



LÄKARE I VÄRLDEN
MÉDECINS DU MONDE
DOCTORS OF THE WORLD

HIV-SWEDEN
EN FORMER ASSOCIATION FOR HUMAN RIGHTS

9 March 2009

The Human Rights Committee
Re: Supplementary information on Sweden
Scheduled for review during its 95th Session
16th March -3 April 2009

Attention: Mr Patrice GILLIBERT
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Dear Committee Members:

Médecins du Monde (MDM) and HIV-Sweden submit this letter to supplement the 6th periodic report of Sweden to the Human Rights Committee, which is scheduled to be reviewed by the Committee in its 95th session. Médecins du Monde-Sweden is an organization established in 1995. The mission of Médecins du Monde, Sweden is to help, care and give witness for undocumented migrants concerning health care. One of the activities of Medicines to Monde, Sweden is to provide basic medical services to undocumented migrants; it has one of only two such clinics in Sweden's capital, Stockholm. It serves approximately 800 undocumented migrants every year and has seen over 10,000 patients since the clinic opened. Médecins du Monde is completely dependent on private donations to run this clinic; it receives no financial or in-kind support from the Swedish government. HIV-Sweden is an umbrella organisation (NGO) that works on HIV issues at the national level to protect the interests of HIV-positive persons. It is an ideologically, party politically and religiously independent organisation. HIV-Sweden's objectives are to combat discrimination and attitudes and work for the rights of HIV-positive persons.

We hope that despite this letter not being submitted earlier, the Committee's review will cover several areas of concern related to the status of the **health and rights of undocumented migrants and persons with HIV in Sweden**. This letter is intended to provide a summary of the issues of greatest concern in this regard, as well as a list of questions that we hope the Committee will raise with the official delegation from Sweden. This is a growing issue of concern in Sweden by civil society and by the public. The State Party's treatment of undocumented migrants in relation to access to health care and persons living with HIV raises serious issues concerning lack of accountability. These concerns were raised by the UN Special Rapporteur on the Right to the Highest Attainable Standard of Health in his recent report on Sweden. **It is extremely important for undocumented migrants who generally do not have a voice in civil society and society at**

large, due to their legal status, that the Human Rights Committee also address these issues within the context of Sweden's obligations under the International Covenant on Civil and Political Rights.

Sweden's non-compliance with the ICCPR

The UN Special Rapporteur on the Right to the Highest Attainable Standard of Health, undertook a mission to Sweden in 2006, his report on this mission, the experiences of the NGOs submitting this shadow report and most importantly, the reality of people's lives living in marginalized situations in Sweden indicate the government's failure to comply with its international human right obligations, especially the ICESCR. These obligations, however, have also been recognized by the HRC as necessary for the fulfillment of rights under the ICCPR.

Despite Sweden's ranking as one the most developed and richest nations in the world, it continues to essentially deny its most vulnerable populations the most basic and fundamental service that is necessary for the sustainability of their lives: health care. As a result, thousands of persons most basic health needs are not being met which leads not only to serious physical and mental health issues and raises issues under the right to life and the right to privacy, but also hinders their ability to exercise other fundamental rights.

We would like to take the opportunity to bring the Committee's attention to following issues of concern, which directly affect the health and lives of Sweden's most vulnerable populations.

- 1) State failure to ensure access to health care for undocumented migrants, including children;
- 2) State failure to ensure access to health care for undocumented HIV positive persons and resulting discrimination
- 3) State failure to provide access to clean needles for injecting drug users;

International Human Rights, applicability to undocumented migrants.

The principle of non-discrimination holds that all migrants, whether documented are not, are accorded certain rights and standards of treatment.¹

The Special Rapporteur on his report on Sweden has noted that "under international human rights law, some rights, notably the right to participate in elections, to vote and to stand for election, may be confined to citizens. However, human rights are, in principle, to be enjoyed by all persons." He notes specifically that the protections of international human rights law are more extensive in their scope than the European Commission council directive 2003/9, which lays down minimum standards for the reception of asylum seekers.²

The Human Rights Committee in its General Comment 31 [80] on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant has noted that:

States Parties are required by article 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory and to all persons subject to their jurisdiction. This means that a State party must respect and ensure the rights laid down in

¹ Amnesty International, "Living in the Shadows: A Primer on the Human Rights of Migrants," September 2006, AI Index: POL: 33/006/2006.

² UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007 page 19

the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party. As indicated in General Comment 15 adopted at the twenty-seventh session (1986), the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party....³

Thus, the rights guaranteed under the ICCPR to Swedish citizens and legal residents are also applicable to undocumented migrants.

Other UN Treaty Monitoring Bodies have similarly recognized that rights are applicable to undocumented migrants. In 2000 the CESCR explicitly applied the non-discrimination provisions of the ICESCR to undocumented migrants. It noted that “States are under an obligation to respect the right to health by refraining from denying or limiting equal access for all persons, including...asylum seekers and *illegal immigrants*, to preventative, curative and palliative health services (emphasis added).⁴ The UN Committee which monitors the Convention on the Elimination of Race Discrimination (CERD) has also taken this position⁵. In its most recent recommendations on Sweden’s compliance with CERD the Committee has noted concern with “the persistence of discriminatory attitudes faced by persons of immigrant origin in certain areas, such as the labour market, housing and access to public services.” The Committee recommended that Sweden strengthen its efforts in these areas, specifically including the right to public health and medical care.⁶

The Reality of Undocumented Migrant Access to Health Care in Sweden

There are an estimated 15,000 undocumented people living in Sweden. Undocumented persons, who seek medical care in public health care facilities, are theoretically to receive the treatment required. However, **3 obstacles stand in their way: money, discriminatory attitudes of health care personnel and fear of being reported. And the State Party has not taken sufficient steps to address these significant barriers. As a result, undocumented persons cannot access the health care they need, depriving them of their rights to life, to privacy as well as other rights protected under the ICCPR.**

So while undocumented persons, including children, can legally have access to health care, adults must **pay the full cost of the treatment** and medication . Children that have been in the asylum process but have fallen out of legal status and are currently undocumented are still eligible for state subsidized health care.⁷ Undocumented children that never been in the asylum process they have to pay the full cost. For most undocumented migrants, these fees are impossible to pay. As

³ Human Rights Committee, General Comment 31 (80) Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 10.

⁴ Committee on Economic, Social and Cultural Rights, General Comment 14 (2000) on the Right to the Highest Attainable Standard of Health, para 34.

⁵ CERD General Recommendation No. 30, Discrimination Against Non-Citizens (2004), paras 20 and 36 require states parties to “Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;... Ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, inter alia, refraining from denying or limiting their access to preventive, curative and palliative health services;”

⁶ CERD Concluding Observations, Sweden, para 16, U.N. Doc. CERD/C/64/CO/8 (2004).

⁷ See legislation that entered into force on 1 July 2008 - Lag (2008:344) om hälso- och sjukvård åt asylsökande m.fl. paras 4 § and 5

a result, either they do not seek the health care they need; which leads to further health deterioration or they seek only the absolutely necessary services but give a false address.

Maternal Health Care Costs:

It is worthy to note that hospital costs just for giving birth in Sweden, not full prenatal health care, are approximately 30.000 Swedish Crowns (3,000 Euros), a sum which many lower income Swedish citizens would not be able to pay if they had to, never mind undocumented migrants. Such insurmountable monetary barriers, in effect make access to health care an unrealizable right for Sweden's undocumented migrants.

