
genderace

*The use of racial anti-discrimination laws
Gender and citizenship in a multicultural context*

ANNEX 5

Sweden Country Report

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by

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1. Introduction

1.1 National social fabric

Migration and citizenship

Immigration to Sweden increased after the end of Second World War, and since then a million people have immigrated. The number of people with what is called a foreign background has increased, especially since the 1990s,¹ and in 2005 this group amounted to 1.5 million or 16% of the population; three quarters of them were born outside Sweden. People with a foreign background usually live in the cities where they amount to 20-25% of the population. Most of them are so called labour immigrants from Nordic countries and former Yugoslavia who have been in the country for a long time. From the 1990s onwards, a new wave of immigrants came to Sweden. This influx was related to the wars and disturbances in Bosnia-Hercegovina, Iraq and Iran. Together, groups from these countries form a majority of those born outside Sweden.² Even during 2006 and 2007, a lot of Iraqi citizens immigrated to Sweden, and they were the second largest immigrant group during 2007 (15%).³

More than half (55%, 2006) of the immigration from countries outside Scandinavia is so called next-to-kin immigration. Between 2002 and 2006 these amounted to 96,000 persons, while the number seeking asylum for humanitarian reasons or through a need for protection was 51,000. The most usual groups were female next-to kin immigrants from Iraq and Thailand (67%). A number of directives, decisions and decrees have been incorporated into Swedish law in order to comply with the Geneva convention for the reception of asylum seekers and next-to-kin immigrants. The directive regarding family reunion gives asylum for family members from so called third countries.⁴

¹ SCB (Statistical Central Authority): persons who themselves or whose parents were born outside Sweden

² SCB Publications Series *Beskrivning av Sveriges befolkning 2005- utländsk bakgrund*

³ The largest group were Swedish citizens

⁴ In Sweden Norway, Iceland, Liechtenstein and Switzerland are not classified as third countries

At the end of 2006, 492,000 persons in Sweden had foreign citizenship, half of them men and half women; of this group, 13% were born in Sweden. The proportion with foreign citizenship has not varied much during the last 30 years; this is due to the fact that a large number of immigrants have received Swedish citizenship. Foreign citizenship is most usual among persons from Scandinavia (31%), while citizenship among persons from Europe (15%) and non – European countries (12%) is not quite as usual. The majority of the foreign citizens have lived in the country for a short time. This is probably explained by the fact that you must have been in Sweden four to five years before you can apply for citizenship.⁵ Formal citizenship can be obtained through birth, adoption, parental marriage, or so called naturalization (applying for citizenship). The number of people having obtained Swedish citizenship rose from 1995 and reached a peak in 2006 when 51,000 persons, principally from Iraq and former Yugoslavia, became citizens.⁶

1.2 Manifestations of race and gender discrimination in the national context

Discrimination and the labour market

In 2006, around two thirds (61% women, 71% men) of those born abroad had joined the labour market, in comparison with 1995 when only half of this category had work. During this whole period, persons born in the country have been part of the labour market to a higher degree (80%). At the same time, the unemployment figures have fallen, to around 10% in 2006. Integration into the labour market seems to increase the longer you are in the country. After ten years, 65% of the women and 69% of the men had work, while after 4 years only 38% of the women but 64% of the men were integrated.⁷ It takes a little longer, then, for women to enter the labour market. There is also a difference between those who became established in the labour market soon after arrival and those who did not: after ten years, the former were employed to the same degree as persons born in the country, whilst of the latter only a third had a job. Those who become established early tend to come from Europe, while those who become

⁵ Four years for stateless people and for those who gained asylum as refugees as a result of the Law on Aliens, Chapter 4, §1. Nordic immigrants can become citizens after 2 years.

⁶ SCB Skriftserie *Beskrivning av Sveriges befolkning 2006 – medborgarskap*

⁷ SCB *Statistikrapport 2007*

established later come from non – European countries. Especially women from Asia and Africa are employed to a lower level than other groups (16%), but the same tendency can also be noted among women from non–EU European countries (30%) and men from Asian countries (25%). It is most common for women to work within care, education and industrial production, irrespective of their country of birth; foreign-born women are over-represented in industry. Men are primarily employed in industrial production, trade and communication, finance, business and personal and cultural services (in which foreign-born men are over-represented).

