Barcelona Process. Respect for human rights is an important issue both in the multilateral context of the Barcelona Process and the Special Bilateral Association Councils that are held with each country on a regular basis.

Separate expert-level dialogues on human rights have been launched with certain countries during the period. Sweden is in favour of further developing such dialogues both together with the EU and at the national level (see section 5.1).

In order to underscore criticism levelled at countries where abuses of human rights are widespread or systematic, or where the situation has rapidly deteriorated, it may be appropriate in certain cases to consider further measures, such as freezing high-level visits, suspending or cutting back development assistance or concentrating cooperation entirely on measures in the field of human rights. Such measures have been considered during the period and in some cases implemented by Sweden on its own or together with the other EU member states. In some cases the leading members of a regime that violates human rights have been refused visiting visas, or their foreign assets have been frozen. There is, however, a need to develop instruments for legitimate interference where regimes commit serious violations of human rights and humanitarian law.

### 3.3 An integrated human rights policy

Sweden's human rights activities consist not only of political measures whose immediate aim is to persuade governments to respect human rights. These measures are linked to several other policy areas, including development cooperation, migration, security and trade. If Sweden's overall policy on human rights promotion is to be consistent and to achieve results, it must continue to be integrated into foreign policy as a whole.

Continuing efforts to mainstream human rights into various policy areas are described below.

### 3.3.1 Human rights and peace and security

Sweden will promote mainstreaming human rights into the work of the UN Security Council and other security forums, and will in the international arena:

- emphasize the importance of respect for human rights in order to prevent conflict; and
- emphasize the importance of rapid action to strengthen human rights in post-conflict peace-building.

The experience of World War II led to a realization that protecting the individual's human rights is crucial to international peace efforts. Cooperation in the field of human rights is mentioned in the UN Charter as one of the purposes of the United Nations and as a basis for efforts to maintain peace and security. The opening sentence of the Universal Declaration of Human Rights affirms that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".

These shared values lay a solid foundation for the universality of human rights and their importance as an essential component of a broad security concept that focuses on the individual and her security and rights.

The UN's human rights activities were previously hampered by a one-sided focus on the principles of non-interference and national sovereignty at the expense of shared responsibility for human rights. The challenge is to address this imbalance and to strengthen efforts and instruments for legitimate interference in states' compliance with international human rights standards.

Our own experiences in Europe should serve as a source of inspiration for global and regional efforts in this field. As mentioned in the report of the Security Policy Commission (SOU 2002:108), the Helsinki Document adopted by the Conference on Security and Cooperation in Europe (CSCE, the predecessor of the Organization for Security and Co-operation in Europe) in 1975 and its emphasis on human rights was synonymous in the 1970s, and particularly in the 1980s, with demands for freedom and democracy. The procedure for monitoring compliance with the document made it possible for Western European governments to call attention to violations of human rights in member states, and at the same time private individuals organized Helsinki committees all over Europe. It was, as the report concludes, when the citizens of the socialist states of Europe became collectively aware of their rights that the power system created and led by the Soviet Union started to crumble.

In recent years, positive steps have been taken by the UN, largely on the initiative of Secretary-General Kofi Annan. Human rights issues have been integrated into the UN's other activities. The importance of efforts to promote democracy, human rights and the rule of law in peace-building efforts was emphasized in the Brahimi Report that was published in autumn 2000 (UN Document A/55/305). The Secretary-General's Report on the Prevention of Armed Conflict, published in the summer of 2001

(UN Document A/55/985) gives prominence to the broad security concept. In its resolution 1366 (2001) the UN Security Council unanimously supported this report and invited the Secretary-General to inform the Council of any gross violations of human rights. As a result, the foundation has been laid for a sharper focus on human rights issues in the work of the Security Council and for making better use of the information that is made available by UN country rapporteurs and NGOs so that wars can be prevented.

To a large extent, the efforts being made to strengthen the interdependence between human rights promotion and peace-building efforts consist in raising awareness of this interdependence and gaining wider political acceptance for it. This is one of the aims of international conflict prevention efforts, in which Sweden plays a leading role.

One example of this is the Regional EU Conference on Conflict Prevention in Helsingborg that was hosted by Sweden's foreign minister Anna Lindh in 2002. The conference brought together high-ranking representatives of the EU, the UN and regional organizations in Europe and Africa. Its conclusions reflected agreement on the following principles:

- International law, including human rights law and international humanitarian law, is the basis of international peace and security.
- Armed conflicts are often caused by serious violations of human rights.
- Respect for international human rights standards is a legitimate concern for everyone.

The challenge is to strengthen this consensus at the global level and improve common implementation mechanisms.

The Government will hold the fourth and last international conference on the Holocaust in 2004; its main theme will be prevention of genocide.

### **3.3.2 Human rights and international humanitarian law**

Sweden will:

- work in various ways to strengthen the protection of the individual in conflict situations; and
- actively call attention to states' duty to grant humanitarian organizations access to people in distress.

Rules for the protection of the individual in non-international and international armed conflict are laid down primarily in international humanitarian law and human rights law. In an armed conflict humanitarian law in some cases provides stronger protection for the individual than human rights law. Sweden seeks to raise awareness of both these regulatory frameworks and to improve the monitoring of compliance with them in conflict situations.

Ever since the end of the 1980s Sweden has sought to ensure that basic protection is provided for all the parties involved – not only states – both

in peacetime and during armed conflicts. Together with the other Nordic countries, Sweden arranged a meeting of experts in February 2000 in Stockholm to discuss fundamental standards of humanity. Its conclusions were presented to the UN Commission on Human Rights. The next phase in these efforts will be a study by the International Committee of the Red Cross (ICRC) on customary humanitarian law.

Ever since 1972 the Public International Law Delegation at the Ministry for Foreign Affairs has prepared Swedish proposals on matters to which international humanitarian law is applicable, including related areas of international law such as human rights. The work of the Delegation has achieved several concrete results. It has changed its name and organizational arrangements over the years, but its basic purpose has remained unchanged. The current Delegation is led by the State Secretary for Foreign Affairs. Sweden also takes an active part in the ongoing efforts to improve monitoring of the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.

The EU has continued during the period to regularly call attention to states' duty to grant humanitarian organizations access to people in distress. It does so, for example, in open debates in the Security Council and resolutions tabled in the General Assembly and the UN Commission on Human Rights.

Sweden takes part in the work of the Council of Europe Committee of Experts for the Development of Human Rights, the purpose of which is to strengthen the protection of human rights in armed conflicts and crisis situations. A manual of rules that are applicable in non-international conflicts is being prepared at the San Remo Institute of International Humanitarian Law, and Swedish experts are involved in this work.

Part of Sweden's contribution to the ICRC is used for efforts to raise awareness about international humanitarian law.

However, respect for international humanitarian law and human rights in conflict situations leaves a great deal to be desired, as has been demonstrated in conflicts of recent years. The protection of civilians who are victims of armed conflicts must be improved by various means. Special attention must be paid to the violence and abuse to which women and children are subjected and the violation of their security and human rights. The UN Secretary-General has in the last few years presented two reports to the Security Council and the General Assembly, which subsequently adopted resolutions on this issue. The reports concluded that the rules are basically sufficient, but that implementation must be improved. Sweden has taken an active part in this work.

### ***The International Criminal Court (ICC)***

Sweden will continue to actively support the International Criminal Court and the Rome Statute in order to promote the Court and achieve universal accession to its Statute.

The Rome Statute of the International Criminal Court (ICC) was adopted at a diplomatic conference on 17 July 1998 and entered into force on 1

July 2002. As of September 2003 the Statute had been signed by 139 states and ratified by 91. Sweden ratified the Statute on 28 June 2001.

The entry into force of the Rome Statute led to the establishment of the first permanent international court for investigation and prosecution of the most serious crimes against international humanitarian law and human rights. Under the Statute the Court can only deal with crimes committed after it has entered into force. The ICC only has complementary jurisdiction and will only act in cases where a national legal system has not taken reasonable legal action. This may be because the system has collapsed or does not wish or dare to prosecute the suspect. The Court has jurisdiction over genocide, crimes against humanity and war crimes. Genocide and crimes against humanity may be committed both in peacetime and war and represent serious offences committed within the framework of large-scale or systematic attacks on a civilian population.

Sweden welcomed the entry into force of the Rome Statute as one of the most important events in the field of international law since the adoption of the UN Charter. The Rome Statute represents a major step towards ending impunity for serious crimes against international humanitarian law and human rights. Sweden has actively contributed to the EU's support for the ICC. The EU has agreed to support the effective operation of the Court in various ways and to exert its influence to ensure the broadest possible accession to the Rome Statute.

### **3.3.3 Human rights, asylum and migration**

Sweden will continue to call attention to international conventions and agreements on human rights in the framework of international cooperation on asylum and migration.

The 1951 Convention relating to the Status of Refugees and its Additional Protocol of 1967 represent the basic instruments for the protection of refugees. The European Convention on Human Rights and the UN human rights conventions provide additional protection.

The main organization for international efforts to protect the world's refugees is the United Nations High Commissioner for Refugees (UNHCR). Sweden is one of the largest contributors to the UNHCR and an active partner in its efforts to assist and protect refugees. Sweden chaired the Executive Committee (ExCom), the UNHCR's advisory body, in 2002. In 2001 and 2002 the UNHCR conducted global consultations in order to systematically review and strengthen the protection of refugees and the practice developed since 1951. One of the results of these consultations was an *Agenda for Protection* that was addressed both to the UNHCR and to states. Sweden took an active part in these global consultations.

The Treaty of Amsterdam strengthened the EU's efforts to improve coordination of its migration and refugee policy, which under the Treaty is based on the Convention relating to the Status of Refugees. Following the entry into force of the Treaty in 1999, asylum and migration issues are integrated into Community law and work has started on a common

European asylum system. Sweden's positions in negotiations on EC Directives are based largely on international human rights standards.

Sweden takes an active part in the High Level Working Group on Asylum and Migration (HLWG). The Group's task is, in partnership with third countries from which large groups of asylum-seekers and/or migrants come to the EU, to sponsor and implement cooperation projects whose ultimate aim is to enable these countries to deal with these migration flows and eventually become safe countries of asylum. Legislative support and other capacity-enhancing measures play an important part. The Group has adopted an integrated approach based on both multilateral and bilateral development cooperation, as well as specific migration projects that are not financed via development cooperation. The member states have, in the Group framework, negotiated the EU guidelines on closer integration of migration issues into development cooperation.

Sweden has continued during the period to make efforts to ensure that the safety net provided by the Convention achieves global reach by urging governments that have not yet done so to accede to the Refugee Convention and its additional protocol. Sweden also seeks, through development cooperation and other forms of assistance, to ensure that effective examination procedures and refugee reception are established in the countries that have acceded to the Convention.

Assessments of the human rights situation in individual countries are key components of the Swedish asylum process. The annual reports on the human rights situation in different countries that are prepared by the Ministry for Foreign Affairs are one of several sources that are used for this purpose. The Government has, in individual precedent-forming decisions on the application of the Aliens Act, referred to the international human rights conventions and statements made by UN agencies, especially the UNHCR.

#### **3.3.4 Human rights and terrorism**

In the international arena Sweden will emphasize the importance of pursuing the fight against terrorism with full respect for international law, human rights and the rule of law.

Sweden supports the fight against terrorism that is being carried on, especially since 11 September 2001, within the framework of ever-closer international cooperation. At the same time, in the international arena Sweden has consistently emphasized the importance of pursuing the fight against terrorism with full respect for international law, human rights and the rule of law. This is reaffirmed in the 2002 Statement of Government Policy. The fight against terrorism must not be used as an excuse for actions, for example against domestic opposition, that conflict with human rights.

Breaches of the principles of international law, particularly human rights law, may for example occur with relation to the rule of law, the prohibition of discrimination, the fundamental freedoms, i.e. freedom of expression, opinion, association and religion, and the principle of non-refoulement of an individual to a country where he or she runs the risk of persecution.

Common guidelines have been prepared within the framework of the EU Common Foreign and Security Policy on respect for human rights in the fight against terrorism. Sweden has emphasized the importance in this connection of full respect for international law and human rights and for the fundamental principle that only states, not terrorist organizations, can commit human rights violations. Guidelines on human rights and the fight against terrorism have also been prepared by the Council of Europe.

Sweden has also emphasized the importance of protecting human rights in connection with the fight against terrorism in the UN, the OSCE and other forums and has actively supported the drafting of UN resolutions designed to emphasize this important principle. Sweden also reacts when individual countries fail to comply with international law in the fight against terrorism.

Sweden has in the UN continued to reject the view expressed by certain states that terrorists may be seen to violate human rights. The effect of such an approach is to release states from their responsibility for maintaining human rights. It may even constitute a kind of recognition of the legitimacy of a terrorist group.

### **3.3.5 Human rights and democracy**

Sweden will:

- continue to support international cooperation on the promotion of democratic processes, including within the EU, the UN, the OSCE and the Council of Europe, and through organizations such as the Institute for Democracy and Electoral Assistance (International IDEA); and
- place even greater emphasis on the connection between human rights, successful democratization and deepened democracy.