The Human rights Committee has framed women's lack of access to reproductive health services, including emergency obstetric care, as violating women's rights to equality⁸ and life.⁹ The Committee has asked states parties to remove barriers to access, such as treatment costs¹⁰ lack of reproductive health information,¹¹ it has also recommended the implementation of legal and policy measures to ensure equal access to a full range of reproductive health-care services and information¹² The Committee has also noted that vulnerable populations¹³ often face additional obstacles to reproductive health care, and has recommended that states parties take additional measures to ensure these women's access to health and education facilities.¹⁴

In his most recent report, the Special Rapporteur on the Human Rights of Migrants recognized the multiple forms of discrimination that migrants may face, the report stated:

“Discrimination is a key factor in many human rights violations affecting migrants. It has thus been, from the start, at the core of the mandate of the Special Rapporteur. . . The interplay of different grounds of discrimination suffered by migrants results in experiences and patterns of exclusion, disadvantage and abuse that tend to accumulate and intensify and that cut across all spheres: the workplace; access to social services, justice, education, housing and health care; and participation in public life and decision-

⁸ See, e.g., Ecuador, ¶ 11, U.N. Doc. CCPr/C/79/add.92 (1998); Georgia, ¶ 12, U.N. Doc. CCPr/C/79/add.75 (1997); Mongolia, ¶ 8(b), U.N. Doc. CCPr/C/79/add.120 (2000); Peru, ¶ 20, U.N. Doc. CCPr/Co/70/PEr (2000); Poland, ¶ 11, U.N. Doc. CCPr/C/79/add.110 (1999); Trinidad and Tobago, ¶ 18, U.N. Doc. CCPr/Co/70/TTTo (2000).

⁹ See, e.g., Chile, ¶ 15, U.N. Doc. CCPr/C/79/add.104(1999); Ecuador, ¶ 11, U.N. Doc. CCPr/C/79/add.92(1998); Guatemala, ¶ 19, U.N. Doc. CCPr/Co/72/GTm(2001); Kuwait, ¶ 16, U.N. Doc. CCPr/Co/69/KWT(2000); Peru, ¶ 20, U.N. Doc. CCPr/Co/70/PEr (2000); Poland, ¶ 11, U.N. Doc. CCPr/C/79/add.110 (1999); Trinidad and Tobago, ¶ 18, U.N. Doc. CCPr/Co/70/TTTo(2000).

¹⁰ See, e.g., Poland, ¶ 11, U.N. Doc. CCPr/C/79/add.110(1999).

¹¹ See, e.g., Azerbaijan, ¶ 16, U.N. Doc. CCPr/Co/73/aZE (2001); Guatemala, ¶ 19, U.N. Doc. CCPr/Co/72/GTm (2001); Mongolia, ¶ 8(b), U.N. Doc. CCPr/C/79/add.120 (2000); Poland, ¶ 11, U.N. Doc. CCPr/C/79/add.110 (1999); viet nam, ¶ 15, U.N. Doc. CCPr/Co/75/VNm (2002).

¹² See, e.g., Argentina, ¶ 14, U.N. Doc. CCPr/Co/70/arG(2000); Ecuador, ¶ 11, U.N. Doc. CCPr/C/79/add.92 (1998); Poland, ¶ 11, U.N. Doc. CCPr/C/79/add.110 (1999); viet nam, ¶ 15, U.N. Doc. CCPr/Co/75/VNm (2002).

¹³ See e.g. See, e.g., Ireland, ¶¶ 27–28, U.N. Doc. a/55/40 (2000).

¹⁴ See, e.g., Ecuador, ¶ 11, U.N. Doc. CCPr/C/79/add.92 (1998); Ireland, ¶¶ 27–28, U.N. Doc. a/55/40 (2000).

making bodies . . . For example, the disadvantages or deprivations that migrant women experience because of gender cannot be separated from the disadvantages stemming from other personal attributes and identities related to their religion, race or national extraction.”¹⁵

Sweden should in order to comply with the right to health provisions of the ICCPR, remove this discriminatory barriers, including insurmountable costs, to all health care.

Lack of Access to Emergency Health Care, including for Children

Undocumented migrant have a legal right to emergency healthcare but, as with other types of health care, they must pay the full price for this emergency care and for medications. Even persons going through the asylum process in Sweden are not covered by national health insurance for emergency health care. But in some parts of the country the county councils has decided to give undocumented migrants subsidized emergency health care, such as in the Skåne Region.