Half of the immigrants have problems in getting employment that is related to their education, except for doctors, who in 70% of cases have the “right” job. The former is especially true for immigrants who do not have any Swedish education. Lawyers experience the most difficulty in obtaining employment;⁸ lack of Swedish contacts and networks is considered to be the main hindrance. Those born abroad also have a lower average income than those born in the country. While the average income for the latter is 250,000 Swedish kronor, the equivalent for a foreign-born man that immigrated 19 years ago is 180,000 , and the figure for a woman in the same position is 150,000.⁹

Discrimination and education

Just over half of the young men with foreign backgrounds completed their college studies in 2006, while the equivalent young women achieved a figure of 71%. The proportion that were in education or had a job (or both) five years after college studies was over 100% for students with a Swedish background and 85% for those with a foreign background.¹⁰ In 2005, 16% of students at university had a foreign background. Most of them came from Iran; groups from Somalia and Iraq were least represented (only 10% of the students with a foreign background).¹¹

Discrimination and health

The level of sickness figures among the employed part of the population has risen over the last few years, and in 2006 it reached a historical high point. Women of all ages take

⁸ SCB Tidskriften « *Välfärd* » nr 2

⁹ SCB *Statistikrapport 2007*

¹⁰ SCB *Statistikrapport 2007*

¹¹ SCB Tidskriften ”*Välfärd*” nr 4 2006

a higher degree of sick leave than men, but foreign-born women are over-represented (25%, compared to men born in Sweden, 11%); women with only elementary education especially stand out (30%). It is also usual that foreign-born women remain outside the social security system.¹² A vague connection to the labour market and a negative socioeconomic situation also raise the risk of poor health. The probability of needing hospital care is double for immigrants from Somalia, Iraq, and other countries from the Middle East and West Africa compared to people born in Sweden.¹³

Discrimination and housing

There is a sharp ethnic segregation when it comes to housing and this has escalated during 2000-2008. While people born in Sweden primarily live in their own houses or apartments, only 45% of those born abroad own their home. Of the latter, 45% also live in so-called exposed areas.¹⁴

Concluding remarks on discrimination

From the summary above, we can conclude that the group that seems to be least integrated into the labour market and education is women from non-European countries, especially Somalia and Iraq. The risk for poor health also seems to be higher for these groups; they also have a lower average income and are less integrated into the social security schemes.

The literature review below shows that ethnic discrimination is characterized by an institutional and structural discrimination that is often expressed in an everyday racism wherein the categorization of the “other” is central. This kind of discrimination is visible in all areas of the society.

Gender discrimination, which could also be seen as structural, manifests itself most clearly in the form of sexual harassment of women. This form of discrimination is most usual in professions dominated by men and in the university world. This issue is further developed in the literature review.

¹² SCB *Statistikrapport 2007*

¹³ SCB *Tidskriften ”Välfärd”* nr 4 2007

¹⁴ SCB *Statistikrapport 2007*

2. Sweden's anti-discrimination legal framework

2.1 The wider context

International instruments

The Ombudsman against Ethnic Discrimination (DO) adheres to the following: the UN Universal Declaration on Human Rights of 1948 that is regulated by the UN Convention on Racial Discrimination (CERD) of 1965, Articles 1 to 7 (ratified by Sweden 1971). ILO Convention No. 111 on discrimination in employment, ratified by Sweden in 1962 and the Convention on the Rights of the Child, 1989.¹⁵

The Equality Ombudsman adheres to the Declaration on Human Rights but also to the International Convention on Citizenship and Political Rights, accepted by the UN General Assembly (IKPMR) in 1966, and the International Convention on Social, Economic and Cultural Rights accepted by the UN the same year and by Sweden in 1976 (IKESKR). Moreover, the Equal Opportunities Ombudsman (JämO) follows both the international convention on abolishment of all kinds of discrimination against women, accepted by the UN in 1979 and Sweden in 1981 (CEDAW), and the International Labour Organization's (ILO) core conventions: Convention No. 100 dealing with equal pay for work of similar value, ratified in 1950, and Convention No. 111 dealing with discrimination in employment, ratified in 1958.¹⁶

European instruments

The DO is regulated by the European Convention on the Protection of Human Rights and Fundamental Freedoms. The DO also follows the Framework Convention for the Protection of National Minorities (Articles 1 and 4) that was ratified by Sweden in 2000,¹⁷ and the European statute that protects minority languages, ratified by Sweden the same year (Article 7.2). The EC directive 2000/78/EC relating to the establishment of a common framework for equal treatment in order to abolish discrimination according to

¹⁵ <http://www.do.se>

¹⁶ <http://www.jamombud.se>

¹⁷ In Sweden there are five national minorities that are protected, among them Jews and Romanians

religion, gender, handicap, age or sexual orientation is a key instrument for the DO, as is the EC directive 2000/43/EC on the establishment of equal treatment of persons independently of race or ethnic origin.¹⁸

Like the DO, the JämO adheres to the European Convention for the Protection of Human Rights and the EU statute on elementary rights, especially Article 21.1, which states that all discrimination, such as that based on sex, should be forbidden as well as Article 23, which states that equality between men and women should be secured in all areas. The following are used as primary legal instruments: Article 2 in the EC- treaty, which states that the EU should support equality between men and women, Article 13, which prescribes that the European Parliament should take relevant action to fight sexual discrimination and Article 141, which ratifies that every member state should secure the principle of the same salary for work of similar value. As secondary legal instruments the JämO uses, for example, the EU Council directive 75/117/EEC on the laws on equal salary for men and women, directives on the equal treatment of men and women in working life, namely 76/207/EEC, 2002/73/EC and 2006/54/EC (due to be implemented 15/8, 2008 and replacing 75/117), and directive 79/7/EEC on the equal treatment of men and women with regard to social security.¹⁹

2.2 Description of the anti-gender discrimination national framework

Key legislation

The key legislation for anti-gender discrimination is regulated by civil law, in five different laws:

The law on equality (SFS1991:433) that, according to §1, aims to promote equal rights of employment and working conditions for women and men.

