
genderace

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

ANNEX 5

Sweden Country Report

June 2009

by

Agneta Hedblom

Grant 217237

Dissemination: Participants

EC Officer: Angela Liberatore Deliverable: D04



Contents

Introduction	117
1. Presentation of the sample.....	119
2. The use of resources	123
3. The experience of discrimination.....	124
4. Processing the complaint.....	128
Conclusion.....	131

Introduction

The main objective of this report is to describe and analyze complaints and claims on the grounds of racial and/or gender discrimination in the Swedish context an intersectionality perspective is adopted; in other words, intersections of power relations are examined, wherein the focus lies on multiple discrimination. The data for the Swedish national report on complaints were collected from three different sources: the DO, the JämO and the Anti-discrimination Agency in Malmö. These organizations and the access to data on complaints are described in the following section. After that follow three sections where the sample, the use of resources and the experience of discrimination are presented and analyzed. The report ends with a discussion on how the complaints have been processed.

Access to data and presentation of the different sources used

The main sample (112 complaints) is from the DO (the Ombudsman against Ethnic Discrimination) whose most important task is to counteract discrimination on the grounds of ethnic origin and religion. The DO is a central authority that monitors the upkeep of the law against discrimination including those regulations forbidding discrimination of children and students. The DO also scrutinizes the law on measures against discrimination in working life due to ethnicity or religion.¹ The authority handles 700 - 800 complaints a year. The sample for this study on complaints was filtered out from around 4000 complaints during the years 2003 to 2007. The data were obtained through a study of register lists (for all 4000) and complaints (around 450) and were then narrowed down to encompass only complaints where multiple discrimination (in a wider meaning)², was visible.

Data on complaints were also collected from the JämO (22 complaints). The Equal Opportunities Ombudsman is a central authority that monitors equal rights for men and women in the labour market, in education, and in social security schemes and services. The JämO ensures 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 against discrimination that concern gender, and the law on parental leave. The authority's main task is to investigate the around 150-350 complaints related to gender discrimination and sexual harassment that they encounter every year.³ The lawyers at JämO were helpful in singling out

¹ <http://www.do.se>

² An example of this is when a Muslim woman is discriminated against for wearing a veil. This does not mean that the complaint is made on two grounds though.

³ <http://www.jamobud.se>

complaints from the period 2003-2007 wherein discrimination on the grounds of both gender and ethnic origin was present, thereby providing some of the data for this study.

The last part of the sample (26 claims) was collected at a local anti-discrimination bureau in Malmö, which manages around 100 claims a year. These bureaus 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 preference, and to help discriminated persons make a complaint, or to give support when a complaint is not possible.⁴ The bureau in Malmö was selected because discrimination is most usual in the big cities,⁵ of which Malmö is one. Claims where multiple discrimination was present were found by reading the bureau journals for the period 2003-2008.

Obtaining data was not difficult, due to the Swedish principle of public access to official records, whereby the authorities must make material available to people such as researchers. The complainants and claimants are also informed that the complaints/claims are official data. In some cases, however, the principle of public access to official records is restricted by the law on professional secrecy, although this did not affect the possibility to collect data for this particular study.

General figures for the number of complaints made annually in Sweden

The large majority of complaints regarding gender or racial discrimination in Sweden are made to the DO and the JämO. The anti-discrimination agencies also receive a considerable amount of claims every year and are therefore also an important source of data.

The DO receives considerably more complaints than the JämO and the local anti-discrimination bureaus. From 2003 to 2007 this specialized body received around 4000 complaints (from around 60 % men and 40 % women), and between 300 -800 were closed every year. Complaints connected to working life formed the largest group - around 300 a year. Only 2 to 5 complaints a year led to a verdict, while 40 to 70 were mediated or reached some other kind of solution. The majority of cases were closed without any further measures being taken.⁶

During the period 2003-2007, around 150 to 300 complaints arrived yearly at the JämO. There are no general statistics about the gender or the nationality of the complainants.