In addition, undocumented children who have been in the asylum process should receive health care on the same basis as resident children but this is not applied in all hospitals, as is illustrated below. The lack of oversight and accountability of hospitals application of rules is a serious concern. The costs of such services are unaffordable for most asylum seekers and undocumented foreign nationals, resulting in effect of the failure of the state to provide emergency care and thus, a clear violation of the ICCPR provisions on the right to life. The UN Special Rapporteur in the Right to the Highest Attainable Standard of Health encouraged the Swedish government to “reconsider its position with a view to offering all asylum-seekers and undocumented persons the same health care, on the same basis, as Swedish residents. By doing so, Sweden will bring itself into conformity with its international human rights obligations.”¹⁶

A real story given by health care providers at Médecins du Monde concerns a newborn child born in a hospital in Stockholm in 2004. The baby had a serious case of jaundice which needed acute medical attention, the parents however, fell into undocumented status after a failed asylum process and they were concerned about having to pay the bill for their baby’s medical needs. The baby was admitted to the Astrid Lindgrens Hospital in Stockholm. The situation was so serious that doctors were considering a blood transfusion, the baby girl stayed in the hospital for 10 days. All the time in addition to the anguish and distress faced by the parents in having a very sick newborn, they were also constantly worried about being able to pay the bills for their baby’s care. The parents soon after receive a bill of 32,000 Swedish crowns (3,200 Euros) and were unable to pay even a fraction of it. Staff at Médecins du Monde intervened asking that the payment be cancelled since the child should have had access to free medical care, the hospital then agreed to cancel payment but only after intervention by Médecins du Monde staff.

Another incident to illustrates this problem, as reported by Médecins du Monde- Sweden, concerns a mother (undocumented migrant) that sought medical care for her 8 month old child. The child has a severe rash all over its body. But even before the baby saw a doctor, the mother was told she must pay 2.000 SEK (200 Euros). The mother told the staff that she did not have

¹⁵ Specific Groups and Individuals: Migrant Workers,” Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante, E/CN.4/2006/73, 30 December 2005

¹⁶ UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007, para 75

money to pay, the staff in turn, refused to provide the care to the child. The mother sought the assistance of Medicines Du Monde who intervened and facilitated the baby's access to health care.

There are literally hundreds, if not thousands of people in this same situation in Sweden every year, almost all of them do not have the assistance of organizations such as MDM, and as such never get the necessary care that they need or are put in untenable situations.

Discriminatory Attitudes of Health Care Personnel

Another barrier is the discriminatory attitudes of health care personnel. The UN Special Rapporteur has raised concern that "... health professionals in Sweden did not always know about, and sometimes acted contrary to, their patients' human rights."¹⁷ He noted that important link between the practice of health professionals and the ability of persons to exercise their right to health, including medical confidentiality, privacy and equitable access to treatment.¹⁸ Thus, in order to ensure access to health care for undocumented migrants, it is essential that Sweden take responsibility in training health care personnel on their obligations to provide health care in a non-discriminatory and respectful manner for *all* their patients, irrespective of their legal status. This would help create an environment where patients are respected regardless of their status. A study shows that pregnant foreign-born women in Sweden have higher rates of non-normal childbirth which may be due to not getting the same level of maternal health care as pregnant Swedish women.¹⁹

It is also essential that **reports of discrimination in access to health care be encouraged** and taken seriously by law enforcement officials and other bodies monitoring human rights, as required by the ICCPR. General Recommendation 31, specifically lays out Sweden's responsibilities in ensuring effective access to remedies:

Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights. Such remedies should be appropriately adapted so as to take account of the special vulnerability of certain categories of person, including in particular children. The Committee attaches importance to States Parties' establishing appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law. The Committee notes that the enjoyment of the rights recognized under the Covenant can be effectively assured by the judiciary in many different ways, including direct applicability of the Covenant, application of comparable constitutional or other provisions of law, or the interpretive effect of the Covenant in the application of national law. Administrative mechanisms are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies. National human rights institutions, endowed with appropriate powers, can contribute to this end. A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of

¹⁷ UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007 page 18

¹⁸ Id.