¹⁸ <http://www.do.se>

¹⁹ <http://www.jamombud.se>

The law on equal treatment of students (SFS 2001:1286) that aims to promote equal treatment for students and those applying for university programs and courses; this law is aimed to combat discrimination based on sex, ethnic origin, religion, sexual orientation or handicap.

The law against discrimination and other humiliating treatment of children and pupils (SFS 2006:67).

The law against discrimination based on sex, ethnic origin, religion, sexual orientation or handicap (SFS 2003:37). This law covers both direct and indirect discrimination, harassment, sexual harassment and instructions to discriminate.

The Parental Leave Act (SFS 1995: 584) covers discrimination due to parental leave.

Third actors and specialised bodies

In Sweden, discrimination based on sex is handled by the Equal Opportunities Ombudsman (JämO). The JämO is an authority that monitors equal rights for men and women in labour market, in education, and in social security schemes and services.

The JämO checks that the following five laws are observed: the law on equality, the law on equal treatment of students at university, the law against discrimination of children and pupils at school, the parts of the law on discrimination that concern gender, and the law on parental leave.

The authority scrutinizes efforts to achieve equality in working life and educational institutions on a regular basis. It also gives advice about how the law is to be followed: for example, equality plans should be produced by every workplace and educational organization. Another task for the JämO is to spread information about the authority and start projects to evaluate its own work. However, the authority's main task is to investigate complaints related to gender discrimination and sexual harassment.²⁰ What the JämO does not handle is discrimination connected to hospital care or the social services since only ethnic discrimination is addressed in these areas. During 2008, the

²⁰ If an employer exposes employees to sexual harassment or harassment due to sex it counts as gender discrimination

JämO will probably be moulded into one unit together with the other discrimination representative commissioners, the DO, HO²¹ and HomO.^{22 23} The JämO was, however, opposed to a common law and authority for discrimination, as suggested by the final report of the anti-discrimination committee,²⁴ when this was circulated for comments.

The JämO also has regular contact with the local anti-discrimination bureaus, which are state-supported voluntary organizations situated in different parts of the country. Their task is to combat discrimination based on gender, ethnic origin, religion, handicap or sexual orientation, and to help discriminated persons to make a complaint, or to give support when a complaint is not possible.²⁵

The JämO is regulated by a yearly parliamentary statement (SFS 2007: 1035) that describes its commission and presents the budget. For the year 2008, its task (in addition to the areas mentioned above) is, together with the other representative commissioners, to produce a plan to raise the competencies of the local anti-discrimination agencies and to act for a common authority for all the representative commissioners.

Brief historical account, policy and social context

In Sweden there has been a public discourse on gender equality since the late 1970s, visible in media, politics and academy. As a result of public debate the JämO was established already 1980 and has been active since then, but it was not until the 1990s that it was successful in winning a number of legal disputes. The most famous is the so called midwives' cases where midwives were compared to male hospital technicians; this led to a victory when AD (the labour court) decided that it was indeed possible to compare jobs of such different types. This verdict also led to hundreds of salary discrimination complaints. During this expansive period, the JämO also worked for stronger collective agreements in the area of equality, stronger application of the law, and a more stringent discrimination prohibition. A debate centred on AD's suitability to

²¹ The Ombudsman against discrimination due to handicap.

²² The Ombudsman against discrimination due to sexual preference

²³ <http://www.jamombud.se>

²⁴ SOU :2006 :22

²⁵ <http://www.jamombud.se>

judge in discrimination cases led, in the beginning of 2000, to an investigation into the possibility of having a common anti-discrimination law.

The JämO's sphere of activity was expanded in 2002 when the law on equal treatment of students came into force, and again in 2005 when the authority became responsible for examining discrimination on the grounds of sex in the Anti-discrimination Law.²⁶

Complaints: general figures

In 2002, 129 complaints relating to gender discrimination were registered, but there are no statistics about the proportion of men and women among the complainants or about their nationality. Of these complaints, 63 were in the area of employment and working conditions, 21 concerned sexual harassment and 36 fell into the category "other". This year, 169 complaints were closed; it is not known whether the closures were due to reconciliation, a verdict being reached, or to the fact that discrimination could not be proved.

In 2004, there were 137 complaints in total; once again there are no general statistics about the gender or the nationality of the complainants. Of these complaints, 73 involved discrimination on grounds other than sex and thus could not be handled by the JämO. Most of the other complaints were about salary discrimination and discrimination of pregnant women, and most of the complainants were women. Only 37 complaints were closed during the year, 6 by reconciliation.