Although democracy and human rights are two separate concepts, there is a close connection between them. This is stated clearly in the Universal Declaration of Human Rights, which declares that it is an individual right to take part in government, either directly or through elected representatives. Respect for human rights contributes to – and is in most cases a precondition for – democratization.

Conversely, the connection between democracy and human rights is equally evident. Democratic decision-making processes strengthen the protection of human rights. Civic participation in politics is often the best guarantee for protection of human rights. The rule of law and good governance are also essential conditions for participation, influence and protection of human rights for all.

Democracy requires institutions and an independent and effective legal system based on the rule of law. Free elections, functioning political parties, independent media and active NGOs that can operate freely are also vital to democracy.

Sweden supports and takes part in the international efforts being made in the EU, the UN, the OSCE and the Council of Europe, among other organizations, to promote and support democratization processes. In 1995

Sweden took the initiative that led to the establishment of the Institute for Democracy and Electoral Assistance (International IDEA), which is an international organization based in Stockholm.

Overall, the number of countries that can be described as democracies – whether old or new – continued to increase in the last century. Nevertheless, a large proportion of the world’s population still lives in one-party states or dictatorships with all the restrictions this entails. Strengthening the rule of law and human rights is essential for successful democratization processes. It is important to place greater emphasis on the connection between human rights and democracy as mutually reinforcing forces.

### 3.3.6 Human rights and development cooperation

Sweden will:

- ensure continuing and more effective integration of efforts to promote human rights and democracy into Sweden’s development cooperation; and
- continue to press for the mainstreaming of a rights perspective into the development cooperation that is delivered by the UN and the European Commission.

Development cooperation is largely about realizing all human rights, both civil and political and economic, social and cultural. There is often an obvious connection between lack of respect for human rights and poverty.

Since the Government presented the previous Communication on human rights in foreign policy (Comm. 1997/98:89), it has, together with the Swedish International Development Cooperation Agency (Sida), continued its efforts to integrate promotion of human rights and democracy into development cooperation in accordance with the Government Communication *Democracy and Human Rights in Sweden’s Development Cooperation* (Comm. 1997/98:76) and Sida’s action programme for peace, democracy and human rights. This involves human rights education and the drafting of guidelines, methods and reference materials for country strategies and cooperation programmes. There are three main tools for promoting human rights and democracy in Sweden’s development cooperation: development policy dialogue; development projects directly aimed at strengthening human rights and democracy; and integration of human rights and democracy into development cooperation as a whole. This is a long-term process, and results cannot be achieved immediately. However, some progress has been made in integrating human rights, in particular into Sida’s education and health programmes.

The measures taken by Sweden to integrate human rights into bilateral and multilateral development cooperation were acknowledged in the

conclusions submitted by the Committee on Economic, Social and Cultural Rights in 2001 in response to Sweden's report to the Committee.<sup>2</sup>

Sweden continues to actively advocate the mainstreaming of a rights perspective into the development cooperation delivered by all international bodies and institutions, including the EU (see sections 5.1.3 and 5.2.8). The Government Bill *Shared Responsibility: Sweden's Global Development Policy* (2002/03:122) mentions that the pursuit of equitable and sustainable development must be based on a rights perspective. The Universal Declaration of Human Rights and the subsequent human rights conventions represent a common foundation of values that is important for implementation of this policy. It is important in this connection that countries should act on the recommendations for improvement issued by the UN treaty bodies to states that have ratified the conventions.

### ***The right to development***

The issue of the right to development continues to be controversial within the UN.

Discussions, for example in the Working Group on the Right to Development that meets annually in Geneva, have revealed fundamental differences of opinion as to what the right to development comprises. The individual's right to development and the state's obligation to satisfy this right were confirmed by the international community at the Vienna Conference in 1993 as an important and integral part of human rights. However, some leading developing countries have, in addition to the individual right to development, argued for a broader definition, according to which the international community and other bodies ought to assume responsibility for implementing the right to development. In other words, some countries claim that governments and/or peoples have a right to development assistance.

Together with the other EU member states, Sweden has played a constructive role in the discussions on the right to development in international forums. Sweden's point of departure is the definition of the right to development adopted at the Vienna Conference. Another firm principle is not to deviate from the axiom that human rights are linked to *individuals* and that it is *the responsibility of governments* to implement these rights. In other words, a clearer definition of the meaning of the right to development must not blur the responsibility for implementation of human rights, so that part of it is delegated to the intergovernmental level rather than being the obligation of national governments in relation to the individual. Against this background, Sweden has opposed the proposals for the drafting of a legally binding instrument concerning the right to development tabled by certain leading developing countries.

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<sup>2</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights (E/.12/1/Add.70).

### 3.3.7 Human rights and trade

Sweden will:

- continue its efforts to prevail upon the World Trade Organization (WTO) to accept its share of responsibility for human rights at work, in particular by urging that a regular dialogue be established between the WTO and the International Labour Organization (ILO); and
- increase its efforts to ensure that the ILO's core human rights conventions are taken into account in trade policy cooperation both at the regional and multilateral levels.

The issue of human rights in the context of trade policy mainly concerns the implementation of the ILO's core human rights conventions (concerning freedom of association, abolition of forced labour, non-discrimination at work, and elimination of child labour; see section 4.5.4). Sweden has a leading role in the EU's efforts to design a system of special tariff preferences for countries that implement the ILO conventions on human rights at work and advocates linking this system closer to the ILO's own assessments of countries' implementation of the conventions.

Sweden seeks to bridge the gap between the ILO labour standards and the activities of the WTO, but this has encountered resistance from certain countries. Many developing countries regard this debate as protectionist and consider that the obligation to comply with human rights standard represents one more barrier to trade. Sweden supports the ILO's work on the social dimension of globalization, which takes place both in *the World Commission on the Social Dimension of Globalization* and in the working group on these issues that has been set up by the Governing Body. One matter that Sweden considers very important in this connection is to help to bring about a regular dialogue between international organizations, including the WTO, on the connection between human rights and trade. A cautious formal dialogue has been launched between the ILO and WTO secretariats on this theme.

The issue of trade and labour law was forcefully pursued at the WTO's fourth ministerial conference in Doha in 2001. The declaration that was adopted at the conference contained some passages concerning this issue.<sup>3</sup>

### 3.3.8 Human rights and corporate responsibility

Sweden will in various ways encourage the continuing involvement of the corporate sector in states' compliance with the international human rights conventions.

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<sup>3</sup> The Doha Agenda, Ministerial Declaration, para 8.

The international activities of Swedish companies have greatly expanded as a result of globalization, and some of them also operate in countries where compliance with the basic standards and principles with respect to human rights, working conditions and sustainable development that have been agreed by the international community leaves a great deal to be desired. This has raised the issue of corporate social responsibility.

The political commitment to promoting corporate social responsibility links two important strands of Swedish policy: an active trade policy for increased transparency and freer trade and a foreign and development policy that strongly emphasizes the importance of human rights and sustainable development, of which a strong multilateral system – international law and international agreements – is a key element.

The Swedish Government launched the Swedish Partnership for Global Responsibility in March 2002. The purpose of this initiative was to contribute to the promotion of human rights, working conditions, the fight against corruption and a better environment on the basis of constructive cooperation between business, the Government and other actors. The partnership is based on the OECD Guidelines on Multinational Enterprises and the principles of the UN Global Compact launched by UN Secretary-General Kofi Annan at the World Economic Forum in Davos in 1999. The initiative also aims to raise awareness of and promote global standards. Information on the Swedish Partnership for Global Responsibility can be found on the Ministry for Foreign Affairs website ([www.ud.se/ga](http://www.ud.se/ga)), which also contains a list of companies that have declared their support for the OECD guidelines and the Global Compact principles.

The Government is also pursuing active efforts to promote the OECD Guidelines on Multinational Enterprises by means of the National Focal Point. The National Focal Point works under the aegis of the Ministry for Foreign Affairs in close consultation with representatives of business and trade union organizations, as well as the other ministries.

Many Swedish companies nowadays have adopted a proactive approach to ensure that human rights are not violated as a result of their activities. The increasing commitment to these issues by companies and other actors is welcomed by the Government as a significant contribution to achieving the objectives of the international conventions. At the same time, it must not be forgotten that states are, and will continue to be, responsible for protecting human rights.

### **3.3.9 Human rights and the environment**

Sweden will continue to emphasize the connection between protection of the environment and respect for human rights in the various forums that deal with these issues, not least in the context of efforts for sustainable development.

The connection between environmental protection and respect for human rights has received increasing attention from the international community, not least in connection with efforts to promote sustainable development. A healthy environment is potentially highly relevant to the enjoyment of human rights, in particular economic, social and cultural rights.

Conversely, it is difficult to achieve a healthy environment without respect for certain human rights, such as those that are linked to democratic governance. These causal connections were established as long ago as the United Nations Conference on the Human Environment in Stockholm in 1972.

It was affirmed at the UN World Summit on Sustainable Development in Johannesburg in 2002 that respect for human rights and fundamental freedoms is an essential condition for the achievement of sustainable development that will benefit all women, men and children. The potential connection between the environment and human rights, including the right to development, is mentioned in the Action Plan adopted by the summit (paragraph 169).

The international human rights instruments do not include an explicit right to a healthy environment. However, reference is made to the importance of a healthy environment in some of the human rights conventions. For example, Article 11 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to an adequate standard of living and to the continuous improvement of living conditions. A reference to the environment may also be inferred from the provisions on the right to the “highest attainable standard of mental and physical health” (Article 12). The importance of a healthy environment is also mentioned in the UN Convention on the Rights of the Child and ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries. Article 24 of the Convention on the Rights of the Child, which deals with children’s health, stipulates that the dangers and risks of environmental pollution are to be taken into consideration.

At the regional level, the African Charter of Human and Peoples’ Rights and the Protocol of San Salvador to the American Convention on Human Rights of 1988 explicitly recognize the right to live in a healthy and adequate environment. There is, in Sweden’s view, an obvious connection between protection of human rights and efforts to achieve sustainable development. One specific issue being pursued by Sweden in this connection is the need to develop shared responsibility for global public goods.

## 4 Human rights issues: measures and objectives

### 4.1 Opportunities for enjoying human rights

<b>All human beings are born free and equal in dignity and rights</b>
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Sweden seeks to ensure that everybody has the opportunity to enjoy human rights. Special attention must be paid to the rights of the child, women’s rights and the rights of persons belonging to national or ethnic, linguistic and religious minorities in order to guarantee equality of rights.
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Among the objectives specified in the previous Communication is the aspiration to act in accordance with the principle that all human beings are equal in dignity and rights.

Efforts to defend and implement the principle of non-discrimination remain an essential element of international human rights activities. Combating discrimination on the grounds of sex, ethnic origin, religion, disabilities or sexual orientation is also one of the main challenges for human rights activities in Sweden, as it is in the other EU member states.

#### **4.1.1 Women's rights**

Sweden will continue to call attention to the obstacles to the enjoyment of human rights by women and girls. Among other things, Sweden will:

- seek to ensure that more and more countries ratify and implement the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and also monitor and object to reservations that erode the protection of women in the countries that make such reservations;
- seek to strengthen the CEDAW monitoring committee and help to make its working methods more effective and efficient;
- seek to ensure that the issue of the enjoyment of human rights by women and girls is mainstreamed into UN activities;
- seek to ensure that all manifestations of violence against women are taken into account by the UN and other international organizations and that action is taken against such violence wherever it occurs;
- seek to ensure that traditional customs that represent a threat to women's and girls' lives and health, including genital mutilation, are discontinued; and
- call attention by various means to the situation of women and girls in armed conflicts and peace processes and to their opportunities for empowerment.

Issues relating to the enjoyment of human rights by women and girls are dealt with in various UN bodies, primarily the Commission on the Status of Women, the UN Commission on Human Rights and the annual sessions of the General Assembly. Sweden takes an active part in these deliberations and has in recent years often represented the EU in connection with the drafting of resolutions on human rights and women's issues.

Sweden's positions in international forums are based on Swedish gender equality policy, the aim of which is to ensure that women and men, girls and boys have the same opportunities and rights. If women and men are to enjoy human rights on equal terms, the power structures that imply that the status of men is superior to that of women must be identified and actively

combated. A gender perspective must be mainstreamed into and developed in all policy areas. In order to pursue gender equality and combat the discrimination of women and girls, special action must be taken on the behalf of women and girls.

Sweden supports and recognizes the work of the UN Special Rapporteur on Violence against Women, inter alia in connection with statements and within the framework of the preparation of resolutions in the UN Commission on Human Rights. Sweden also takes an active part in the work of the General Assembly on the UN resolution on measures to eliminate all forms of violence against women. Among other things, Sweden is actively engaged in raising awareness of honour-related violence in the UN and other international forums and in combating such violence wherever it occurs.

*The UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)* is one of the core UN human rights conventions. The convention makes it clear that the states parties have an obligation to ensure the equal rights of men and women. Affirmative action is permitted during a transitional period in order to accelerate progress in this area.

