

Universal Periodic Review (UPR) of Sweden in May 2010 – Submission from The Office of the Children’s Ombudsman in Sweden

The Office of the Children’s Ombudsman would like to draw the Committee’s attention to two current issues, solitary confinement of children in special approved homes and children in custody (remand prisoners).

1. Solitary confinement of children in special approved homes

According to Swedish legislation, it is possible to isolate children (solitary confinement) in special approved homes if they display violent behaviour or are affected by drugs to the extent that they jeopardise the general order. A survey has shown that this treatment is also used as a form of punishment. The Children’s Ombudsman is of the opinion that all isolation of children and young people in youth detention centres should be forbidden. A change in legislation is necessary since it is contrary to the Convention on the Rights of the child (CRC).

On the 12th June 2009 the UN Committee on the Rights of the Child made public its recommendations and conclusions concerning Sweden’s compliance with the UN Convention on the Rights of the Child. The committee recommended Sweden to oversee its application and regulations regarding isolation, and to work towards isolation being carried out to a minimum. The recommendation of the committee also provides the bases for the government’s decision to give SiS its commission to conduct an evaluation on how isolation is being applied. Furthermore it is to present any shortages and what measures the authority intends to follow.

Several changes have been made since then:

- The rules concerning isolation have been sharpened.
- All directors of the institutions have been called to a meeting for a briefing on isolation policies.
- All isolation cases made last year will be re-examined.
- Every decision on isolation will from now on, be directly sent from the youth detention centre to the highest director in the region for examination.
- Extra education on legal aspects will be done with external experts.
- The staff is suggested to report all abnormalities.

The Government has decided to instruct the authority responsible, The National Board of Institutional Care, to investigate how the possibility to use solitary confinement is used in practice. In June of 2009 the government commissioned the Swedish Standards Institute (SIS) to evaluate how isolation of children in special approved homes are being applied in Sweden. SIS will put forward to the government a written account of potential deficiencies which they may have identified and what measures the authority intends to follow in order

to address these deficiencies. During the process of the evaluation, if SiS should notice a need for changes in the regulations, or in adjacent areas concerning isolation, the authority must suggest amendments.

Article 37 in the Convention on the Rights of the child (CRC)

Art. 37 in the CRC states that States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Committee on the Rights of the Child; Concluding Observations: Sweden (2009)

Administration of juvenile justice

70. The Committee welcomes various achievements made by the State party in the area of juvenile justice. However, the Committee expresses its concern that under current rules (Section 15C of the Act with Special Provisions on the Care of Young People (Law 1990:52) and Section 17 of the Act on the Enforcement of Closed Juvenile Care (Law 1998:603), it is possible to isolate children in special approved homes if they display violent behaviour or are affected by drugs to the extent that they jeopardise the general order. In addition, the Committee expresses its concern at reports that this treatment is also used as punishment. The Committee is of the view that solitary confinement should not be used unless it is judged to be absolutely necessary and the period of isolation may not exceed 24 hours.

71. The Committee recommends that the State party, taking into account General Comment No. 10 on children's rights in juvenile justice (CRC/C/GC/10) and the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20):

- (a) Review as a matter of priority the current practice of solitary confinement, including amendment of current legislation, as appropriate;

(b) Limit the use of this measure to very exceptional cases, reduce the period for which it is allowed and seek its eventual abolition; and

(c) Ensure that all children who have been taken into custody are provided with adequate legal representation.

Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Sweden from the 9th to 18th of June 2009 (CPT/Inf (2009) 23)

Fagareds Home for Young People

The delegation observed that the atmosphere at the establishment was relaxed, and residents spoke highly about the staff and in particular their personal case officers. However, the delegation heard two allegations concerning excessive use of force in the context of placement in segregation rooms. In addition, it appeared that the police was sometimes called in to help handle particularly agitated young persons. If in exceptional circumstances the assistance of the police might be necessary, handling particularly agitated young persons should remain under the responsibility of treatment staff with appropriate qualifications.

In this connection, it appeared that despite the existence of a procedure for reporting incidents, the recording of such episodes left something to be desired. Incidents were often recorded in a cryptic style, lacking description of the circumstances. In two serious cases involving police interventions in the last year, the incidents reports could not even be found (some information on the incidents appeared only in the residents' individual files).

Material conditions were of a high standard and offered a personalised environment despite the specific secure arrangements in two of the five wards. Young persons were offered a wide range of educational, vocational and sports activities, and the emphasis placed on resocialisation should be commended.

Segregation did not appear to be excessive, and was usually used for a short period of time, not exceeding 24 hours (except for one case dating back to 2007, which had lasted four days, with short breaks after each 24-hour period).

The provision of health care did not seem to pose any particular problems. Young persons were seen by a doctor and a nurse shortly after their admission. A psychologist was present five days a week and a psychiatrist visited the institution once a week.

2. Children in custody (remand prisoners)

Children in custody

Several legal cases have led to questions about the Children's Ombudsman's position regarding children in custody. The Children's Ombudsman's opinion is clear on this point: Children should never, as a principle, be in custody at all and never be placed together with adults. However, if this still happens, there has to be other alternatives to the existing institutions that are appropriate for children (from the legal security point of view) and environments that take the special needs of children into consideration.

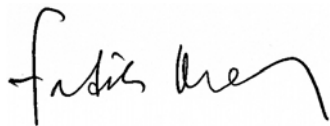
The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Article 1 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment states that "The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment."

Preliminary observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Sweden from the 9th to 18th of June 2009 (CPT/Inf (2009) 23)

"Turning to the issue of restrictions applied to remand prisoners, the delegation noted that despite the quasi-systematic imposition of such restrictions from the moment of admission to a remand prison until the judgement by the court of first instance, efforts were being made at Gothenburg Remand Prison to partially or totally lift restrictions after a period of two to three months. This appeared to be due to the joint work of the establishment's management and healthcare staff who regularly alerted the authorities on the adverse consequences of prolonged isolation on prisoners. That said, a substantial proportion of remand prisoners at Gothenburg had restrictions, some being subjected to long periods of isolation (from 6 to 18 months). The management informed the delegation of a target of 7 hours of association per week for inmates under restrictions. While commending these efforts, on-site observations and interviews carried out by the delegation suggest that this target was far from being met and, in any case, appears to be rather low to counter the effects of isolation. The delegation gathered direct evidence – supported by the observations of health-care staff – of the damaging effects of isolation due to restrictions imposed on inmates.

Significant periods of isolation induce disorientation in time, memory disturbance, and deterioration in communication skills, to name but three serious effects. Further, symptoms of anxiety disorder are commonly seen, post-traumatic stress disorder and depression develop, and there is agitation, self harm and a risk of suicide. The fact that juveniles as young as 15 are being subjected to restrictions akin to isolation is of particular concern to us."



Fredrik Malmberg
The Children's Ombudsman in Sweden