In 2006, there were 362 complaints in total. Of these, 133 did not fall within the jurisdiction of the JämO. Most of the others were related to the law on equality and to the law on discrimination, and again the women complainants formed the majority. During the year, the JämO has closed 152 complaints, of which 27 by reconciliation.²⁷

2.3 Description of the anti-racial discrimination national framework

Key legislation

²⁶ <http://www.jamombud.se>

²⁷ <http://www.jamombud.se/arsredovisning> 2002, 2004, 2006

The key legislation for anti- racial discrimination is regulated by civil law, in five different laws:

The law relating to the equal treatment of students (SFS 2001:1286) is designed to promote equal treatment for students and those applying for university programs and courses, as well as to work against discrimination based on sex, ethnic origin, religion, sexual orientation or handicap.

The law against discrimination and other humiliating treatment of children and pupils (SFS 2006:67).

The Law against discrimination due to sex, ethnic origin, religion, sexual orientation or handicap (SFS 2003:37). This law covers both direct and indirect discrimination, harassment, sexual harassment and instructions to discriminate.

The law on measures against discrimination in working life based on ethnicity or religion (SFS 1999:130);²⁸ this law promotes equal rights of employment and working conditions for all and covers direct and indirect discrimination, harassment and instructions to discriminate.

The law on a representative commissioner against discrimination (SFS 1999:131) stipulates that the government should appoint a DO who should ensure that the law is observed.

Third actors and specialised bodies

The DO's most important task, and one that has existed since 1986, is to defend against discrimination on the grounds of ethnic origin or religion. The DO monitors the upkeep of five laws. As is the case with the JämO, the DO is responsible for the law against discrimination and the laws on discrimination against children and students, but, in contrast to the JämO, this responsibility focuses on discrimination based on ethnicity or religion. The DO also follows the law on measures against discrimination in working life due to ethnicity or religion and the law on a representative commissioner against

²⁸ This law replaced the law on illegal discrimination (chapter 16 § 9 The criminal code)

discrimination. Like the JämO, the DO is regulated by a yearly parliamentary decree (SFS 2007: 1037). The DO's commission for 2008 is, besides the duties mentioned above, to make amends for more complainants. The DO is positive to the suggestion for a new common law and authority for all discrimination cases.

The DO's commission includes giving juridical advice and supporting and pleading for complainants in court. The authority is also responsible for ensuring that the law is followed by employers and educational institutions, and to take positive action in the form of information, education and to develop opinion against discrimination. It cooperates with reference bodies consisting of representatives for minority groups and with researchers and the media. There are also 20 local anti-discrimination agencies in the country whose task is to support discriminated persons in making a complaint to the DO or to help them in situations outside the jurisdiction of the DO.²⁹

Policy & social context

During recent years (2006-08), a new government has been in power, consisting of two conservative parties, the Christian Democrats and the Centre Party (traditionally the farmers' party), and two new liberal parties, the "People's" Party and the Moderates. Since the country had previously been governed by the Social Democrats for a long time, this has meant a lot of changes, some of which affect integration policy. For example, the number of asylum seekers has diminished markedly, and some of the laws and regulations relating to immigration have been changed, while other changes are being suggested. One instance is the proposal that next-to-kin immigration be regulated in such a way that a maintenance demand is also included.³⁰ The routines for reception of asylum seekers have also been reviewed in order to make this process more effective and to make it possible for the asylum seekers to support themselves during the asylum process.³¹

The asylum test is also becoming more of a juridical than a political process. This is reflected partly in the fact that the government no longer has the last word in asylum cases (this is now the responsibility of the new migration courts) and is also partly due

²⁹ <http://www.do.se>

³⁰ Kommittedirektiv 2008:12

³¹ Kommittedirektiv 2007:172 och 2007:52

to changes in the Aliens Ordinance (SFS 2005:716). Though praxis is established in the migration courts, new judgments, for instance about what should be counted as an armed conflict, have been developed. In one example, the court found that there was no armed conflict in Iraq, which means that asylum seekers from this country have been rejected.³²

Complaints: general figures

The DO receives considerably more complaints every year than the JämO: in 2002, 686 complaints were lodged with the DO, 794 in 2004, and 757 in 2006.

In 2002, there were 307 complaints about discrimination at work (from 59% men and 41% women) and 379 regarding discrimination in other areas of society (from 69% men and 31% women). In all, 550 complaints were closed, but the reasons for closure are not known.

During 2004, there were 794 complaints (from 62% men and 38% women), and 862 were closed. The number of complaints connected to working life (resulting from SFS 199:130) was 311. Closed complaints in this area were reconciled (34), reached a solution (32) or received AD judgments (5). In 88 cases, the complainant's trade union managed the investigation. In total, 337 complaints concerning the law against discrimination (SFS 2003:37) arose and all but seven of these were closed without any further measures being taken.