Unfortunately, the Convention has not been ratified by all countries, and apart from this a large number of reservations have been made that seriously erode the protection of women in the countries that have made such reservations. Sweden has continued during the period to monitor and object to reservations that run counter to the purpose of the Convention. The question of reservations is also dealt with in a resolution on CEDAW that is presented to the UN General Assembly annually by the Nordic countries.

Sweden took an active part in the negotiations leading up to the adoption in 1999 of an optional protocol to CEDAW allowing for individual complaints to the CEDAW monitoring committee. Sweden ratified the protocol in April 2003.

Sweden has financed a post at the UN Department for the Advancement of Women (DAW) for work on the mainstreaming of women's rights issues into the UN system. Sweden has also, together with the United Kingdom, taken the initiative to form the group *Friends of Gender Mainstreaming* to consider ways and means of mainstreaming these issues into the UN system.

Sweden has paid particular attention to the situation of women and girls in armed conflicts and peace processes, including in Afghanistan. Sweden has taken an active part in the formulation of and follow-up to UN Security Council Resolution 1325 on Women, Peace and Security, which was adopted in 2000. One of the elements emphasized in the resolution is the importance of increasing women's participation in peace processes and the reconstruction of civil society, and it urges states to ensure that women's and girls' human rights are respected during and after armed conflicts.

Within the framework of efforts to ensure that women enjoy human rights Sweden has also given high priority to matters related to women's sexual and reproductive health and rights, such as the right of individuals to make their own decisions as regards sexuality and childbearing. However, in the last few years certain countries have resisted the

principles concerning sexual and reproductive health that are expressed, inter alia, in the final document of the Fourth Conference on Women in Beijing in 1995 and the follow-up conference in New York in 2000, as well as the Cairo Population Conference in 1994. Sweden will continue to speak for strong protection of these rights in international forums. Sweden also supports the UNFPA's work in this area.

#### 4.1.2 The rights of the child

Sweden will seek to ensure that the world's children enjoy the rights set forth in the UN Convention on the Rights of the Child as far as possible by:

- supporting the efforts of the UN Committee on the Rights of the Child to strengthen monitoring of compliance with the Convention;
- continuing to emphasize the child rights perspective in the work of the United Nations Children's Fund (UNICEF) and the UN system as a whole and the importance of monitoring compliance with the recommendations issued to states by the UN Committee on the Rights of the Child;
- support the ILO's efforts to implement ILO Convention no. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;
- pursue its commitment to the protection of children in armed conflicts, in particular by supporting implementation of the optional protocol on such protection to the UN Convention on the Rights of the Child;
- ratifying and promoting implementation of the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and
- continuing to address the issue of violence against children.

*The UN Convention on the Rights of the Child* has been ratified by all the UN's member states except two<sup>4</sup> and may therefore be regarded as a universal document. Nevertheless, a great deal remains to be done before the Convention is implemented globally. The Convention recognizes the child as an independent exerciser of human rights. It deals, inter alia, with the right of children to have their needs satisfied, the right to protection against exploitation and discrimination and the right of children to express their views and have them respected.

After presenting its previous Communication the Government has continued its efforts to strengthen the child rights perspective in bilateral and multilateral development cooperation. Sweden continues to be one of the largest contributors to UNICEF and emphasizes the child rights

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<sup>4</sup> The USA and Somalia.

perspective in the work of that organization. The Government presented the Communication *A Child Rights Perspective in International Development Cooperation* (Comm. 2001/02:186) to Parliament in May 2002. In this Communication the Government reported on the experience gained so far from Swedish and international efforts to create the conditions for development cooperation based on the goal of implementing the rights of the child in accordance with the UN Convention.

The World Congress against Commercial Sexual Exploitation of Children, which was held in Yokohama in December 2001, adopted a document that confirmed the conclusions of the first congress held in Stockholm in 1996. Sweden's commitment has contributed to the positive developments in this area. The Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography has been in force since 2002. Sweden has signed the protocol and the ratification procedure is currently (October 2003) in progress in the Government Offices.

Sweden acceded to ILO Convention no. 182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001.

Sweden has for many years been strongly committed to the protection of children in armed conflicts. Sweden played an active part as chair of the working party under the UN Commission on Human Rights that drafted the Optional Protocol to the UN Convention on the Rights of the Child on Involvement of Children in Armed Conflict. The protocol stipulates an age limit of 18 for compulsory recruitment and participation in combat, an issue that was actively pursued by Sweden. The protocol has been in force since February 2002 and was ratified by Sweden in February 2003. During the Swedish presidency of the EU in 2001 Sweden arranged an international seminar on children in war and in flight. Within the framework of its development cooperation programmes Sweden also supports the work done by various international organizations to demobilize and rehabilitate child soldiers. Sweden actively supports the work being done by the UN Secretary-General's Special Representative for Children and Armed Conflict.

While it is gratifying that so many countries have ratified the UN Convention on the Rights of the Child, the large number of states parties has increased the workload of the UN Committee on the Rights of the Child, which has the task of monitoring the states' compliance with the Convention. Sweden supports the efforts of the United Nations High Commissioner for Human Rights (UNHCHR) to strengthen the Committee and render it more effective. In this context, the number of independent experts serving on the UN Committee on the Rights of the Child has been increased to 18 this year.

Together with the Latin American Group in the UN, the EU presents a draft resolution every year on the rights of the child both to the UN Commission on Human Rights and the UN General Assembly. The resolution urges states to continue to promote the rights of the child in accordance with their obligations under the Convention. It also calls attention to new areas in which improvements are possible and necessary. This contributes to progress on development of the rights of the child.

Sweden has also actively supported the appointment by the Secretary-General of an expert to study the issue of violence against children; the appointment of such an expert was made in the spring of 2003.

#### **4.1.3 Efforts to combat racism and ethnic discrimination**

Sweden will:

- continue to support the efforts being made to combat racism, racial discrimination and xenophobia by the EU, the UN, the OSCE and the Council of Europe, among others; and
- promote, in the UN, implementation of the final document adopted by the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

*The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)* was adopted as long ago as 1965. Apart from that convention, several UN conventions contain an explicit prohibition of racial discrimination.

In the UN system the question of eliminating racism, racial discrimination, xenophobia and related intolerance is dealt with by the General Assembly Third Committee and the UN Commission on Human Rights. Under the Commission there is a Special Rapporteur whose task is to study issues relating to racism, racial discrimination, xenophobia and related intolerance in order to promote the efforts being made on these issues both at the national and international levels.

The meeting of the OSCE Ministerial Council in Porto in December 2002 adopted a decision on tolerance and non-discrimination. The decision condemns racist manifestations and calls for further measures to promote a dialogue between cultures and religions.

The European Commission against Racism and Intolerance (ECRI) is engaged in efforts against racism and ethnic discrimination within the Council of Europe framework. The European Monitoring Centre on Racism and Xenophobia (EUMC) deals with these issues in the EU.

#### ***The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance***

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held in September 2001 in Durban.

Sweden and the other EU member states hoped that the world conference would be concluded with a unanimous, concrete message against racism, racial discrimination, xenophobia and related intolerance with reference to the current situation. In the event, however, the conference was characterized by sharp differences between North and South, in which the parts of the world that had previously been colonized and subjected to slavery and the slave trade focused on these historical

events and their effects on development in the countries concerned, while the EU member states, among others, sought to emphasize the importance of cooperating in taking measures to combat modern-day forms of racism, racial discrimination and xenophobia.

An agreement was eventually reached and adopted without a vote, but the content and implementation of the Declaration and Programme of Action of the Conference Against Racism have been the subject of continuing discussion, for example in the UN Commission on Human Rights.

The NGO Forum that preceded the conference was also characterized by substantial differences, and the final document that was adopted was not supported by all the participating organizations.

If international efforts to combat racism are to be effective, the world's countries must cooperate on measures calculated to combat contemporary forms of racism, racial discrimination and xenophobia. Sweden will seek to ensure that implementation of the final document of the conference under the aegis of the UN will contribute to such a development.

#### **4.1.4 The rights of indigenous people and persons belonging to national or ethnic, linguistic and religious minorities**

##### *Minorities*

Sweden will:

- continue to call attention to the particularly vulnerable human rights situation of certain minorities;
- contribute in various ways to national processes aimed at cooperation and dialogue between various population groups, inter alia through the OSCE's High Commissioner on National Minorities; and
- seek to raise awareness of the content of the UN Declaration on the Rights of persons Belonging to National or Ethnic, Linguistic and Religious Minorities.

There are believed to be several thousand national, ethnic, religious and linguistic minority groups in the world. More than a quarter of the world's population belongs to a minority group. States are responsible for ensuring that persons who belong to a minority enjoy the same rights to education and health care etc. as the rest of the country's population, without discrimination. People belonging to national minorities must, furthermore, enjoy special rights with regard to language, education and participation. However, many states are reluctant to recognize the problem of minorities, pleading sovereignty and national cohesion.

The UN adopted a Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic and Religious Minorities in 1992. One binding UN instrument that deals with the rights of minorities is the International Covenant on Civil and Political Rights (Article 27). More detailed provisions are laid down in the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Sweden ratified both these conventions in February 2000. The final document of the Copenhagen Meeting of the CSCE (now the OSCE) in 1990 describes in detail the participating states' obligations as regards the treatment of national minorities.

Sweden has continued during the period, by means of statements and political contacts, to call attention to minorities that are especially vulnerable in terms of human rights. Sweden has also endeavoured to contribute in connection with development cooperation – bilateral cooperation as well as cooperation delivered by the UN and the European Commission – to national cooperation and dialogue processes between various population groups. The work done by the OSCE's High Commissioner on National Minorities, which is actively supported by Sweden, deserves special mention in this connection.

In 1995 the Council of Europe's Committee of Ministers set up a group of specialists for Roma issues with a view to achieving long-term improvement for Europe's 8-10 million Roma. The Committee of Ministers is currently discussing a Finnish initiative under which a Roma forum with broad Roma representation would be set up within the Council of Europe. Work is in progress in the OSCE on the preparation of an action plan to improve the situation of the Roma and Sinti.

### *Indigenous peoples*

Sweden will:

- continue to promote the work of the UN Permanent Forum on Indigenous Issues, which aims to improve the situation of the indigenous peoples of the world, including as regards human rights; and
- take an active part in the drafting of a UN declaration on the rights of indigenous peoples.

The vulnerability of indigenous peoples calls for special measures to ensure that their rights are recognized and respected. Most indigenous peoples lived and worked in their areas before the arrival of the dominant population and used land, water and natural resources for generations. The Sami are an indigenous people in Sweden.

The International Decade of the World's Indigenous People was launched in 1994. As the decade is drawing to a close in 2004, one of the most important objectives of the action programme – the establishment of a Permanent Forum on Indigenous Issues – has been achieved. The Forum, which consists of representatives of indigenous peoples and of

governments, met for the first time in New York in May 2002. At a meeting of the Economic and Social Council (ECOSOC) later that year Sweden successfully proposed a resolution that led to the establishment of the Forum in the UN Secretariat. Sweden will continue to ensure that the Forum has the opportunity to help to improve the situation of all the people in the world who belong to indigenous peoples, including their human rights situation.

Another primary objective of the International Decade of the World's Indigenous People was to draft an international declaration on the rights of indigenous peoples. The task of drafting the declaration was assigned to a working group consisting of representatives of governments and the world's indigenous peoples. With one year left of the working group's mandate no agreement has yet been reached on the text of a declaration. Together with the other Nordic countries, Sweden is making every effort to achieve agreement on a UN Declaration on the rights of indigenous peoples.

The UN Commission on Human Rights appointed a UN Special Rapporteur on the Rights of Indigenous Peoples in 2001.

The study of the possibility of Sweden ratifying ILO Convention no. 169 of 1989 concerning Indigenous and Tribal Peoples in Independent Countries has proceeded during the period, and the Government hopes to be able to ratify the Convention during its present term.

#### **4.1.5 Discrimination and persecution on the grounds of sexual orientation**

Sweden will:

- call attention to abuses and discrimination of persons on account of their sexual orientation wherever they occur; and
- continue to make active efforts to ensure that the issue of discrimination on the grounds of sexual orientation is on the agenda of the UN and other international forums.

The right to freedom from discrimination and persecution on the grounds of sexual orientation has only been recognized in the last few years. Consequently, sexual orientation is not explicitly mentioned among the grounds of discrimination in the UN human rights conventions. However, both the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights have subsequently declared that the prohibition of discrimination in the two main UN human rights covenants (ICCPR and ICESCR), also applies to sexual orientation.

The 1950 European Convention on Human Rights also does not explicitly mention sexual orientation as a ground of discrimination. In this case too, subsequent practice has established that the protection from discrimination provided by the Convention includes sexual orientation.