⁴ <http://www.jamombud.se>

⁵ See SOU.2006:79 *Integrationens svarta bok- Agenda för jämlikhet och sammanhållning. Slutbetänkande av Utredningen om makt, integration och strukturell diskriminering*

⁶ <http://www.do.se>

Of these complaints, 75 to 130 involved discrimination on grounds other than gender and thus could not be handled by the JämO. Most of the others were related to the law on equality and to the law against discrimination, with a majority of female complainants. Only 40 to 150 cases were closed yearly, 6 to 27 by mediation.⁷

The local anti-discrimination bureau in Malmö manages around 100 claims a year. From 2003-2008, 25 % of these claims involved giving legal advice, and around 110 claimants were helped to make formal complaints to some of the Ombudsmän: DO, JämO, HO, HomO. (The last two manage complaints about discrimination due to handicap or sexual identity.) Most of the claims concerned discrimination on the grounds of ethnic origin or religious belief.

1. Presentation of the sample

General information about complainant/claimants

The sample consists of 160 complaints/claims altogether, of which 96 concern females and 64 males. Some of the data, however, were not analyzed further as they were felt to be insufficient. This was the situation for the variable “religion,” which was discernible in only 19 cases, where the complainants/claimants were Muslim, and for the variable “children,” for which there was information in only 18 cases.

The data regarding age and family are also insufficient; in fact, only one third of the complaints/claims included this information in detail. It was, however, possible to ascertain that around half of the complainants/claimants are middle aged, and half are under 35 (n=51), while 37 persons are married or cohabiting, and 11 out of a total of 48 are single or divorced.

In the case of data regarding ethnic origin/membership of a minority group, the sample is complete and shows an interesting pattern: half of the sample consists of men and women from Middle Eastern (25 %), Sub Saharan (13 %) and North African countries (13 %). This distribution correlates with our knowledge about discrimination of these groups. In Sweden, groups from African and “Muslim” countries are especially vulnerable to discrimination.⁸ 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, affronts to their integrity, and criminalization and violence⁹. Swedish studies also show that there is a growing Islam

⁷ <http://www.jamombud.se>

⁸ DO (2003) *Discrimination against Romanies in Sweden*, Stockholm

⁹ V Kalonaityte et al (2007) *Att färgas av Sverige: Upplevelser av diskriminering och rasism bland ungdomar med afrikansk bakgrund i Sverige*, DO, Stockholm

phobia in Sweden.¹⁰ Another group that suffers from discrimination and exclusion are the Romanies, and research shows that discrimination is dark, complex, widespread and part of everyday life for these persons. Contrary to the former groups, the Romany group does not file complaints to a large extent; only 7 complaints of 160 were made by persons from this group.

Two other minority groups together represent a third of the complainants/claimants. Approximately 20 % are from Eastern Europe (Russia) and former Eastern European countries (former Yugoslavia and Poland) while 10 % are from South and Central America. The former groups mainly immigrated during the 1990s, due to war or conflicts in their home countries, and the latter group has been in Sweden since the 1970s -80s, and is mainly made up of refugees from countries living under a dictatorship.

Table 1: Country of origin

Middle Eastern	Sub Saharan Africa	North Africa	Eastern Europe	South and Central America	Other	Unknown	Total
40 (25 %)	20 (12 %)	21 (13%)	29(18%)	14 (9%)	25 (16%)	11 (7 %)	160 (100%)

Most of the complainants/claimants are citizens (32 of 109) or have an unlimited residence permit (85 of 109). Most of them have also undergone either higher education (34 of 84) or secondary education (35 of 84). The majority are employed (72 of 112). Around half are employed in the public sector as teachers and other professionals or health workers, whilst the other half are employed in the private sector, as manual or administrative workers. These figures show that the complainants are mainly well

¹⁰ SOU 2006:79

educated, are established in the labour market, and have relatively stable conditions of citizenship.

Main differences between women and men

The main differences between female and male complainants/claimants are primarily evident in the sectors of education and occupation. A greater number of men possess bachelor and Ph D exams, while the majority of the female complainants/claimants only have secondary education.