In 2006, 757 complaints arrived at the DO, 301 from women and 452 from men; of these, 273 concerned complaints relating to working life. The number of closures during the year was 247 of which only two led to a judgment, 16 to reconciliation and 25 to an alternative solution. Half of the complaints were dealt with by the trade unions. There were also 484 complaints relating to other areas of society (from 60% men and 39% women); during 2006, 306 complaints of this kind were closed, but only 11 led to reconciliation, 10 to another solution and none to verdict.³³

³² Stern R (2008) *Ny utlänningslag under lupp*, Röda korsets skriftserie

³³ <http://www.do.se.arsredovisning> 2002/2004/2006

2.4 Processing of double discrimination based on race and gender

From the summary above, we can conclude that several of the laws (SFS 2001: 1286, SFS 2006:67, SFS 2003:37) address discrimination based on both ethnicity and gender. The handling of, and responsibility for, these two areas of discrimination is divided between different authorities, wherein the JämO is responsible for gender discrimination and the DO for discrimination due to ethnicity and religion. When it comes to discrimination in working life, the authorities follow two different laws: the JämO, SFS 1991:43, and the DO, SFS 1999:130.

As also shown above, the authorities have different attitudes to the suggestion regarding a common law and authority for all kinds of discrimination. While the DO is positive, the JämO is negative. Despite different opinions in the question, the process towards a new law and authority already has started during the current year.³⁴

3. National specialised bodies and support organisations

Apart from the DO, the JämO and the local anti-discrimination agencies, the trade unions have an obligation to address discrimination. Law SFS 1999: 130 stipulates that it is primarily the trade unions that should pursue individual work-related discrimination cases and discrimination prevention.³⁵ The trade unions should work in the same way according to the law that regulates equality between men and women (SFS 1991:433).

In Sweden, there are three large national trade union organizations: LO, TCO and SACO. There is also a smaller union that reaches out to immigrants that are active in trade unions, FAI.

³⁴ <http://www.do.se/remissvar>

³⁵ <http://www.do.se>

LO (The National Organization) is a cooperation between 15 Swedish trade unions that incorporates 1.7 million people employed in the private and public sectors in several occupations, such as care, industry and commerce.³⁶ TCO (the Swedish Central Organization for Salaried Employees) connects 16 trade unions and 1.2 million employees in the private and public sectors, for example, people working as police officers, teachers or nurses. TCO's main task is to safeguard the rights of professionals in working life.³⁷ SACO (the Swedish Central Organization for Academics) incorporates 24 trade unions with 600,000 members. Their basic concept is that education should "pay back".³⁸ FAI is a rather new network (from 2005) for immigrants that sees as its most important tasks to instigate debate, run campaigns and arrange courses against racism and discrimination.³⁹

The DO also cooperates with national organizations against racism and discrimination. Among them we could mention the Centre against Racism, a national umbrella organization for over a hundred smaller groupings that together function as a civil actor in the work against racism and discrimination⁴⁰ Another example is the Roma Delegation, a network for Romani local and central unions whose task is to improve the situation for Romanies and work together with the DO.⁴¹ The Immigrant Institute is another national organization that, since 1973, has worked with information and opinion building against racism.⁴² There are also a number of other organizations that oppose racism and discrimination and support equality for immigrants, for example the projects Multiculturalism in Working Life,⁴³ Gathering Together Against Racism and Discrimination,⁴⁴ and Sweden Against Racism.⁴⁵

Initial list of potential experts and key stakeholders to interview for WP 7

Potential interviewees (experts and key stakeholders) in connection with WP 7 might be the following:

³⁶ <http://www.lo.se>

³⁷ <http://www.tco.se>

³⁸ <http://www.saco.se>

³⁹ <http://www.fai.a.se>

⁴⁰ <http://www.centrummotrasism.nu>

⁴¹ <http://www.romadelegationen.se>

⁴² <http://www.immi.se>

⁴³ <http://www.mangfald.com>

⁴⁴ <http://www.samling.org>

⁴⁵ <http://www.sverigemotrasism.nu>

Representatives from the JämO, for example the JämO herself and key persons and jurists from her staff.

Representatives from the DO, for example the DO herself and key persons and jurists from her staff.

Key figures at the local discrimination agencies and from the trade unions mentioned earlier.

Representatives from the organizations working against racism and discrimination mentioned earlier.

The researchers referred to in the literature review below.

Key politicians, for example the Minister for Immigration and the Minister for Equality.

4. Description of key data sources useful to the study

Sources relating to migrants and ethnic minorities can be found in the references under SCB (Statistical Central Department) referred to in the section dealing with social fabric; these references consist of papers and yearly statistical reports, and the SCB journal Welfare. More detailed and specifically defined data on minority groups and integration can be found on the SCB website <http://www.scb.se>. Here one can also study, for example, minority group concentrations in different parts of the country, local work integration etc. For data about immigrant women the same source is available.