Protection from discrimination on the grounds of sexual orientation has been improved in the European Union in recent years. The 1997 revision of the EC Treaty included an article (Article 13) under which the Council

may take appropriate action to combat such discrimination. A Directive (2000/78/EC) establishing a general framework for equal treatment in employment and occupation, also covering sexual orientation, was adopted in 2000. The same year, the Council adopted a Community Action Programme to Combat Discrimination (2001-2006), which also includes discrimination on the grounds of sexual orientation. Sexual orientation is also mentioned in the prohibition of discrimination laid down in the Charter of Fundamental Rights of the European Union (Article 21).

An Ombudsman against Discrimination Because of Sexual Orientation was introduced in Sweden in 1999. The Office of the Ombudsman is a government agency. The Ombudsman is appointed by the Government for six years at a time and is assigned the task of ensuring that discrimination on the grounds of sexual orientation does not occur in any area of public life in Sweden.

On 1 January 2003 the provision of the Swedish Penal Code relating to agitation against a national or ethnic group was extended to include threats and expressions of disrespect with allusions to sexual orientation.

However, while protection against discrimination on the grounds of sexual orientation has been improved in Sweden and several other countries, there is still widespread resistance in the UN system to even mentioning the issue. In the Government's view, a more rapid change of attitude may take place if the issue is introduced gradually in various UN forums. In 2000 Sweden proposed in the UN Commission on Human Rights that an explicit condemnation of summary executions of people on account of their sexual orientation should be inserted in the resolution on summary executions that Sweden tables every year. This was the first mention of sexual orientation in a UN resolution. Despite resistance from certain countries, the formulation has been retained and was included in the text adopted by the UN Commission on Human Rights in 2003.

At the Commission's session in 2003 Sweden drew attention to the issue through a statement by the Sexual Orientation Ombudsman; the Ombudsman also arranged a meeting within the Commission framework in order to discuss the issue.

During this year's Commission session Sweden also supported a draft resolution on protection against discrimination on the grounds of sexual orientation that was tabled by Brazil. Although it was not possible to adopt the resolution at the year's session, it helped to place the issue on the UN agenda.

Discrimination on the grounds of sexual orientation has also been dealt with by the Council of Europe, whose Committee of Ministers observed in September 2001 that discriminatory legislation, as well as violence and prejudice, against people on account of their sexual orientation still exists in its member states. The Committee therefore resolved to monitor developments in this area carefully.

Sweden will continue to call attention to abuses and discrimination of persons on account of their sexual orientation wherever they occur.

#### 4.1.6 The rights of persons with disability

Sweden will:

- continue to make active efforts to ensure that the issue of discrimination on account of disability is on the agenda of the UN and other international forums
- continue to be actively involved in the elaboration of an international convention on the protection of the rights of persons with disability.

Sweden makes active efforts to ensure that persons with disability have the same opportunities to enjoy human rights as persons without disabilities. Although there is at present no convention that specifically addresses human rights and persons with disability, the UN human rights conventions, including the general prohibition of discrimination imposed by them, cover persons with disability, as does the European Convention, with its prohibition of discrimination.

The UN Convention on the Rights of the Child specifically prohibits discrimination on the basis of disability. It also contains an article (Article 23) recognizing special rights for children with disability.

Sweden makes active efforts in various international forums to call attention to and pursue the issue of the enjoyment of human rights by persons with disability. One example of this is the motion for a resolution on human rights and disabilities tabled by Sweden in the UN Commission on Human Rights in 2003.

In the autumn of 2001 the UN General Assembly adopted a resolution calling for the establishment of an Ad Hoc Committee under the General Assembly to consider proposals for an international convention to promote and protect the rights and dignity of persons with disability. Sweden plays a leading role both in the committee and in the EU's internal work on this issue. The work of the ad hoc committee is expected to take several years.

Sweden also plays an active part in the UN General Assembly in connection with the implementation of the World Programme of Action concerning Disabled Persons<sup>5</sup> and in deliberations on issues relating to disabilities in the UN Commission on Social Development.

Sweden took an active part in the drafting of the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities in 1993. These rules are not legally binding, but they represent a useful tool in national efforts to implement the rights enshrined in the UN's various human rights conventions. The UN Special Rapporteur Bengt Lindqvist has been very successful in focusing attention on the rights perspective in international efforts on behalf of persons with disability. Work is currently in progress on the preparation of additions to the Standard Rules.

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<sup>5</sup> "Implementation of the World Programme of Action concerning Disabled Persons: towards a society for all in the twenty-first century"

Sweden also seeks to raise awareness of the right of persons with disability to enjoy human rights in connection with all UN activities, for example by urging Special Rapporteurs to pay special attention to the rights of persons with disability in their country visits and reports. Sweden also points out that a disability perspective should be adopted by the UN treaty bodies.

The rights of disabled persons have high priority and are mainstreamed into the development cooperation delivered by Sida.

## 4.2 Serious violations of human rights

### 4.2.1 Abolition of the death penalty

Sweden will continue, alone and in the EU framework, both in bilateral and multilateral forums, to actively pursue the universal abolition of the death penalty and, until this is achieved, to press for restrictions and moratoriums on its use.

Sweden's position is that the death penalty is a profoundly inhuman punishment. In view of the cruelty and irrevocable nature of the punishment it has no place in a modern and civilized legal system.

Sweden has continued during the period to actively pursue universal abolition of the death penalty and, until this is achieved, to urge that it be used restrictively and within the constraints of international law.

Together with the other EU member states, Sweden continues every year in the UN Commission on Human Rights to seek increased support for the resolution against the death penalty that has repeatedly been adopted by the Commission since 1997.

Sweden initiated the proposal to draft Protocol no. 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances. The protocol, which provides for the abolition of the death penalty even in wartime, was adopted in 2002 and ratified by Sweden in April 2003.

As a result of the adoption of the EU guidelines on the death penalty in 1998 (see also section 5.1.1), the Union has intensified its bilateral efforts to persuade other countries to abolish the death penalty or restrict its use. Demarches addressed to the authorities of a country often concern the use of the death penalty in general, for example where a country is considering resuming use of the death penalty after a moratorium. Other demarches concern individual death sentences. Normally, the contents of these demarches are published in domestic media with a view to influencing public opinion against the death penalty. The EU regularly draws attention in the OSCE framework to individual cases where a death sentence has been imposed or is being considered in a participating state.

By urging other countries to abolish or restrict the use of the death penalty, Sweden and the other EU member states can help to speed up universal abolition. Sweden attaches great importance to these efforts. Special resources are allocated for these efforts within the framework of

the EU's development cooperation, which highlights their importance and high priority.

#### **4.2.2 Summary executions and involuntary disappearances**

Sweden will:

- continue to support the work of the Special Rapporteur on Summary and Arbitrary Executions; and
- participate in the work of drafting a convention on involuntary disappearances.

According to the Special Rapporteur on Summary and Arbitrary Executions, extra-judicial, summary and arbitrary executions, as well as the threat of such executions, occur in all continents today. The executions are carried out by the police and security forces of a country, with the government's tacit consent, or by other persons or groups who collaborate with or are tolerated by the country's government. A summary execution is an execution that is not preceded by a fair trial.

Sweden supports the work of the Special Rapporteur and has for several years been the main sponsor of a resolution in the UN Commission on Human Rights on extra-judicial, summary and arbitrary executions. Finland pursues a corresponding initiative in the UN General Assembly.

In several countries, there have been instances of people disappearing after being deprived of their liberty. The reason may be that the person has died under torture or been summarily executed. These involuntary disappearances involve tremendous suffering for the individual and his or her family. They are also an instrument of repressive policy. Sweden supports the UN Working Group on Enforced or Involuntary Disappearances and the implementation in all states of the UN Declaration on the Protection of All Persons from Enforced Disappearance.

Work is in progress in the UN Commission on Human Rights on the drafting of a separate convention on involuntary disappearances. Sweden proposes in this connection that the convention should include a right for dependants to information about what has happened to the disappeared person and a right to damages.

### 4.2.3 The fight against torture and other cruel, inhuman or degrading treatment

Sweden will:

- continue, alone and in the EU framework, to call attention to and make efforts to prevent torture and other cruel, inhuman or degrading treatment wherever it occurs;
- ratify the new UN optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and urge other countries to do the same, so that the mechanism can take effect as soon as possible;
- continue, within the framework of development cooperation, to support the training of police officers and prison staff with a view to preventing torture; and
- draw attention to the need for support and rehabilitation of the victims of torture.

No forms of torture or other cruel, inhuman or degrading treatment can ever be accepted, whatever the reason. Torture is prohibited in the core human rights instruments, specifically in the *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* of 1984, and also in humanitarian law, and today the prohibition may be regarded as *jus cogens*, i.e. a norm of customary international law that is universally binding.

Sweden has continued during the period to take forceful action against all forms of torture and corporal punishment. During the Swedish presidency of the EU Sweden prepared the EU Guidelines on Torture that were adopted by the Union's foreign ministers in April 2001. The main purpose of these guidelines, like the Guidelines on the Death Penalty, is to provide a basis for demarches concerning the use of torture in third countries. Unlike the death penalty, which is announced in a judgment, torture is a covert activity that many countries are anxious to conceal from the world. The EU member states' foreign services therefore launched a process in 2003 of learning more about torture in individual countries and its underlying causes. The Guidelines on Torture are also used to support the European Commission's development cooperation, including police training, as a means of combating the use of torture in individual countries.

At the end of 2002 the UN General Assembly adopted an optional protocol to the UN Convention against Torture, the purpose of which is to improve the prospects of preventing torture. The protocol establishes an international preventive visiting mechanism like that set up by Council of Europe Anti-Torture Committee (CPT) under the 1988 European Convention for the Prevention of Torture and Inhuman or Degrading

Treatment or Punishment. In addition, the UN protocol calls for the establishment of complementary national monitoring bodies. Sweden played a leading role in instituting negotiations on a protocol in the early 1990s and took an active part in these negotiations. Together with the other EU member states Sweden contributed to mobilizing the support that was needed for the protocol to be adopted by the UN. The important process of urging states to ratify the protocol so that it and the international visiting mechanism can come into operation as soon as possible is now under way.

Sweden supports a number of organizations involved in combating torture and the rehabilitation of the victims of torture. One of these is the Raoul Wallenberg Institute of Human Rights and Humanitarian Law. Sweden supports the Institute's courses geared to the functioning of the legal system in a number of countries, which also include training of public prosecutors, judges, police officers and prison managers designed to prevent the use of torture.

#### **4.2.4 The fight against trafficking in persons**

Sweden will, through concrete initiatives, be actively involved in the efforts being made in various parts of the world to combat trafficking in persons.

Trafficking in persons is a serious and growing problem that occurs all over the world. Hundreds of thousands of people become victims of trafficking every year. Trafficking in persons is a criminal activity that makes it very difficult for the victims to enjoy their human rights.

Trafficking in persons is defined in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol)<sup>6</sup>, which was adopted in 2000. The trafficking process involves several stages and may therefore be described as a "crime chain". As a rule, the victims, often women or children, are recruited by the threat or use of force or other forms of coercion or abuse of their position of vulnerability and transported in a country or between countries for the purposes of various kinds of exploitation. According to the definition in the Protocol, trafficking in persons occurs for the purpose of prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Since trafficking in persons involves abuse of the victims' position of vulnerability, the consent of a victim to the intended exploitation is irrelevant where any of the coercive means mentioned in the Protocol have been used.

In the last few years Sweden has rapidly increased its involvement in the fight against trafficking in persons, both with respect to the problem in Sweden itself and in the EU and other countries. In recent years it has been a Swedish profile issue in international forums and was, for example, a priority during the Swedish presidency of the EU. The member states

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<sup>6</sup> Article 3.

agreed then on a definition of punishable trafficking in persons for the purposes of sexual and labour exploitation.

Sweden has proposed joint measures to combat trafficking in persons within the framework of the EU's cooperation arrangements with Asia and Africa. An action plan against trafficking in persons was adopted within the framework of cooperation between South East Asia and the EU in May 2001. Sweden is now taking steps to ensure that this is implemented and monitored. An action plan has also been prepared in the dialogue between Africa and the EU. Together with Italy, Sweden has financed a UNICEF study on trafficking in women and children in Africa.

In the OSCE Sweden has actively supported the drafting of an action plan against trafficking in persons that was adopted in July 2003. The OSCE's cross-dimensional activities and extensive field presence strengthen its capacity for acting on this important issue.

The Council of Europe's Committee of Ministers has adopted a series of recommendations to its member states in the 1990s on measures to combat organized crime, in particular trafficking in persons.

Following a decision by the Nordic and Baltic equal opportunities and justice ministers, a joint information campaign against trafficking in women was carried out in the eight countries concerned in 2002. The aim of the campaign was to raise the awareness of the public, authorities and organizations about trafficking in women and the precarious situation of the victims. Parallel with this campaign, a national campaign, whose main focus was on measures to address men's demand for women and children for sexual purposes, was conducted.

In addition, foreign minister Anna Lindh proposed the setting up of an action group against trafficking in persons at the Nordic-Baltic conference of foreign ministers in Tallinn in August 2002.

In the declaration adopted at the 10th anniversary of the Barents Euro-Arctic Council in January 2003 in Kirkenes the prime ministers undertook to make a concerted effort to put an end to trafficking in persons in the region.