¹⁹ Center for Family Medicine Stockholm, Karolinska Institute, Sweden. Do Foreign-born women in Sweden have an increased risk of non-normal childbirth? Eva Robertson, Marianne Malmström, Sven-Erik Johansson (2005).

the Covenant. Cessation of an ongoing violation is an essential element of the right to an effective remedy.²⁰

In addition, Sweden has an obligation under the ICCPR to fulfill the right to health by **training health personnel to deal with the needs of vulnerable groups**, such as undocumented migrants. UN Treaty monitoring bodies have interpreted state obligations to include ensuring that health care staff are trained to recognize and respond to the specific needs of vulnerable or marginalized groups.

Another major barrier that undocumented migrants face, which is closely related to the above-mentioned problems concerning discriminatory attitudes of health care personnel is the fear **that undocumented migrants have of being reported** to authorities by medical staff, resulting in them often refraining from seeking medical assistance even in the most serious cases. Under Sweden's Secrecy Act, general care staff are, as a general rule, prohibited from divulging information of individuals, however, it is unclear to what degree this applies to undocumented migrants. There are no known official guidelines for health care personnel on their obligation not to divulge the legal status of patients despite this being a well-known fear. In order for the state to seriously respect inhabitants confidentiality and privacy in the health care setting, it must clarify this and disseminate this information to health personnel and ensure that there are repercussions for anyone divulging this information. While it may be understood that this fear cannot be eliminated altogether, given the vulnerable situation of undocumented migrants, Sweden should take steps towards addressing these fears and in doing so would come closer to fulfilling its obligations under the Convention, such steps include ensuring that the system of health care is non-discriminatory and protects confidential information, as is required by the ICCPR.

Many of the undocumented migrants coming to Médecins du Monde's clinic for undocumented migrants in Stockholm express fear of being reported if they go to a hospital for care. Médecins du Monde reports on a child that had an allergic reaction – the father did not go to the hospital for fear of being reported to the police or migration authorities-- the family had been in a failed asylum process and was undocumented and in hiding. A MDM staff took the father and child to the hospital as support and proper care was given. Médecins du Monde also reports on a pregnant woman who during the asylum process had gone to a Maternity Health Center for her prenatal health care needs. In her fifth month of pregnancy she was denied asylum by the Swedish Migration Board and was **subsequently turned away for continuing maternal health care at the Maternity Health Center**. She then sought care at Médecins du Monde's clinic but was very afraid and worried about her situation for fear of being reported when she came to MDM's clinic.

The Mental Health Status of Undocumented Migrants

The mental health status of undocumented migrants and those seeking asylum is undoubtedly a problem. As reported by the UN Special Rapporteur on the Right to Health in his report on Sweden, “[U]p to a quarter of refugees and asylum seekers are affected by post-traumatic stress disorder and have difficulty accessing mental health care.²¹ He has urged the government of Sweden to ‘...ensure that mental health care, including psychiatric care and other therapies, is

²⁰ ²⁰ Human Rights Committee, General Comment 31 (80) Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para 15

²¹ UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007, pages 13-14.

made more accessible for marginalized groups.”²² Medical providers at the Médecins du Monde clinic for undocumented migrants often see patients whose have psycho-somatic health problems. This issue is further exacerbated when there are pre-existing mental health problems.

HIV-Sweden reports on a situation concerning a Ukrainian woman who was seeking asylum in Sweden in 2004. During her wait on her asylum application, she was institutionalized for a serious self destructive mental illness for almost a year. Her husband was also depressed and during this time their 2 year old child was placed in a foster home, as the mother nor the father could take proper care of him. Over the Christmas holidays, the woman was given leave from the institution for a few days to spend the holidays with her husband. Their child was still with the foster parents. During her leave, the police, without notice, came to their home and physically removed them for deportation back to the Ukraine, as their applications for asylum were denied. In addition, the police, without notice to the foster parents, also forcibly removed the child from the foster parents home and deported the child together with his biological parents back to Ukraine. After the deportation the mother was cut off from mental health care and her mental health quickly deteriorated. The child, who did not have much contact with his parents for almost a year while he was with his foster parents, became seriously depressed and stopped eating when he returned with them to the Ukraine. The health status of the family is currently unknown.