SCB is a Swedish state-regulated authority for official statistics and other national statistics and has been active since 1962. The statistics are impartial, relevant and based on scientific grounds. The authority produces national statistics of good quality and is also internationally active in strengthening the global statistics system and in making

efforts to produce comparable statistical data. The responsibility for official statistical data is shared between 25 official authorities of which SCB is the central official authority. The statistics cover yearly and also longitudinal data relating to such things as population, the labour market, health care, living conditions, citizen participation, household economy, social insurance and social assistance (of 22 areas altogether).⁴⁶

Data about complaints, and rather detailed data of the kind relating to 2.2 and 2.3, can be found at websites of the specialized bodies handling discrimination complaints on the grounds of gender, and on the JämO site (<http://www.jamombud.se>). Data on complaints about ethnic discrimination can be found on the DO website (<http://www.do.se>). Unfortunately, if you have Swedish citizenship or were born outside the country, data about land of origin is not registered.

5. National literature review on racism, gender discrimination and the anti-discrimination debate

The discrimination described below is reflected in scientific data and debate but also in political debate and discussion in the media; nonetheless, research often is (or should be) the basis for political decisions in Sweden (for example a lot of the research referred to is presented in SOU - Swedish Government Official Reports – that are produced by researchers).

A constant feature in the research below is that it concerns structural discrimination. An anthology from 2007 shows how cognitive and discursive forms of discrimination are shaped and how discrimination is active on an institutional level; it concludes that ethnic discrimination in Sweden is robust and that it consists of several mutually supportive mechanisms.⁴⁷

Discrimination according to ethnicity and religion

⁴⁶ <http://www.scb.se>

⁴⁷ G Hultén et al (2007) *Makt, kultur och kontroll över invandrares livsvillkor; Multidimensionella perspektiv på strukturell diskriminering i Sverige*, Sociologiska institutionen, Uppsala universitet

Ethnic discrimination that also results in subordination and exclusion exists in all sections of working life and in the labour market in Sweden. It is produced and reproduced by so called everyday actions. Internalised presumptions about the “other” are an important part in the organization of work, and they establish the position of the individual in the labour market. Unequal employment conditions, racism and stigmatization in the work place and exclusion from working life work due to low-paid, unqualified jobs are all components in an ethnic ranking order that makes discrimination and subordination possible.⁴⁸ Studies of labour market policy have also found that discrimination in this area is not unusual, primarily against women immigrants from so called Muslim countries.⁴⁹

Modern education has a central role to play in the creation of a common feeling of national identity with a common history. Research results show that there is an extensive discrimination in Sweden in elementary school, at college and at university, both towards students and among staff.⁵⁰

Furthermore, there is discrimination in welfare institutions and health care. Historically the Swedish welfare model has been an important instrument to achieve social and economic equality. Research, on the other hand, shows that there is a selective implementation of the welfare policy which results in categorization, separate treatment and discrimination of persons that have immigrated; this selectivity affects not only their material welfare but also their chances of attaining a substantial citizenship.⁵¹

A substantial investigation of ethnic discrimination in politics shows that it is common both in parliamentary institutions and at grass roots level. The researchers found that exclusion of persons with a foreign background is evident at all levels.⁵²

⁴⁸ SOU: 2006:59 och SOU: 2006:60, Bursell M (2008) *Obstacles to ethnic integration in the Swedish labor market- A field experiment testing for ethnic discrimination in the hiring process*. Stockholms universitet, Stockholm

⁴⁹ A Hedblom (2004) *Aktiveringspolitikens Janusansikte*, Dissertation Series no. 16, School of Social Work, Lund University, Lund

⁵⁰ SOU: 2006:40

⁵¹ SOU: 2006: 37, SOU: 2006:78, see also Hedblom 2004, Ombudsmannen mot etnisk diskriminering (2006) *Diskriminering ett hot mot folkhälsan*, R 2006:1; Stockholm

⁵² SOU: 2005:112, SOU : 2006 :53, SOU : 2006 :52

Moreover, discrimination of persons born outside the country is common in the judicial system and in the media. Research shows that discrimination of “othered” persons is common at all levels - from police interventions to the praxis of justice.⁵³ Through the media a daily image of the immigrant as “the problematic other” (a burden, a criminal) is spread.⁵⁴

In Sweden, Romanies and groups from African and “Muslim” countries are especially vulnerable to discrimination. A study on the exclusion of the first group shows, for example, that discrimination is dark and complex, widespread and part of everyday life for Romanies.⁵⁵ Records of the experiences of racism and discrimination among young people with an African background revealed that they were commonly subjected to racist language, negative African metaphors, integrity humiliation, criminalization and violence.⁵⁶

Gender discrimination

Not until the end of the 1980s was there an awareness of the meaning of gender discrimination and sexual harassment in Sweden; from this awareness a number of investigations and studies about the phenomenon ensued. Studies done during the 1980s and 1990s found that between 17% and 56% of all women had at some time been subject to sexual harassment from colleagues or managers.⁵⁷ This trend does not seem to have changed during the first decade of the 21st century. More recent investigations also show that sexual harassment is quite common; for example, 18% of women declared in a study from 2005 that they had been harassed.⁵⁸ Gender discrimination is most usual in male dominated professions such as the police or the military,⁵⁹ and