Sweden has initiated a collaborative project in the Barents Euro-Arctic Council against trafficking in women, and this will start in the autumn of 2003.

The Government and Sida support several development cooperation programmes whose aim is to prevent and combat trafficking in persons in especially vulnerable regions, in particular in Central and Eastern Europe, in the Western Balkans, in South East Asia and in West Africa. This support is channelled through international organizations such as the IOM, UNICEF, ESCAP and ECOWAS, as well as through NGOs. In order to put Swedish efforts to combat trafficking in persons on a long-term, institutional basis, a strategy has been elaborated within the framework of Sweden's international development cooperation. The strategy focuses primarily on trafficking in women and children and on the most common and worst forms of exploitation, such as sexual exploitation, labour exploitation and harmful child labour.

Trafficking in persons is a complex problem. To understand its causes it is necessary to identify, analyse and combat both the trigger factors and the underlying and structural factors. Global trafficking in persons may be regarded as a consequence, inter alia, of the demand for people for various

kinds of exploitation, poverty (absolute and relative), the subordinate status and powerlessness of women and children, and inadequate protection of human rights.

### 4.3 A functioning legal system with legal guarantees

The rule of law is essential in order to secure respect for human rights. Sweden will:

- emphasize in international forums the importance of the rule of law for the protection of human rights;
- act against impunity; and
- help, in the context of development cooperation and expert exchanges, to inform and educate public prosecutors, judges and police officers in countries where the rule of law needs to be strengthened.

#### 4.3.1 The rule of law

The preamble to the Universal Declaration of Human Rights states that it is essential that human rights should be protected by the rule of law. The key role played by the rule of law in protection of the individual is increasingly emphasized in international human rights activities.

In Article 6 of the Treaty on European Union the rule of law is mentioned as one of the principles on which the Union is founded. The Copenhagen Document adopted by the CSCE (now the OSCE) in 1990 established that democracy and the rule of law are essential to secure respect for human rights.

The rule of law means that nobody is above or outside the law, that the state and government bodies are obliged to comply with the applicable law and that there are guarantees against the abuse of power. However, formal compliance with the law is not sufficient in itself. Laws must be made and applied without discrimination and with respect for the dignity and human rights of the individual. There must also be a functioning legal system, to which everyone has access. A functioning legal system means that there must be incorrupt police officers and public prosecutors, independent lawyers and an independent and impartial judiciary. In addition, court decisions must be complied with.

Several of the international human rights conventions, in particular the International Covenant on Civil and Political Rights, contain a number of provisions that promote implementation of the rule of law. Examples of such rights are equality before the law, the right to have criminal charges investigated and tried by a court within a reasonable period, prohibition of arbitrary detention and the right to a fair and impartial trial. The European Convention on Human Rights contains similar provisions.

Sweden is committed to universal application of the rule of law. We support initiatives, for example in the UN and OSCE, that give individuals access to a functioning legal system that provides legal guarantees.

Sweden supports efforts to improve the accessibility and functioning of legal systems in the framework of development cooperation. Development cooperation also includes the drafting, revision and application of laws, the establishment of legal aid and ombudsman systems and reforms of the public prosecution authorities, police forces and prison system. An important actor in this area is the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University.

#### **4.3.2 The fight against impunity**

Impunity, i.e. the state's failure to prosecute crimes and punish the perpetrators, occurs in all parts of the world. Such crimes are usually committed by the representatives of the government, for example the police or armed forces, or with the tacit consent of the government. Impunity is a major obstacle to the establishment of democracy and the rule of law. It is important that an individual whose rights have been violated has the right and opportunity to appeal to a court of law and that the person who has committed the violation is prosecuted and punished. Sweden will continue to combat impunity and will seek to establish and maintain respect for the rule of law.

#### **4.4 Rights that promote democracy**

Respect for human rights contributes to and is an essential condition for democratization. It includes the right to participate in democratic development under conditions of freedom of expression, media freedom and freedom of association. Together with universal suffrage these rights are directly linked to democratic decision-making. The opportunity for all to take part in the government of their countries, either directly or through freely elected representatives, and the holding of periodic, free and fair elections in which everyone has the right to vote on equal terms are a precondition for a democratic society. Other rights are also important in connection with democratization processes, for example rights that safeguard the rule of law, including equality before the law, the right to education and rights that guarantee participation for women and for persons belonging to minorities.

#### 4.4.1 Freedom of expression, association and the media

Sweden will:

- call attention to and object to violations of and restrictions on freedom of association, expression and religion wherever they occur;
- call attention and object to the imprisonment and other kinds of persecution of journalists with a view to restricting freedom of expression;
- support the work of the OSCE Representative on Freedom of the Media; and
- support, in particular within the framework of development cooperation, the development of free and pluralistic media.

Several rights that, directly or indirectly, constitute the basis of a democratic society are enshrined in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights and in regional human rights conventions. Fundamental freedoms, such as the right to freely express opinions, to found or join an organization or political party and to arrange meetings, are essential if people are to form views and participate in political life.

A democratic society must also have free and independent media. Politicians and other decision-makers need to be scrutinized so that they can be held to account for their actions. Free and independent media therefore have a very important investigation and information function to fulfil that promotes the transparency, legitimacy and accountability of public services.

The EU has in several cases called attention to the imprisonment and other kinds of persecution of journalists. Sweden actively promotes freedom of opinion, expression and the media in connection with its development cooperation, for example by supporting the training and education of journalists in various countries and by extensive media support. These issues are also actively addressed by the OSCE, whose Representative on Freedom of the Media monitors developments in the media and freedom of expression in the OSCE region; his task is to support the participating states in these areas and to call attention to any failure to comply with their obligations (see section 5.3.3).

Sweden also supports electoral processes, parties and parliaments in various countries, in particular in connection with development cooperation, as well as standard-setting and capacity-building through the Institute for Democracy and Electoral Assistance (International IDEA).

## 4.5 Realization of economic, social and cultural rights

Sweden will in various ways seek to ensure that protection of economic, social and cultural rights are given higher priority in both bilateral and multilateral contexts. Sweden will, among other things:

- emphasize that everyone is entitled to economic and social rights (the non-discrimination principle);
- continue to advocate the mainstreaming of protection for economic, social and cultural rights into UN activities, including the development cooperation delivered by various UN funds and programmes;
- further strengthen the rights perspective in all programmes relating to education, health, labour and other social issues within the framework of Sweden's development cooperation;
- take part in the working group whose task is to develop an optional protocol to the International Covenant on Economic, Social and Cultural Rights relating to individual complaints; and
- continue to support the ILO's efforts to achieve universal ratification and implementation of the Organization's eight core human rights conventions.

*The International Covenant on Economic, Social and Cultural Rights* provides, inter alia, for the right of everyone to social security, the right to an adequate standard of living, the right to education, the right to health and the right to work. These rights are therefore linked to fundamental policy issues such as economic distribution, labour, health care, education and family policy, in addition to general aspects such as an adequate standard of living.

Issues relating to gender equality, equal pay for work of equal value, trade union rights, the right to education and the right of children to protection from exploitation are all examples of basic principles of justice that can be embodied in legal provisions. However, there are other rights that cannot readily be expressed in legal form. Other methods that make it possible to assess states' compliance are necessary, in particular, with regard to the right to an adequate standard of living.

Article 2 of the Covenant provides for progressive realization of the rights. However, each state is to make maximum use of its available resources. In other words, all available resources, whether domestic or provided through international assistance, are to be used to the maximum to achieve progressively the full realization of the rights recognized in the Covenant. States must also undertake to guarantee that the rights will be exercised without discrimination of any kind.

Economic, Social and Cultural rights are in some quarters regarded more as aspirations than as proper rights. There is, however, no objective reason to treat these rights as less important or radically different from civil or political rights. They form an integral part of the Universal

Declaration of Human Rights. Regardless of how they are presented in the conventions, human rights are universal, indivisible and mutually dependent. It is only possible to live a life in dignity if all rights are respected.

The UN system has focused increasingly on economic, social and cultural rights. Special Rapporteurs have been appointed within the framework of the UN Commission on Human Rights in recent years for the right to education (1998), human rights and extreme poverty (1998), the right to food (2000), the right to adequate housing (2000) and the right to the enjoyment of the highest attainable standard of physical and mental health (2002).

As regards the right to adequate food, FAO has decided to set up an intergovernmental working group for the purpose of drafting voluntary guidelines in support of the implementation of the right to adequate food at the national level. The group will report in 2004.

Sweden emphasizes economic and social rights in its work in global and regional organizations. Sweden promotes the mainstreaming of these rights into the organizations' spheres of activity in order to strengthen their implementation.

#### **4.5.1 An optional protocol to the International Covenant on Economic, Social and Cultural Rights**

Over the last few years, there has been discussion in the UN of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. Such a protocol would make it possible for individuals to complain that their government does not protect their economic, social or cultural rights. A similar mechanism is already in place for the International Covenant on Civil and Political Rights.

A working group was set up in 2003 under the UN Commission on Human Rights for the purpose of considering an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

Sweden will take an active part in the working group's deliberations on an optional protocol, even though the Government is not convinced that such a protocol is the best way to promote these rights. Sweden will also make every effort to ensure that economic, social and cultural rights are effectively promoted through other parts of the UN system, not least the development agencies.

#### **4.5.2 The right to education**

The right to education is laid down in the International Covenant on Economic, Social and Cultural Rights and the UN Convention on the Rights of the Child. Both conventions stipulate that primary education shall be compulsory and available free to all. The UN Convention on the Rights of the Child also stipulates that states parties should encourage the development of different forms of secondary education, make higher education accessible to all on the basis of capacity, make educational and vocational information and guidance available and accessible to all children and take measures to encourage regular attendance at schools.

Special mention is made of the right to education of disabled children. The Convention also recognizes that children have a right to protection from work that is likely to be harmful to their development.

The UN Convention on the Elimination of all Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination contain provisions on non-discrimination in connection with education.

Sida is actively engaged in mainstreaming human rights into its education programmes.

UNICEF and UNESCO are the UN agencies that are primarily involved in efforts to ensure the right to education.

#### **4.5.3 The right to the highest attainable standard of health**

The International Covenant on Economic, Social and Cultural Rights recognizes the right to the highest attainable standard of mental and physical health. The UN Convention on the Rights of the Child recognizes the right of children to enjoy the best attainable health and the right to health care services and rehabilitation. The Convention also contains a provision whose purpose is to abolish genital mutilation of girls.

The UN Convention on the Elimination of all Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination contain provisions on non-discrimination with reference to the right to the highest attainable standard of health.

Sida has made considerable progress in mainstreaming human rights into its health programmes. The connection between health and human rights has been clarified in a number of policy documents whose aim is to introduce a rights perspective in the health sector.

The spread of HIV/AIDS has increased the focus on a rights perspective in matters relating to health. Such a perspective is essential in the case of HIV/AIDS since the infection involves an increased risk of discrimination and stigmatization and because it is difficult to undertake preventive measures, treatment and support in an environment where human rights are not respected.

#### **4.5.4 The right to work and labour rights (the ILO's fundamental conventions)**

The International Labour Organization (ILO), which is a specialized UN agency, was founded as long ago as 1919 and continues to be the central international expert and monitoring body for labour rights. Within the framework of a unique tripartite structure of collaboration between governments, employers' organizations and trade unions the ILO has drafted a large number of conventions on labour rights over the years. Compliance with these conventions is monitored by means of extensive dialogue between the ratifying states and the ILO that is based on regular reporting by the states on the measures taken by them to comply with the conventions and comments by an independent ILO committee of experts in response to the countries' measures (or lack thereof).

In the last few years the ILO has conducted a campaign for ratification of and compliance with the organization's eight fundamental conventions, which are listed below:

*Freedom of association and the right to bargain collectively*

Freedom of Association and Protection of the Right to Organize Convention, 1948 (no. 87)

Right to Organize and Collective Bargaining Convention, 1949 (no. 98)

*Non-discrimination at work*

Equal Remuneration Convention, 1951 (no. 100) concerning equal remuneration for men and women workers for work of equal value

Discrimination (Employment and Occupation) Convention, 1958 (no. 111)

*Prohibition of forced labour*

Forced Labour Convention, 1930 (no. 29)

Abolition of Forced Labour Convention, 1957 (no. 105)

*Prohibition of child labour*

Minimum Age Convention, 1973 (no. 138) concerning minimum age for admission to employment

Worst Forms of Child Labour Convention, 1999 (no. 182)

Sweden has ratified all these conventions and actively supports the ILO's continuing efforts to ensure universal ratification of these basic instruments, as envisaged in the *Declaration of Fundamental Rights* adopted by the ILO in 1998.

Worth mentioning in this connection is Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which is the only internationally binding instrument relating to the rights of indigenous peoples and also deals with human rights issues. This convention has not yet been ratified by Sweden (see section 4.1.4).

It is important that the ILO's standards should be promoted and complied with by the rest of the UN system and by other relevant organizations such as the World Bank, the International Monetary Fund and the regional development banks.