Table 2: Education of male and female complainants/claimants

Gender	PH D	Higher Education	Employment Training	Secondary Education	Primary Education	Total
Men n= 28	3 (11 %)	15 (54 %)	1 (3 %)	5 (18 %)	4 (14 %)	28(100 %)
Women n= 56		19 (34 %)	1 (2 %)	33 (59 %)	3 (5 %)	56(100 %)
Total n= 84	3 (4 %)	34 (41 %)	2 (2 %)	38 (45 %)	7 (8 %)	84(100 %)

The degree of education is also reflected in the occupations of the complainants/claimants. Men are mainly employed as professionals or manual workers, while women are engaged in the public health sector or, again, as manual workers.

Table 3: Occupation of male and female complainants/claimants

Gender	Manual worker	Administrative worker	Executive	Professional	Health worker	Teacher Lecturer	Domestic workers	Self-employed	Other	Total
Men n=39	7 (18%)	6 (15%)	1 (3 %)	10 (26 %)	6(15%)	4 (10 %)	1 (3 %)	1 (3 %)	3(7%)	39(100%)
Women n=46	12(26%)	5 (11%)	2 (4 %)	5 (11 %)	12(26%)	3 (7 %)	2 (4 %)	1 (2 %)	4(9%)	46(100%)
Totally n= 85	19(23%)	11(13%)	3 (4 %)	15 (17 %)	18(21%)	7 (8 %)	3 (4 %)	2 (2 %)	7(8%)	85(100%)

Table 3 shows that the probability of women being occupied in the public health services is nearly twice that of men. The contrary is true when it comes to working as a professional: men hold professional positions in a quarter of the cases, while the figure for women is only 10 %. Slightly more women are employed in manual work. From this we can conclude that, women are mainly engaged in the public sector as health workers, while men are more often engaged in the private sector and that both men and women are employed there as manual workers. This is in keeping with the general situation in Sweden, where the labour market is divided according to gender, with most of the women working in the public sector in social service related jobs and most of the men working in the private sector.¹¹

With regard to the employment situation, there are some further differences between men and women complainants/claimants. One third of male complainants/claimants are unemployed, while the corresponding figure for women is 15 %. There are also more than twice as many complaints/claims from female students than male. However, there are no gender differences regarding the percentage of people actually in employment: the figure is around 65 % for both men and women.

¹¹ SOU 1998:6 *Ty makten är din*

2. The use of resources

Organizations and actors involved

Most of the complaints in the study were (as described above) made to the DO, which is the most important department for complaints regarding discrimination on the grounds of ethnic origin or religious belief. However, the anti-discrimination agencies also hold an important position in helping victims of racism to make claims or complaints. The JämO mostly concentrates on discrimination on the basis of gender and receives fewer complaints about different kinds of racism. NGOs and other voluntary organizations do not play an important role in addressing claims or complaints in Sweden. Their role is mainly directed towards preventive and structural measures against racism and discrimination, but they could, of course, be supportive in encouraging an individual in making a claim/complaint. The trade unions are mostly involved as a secondary instance when complaints relating to working life are redirected to them from the DO.

The main actors are usually lawyers at the DO or the JämO (in 114 cases). They are responsible for the complaint as soon as it is formally registered and follow the case until the end of the process. This is no hindrance to redirecting the complaint to, for example, trade unions. The majority of the complaints relate to the work life, which means that the relevant trade union (if the complainant is a member of one) is immediately involved. Cooperation between the DO or JämO and trade unions was present in 22 cases. It is also usual that discrimination agencies help claimants to make formal complaints and thereby could be said to cooperate with the Ombudsmän (in 12 cases). All three parties could also be involved in the same case, and there were 6 examples of this.

Apart from the fact that the victim of discrimination receives professional help from lawyers, the system is also very favourable financially to the individual. The intervention of the lawyer is always pro-bono (that is without any costs for the victim) and advice or help from anti-discrimination agencies is also free.

