

COMMISSION ON HUMAN RIGHTS

THIRD SESSION

COMMENTS FROM GOVERNMENTS ON THE DRAFT INTERNATIONAL DECLARATION
ON HUMAN RIGHTS, DRAFT INTERNATIONAL COVENANT ON HUMAN
RIGHTS AND THE QUESTION OF IMPLEMENTATION

(Communication received from Sweden)

Stockholm, May 11, 1948

Sir,

I beg to advise that the Draft of International Bill of Human Rights referred to in your letter of January 9, 1948, No. SOA/17/1/01/JH, has been examined by the Swedish Government. This examination has been of a preliminary nature. Its first object has been that of finding out to what extent Swedish law might be compatible with the Bill. The outcome of such an examination is presented below. The question of the implementation of the principles laid down in the Bill has not been the subject of any closer examination. The Swedish Government do therefore reserve their right to propose formal as well as material amendments to the Bill at such time as the Bill shall have been submitted to the General Assembly.

The principles laid down in the Draft of International Declaration on Human Rights are mostly identical with principles either expressly stated in the Swedish Constitution or otherwise embodied in Swedish law. From a Swedish point of view it would therefore be most gratifying, if these principles were raised to the international level and fitted into the system of international law. It should be noted, however, that on certain points present Swedish law is not quite compatible with the Declaration. Thus with regard to Article 7 (2) there is reason to point out that Swedish law is rigidly governed by the principle that no one shall be subject to punishment for an act that was not punishable at the time when committed. With regard to Article 14 it should be borne in mind that the right of aliens to acquire real property is restricted by Swedish law. Furthermore, a closer examination of the extent to which the principle of equal opportunity to hold public office, as expressed in

/Article 22,

Article 22, may be acknowledged by Swedish law reveals that, strictly speaking, said principle - otherwise established in Swedish law - does not apply to the posts of cabinet ministers, holders of such office according to an old provision of the Swedish Constitution being obliged to belong to the Swedish State Church. Also the principle laid down in Article 24 (2) of the Declaration that women shall work with the same advantages as men is a basic rule which in Sweden may not have penetrated into all professions.

The question whether the Draft International Covenant on Human Rights is compatible with Swedish law requires a profound study, which it has not yet been possible to complete. As far as basic principles are concerned, it is however possible already at this time to state that the principles laid down in the Draft Covenant are essentially in agreement with deeply rooted Swedish rules of law. Comments on individual articles given below are merely intended to emphasize certain points of possible disagreement between Swedish law and said articles. It seems that these points may need some further explanation.

Article 6 of the Draft Covenant states that it shall be unlawful to subject any person to any form of medical or scientific experimentation against his will. According to Swedish law persons suspected of having been intoxicated while driving motor vehicles shall undergo blood tests regardless of whether they consent to it or not. Also in paternity cases the judge may order the mother to undergo blood tests regardless of her consent. The Swedish Government take it that legal actions of this nature would not be inconsistent with the article just quoted.

According to Swedish law vagrants as well as persons neglecting their duty of maintenance imposed by law may be required to perform forced labour. Swedish law also states that persons belonging to said two categories as well as alcoholics may be detained against their will and confined to special institutions. Naturally actions of this nature are subject to legal control. Nevertheless, they may not be in full agreement with Articles 8 and 9 of the Draft Covenant. What has already been remarked about Article 7 (2) of the Draft Declaration obviously applies also to Article 14 of the Draft Covenant. As regards the principle of freedom of religion as expressed in Article 16 of the Draft Covenant it should be observed that according to Swedish law any member of the Swedish State Church who wishes to relinquish his membership is legally unable to do so, unless he becomes a member of certain other congregations recognized by the Swedish State. It is thus legally impossible for a Swedish citizen to leave the Swedish State Church for the reason of

/joining

joining a religious group not recognized by the Swedish State or for that of remaining outside of any confessional organization. A new law liberalizing these provisions is however now being prepared.

The report of the Commission on Human Rights contains, in addition to the Bill, a number of suggestions relating to the implementation thereof. The Swedish Government hold the view that they could not examine these suggestions already at this time.