Rules on labour rights are also contained in the International Covenant on Economic, Social and Cultural Rights (Article 8), the European Convention on Human Rights and the European Social Charter. Sweden regards the right to found and join a trade union as vital to a democratic society and has called attention to the fact that it is unacceptable for the Covenant to be ratified with a reservation concerning the right of association.

## 5 Improving the effectiveness of international efforts to promote and protect human rights

### 5.1 EU human rights activities

Sweden will, in the EU framework, consistently emphasize the importance of joint human rights activities and the importance of mainstreaming human rights into the Union's policies. Among other things, Sweden will:

- seek to ensure that human rights and democracy are mainstreamed into all levels of the EU's political dialogues with third countries;
- promote increased transparency in EU human rights policy, inter alia through closer dialogue with the European Parliament and civil society;
- seek to ensure that the human rights clauses that are included in the EU's cooperation agreements with various countries will constitute a basis for dialogue and cooperation with the countries concerned;
- promote the use and strengthening of the EU's instruments for promoting human rights, including existing guidelines; and
- seek to ensure that the work of mainstreaming human rights and democracy into the EC's development cooperation will continue and be reinforced.

The Treaty of Amsterdam proclaims that the Union is founded on the principles of liberty, democracy and the respect for human rights. These principles must be respected unconditionally by all member states, both present and future.

In the previous Communication on human rights in Swedish foreign policy (Comm. 1997/98:89) the Government declared its intention to make every effort within the EU to promote increased mainstreaming of human rights into the Union's internal and external policies in order to achieve an integrated and consistent policy based on effective and transparent processes for control, monitoring and evaluation.

Five years later we can see that, within the framework of the Common Foreign and Security Policy (CFSP), the EU has rapidly shifted towards a more consistent and integrated human rights policy. Joint declarations, statements and demarches on issues relating to human rights are now commonplace in the Union's day-to-day political work. Human rights issues also figure prominently in common strategies and other horizontal documents relating to the Union's external policy.

The EU is an important and forceful actor in the UN Commission on Human Rights, the General Assembly Third Committee and other international forums. In these forums the Union, in close coordination, makes statements and tables draft resolutions regarding the situation in

various countries and addressing various thematic issues. Close cooperation with relation to the initiatives and issues pursued by other actors also lends more weight to the EU member states' positions on important matters of principle and political issues.

EU coordination on human rights also increases the scope for more concerted action in the OSCE and the Council of Europe.

The member states' embassies around the world write joint reports on the human rights situation in their respective countries. These reports, which deal with the situation in general or with specific issues such as the death penalty or the situation as regards torture, provide an important input to the Common Foreign and Security Policy. In many countries, the ambassadors of EU member states regularly approach the country's authorities in order to call attention to violations of human rights or to recognize progress that has been made.

Sweden has contributed to this development by consistently emphasizing the importance of joint human rights activities, as well as the importance of mainstreaming human rights into the Union's policies.

Human rights activities within the framework of foreign policy were a priority issue during the Swedish presidency of the EU in the first half of 2001. Among other things, the EU's foreign ministers adopted general conclusions on the EU's human rights promotion activities, the *Council Conclusions on the Union's Role in Promoting Human Rights and Democratization in Third Countries*, on 25 June 2001. The conclusions state that the Council, in order to achieve a more informed, credible, coherent, consistent and effective EU human rights and democratisation policy, will promote:

- coherence and consistency between Community action and the Common Foreign and Security Policy (CFSP) as well as development policy through close cooperation and coordination between its competent bodies and with the Commission;
- 'mainstreaming' of human rights and democratisation into EU policies and actions;
- openness of the EU's human rights and democratization policy through a strengthened dialogue with the European Parliament and civil society;
- regular identification and review of priority actions in the implementation of its human rights and democratisation policy.

Evaluation and implementation of the Council Conclusions has since they were adopted been in progress in the Council Working Group on Human Rights (COHOM). We are now beginning to see the results. The mainstreaming of human rights into the EU's policies and actions has continued. Among other things, the Council working groups responsible for different geographical areas increasingly address issues relating to human rights in the countries they study. The channels for exchanges with civil society have been improved in various ways. The approach adopted in the Council Conclusions has also achieved results in the work of the

European Commission, in particular with regard to development cooperation. Nevertheless, a great deal remains to be done if the declared ambitions are to be achieved. Sweden will continue to promote the strengthening of the EU's human rights policy.

### **5.1.1 Instruments for EU cooperation**

The EU's human rights policy is based on the UN human rights conventions and the relevant regional conventions. However, in the last few years certain instruments have been added in order to facilitate coordination between the member states on positions in the field of human rights. Apart from the above-mentioned Council Conclusions, these consist mainly of the guidelines on the death penalty, on torture and on human rights dialogues.

#### ***The EU guidelines on the death penalty***

All EU member states have abolished the death penalty, even in wartime, and the EU's efforts to promote restrictive use and eventually universal abolition of the death penalty are given high priority. The EU tables a resolution against the death penalty in the UN Commission on Human Rights and seeks, by approaching other countries' governments, to encourage them to take steps to abolish the death penalty in their countries.

*The EU Guidelines on the Death Penalty* were adopted in 1998 in order to facilitate these efforts. The guidelines specify the criteria for joint action and make it possible for the member states to agree at short notice on a statement or demarche that is delivered by the Troika's ambassadors in a specific country. Such demarches may be of a general nature, appealing, for example, to a country not to end a long-standing moratorium, or they may relate to an individual case, for example a suspected summary trial in which the sentenced person was under 18 when the offence was committed or is mentally disabled. Sweden has taken a leading role in the use of the guidelines and, among other things, proposed a series of demarches in 2000 and 2001 in African countries that still use the death penalty. About thirty demarches against the death penalty were carried out in about twenty countries during the Swedish presidency alone.

#### ***The EU Guidelines on Torture***

In view of the usefulness of the guidelines on the death penalty the Union decided to draft corresponding guidelines on efforts to combat torture. *The Guidelines on EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment* were prepared and adopted during the Swedish presidency in 2001. They summarize the principles in this area and indicate various approaches to the fight against torture. So far, however, the Guidelines on Torture have not been used for demarches to the same extent as the guidelines on the death penalty. Unlike the death penalty, which is announced in a judgment, torture is a covert activity that many countries are anxious to conceal from the world.

It has therefore proved necessary to raise awareness in the EU, with the help of the member states' ambassadors in various countries, about the use of torture in individual countries and about the best way for the EU to help to combat torture. This process was launched in 2003, and Sweden hopes that the EU's efforts against torture will be further strengthened in future.

### ***Human rights dialogues***

The EU has in recent years elected to launch separate human rights dialogues at expert level with certain countries. Such a dialogue has been conducted since 1997 with China. A similar dialogue with Iran was started on a provisional basis in 2002. Dialogue meetings are held at six-month intervals between representatives of the EU troika and the relevant ministries in the dialogue countries. In addition to the political dialogue meetings, meetings take place between academic experts and organizations from the EU and the dialogue countries concerned in order to deepen the discussions and at the same time broaden the contacts between the countries with respect to human rights issues.

Separate human rights dialogues make it possible to sharpen the focus of the discussions while emphasizing the importance that the EU attaches to human rights issues. Sweden is keen to further develop such dialogues both together with the EU and at the national level. Human rights dialogues can also be conducted at the local level between member states' embassies and the relevant ministries. However, it is important to emphasize that separate human rights dialogues must not be a substitute for raising human rights within the framework of the general dialogue that is pursued with other countries at various political levels. Nor must they be regarded as an obstacle to discussing the country concerned in the UN and other international forums. These and other principles were established in 2001 in *the EU Guidelines on Human Rights Dialogues*.

### **5.1.2 The Charter of Fundamental Rights of the European Union**

The EU's heads of state and government adopted the *Charter of Fundamental Rights of the European Union* as a political declaration in December 2000. The Charter lists the civil, political, economic and social rights to which European citizens and all residents of Europe are entitled. It is based primarily on the fundamental freedoms and rights that are enshrined in the European Convention on Human Rights, the member states' constitutional traditions, the European Social Charter and other international conventions to which the EU (the EC and its member states) have acceded. It was decided at the Laeken European Council in 2001 to consider the question of incorporating the Charter into the EC Treaties. About 15 months later, on 20 June 2003, the Convention on the Future of Europe presented its proposal for a new constitutional treaty. According to this proposal the Charter would constitute an integral part of the EU's Constitution and thus be legally binding. The Convention's proposal will be dealt with as a whole during the Intergovernmental Conference that opened in October 2003.

### 5.1.3 The EC's development policy

Promotion of human rights constitutes an essential element of the EC's development policy. This is made clear, inter alia, in the declaration on EC development policy adopted by the Council and the Commission in November 2000. The conclusions on the EU's role in promoting human rights and democracy in third countries adopted by the EU's foreign ministers in June 2001 emphasize the importance of mainstreaming human rights into all EU and Community activities, including development cooperation. Mention was made of the frameworks for development cooperation that are being prepared by the Commission (*Country Strategy Papers - CSP*). The Cotonou Agreement, the EU's partnership agreement with countries in Africa, the West Indies and the Pacific, contains clauses on human rights and represents a platform for discussions of individual countries' respect for human rights.

Funds are allocated in the Community budget for the European Initiative for Democracy and Human Rights (EIDHR). Two Regulations lay down the requirements for implementation of measures within the framework of development cooperation relating to support for democracy and human rights. The fight against the death penalty and against impunity and torture are among the priority areas for the use of these funds.

## 5.2 UN human rights activities

In the UN Sweden will contribute to processes designed to strengthen the world organization's capacity for promoting and protecting human rights, inter alia by:

- working together with the EU and other like-minded states to make the work of the UN Commission on Human Rights more constructive and results-oriented;
- seeking, together with the EU, to raise awareness among other regional groups of the resolutions prepared by the EU in various UN human rights forums;
- urging that the working conditions of the UN Special Rapporteurs, both as regards secretariat support and their opportunities for visiting various countries, should be improved;
- promoting the opportunities for NGOs to take part in and address the UN Commission on Human Rights;
- supporting the work in progress in the Office of the High Commissioner (OHCHR) and in the UN treaty bodies to strengthen the committees' capacity for monitoring compliance with the conventions;
- seeking to strengthen the rights perspective in the UN's development cooperation system; and

- urging that more attention be paid in UN activities, including in development cooperation, to the treaty bodies' conclusions and recommendations to states.

Human rights should be mainstreamed into all UN activities. Sweden welcomes the growing trend in recent years towards more debate on and attention to human rights issues in UN political forums and bodies, in particular the UN General Assembly and the Security Council. It is also important to strengthen the UN's core human rights forums.

### **5.2.1 The UN Commission on Human Rights**

The main United Nations forum for human rights is the UN Commission on Human Rights, which meets once a year in Geneva for six weeks in March and April. The Commission, which is a functional commission of ECOSOC, was set up in 1946, and the Universal Declaration of Human Rights and the core human rights conventions were drafted and adopted in this framework. Nowadays, the Commission focuses mainly on monitoring compliance with existing conventions. This is something Sweden emphasizes. Before new instruments are drafted, it must be established that the need for new rules really exists. It is also important to ensure that the existing instruments are not undermined by the new instruments that are drafted.

The Commission has 53 member states. Membership confers the right to vote in the Commission and take part in its confidential complaint procedure (the '1503 procedure'). The membership places are distributed among the different regional groups and are held for three years at a time. Sweden is currently a member of the Commission (2002-2004).

UN member states that are not members of the Commission take part in meetings as observers. Other important observers include UN agencies such as UNICEF, the ILO, the WHO and the ICRC, independent national human rights institutions and a large number of NGOs. Observers also have the right to address the Commission and can thus contribute to the discussions with observations and important information about the situation in various countries. Sweden and the other EU member states have resisted the attempts that have been made in recent years to restrict the NGOs' opportunities of addressing the Commission.

By adopting resolutions on the situation in individual countries and on important thematic issues the Commission can draw attention to the situation in countries where the human rights situation is gravest. The EU is an important player in this connection. During the 2003 session the EU tabled ten or so proposals for resolutions on individual countries and two resolutions on thematic issues (the rights of the child and the death penalty). However, in recent years there has been a tendency for certain countries to refuse to let the Commission consider individual countries, in particular by tabling 'no-action' motions on specific issues. Sweden and the other EU member states have resolutely resisted attempts to limit the Commission's possibility of considering the situation in individual countries. Apart from being important from the point of view of principle, resolutions present an opportunity to adopt mechanisms, such as a Special

Rapporteur for the task of monitoring the situation in a certain country or a certain issue (see below).

The differences and gaps between different regional groups in the Commission have increased in the sessions of the last few years. An increasing number of important draft resolutions have been rejected or opposed by destructive no-action procedures. One reason for this trend is that a number of countries that have not shown any interest in promoting human rights, either internationally or at the national level, have applied for and received membership of the Commission. Some of these countries have also contributed to the increasing use of no-action procedures.