Main differences between men and women

Generally more complaints are made every year by men to the DO, and more complaints by women to the JämO. However, in this study this is only relevant JämO though the 22 cases from that department mainly consider women. As mentioned above, 96 of the complainants/claimants in the sample were women and 64 men; this means that the majority of complaints addressed to the DO or claims directed to the Anti-discrimination Agency are from women. That the collected data shows a different pattern to the yearly figures for the departments can be explained by the fact that these cases concerned persons who in reality were subject to multiple discrimination. Several

studies show that more women than men are vulnerable to multiple discrimination¹² and the different figures could be related to this fact.

There are no main differences between men and women when it comes to actors involved or gender of the lawyer though. Some effort at gender matching was evident - a man got a male lawyer, while a woman got a female lawyer - but this did not occur on a regular basis and there is no effect of the experiment.

3. The experience of discrimination

Sectors and scope

The most usual kind of discrimination experienced by both men and women is that occurring in working life. This could encompass access to employment or vocational training, or relate to working conditions. Half of the complaints are in the employment sector, and the author is either the superior/employer (in 43 cases) or a colleague (in 11 cases) or both (in 16 cases). That women also experience discrimination in the labour market to a high degree is probably connected to the fact that since the 1970s they have constituted a stable section of the workforce in Sweden.¹³ However, there are some differences regarding the scope of discrimination: men seem to be discriminated against more often when they are seeking a job (44 %), while it is more usual that women are harassed and/or discriminated against in their workplace (70 %).

¹² In a European context, see for example Council of Europe, Parliamentary Assembly, Recommendation 1478 (2006) *Integration of immigrant women in Europe*, In a Swedish context, see SOU:2006:79.

¹³ SOU 1998:6

Table 4: Sectors of discrimination

Gender	Housing	Education	Employ- ment	Public Health	Private Service	Public Service	Police Justice System	Public Spaces	Total
Male n=64	1 (2 %)		36 (55 %)		10 (16 %)	2 (4 %)	14(22 %)	1 (2 %)	64(100%)
Female n=96	6 (6 %)	7 (8 %)	45 (47 %)	2 (2 %)	12 (12 %)	19 (20 %)	3 (3 %)	2 (2 %)	96(100%)
Total n= 160	7 (4 %)	7 (4 %)	81 (51%)	2 (1 %)	22 (14 %)	21 (13 %)	17(11 %)	3 (2 %)	160(100 %)

Another main area of discrimination is that of private and public goods (around 25 %), where the authors are private or public goods providers. Men seem to be more discriminated against by private goods providers than public goods providers, while the opposite is true for women. It is almost exclusively men who seem to experience discrimination by the police or the justice system: around 22 % of the male complaints have been victims of this kind of racism. This occurrence could be related to ethnic profiling, whereby the police discriminate against and harass specific immigrants or immigrant groups. This kind of racialisation of men is a well-known phenomenon that is often directed towards young men from Muslim or African groups.¹⁴

Except for racist acts by the police and the justice system (both of which could be regarded as public goods providers), the male complainants are primarily victims of discrimination in the private sector, either by private goods providers (often security guards outside night clubs) or when seeking employment in the private sector. Women,

on the other hand, are often victims of racism committed by public goods providers in the public sector, especially in the area of social protection, or in the workplace. This

could partly be explained by the divergent labour market in Sweden, where women predominantly hold jobs in the public sector and men in the private sector. A further

¹⁴ J G Goldston *Ethnic Profiling and Counter-terrorism: Trends, Dangers and Alternatives*

explanation may also be the division of unpaid work, where women still have the main responsibility for the children and the home and thus a greater potential contact with public goods providers. It seems that women suffer to a greater degree from what could be called “relational everyday racism”.¹⁵

The problem of access to employment for male job seekers could be related to the social construction of men and women from marginalized ethnic minority groups, where women are seen as victims and men as offenders.¹⁶ To categorize men as offenders is also a basic stereotype of ethnic profiling and the racialisation of young men.