Access to HIV/AIDS Treatment and Prevention Programmes

There are several problems regarding access to HIV treatment and prevention programs in Sweden. This letter raises several issues: 1) discriminatory treatment of persons living with HIV in the health care system 2) undocumented migrants lack of access to treatment 3) deportation of persons living with HIV back to countries where HIV treatment is not accessible and 4) state failure to ensure availability of needle exchange programs.

Undocumented migrants with HIV face even double discrimination; discrimination based on their legal status and discrimination based on HIV status. A third form of discrimination they may face is because of their ethnicity or race. HIV-Sweden reports on an African woman who was recently denied care at an antenatal clinic after she informed them that she was HIV-positive. It is not uncommon for people living with HIV in Sweden to be afraid of going to primary healthcare because of stigma and discrimination.

The UN Special Rapporteur on the Rights to Health has noted that “There are some worrying health trends in Sweden.. Since the 1990s, reported cases of chlamydia have significantly increased, and there have been increasing rates of infection of other sexually transmitted infections – particularly among youth - including gonorrhoea and syphilis. Cases of HIV are also increasing. Examined through the prism of the right to health, some health policies are a cause for genuine concern.”

In its General Comment 6 on the right to life, the Human Rights Committee emphasizes that the inherent right to life should not be understood in a restrictive manner and requires states parties to take positive measures to ensure it. In particular, the Committee mentions the need for states parties to take all possible measures to eliminate epidemics.²³ The Human Rights Committee has expressed concern about the availability of effective treatment for individuals living with HIV/AIDS and has urged states parties to allow and facilitate access to adequate antiretroviral

²² UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007, page 15

²³ Human Rights Committee, General Comment 6: Article 6, ¶ 5. U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994).

treatment. The Committee has also called for measures to ensure that individuals living with HIV/AIDS have equal access to treatment. The Committee has recommended that states parties extend existing anti-discrimination legislation to protect individuals from discrimination on the basis of HIV/AIDS status.²⁴

The UN Office of the High Commissioner for Human Rights and UNAIDS has issued human rights guidelines on HIV/AIDS which are meant, in part, to provide guidelines for government efforts to ensure persons with HIV are not discriminated against in access to public services, including health care.

Another troubling concern in this area is the failure of the Swedish Migration Board to look effectively at access to anti-retroviral treatment when determining whether to **deport an HIV-positive asylum seeker**. The government relies heavily on their embassies' general reports on *availability* of HIV treatment, but does not consider *accessibility*, including the financial accessibility, of treatment. It fails to look into the particular circumstances of each case and makes very broad and harmful decisions based on very general and for the most part non-informative reports.

In the context of the Special Rapporteur's evaluation of **needle exchange for intravenous drug users**, he noted a need for an integrated, comprehensive harm reduction policy in Sweden. It is well-known that programs such as syringe exchange among the most well-researched HIV prevention strategies in the world and studies how that access to sterile syringes significantly reduce HIV transmission without increasing rates of drug use or drug-related crime. The World Health Organization and UN AIDS support such programs. WHO states that "[needle exchange programs] ability to break the chain of transmission of HIV is well established."²⁵ In Sweden, the scarcity of needle exchange programs is a state-imposed barrier that interferes with the human right to health. The UN Special Rapporteur on the Right to health was encouraged by reforms in Sweden in 2006 which allows health and social services to introduce needle exchange programs but raised serious concerns by "allowing such an important human rights issue to be left to the discretion of local government."²⁶ In Sweden there are only two needle exchange programs, in Malmö and Lund. The Special Rapporteur emphasizes that the Swedish Government has a responsibility to ensure the implementation, throughout Sweden and as a matter of priority, of a comprehensive harm-reduction policy, including counselling, advice on sexual and reproductive health, and clean needles and syringes.²⁷