⁵³ SOU: 2006:30, SOU: 2006:37, SOU: 2006:73

⁵⁴ SOU : 2006 :21

⁵⁵ DO (2003) *Discrimination against Romanies in Sweden*, Stockholm

⁵⁶ V Kalonaityte et al (2007) *Att färgas av Sverige: Upplevelser av diskriminering och rasism bland ungdomar med afrikansk bakgrund i Sverige*, DO, Stockholm

⁵⁷ JämO (1987) FRID- A projektet. *Sexuella trakasserier mot kvinnor i arbetslivet*, Stockholm Lundgren E et al (2001) *Slagen dam. Mäns våld mot kvinnor i jämlika Sverige- en omfångsundersökning*, Brottsoffermyndigheten och Uppsala universitet, Umeå

⁵⁸ SCB och arbetsmiljöverket (2005) *Arbetsmiljön 2005*, Stockholm

⁵⁹ SCB (1998) Uppföljning av undersökningen ”Så har vi det på jobbet”- en rapport om sexuella trakasserier bland kvinnliga poliser, Stockholm, Berggren A (2003) *Avrapportering av studie genomförd 2002 avseende förekomsten av sexuella trakasserier i den Svenska försvarsmakten. En replikering av 1999 års undersökning, Institutionen för ledarskap och management, Försvarshögskolan, Stockholm*

within academia.⁶⁰ Furthermore, women managers have been exposed to harassment to the same degree as academics.⁶¹

Even though harassment is generally less common in the occupations that the trade unions LO, TCO and SACO cover, an investigation done by these three unions showed that at least 10% of workers have been discriminated against in this way; discrimination against women was most usual in the SACO union.⁶²

In the research on gender discrimination sexual harassment is defined as an expression of power abuse. The harassment is often connected to managers and bosses; however, a male colleague could harass in order to keep or usurp power. The man is then reducing the woman to a sexual object. Some men could also see this as “normal” in a society where the men have the power. You could say that The Law on Equality has the function of “de-normalizing” sexual harassment.⁶³

Other research in the area has established different models to explain how sexual harassment is produced and reproduced. Among these there is the sex-role spill over theory that proposes that we firstly categorize people according to sex and after that, according to occupation.⁶⁴ Three different power levels have also been identified in society: a gendered order that keeps apart the sexes and establishes the man as the norm; the organizational level where men often have higher positions in working life and therefore see it as their right to harass women; and the individual level that is formed in relation to the two others.⁶⁵

Mark argues that sexual harassment is often performed without reflection as part of a general culture in a work place, one which is also inherited by new colleagues and

⁶⁰ Markör (2005) *Förekommer sexuella trakasserier på Chalmers*, Göteborg

⁶¹ *Män och kvinnor som är chefer har olika roller*, Ledarnas chefsbarometer, april 2006, <http://www.ledarna.se>

⁶² LO, Landsorganisationen i Sverige (2004) *Sexuella trakasserier- En undersökning om sexuella trakasserier riktade mot LO-kvinnor*, Stockholm

⁶³ B Pernrud (2000) *Begreppet sexuella trakasserier- historisk framväxt, tillämpning och grundläggande antaganden*. Linköpings universitet, Linköping

⁶⁴ B Gutek & B Morasch (1982) « *Sex- ratios, sex- role spillover, and sexual harassment of women at work* » in *Journal of social issues* 38, 1982 :4.

⁶⁵ J Cleveland & M Kearts (1993) *Sexual harassments and perceptions of power : An underarticulated relationship*, *Journal of vocational behaviour* 42 1993

managers.⁶⁶ It is also usual to deny the harassment. Carstensen identifies several different strategies that doctoral students have used for denial of the problem, for example the excuse that the man has alcohol-related or psychological problems, or that it is just a part of the ordinary play between the sexes.⁶⁷ Frequent harassment is also rather common among employees at universities. It is, however, more usual that members of this latter group make complaints to the university or to the JämO; nonetheless other strategies also occur: blaming oneself or avoiding situations where one is at risk of being harassed.⁶⁸

The existence and real impact of anti-discrimination tools in regard to racism and gender

An investigation regarding further protection against gender discrimination with reference to the so called Equal Treatment Directive (Directive 76/207/EEC) and the Directive on Social Security (Directive 79/7/EEC) was terminated in 2004.⁶⁹ The enquiry presented several suggestions to strengthen protection against gender discrimination, among them that the law should also include instruction to discriminate, that the application area also should include working conditions, that the burden of proof should lie with the accused, and finally that the discrimination law should also include gender discrimination. The JämO has also studied how the law regarding equality planning is observed, and the result shows that still, after 13 years only 78% of the investigated work places had an equality plan.⁷⁰ There have also been several investigations into the impact of anti-discrimination instruments on public authorities. An investigation from 2005, where state authorities were scrutinized found that 27 of 29 authorities did not fulfil the demands of the law on discrimination on the grounds of ethnicity and religion.⁷¹ A study from 2006 also shows that the Anti-discrimination Law (SFS 2003:37) was toothless in preventing discrimination in the health sector.⁷² Further