Author of discrimination

The most usual author of discrimination is, as mentioned above, a superior or employer, or a colleague in the work life sector. It is reasonable to believe that he or she is Swedish: this was the case in 73 % of the complaints in all sectors. Only three percent of the authors are from other countries, and in 39 cases (24 %) the origin of the offender is unknown. The majority of complaints thus involve so called out-group discrimination, where the offender represents the majority group.¹⁷ This is not surprising in the Swedish context, where research has clearly demonstrated that discrimination often takes the form of “othering,” that is categorization of groups into “we” and “them” (“the other”).¹⁸

Men are to a somewhat higher degree authors of racial actions (46 % as opposed to 34%); men also predominate as actor when it comes to discrimination involving both male and female complainants. Women, on the other hand, usually direct their racism towards other women. This latter observation could probably be explained by the fact that the offender also works in the public sector where she is a superior or a public services provider.

Grounds for the complaint

The most usual ground for complaints/claims is discrimination due to race/ethnic origin (120). The number of complaints/claims on the grounds of *both* gender and race/ethnic origin is considerably lower (29); furthermore, discrimination on religious grounds is rarer than the other forms of discrimination (only 21 complaints/claims). The reason

¹⁵ Carles (2006) has established the concept “relational racism” in *Citizenship and rights: The use of racial anti-discrimination laws in a gender perspective*, while the researchers behind SOU:2006:79 conclude that in the Swedish context “everyday racism” is the most usual kind of discrimination.

¹⁶ M Kamali (2009) *Racialised identities*

¹⁷ Makonnen (2002)

¹⁸ SOU:2006:79

why complaints involving multiple discrimination (which is, as previously mentioned, visible in all these cases) are often based only on one ground is partly to be found in the laws, that just in one case are based on all grounds. On the other hand are the departments dealing with the law (the Ombudsmän) only responsible for one ground each (the DO for discrimination due to ethnic origin/race and religious belief, the JämO for gender discrimination, the HomO for discrimination due to sexual orientation and the HO for discrimination on the grounds of disability). This situation complicates cooperation in a case of multiple discrimination. In seven cases there is also multiple discrimination involving handicap. Even when the complaint/claim relates to several grounds, (e.g. ethnic origin and handicap, or ethnic origin and gender) it is mostly treated as a complaint on one ground only.

Type of discrimination

The most usual type of discrimination is direct discrimination (70 cases) or harassment (33 cases) or both together (46 cases). Indirect discrimination is rare. Both men and women suffer from direct discrimination, but in the case of harassment this is mostly prevalent with regard to women. Women are also more often subject to a combination of direct discrimination and harassment.

To summarize, in more than half of the cases (56 %) it is women who suffer from harassment. An explanation of this phenomenon could be that women in their daily lives are primarily exposed what could be called “relational racism” as they interact with superiors, colleagues and public and private goods providers. The direct discrimination experienced by men is more frequent when applying for a new job or trying to visit a night club. The reason for this could be related to the prejudice that portrays men as potential offenders and therefore not welcome in a nightclub or in a new job. The same explanation could be valid for the harassment men are victims of, and which is mainly reflected in acts of racism committed by the police.

Table 5: Type of discrimination

Gender	Indirect discrimination	Direct discrimination	Harassment	Direct discrimination and Harassment	Total
Men n=64	6 (8 %)	34 (53 %)	10 (16 %)	15 (23 %)	64 (100 %)
Women n=96	8 (8 %)	36 (38 %)	23 (24 %)	31 (32 %)	96 (100 %)
Total n=160	14 (9 %)	70 (44 %)	33 (21 %)	46 (29 %)	160 (100 %)

4. Processing the complaint

Actions taken in relation to the environment

Information about actions taken in relation to the environment is insufficient. Data were only available in 7 cases and therefore not further analyzed.

Methodology used

Complaints are often redirected to trade unions when the discrimination occurs in the employment sector. However it was more frequently used as a methodology to handle complaints/claims from men (38 % of cases) as compared to women (17% of cases). How should we explain this? More men than women could, of course, be members of

trade unions, but a reasonable explanation could also be that women, who are often victims of “relational racism” in their workplace, are also the objects of racist acts on the part of local trade union representatives. The representative might also be a colleague, and therefore there would be no point in redirecting those cases. Some of the complaints/claims actually clearly include both the superior and the trade union representative as offenders.