Unfortunately, the reality is that there will always be people who cannot or will not stop using drugs. Preventing this population from obtaining or using sterile syringes amounts to prescribing death as a punishment for illicit drug use.²⁸

²⁴ See e.g., Uganda, ¶ 14, U.N. Doc. CCPR/CO/80/UGA (2004); Namibia, ¶ 10, U.N. Doc. CCPR/CO/81/NAM (2004); Kenya, ¶ 15, U.N. Doc. CCPR/CO/83/KEN (2005); Trinidad and Tobago, ¶ 11, U.N. Doc. CCPR/CO/70/TTO (2000).

²⁵ World Health Organization, "Harm Reduction Approaches to Injecting Drug Use"
<http://www.who.int/hiv/idu/en/index.html>

²⁶ UN Special Rapporteur Report on his Mission to Sweden, A/HRC/4/28/Add.2, 28 Feb. 2007, para 62

²⁷ Id.

²⁸ See Human Rights Watch, *Rhetoric and Risk. Human Rights Abuses Impending Ukraine's Fight Against HIV/AIDS* (2006)

At Karolinska Sjukhuset, one of the large hospitals in Stockholm, a director of the hospital decided to give HIV-treatment free of costs to undocumented migrants. The decision came after a young man had died of Aids at the infection clinic in April 2001 because he was denied adequate antiretroviral treatment. He was an undocumented migrant from Chile and was thus, not covered by the national health insurance scheme. He could not pay the full price of antiretroviral medications and therefore did not receive any. After his death which was considered an ethical dilemma by the health care providers, the director of the hospital decided to give HIV-positive migrants treatment free of charge from the hospitals own budget. The Swedish state, however, has not explicitly supported this nor have there been government attempts to fund such urgent medical care through national health insurance.

Conclusions:

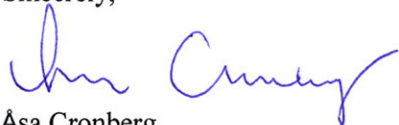
We would like to request that the Committee consider addressing the following questions to the Swedish government, pursuant to its obligations under the ICCPR, Articles 6 and 17 and its General Comment 31 (80).

- What steps is the government taking to ensure access to health care for all persons regardless of their legal status? In particular, what steps has the state party taken to remove barriers, such as financial costs, to ensure access to health care for all persons in their territory
- What steps is the government taking to ensure that health care providers are aware of their obligations to ensure non-discriminatory treatment of persons with non-Swedish backgrounds and to take special care with vulnerable groups? What steps is the government taking to ensure adequate legal redress when discrimination has occurred?
- What is the government doing to make explicit to health care providers that they should not report person's legal status to any law enforcement authorities when such persons seek medical treatment?
- How will the government improve treatment of people living with HIV in the primary healthcare and ensure them access to health care, especially in the case of undocumented migrants?
- How will the government make sure that asylum-seekers who have started life-sustaining treatment (like for example HIV-treatment) will not be deported to a country where they will not have access to treatment? How will they make sure that an individual-specific investigation concerning access to treatment is done as country reports from embassies only provide very general information about availability of treatment but do not discuss accessibility, including affordability, of treatment?
- How will the government try, according to existing laws, to improve access to needle exchange programs in Sweden?

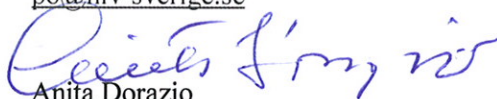
There remains a significant gap between the provisions contained in the ICCPR and the reality of rights for Sweden's most vulnerable populations. We appreciate the active interest the Committee has taken on these issues and the strong Concluding Observations and Recommendations the Committee has issued to governments in the past, stressing the need for governments to take steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Swedish government's report on its compliance with the ICCPR. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

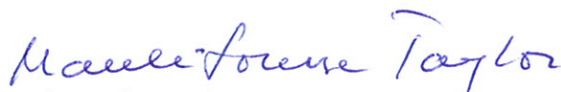
Sincerely,



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