⁶⁶ E Mark (2000) *Jämställdhetsarbete. Teorier om praktiker*. Jämställdhetskommittens skriftserie 1, Göteborgs universitet, Göteborg

⁶⁷ G Carstensen (2004) *Sexuella trakasserier finns nog i en annan värld. Konstruktioner av ett (o)giltigt problem i akademien*. Uppsala

⁶⁸ Bondestam F & Carstensen G (2004) *Från sexuella trakasserier till könskränkande processer. Om kön, utsatthet och normalitetens våld*, Working paper series 2004/1, Uppsala Universitet, Sociologiska institutionen, Uppsala

⁶⁹ SOU:2004:55

⁷⁰ SCB (2005) *Jämställdhetsplanen. Hur fungerar jämställdhetsarbetet i praktiken?*

⁷¹ DO (2005) *Välkommen till staten? En granskning 2005 av hur statliga myndigheter förebygger etnisk och religiös diskriminering på arbetsplatsen*.

⁷² SOU :2006 :78

a study of the procedures of the authority dealing with appeals against unfair employment in the universities reveals that appeals were turned down five times more often if they were from non- Europeans, in most cases without any explanation.⁷³

In order to get more discrimination cases to court or reconciliation, the DO has, examined the possibilities of using discrimination tests as evidence. They conclude that the positive aspects of this would be that proof could be presented in more cases, thus leading to more procedures in court.⁷⁴ The negative aspects could be that the tests only produce circumstantial evidence, and that they might be too frequent and too demanding of resources.⁷⁵

During 2004, all the DO cases from 1998-2003 were analyzed by researchers. Their conclusions were that the DO does not reach the most exploited groups, that the quality of the active efforts of the employers is low and that very few actually complain, even though they are aware of the existence of the DO. As a result of this analysis, the DO, during 2005-2006, prioritized work with the most exploited groups: Romanies, persons with a background in the Middle East or Africa and non-European women. The investigators argue that the information directed towards exploited groups has led to more confidence in the DO, and to more knowledge about the groups that were the focus of the investigations.⁷⁶

6. Concluding remarks on the issues of discrimination and anti-discrimination at national level

The group that seems to be least integrated in the labour market, education system and social security schemes consists of women from Asian and African countries, especially from Somalia and Iraq. In Sweden, members of this group, together with the Romanies,

⁷³ SOU: 2006:40

⁷⁴ Se t ex Bursell 2008

⁷⁵ DO(2005) *Diskrimineringstester som bevismedel. Utredning av DO:s möjlighet att använda diskrimineringstester för att säkra bevisning i diskrimineringsärenden*

⁷⁶ <http://www.do.se/arsredovisning> 2006

are recognized as being the most exploited. Research shows that discrimination is dark and complex, widespread and part of life for Romanies. These groups could therefore be defined as the most vulnerable in regard to discrimination.

As became obvious in the literature review, ethnic discrimination is structural and institutional and expresses itself in everyday life as an “othering” in all areas of society. Furthermore, gender discrimination is structural and aims at normalizing discrimination. This becomes evident in the sexual harassment of women and is especially common in male-dominated occupations and in the universities. A well-established group that could be subject to both ethnic and gender discrimination is women in Academia, and therefore it would be of interest to study them as well.

It is obvious that the DO gets considerably more complaints than the JämO and that men complain more frequently to the DO, while the opposite is true for the JämO. It is also clear that the DO has problems in carrying the complaints further, to reconciliation and the court. Taking all this into account, it seems most relevant to focus on the complaints that arrive at the DO and possibly, as well, on the complaints arriving at the JämO relating to the law against discrimination. Another demarcation would be to focus on adults (over 18), which would exclude complaints related to the law on discrimination against children and pupils.

Another problem the research into ethnic discrimination has highlighted⁷⁷ is that the identified discrimination is structural and institutional, while the laws that are meant to counteract this are based on individual rights. The DO has taken steps to resolve this problem by directing efforts towards exploited groups and discrimination tests, but the effect of these efforts has so far only been successful in relation to the exploited groups indicated above. Whether this has affected the number of complaints from these groups is not possible to analyze since there are no statistics on nationality.

The changed social and political context, with a hardening attitude towards asylum seekers, and the trend towards a more juridical than political asylum process could also affect structural discrimination and possibly the discrimination laws as well. Even

⁷⁷ SOU: 2006:79

though the process towards a new discrimination law and a common authority has started this year, it remains unclear how this is going to affect those who are the subjects of discrimination.

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