A process is under way in the EU to explore ways and means of improving the work of the Commission, inter alia by strengthening the constructive forces in the Commission. One issue that may be worth discussing is whether the criteria for membership of the Commission should be formulated with a view to preventing countries that themselves commit serious violations of human rights from standing as candidates. Another way of neutralizing the influence of the more destructive members might be to open membership of the Commission to all countries, which in that case would each have a vote as in the General Assembly.

### **5.2.2 The General Assembly Third Committee**

Another important human rights forum is the Third Committee of the General Assembly, which meets every autumn in New York. The committee engages in the drafting of resolutions, and its work is similar to that of the UN Commission on Human Rights and thus contributes to strengthening and following up the work of the Commission. The main difference is that all UN member states can take part in decision-making in the Third Committee. The EU is also an important player in the Third Committee and has initiated a number of proposals for country resolutions, as well as a resolution on the rights of the child.

The Third Committee has been affected by the growing differences in the UN Commission on Human Rights and would therefore benefit from improvements in the working atmosphere at the Commission.

### **5.2.3 The UN Sub-Commission on Human Rights**

The Sub-Commission on Prevention of Discrimination and Protection of Minorities (which was renamed the Sub-Commission on the Promotion and Protection of Human Rights in 1999) was set up as the main subsidiary body of the Commission on Human Rights, and its terms of reference include the normative work of the Commission and minority issues. The Sub-Commission is supposed to be an expert body consisting of independent members who are appointed on their own merits. However, in practice several members are also representatives of their governments.

It is Sweden's view that reforms are needed to secure the role of the Sub-Commission as an expert body both as regards its composition, its tasks and its working methods.

#### **5.2.4 The United Nations High Commissioner for Human Rights**

The United Nations High Commissioner for Human Rights (UNHCHR) and the Office of the High Commissioner for Human Rights (OHCHR) serve as a secretariat for the UN Commission on Human Rights and for the mechanisms, for example the Special Rapporteurs, who are appointed by the Commission. The Office of the High Commissioner is also responsible for the treaty bodies whose task is to monitor compliance with the UN's core human rights conventions (see below). In addition, the Office provides human rights advisory services to governments and delivers development cooperation in this area, for example police training. Field offices have been set up in certain countries to facilitate these efforts.

In recent years the Office of the High Commissioner has also been involved in monitoring the human rights situation in individual countries, for example in conflict situations. The Office is also responsible for the important work of mainstreaming human rights issues into the UN's various programmes and agencies, to which increasing importance has been attached under Secretary-General Kofi Annan.

The Office still has limited resources for these major tasks, even though the situation has improved somewhat during the last few years. One explanation for this is that many countries are unwilling to allocate sufficient UN resources to human rights activities. Sweden has contributed in various ways to strengthening the administrative capacity of the Office, thereby improving its ability to pursue the activities for which it is responsible. Sweden has in this connection given special priority to supporting UN mechanisms and the treaty bodies. It is important that the work of strengthening the Office of the High Commissioner continues.

#### **5.2.5 The UN treaty bodies**

In order to monitor the extent to which countries protect and respect the rights enshrined in the conventions which they have ratified, a committee of independent experts has been established for each of the UN's core conventions, as specified below:

<b>Year</b>	<b>Convention</b>	<b>Committee</b>
1965	International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	UN Committee on the Elimination of Racial Discrimination (18 members)
1966	International Covenant on Economic, Social and Cultural Rights (ICESCR)	UN Committee on Economic, Social and Cultural Rights (18 members)
1966	International Covenant on Civil and Political Rights (ICCPR)	UN Human Rights Committee (18 members)
1979	Convention on the Elimination of all Forms of Discrimination	UN Committee on the Elimination of Discrimination

	against Women (CEDAW)	against Women (23 members)
1984	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	UN Committee against Torture (10 members)
1989	UN Convention on the Rights of the Child (CRC)	UN Committee on the Rights of the Child (18 members)

In addition to the above, a committee will be appointed in 2003 for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was adopted in 1990 but only now has been ratified by enough states to enter into force. The Convention has not been ratified by Sweden or any other EU country.

When a state has ratified one of the above conventions, its government is required to report at regular intervals of between two and five years to the committee monitoring the convention. The task of the members of the committee is to assess each state's efforts by studying its reports and information from other sources such as UN agencies and NGOs. After an oral hearing with representatives of the state in question the committee publishes its conclusions and recommendations. The states' reports and the committee's comments, as well as information regarding which states have acceded to the conventions, is available at the UN High Commissioner's website, [www.unhchr.ch](http://www.unhchr.ch).

However, the treaty bodies' monitoring activities are hampered by the fact that a large number of states do not submit any reports or submit them with great delays.

Another recurring problem is the fact that the committees lack the resources for timely studies and assessments of reports from all the states that have now ratified the conventions. The secretariat support provided for the committees by the Office of the High Commissioner is inadequate and to some extent ineffective. In addition, working methods are obsolete and there is too little time for meetings. The combined effect of all these factors is that countries are summoned to hearings up to two years after submitting their reports. The pressure of the committees' workload also jeopardizes the quality of their work.

Work is in progress in the Office of the High Commissioner with a view to improving the effectiveness and efficiency of the committees' working methods. The importance of this work has also been emphasized in the ongoing reform process in the UN as a whole. Sweden attaches great importance to the ability of the UN treaty bodies to monitor member states' respect for human rights more effectively. More attention must also be paid to the conclusions and recommendations issued to the countries by the committees, and they should be taken into account in the UN's activities, including development cooperation.

### **5.2.6 UN human rights mechanisms**

In order to strengthen the monitoring of the human rights situation with respect to a number of countries and issues, the UN Commission on Human Rights has decided on several special mechanisms. One of these is the Working Group on Arbitrary Detention, which visits various countries in order to investigate the occurrence of abuses. A number of Special Rapporteurs have also been appointed to monitor the situation in certain countries or as regards a certain issue. One example is the Special Rapporteur on Torture, who visits several countries every year to investigate the occurrence of torture.

Like the work of the UN treaty bodies, the work of the special mechanisms is hampered by the weak secretariat support that is available from the Office of the High Commissioner. An obstacle of a very different kind is the refusal of certain countries to allow visits by Special Rapporteurs and other representatives of UN mechanisms. Sweden and the other EU member states emphasize the importance of taking steps to ensure that the special mechanisms can fulfil their mandates.

### **5.2.7 The UN reform process**

In 1997 Secretary-General Kofi Annan presented a renewal programme for the UN in which, among other things, he proposed integrating human rights into all principal UN activities and programmes.<sup>7</sup>

This reform process has continued, and the Secretary-General has in a recent reform package proposed a number of concrete measures to strengthen UN activities to promote and protect human rights.<sup>8</sup> He proposed that the United Nations High Commissioner for Human Rights, together with the United Nations Development Group (UNDG) and the Executive Committee on Humanitarian Affairs (ECHA), should develop and implement a plan to strengthen human rights-related activities at the country level. The High Commissioner has also been assigned the task of consulting the UN treaty bodies with respect to a new streamlined reporting procedure and to consider ways and means of improving the effectiveness of and support for the mechanisms set up under the UN Commission on Human Rights. The Secretary-General has also asked the High Commissioner to strengthen the leadership structure of the Office. The High Commissioner will report to the Secretary-General on these reforms in the autumn of 2003.

Sweden supports the main features of the Secretary-General's reform package and notes with particular satisfaction that the United Nations' human rights activities are among the priority areas on which the programme focuses.

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<sup>7</sup> Renewing the United Nations: A Programme for Reform (A/51/950).

<sup>8</sup> Strengthening of the United Nations: An agenda for further change (A/57/387).

### **5.2.8 Human rights in UN development cooperation**

A rights perspective has also been developed in multilateral development cooperation. In accordance with the Secretary-General's reform package, human rights issues are increasingly being incorporated more fully into the United Nations Development Programme (UNDP), and especially into the work of UNICEF. The Secretary-General's latest reform report emphasizes, among other things, the need to strengthen the mainstreaming of human rights issues into the UN's country-based development activities. The Poverty Reduction Strategy Papers (PRSP) that are prepared by countries in cooperation with the World Bank are also worth mentioning in this connection. All these processes are based on the acceptance by governments of responsibility for development in their respective countries, including the promotion of respect for human rights and democracy. The UNHCHR is currently drafting guidelines on integration of human rights into these processes. The HURIST (Human Rights Strengthening) joint programme between the OHCHR and UNDP is in operation in several countries.

Sweden pursues an active policy in the UN's funds and programmes. Strategic frameworks for Sweden's cooperation with these organizations have been prepared jointly by the Ministry for Foreign Affairs and Sida.

Further information on the Government's activities within the UN framework will be found in the Government Communication (2002/03:83) *Sweden in the United Nations*.

## **5.3 OSCE human rights activities**

Sweden will actively support the efforts made by the Office for Democratic Institutions and Human Rights (ODIHR) to strengthen human rights and democratic institutions. The OSCE's extensive field presence forms the basis of the work carried out by its institutions. Sweden will support the maintenance and development of activities in the field.

### **5.3.1 The human dimension**

The work of the Organization for Security and Co-operation in Europe (OSCE) is characterized by interaction between its efforts to promote human rights and democracy and its conflict prevention activities. The participating states have, within the framework of the Organization's so called 'human dimension', made important commitments as regards democracy, human rights and the rule of law. Compliance with these commitments is monitored regularly, primarily in connection with the annual Human Dimension Implementation Meeting. The 2003 implementation meeting focused on the prevention of discrimination, racism, xenophobia and anti-Semitism and the situation of national minorities and migrant workers.

In accordance with the document on the human dimension that was adopted by the CSCE (later renamed OSCE) in Moscow in 1991, an independent group of experts can be sent to examine the human rights situation in an OSCE state. This mechanism – the Moscow Mechanism –

was applied in 2003, with the support of Sweden and other participating states, in order to appoint an expert to examine developments in Turkmenistan.

Sweden supports the OSCE's human dimension activities, for example by making Swedish expertise available through secondments and by providing financial support for projects.

### **5.3.2 The Office for Democratic Institutions and Human Rights (ODIHR)**

The ODIHR is the leading OSCE institution with responsibility for the human dimension. It is based in Warsaw. One of the ODIHR's main tasks is to promote democratic elections by means of monitoring activities. The ODIHR also conducts projects that are designed to strengthen democracy and good governance in the majority of the OSCE's participating states. It also provides support for the purpose of consolidating democratic institutions, promoting respect for human rights and strengthening civil society. Another of its main tasks is to monitor the participating states' compliance with their commitments with regard to the human dimension.

Efforts to combat trafficking in human beings have emerged as an important part of the ODIHR's project activities. Sweden provided special support in 2001 and 2002 for projects in Central Asia, the Caucasus and South Eastern Europe.

### **5.3.3 The Representative on Freedom of the Media**

The OSCE's Representative on Freedom of the Media was established in 1997 and is based in Vienna. The Representative's task is to observe developments as regards freedom of the media and expression in the OSCE region as a whole and to support the participating states' efforts to develop these areas, and also to call attention to cases where participating states fail to comply with their commitments with relation to freedom of expression. The Representative cooperates with the OSCE's other institutions and missions in order to detect at an early stage problems related to freedom of the media and expression and address them in a dialogue with the state concerned. He also gathers information on restrictions on and violations of freedom of expression in OSCE's participating states.

### **5.3.4 The High Commissioner on National Minorities**

At the beginning of the 1990s it seemed likely that the situation of minorities, particularly in the Balkans and the states of the former Soviet Union, would be the most probable cause of future conflicts in and between the states in the OSCE region. For this reason the office of the High Commissioner on National Minorities (HCNM) was established in 1992. The Swedish Ambassador Rolf Ekéus was appointed High Commissioner in 2001.

The task of the High Commissioner is to act as early as possible to prevent tensions that seem likely to arise in connection with a minority situation and may later develop into a conflict. The High Commissioner's role is not to act as an ombudsman for minorities or individuals, but to act impartially in seeking to promote dialogue, national, multi-ethnic solutions, integration and consensus.

### **5.3.5 Field missions**

The OSCE has an extensive presence in the field with its approximately twenty missions. The missions' mandates are formulated on the basis of the situation in each country. They play an important part in promoting the building of democracy and institutions. They act as the OSCE's extended arm in its activities to promote human rights and the establishment of legal systems, and in its support for confidence-building measures between different population groups. In recent years the OSCE has expanded its activities in the police sector and is now involved in many police reform and training programmes in the participating states. Sweden gives financial support for several of these projects.

Further information on the Government's activities within the OSCE will be found in Government Communication 2002/03:82.

## **5.4 The Council of Europe's human rights activities**

Sweden will take steps to ensure that the Council of Europe's core activities – promotion of human rights, the functioning of the European Court of Human Rights and the support programmes for institution-building in both new and old member states – are maintained.