Mediation is a method used both for men (19 %) and women (23 %). A typical case where this methodology is preferred would be the example of young Muslim or African men who are not allowed into nightclubs. In the case of women, mediation with the superior/employer would be more common. This again could be related to the different kinds of discrimination men and women suffer.

Current status of the complaint

In many cases, a complaint may not have been processed, but there may have been a minor investigation. The investigation might necessitate making contact with those involved and examining whether there is enough proof to start a process. Progress in these cases is very slow, and the procedure could last for up to a year. The outcome for the complainant is in most cases negative and no process is started. In total, 28 cases were withdrawn or not resolved. It seems that there are some problems in successfully processing the clients, though as many as 76 % of the complaints/claims not are subject to any process or resolved (12 % of 76%).

Only 14 of 134 formal complaints have gone to court, and very few of them have led to a favourable verdict for the complainant. Those that did concerned discrimination in the private sector, where the actor is private service providers, namely nightclub security guards. The DO has been very successful in pursuing these cases, which are often initiated by young law students wishing to actively test discrimination practice by attempting to gain access to the clubs.

Table 6: Current status of the complaint

Gender	Not resolved	Withdrawal	Resolved through Mediation	Taken to Court	Not processed but minor investigation	Total
Men n=64	6 (9 %)	2 (3 %)	9 (14 %)	8 (13 %)	39 (61 %)	64 (100 %)
Women n=96	15 (16 %)	7 (7 %)	13 (14 %)	6 (6 %)	55 (57 %)	96 (100 %)
Total n=160	21 (13 %)	9 (6 %)	22 (14 %)	14 (8 %)	94 (59 %)	160 (100 %)

On the other hand, the DO has been less successful in pursuing complaints in the AD (the Swedish Labour Court). During the years investigated, only one case (not included in this study) has led to a verdict in favour of the complainant. This appears to make sense of the figures for complaints that are settled in court: there is a difference between male and female complainants in that 13 % of the male cases reach court, while the figure for female cases is only 6 %.

There is also an interesting difference between the number of cases where mediation is

used (34 cases), and the number of cases actually resolved through mediation (only 22). We can conclude that, despite a resourceful legal and institutional framework that includes free legal assistance, the probability for a verdict or mediation in favour of the victim of discrimination seems very small.

Conclusion

To conclude, the pattern that emerges when studying complaints/claims regarding multiple discrimination seems to mirror intersectional power relations in the Swedish context.

The groups that primarily make complaints are also those most exploited in terms of socioeconomic marginalization and discrimination. The exception to this is the Romany group. Furthermore, the offender in nearly all cases belongs to the privileged majority group.

The discrepancies between men and women as regards sector and type of discrimination mirror the role and position men and women have at home and in employment as well as the role that is assigned to them as victims or offenders.

The legal and institutional framework seems to have great difficulty in handling complaints/claims of multiple discrimination; the institutions seem to be incapable of taking more than one ground at a time into account. The majority of claims are not even processed, and even when they are, the success rate is greatest in cases of mediation and trials relating to discrimination of men.

References

Carles, I. (2006). *Citizenship and rights: The use of racial anti-discrimination laws in a gender perspective*

Council of Europe, Parliamentary assembly, recommendation 1478 (2006) *Integration of immigrant women in Europe*.

DO. (2003). *Discrimination against Romanies in Sweden. Stockholm*

Goldston, J. G. (2004). *Ethnic profiling and Counter-terrorism: Trends, Dangers and alternatives* (http://www.justiceinitiative.org/db/resource2?res_id=103239)

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

Kamali, M. (2009). *Racialised identities, Routledge*.

SOU 1998:6 *Ty makten är din*

SOU 2006:79 *SOU.2006:79 Integrationens svarta bok- Agenda för jämlikhet och sammanhållning. Slutbetänkande av Utredningen om makt, integration och strukturell diskriminering.*

<http://www.do.se>

<http://www.jamombud.se>

The GENDERACE Team is responsible for the content of the report which does not necessarily reflect the view of the Commission, nor can the Commission accept responsibility for the accuracy or completeness of information it contains.