The Council of Europe plays a decisive role in the creation and maintenance of common European values with regard to fundamental principles such as democracy, human rights and the rule of law. Respect for human rights is one of the Council's core concerns and a criterion for membership of the organization. Its human rights activities are broad-based and include activities to combat racism and xenophobia, promotion of gender equality, protection for national minorities and judicial cooperation. The Council of Europe implements cooperation programmes, mainly for new member states, with the purpose of enabling them to meet their commitments as members of the organization. A Commissioner for Human Rights was appointed in 1999 for, inter alia, conducting monitoring visits to member states and supporting the activities of national ombudsmen. Several bodies, including the European Court of Human Rights, the Parliamentary Assembly, the Committee of Ministers and the Committee against Torture, monitor the member states' compliance with their obligations in the field of human rights. Sweden will continue to work to ensure that the high level of protection of human rights that has been achieved by the Council of Europe is maintained.

### **5.4.1 The European Court of Human Rights**

*The European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights)* of 1950 and its additional protocols have created an effective international framework for the protection of human rights. A unique feature of the Convention, compared with other human rights frameworks, is the monitoring system that was set up under its provisions.

Previously, three bodies monitored the member states' compliance with their obligations under the Convention, i.e. the European Commission of Human Rights, the European Court of Human Rights and the Committee of Ministers. The increase in the number of ratifying states and growing awareness of the Convention among European citizens have led to a continuous increase in the number of complaints. In order to streamline the monitoring system and reduce the length of proceedings, the system was reformed in 1998. The European Commission of Human Rights and the European Court of Human Rights were merged into a single body, the new European Court of Human Rights, which is a permanent court composed of full-time judges. The task of the Committee of Ministers was restricted to monitoring compliance with and execution of the new court's judgments.

The number of complaints has continued to rise steeply and it has now become clear that the radical reform of 1998 was not sufficient. More than 30,000 new complaints were submitted to the European Court of Human Rights in 2002, and the number will probably continue to rise. In order to guarantee the future effectiveness of the system, a new reform process has been launched. Sweden takes an active part in this work. Some improvements have already been made, for example as regards the working methods of the Court, but this is not enough. It is generally agreed that the European Convention on Human Rights must be amended in order to rescue the system. Sweden is prepared to go a long way to secure the future of the Court and considers that there is an urgent need to carry out reforms as soon as possible. The ongoing discussions concern changes in the rules of procedure laid down in the Convention. There is no question, however, of limiting the material rights guaranteed to individuals under the Convention. In the spring of 2003 the Steering Committee for Human Rights (CDDH) presented a package of proposals to the Committee of Ministers that were designed to guarantee the effective function of the Court in the long term. Some of these proposals concerned amendments to the Convention, while others dealt with less radical measures such as recommendations from the Committee of Ministers to the member states. The proposals cover three different areas, i.e. measures at the national level to reduce the number of complaints submitted to the Court, the Court's consideration of complaints and execution of the Court's judgments.

Further information on the Government's activities within the Council of Europe framework will be found in Government Communication 2002/03:81.

## 6 Dissemination of information on human rights

### 6.1 The Government's national action plan for human rights

The Government established a framework for a more integrated approach to human rights in Sweden in its Communication *A National Action Plan for Human Rights* (Comm. 2001/02:83). It is stated in the Action Plan, which runs from 2002 to 2004, that the objective of the Government's long-term efforts is to ensure full respect for human rights, increased knowledge and awareness of human rights and better coordination of human rights activities. It is therefore important to disseminate information about human rights, about the organizations that deal with these issues at both the national and international levels and about the Government's actions in this area.

### 6.2 The Government human rights website

An important contribution to the Government's efforts to disseminate information and knowledge about human rights is the Government human rights website ([www.humanrights.gov.se](http://www.humanrights.gov.se)), which opened in May 2002. The website is aimed at the Swedish public and various government and non-governmental bodies, and constitutes an important channel for continuously updated information on:

- the Government's human rights activities within the framework of foreign policy; and
- the Government's efforts to promote human rights in Sweden.

By linking these two aspects the Government emphasizes the strong linkage between national and international human rights activities. Among other things, the website gives details of the international system for the protection of human rights and provides Swedish translations of the human rights conventions, as well as of reports and conclusions from the UN treaty bodies. The website is managed jointly by the Ministry for Foreign Affairs and the Ministry of Justice.

### 6.3 Country reports on human rights

For several years now the Ministry for Foreign Affairs has compiled reports on the human rights situation in different countries. These reports are an important tool and one of several sources of information about human rights for the Ministry and other Swedish authorities.

The reports are based on information gathered by Swedish embassies around the world and cover the situation with regard to civil, political, economic, social and cultural rights in accordance with the core UN human rights conventions. Among other things, they describe the situation of various groups, such as the rights of the child and the position of women, and also contain details of which human rights conventions have been ratified by each country.

To a large extent, the reports are based on available information about human rights, including information from NGOs, other countries and the UN. To this is added information obtained from the embassies' and the Ministry's own contacts with various bodies in each country, including public authorities, UN agencies and organizations engaged in the protection of human rights.

In connection with the compilation of the reports for 2002 the Government decided for the first time to publish them. The almost 190 country reports were published on the Government human rights website in January 2003. Sweden was thus one of the first countries to publish information about the human rights situation in specific countries by posting it on the Internet.

## 7 Closing remarks – the future of human rights protection

The international framework for protection of human rights is still quite new; the world's countries embarked on the work of defining and establishing human rights in international agreements little more than 50 years ago. The need for international human rights standards has now, by and large, been met by the conventions that have been drafted by the UN, the Council of Europe and the OSCE, and which represent our common values. *The challenge consists in turning the objectives and principles of the conventions into reality.*

In order to help the majority of the world's population to enjoy human rights, Sweden must pursue a fearless and forceful foreign policy in support of these rights. Concern for human rights must be integrated into all aspects of foreign policy, including development cooperation, migration, security and trade.

Protection of human rights has been increasingly integrated into foreign policy. There is no longer any question that human rights have an important place in the political dialogue with other countries. Instead, it is taken for granted that Sweden, either on its own or together with the other EU member states, should seize every opportunity that is offered by meetings with representatives of other countries to bring up the issue of human rights.

An ever-growing number of players, including NGOs and enterprises, are now involved in various ways in calling attention to and promoting human rights. This calls for increased cooperation and transparency, both in the EU and at the national level. The Government's decision to publish the annual reports on human rights on the Internet was a step in that direction.

Human rights are increasingly accepted as an integral part of international political efforts. After some initial resistance from some members of the international community, human rights are now firmly established on the agenda of general political forums, including the UN Security Council, and international trade forums. There is increasing recognition of the importance of human rights in connection with conflict prevention, post-conflict peace-building and democratization processes. This favourable development must be sustained and strengthened. Sweden will make every effort to ensure that human rights are increasingly integrated into the UN and other international forums.

In the UN's main political human rights forum – the UN Commission on Human Rights – the picture has over the last few years been less than bright. Differences have increased between countries and regional groups, and this has hampered the work of the Commission. This has in turn affected the General Assembly Third Committee. Together with the other EU member states Sweden will explore various ways of ensuring that the constructive forces increase their influence over the work of the Commission.

A system for monitoring compliance with the conventions is in place in the form of the UN treaty bodies, although they work under difficult conditions. The increasing number of states parties – however gratifying that is – increases the committees' workload when it comes to examining reports. Scarce resources make it difficult for the committees to obtain the secretariat support they so badly need. The review of the committees' working methods that has been launched by the UNHCHR and the committees themselves is therefore a matter of urgency. At the same time, Sweden and other countries that want to ensure that the committees can work efficiently must emphasize the seminal importance of the monitoring system for the protection of human rights and draw attention to the recommendations to individual countries that are produced by the committees.

It is often difficult to measure the results of efforts designed to promote human rights. International work in this field must be based on the conviction that dripping water will eventually wear away the stone. By consistently calling attention to human rights violations in bilateral and multilateral contexts Sweden can help to induce countries to gradually improve their protection of human rights. Other activities, in particular development cooperation, complement the political efforts.

At the same time, it is important to bear in mind that the long-term perspective, even if it may often be the most realistic one, is not always a comfort to the victims of violations of human rights. 'Patience' is not the right message to people who for generations have suffered gross violations of human rights. There must, in the case of grave and systematic violations of human rights, be instruments to speed up the pace of improvement. Sweden will seek to make the tools that are used to protect human rights more effective and results-oriented and to ensure that these tools are used within the framework of an integrated policy for peace and security, democracy and development.

## 8 The core human rights instruments

1948 Universal Declaration of Human Rights

### UN conventions

1948 Convention on the Prevention and Punishment of the Crime of Genocide

1951 Convention relating to the Status of Refugees  
1967 Protocol relating to the Status of Refugees

1965 International Convention on the Elimination of All Forms of Racial Discrimination

1966 International Covenant on Economic, Social and Cultural Rights

1966 International Covenant on Civil and Political Rights  
1966 Optional Protocol to the International Covenant on Civil and Political Rights (introducing an individual complaint procedure)  
1989 Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at Abolition of the Death Penalty

1979 Convention on the Elimination of all Forms of Discrimination against Women  
1999 Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women

1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1989 Convention on the Rights of the Child  
2000 Optional Protocol to the UN Convention on the Rights of the Child on Involvement of Children in Armed Conflict  
2000 Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (entered into force on 1 July 2003)

## Regional conventions

- 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights)
- 1952 Additional Protocol to the European Convention on Human Rights (protection of property)
  - 1963 Protocol no. 4 to the European Convention on Human Rights, securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto (freedom of movement etc.)
  - 1983 Protocol no. 6 to the European Convention on Human Rights concerning the abolition of the death penalty
  - 1984 Protocol no. 7 to the European Convention on Human Rights (procedural rights of aliens in the event of their expulsion, the right not to be tried or punished in criminal proceedings for an offence for which one has already been acquitted or convicted etc.)
  - 2000 Protocol no. 12 to the European Convention on Human Rights (general prohibition of discrimination) (has not yet entered into force)
  - 2002 Protocol no. 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances (entered into force on 1 July 2003)<sup>9</sup>
- 1961 European Social Charter (revised in 1996)
- 1988 Additional Protocol to the European Social Charter
  - 1995 Additional Protocol to the European Social Charter Providing for a System of Collective Complaints
- 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- 1992 European Charter for Regional or Minority Languages (Council of Europe)
- 1995 Council of Europe Framework Convention for the Protection of National Minorities
- 1969 American Convention on Human Rights
- 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)
  - 1990 Protocol to the American Convention on Human Rights to Abolish the Death Penalty
- 1981 African Charter of Human and Peoples' Rights

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<sup>9</sup> Apart from the protocols listed above, several other protocols containing procedural provisions have been adopted. They have either been repealed or incorporated into the text of the Convention itself.

## 9 Abbreviations

<b>CAT</b>	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CDDH</b>	Steering Committee for Human Rights
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>CFSP</b>	Common Foreign and Security Policy
<b>COHOM</b>	Council Working Group on Human Rights
<b>CPT</b>	The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	Convention on the Rights of the Child
<b>CSCE</b>	Conference on Security and Cooperation in Europe
<b>CSP</b>	Country Strategy Paper
<b>DAW</b>	Division for the Advancement of Women
<b>ECHA</b>	Executive Committee on Humanitarian Affairs
<b>ECOSOC</b>	Economic and Social Council
<b>ECOWAS</b>	Economic Community of West African States
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>EG</b>	European Community
<b>ESCAP</b>	United Nations Economic and Social Commission for Asia and the Pacific
<b>EU</b>	European Union
<b>EUMC</b>	European Monitoring Centre on Racism and Xenophobia
<b>ExCom</b>	Executive Committee of the United Nations High Commissioner for Refugees

<b>FAO</b>	Food and Agriculture Organization of the United Nations
<b>HCNM</b>	High Commissioner on National Minorities
<b>HLWG</b>	High Level Working Group on Asylum and Migration
<b>HomO</b>	Ombudsman against Discrimination because of Sexual Orientation
<b>HURIST</b>	UNDP Human Rights Strengthening Programme
<b>ICC</b>	International Criminal Court
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICRC</b>	International Committee of the Red Cross
<b>IHL</b>	International Humanitarian Law
<b>ILO</b>	International Labour Organization
<b>International IDEA</b>	International Institute for Democracy and Electoral Assistance
<b>IOM</b>	International Organisation for Migration
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NCP</b>	National Contact Point
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OSSE</b>	Organization for Security and Co-operation in Europe
<b>PRSP</b>	Poverty Reduction Strategy Papers
<b>Sida</b>	Swedish International Development Cooperation Agency
<b>UN</b>	United Nations
<b>UNDG</b>	United Nations Development Group

<b>UNDP</b>	United Nations Development Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNFPA</b>	United Nations Population Fund
<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>WTO</b>	World Trade Organization

## Ministry for Foreign Affairs

### **Extract of minutes of Cabinet Meeting held on 30 October 2003.**

Present: Prime Minister Persson, chair, and Ministers Winberg, Freivalds, Sahlin, Östros, Messing, Engqvist, Lövdén, Bodström, Karlsson, Nykvist, Andnor, Nuder, Johansson, Hallengren, Björklund, Holmberg, Jämtin

Rapporteur: Minister Freivalds

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The Government adopts the Communication *Human Rights in Swedish Foreign Policy* (2003/04:20).