Human Rights Review in Belarusian-Swedish Relations

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Introduction

Sweden was among the first countries that recognized independence of the Republic of Belarus shortly after the dissolution of the Soviet Union and the establishment of the Commonwealth of Independent States. Diplomatic relations between Sweden and Belarus were established on 14 January 1992 following the official visit of Swedish Minister for Foreign Affairs Margaretha af Ugglas in Minsk. Since 1992 bilateral relations between Belarus and Sweden have been the issue of intermittent political crisis where human rights issue have played quite an important role.

In the Belarusian-Swedish relations the problem of human right has always existed. Swedish country strategies for cooperation policies with Belarus — specially designed by Ministry for Foreign Affairs of Sweden — comprised the support for “Democracy, human rights and gender equality” as a major activity in Belarus. Several times Sweden proposed and supported the use of sanctions against Belarus primarily because of human rights violations. Moreover, the collapse of the bilateral relations between Belarus and Sweden in August 2012 was provoked mostly because of the human rights issue. It happened, when in order to support the freedom of expression in Belarus, the group of Swedish activists dropped teddy bears in July 2012. Shortly after the July teddy bear stunt, the Belarusian government expelled the Swedish ambassador and closed the embassy in Stockholm. The diplomatic relations between Sweden and Belarus deteriorated to the lowest point in its twenty years history.

To begin with, Sweden and Belarus have different positions on human rights. Human rights and democracy are fundamental values in Swedish society. Sweden has a long-lasting tradition of adhering to the idea of human rights, which have been protected under Swedish law since about 1350. Today, fundamental rights and freedoms are protected by the Instrument of Government, which is one of four fundamental laws of Sweden, and often referred to as the Constitution. There is no separate bill of rights. Instead, the Instrument of Government provides protection for civil, political, social, economic and cultural rights.

When it comes to the international relations, protection of human rights is a priority of Sweden’s foreign policy. The Government is committed to ensuring that human rights and democracy are integrated into all policy areas, including migration, security and trade. Dialogue with other states, multilateral negotiations, public diplomacy and development assistance are important means of promoting human rights internationally.

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5 HRI/CORE/SWE/2011, Sweden, supra note 3.
The Belarusian position on the human rights issue is usually explained through tragic historical events such as the Second World War, the Chernobyl disaster, the collapse of the Soviet Union (resulted in deterioration of economic and social situation in the country). According to the Belarus’ Common core document for HRC (2011), ‘the Government still needs to take the aforementioned factors into account when formulating national policy with regard to the protection and promotion of citizens’ economic, social and cultural rights’. Nevertheless, the Constitution guarantees that the rights and freedoms of people are the supreme value and goal of society and the State.6

Belarus approaches the issue of human rights as being historically the area of relations between the society and the government. The Belarus’ Common core document supports this idea by explaining the role of the head of state in these relations. For instance, it says that ‘[t]he President is the guarantor of the Constitution and of human and civil rights and freedoms. He adopts practical measures to defend and implement civil rights by issuing laws and making decisions on specific issues. The Head of State coordinates action to protect and promote human rights with the three branches of power, with the support of civil society institutions and the public.’7

Standing at this point, the Belarusian foreign policy position considers that human rights, an element of a purely internal policy, have started to play a role of a tool for foreign politics in the modern world. The relationship between states on human rights issues abandons the principle of equality of partners, pursuing various paths of development with one common objective being the prosperity of their citizens, while becoming associated with diktat, pressure and imposition of their ‘solely accurate opinion’. The Belarussian Foreign Minister V.Makei in his article “Human Rights: What and Who Made Them Divide the World?” points out that, “no other issue on the international agenda appears currently to be as much politicized and divisive as human rights. The division basically relates to the primacy that different states and groups of states attach either to individual or collective human rights”. He argues that “approaches to human rights stem from the countries’ specific historical experience of development ... Understanding the historical reasons behind other countries’ different stance on human rights may contribute to non-confrontational international relations”.8

6 Belarus is a party to the International Covenant on Civil and Political Rights and the Optional Protocol thereto; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto; and the Convention on the Rights of the Child and Optional Protocols thereto.
7 HRI/CORE/BLR/2011, Belarus, supra note 5.
Thus, the dialog on the human rights problem between Belarus and Sweden continues to be problematic. I argue that human rights have influenced the bilateral relations between Belarus and Sweden. This article attempts to review human rights discourse between Belarus and Sweden. The questions to be answered are when and how the content of mutual accusations has been developed and which rights have been violated according to Belarus, Sweden and the international community.

The subject of the research is the bilateral relations, whereas the object is human rights. It should be noted that the term ‘bilateral relations’ will be narrowed to political and diplomatic dimension. The scope of the problem is the issue of human rights in the modern political and diplomatic relations between Belarus and Sweden.

The methodology of this research includes historical and empirical methods. Historical method is used to show the developments of the human rights discourse in the relation to the particular country with reference to the year when relevant documents were adopted. Meanwhile, these documents will be analyzed with the help of empirical methods in order to show the human rights mutual accusations content.

Interestingly, the problem of human rights between Belarus and Sweden as well as between Belarus and the EU in general has not been investigated much within academia. Moreover, the issue of Belarusian-Swedish relations has scarcely been introduced among scientists. This fact justifies the empirical character of this paper with focus on analysis of existing documents relevant to human rights problem. Thus, sources used in this research include country strategies (there are three official documents on interaction with Belarus introduced by Swedish foreign ministry); private members of Swedish parliament motions; reports from authorities (Swedish and Belarusian foreign ministries, Swedish Parliament, the Swedish National Council for Crime Prevention); the concluding observations of the United Nations’ treaty bodies.

History of Human Rights Discourse

For the first time the problem of human rights in Belarus was introduced in Sweden in October 1999. This was the motion to the Riksdag called “Situation in Belarus” in which a group of Swedish politicians raised the question of violation of human rights in Belarus. The document stated that “… Sweden is keeping silence about the development in Belarus. The fact that a new dictatorship has grown up in the Baltic Sea Region is very disturbing and … must be described from the point of view of Swedish national interests. Lukashenka’s regime … represents a regional security risk for the Baltic State Region”. Swedish MPs were concerned about the harassments of opposition and the disappearance of individuals, the control over broadcast media, the expansion and extension of the

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president power. Swedish politicians claimed reaction from the Swedish official institutions and proposed action on the international arena, primarily in the UN. The most important and harsh proposal was to introduce sanctions to the Belarusian government because of the violation of human rights.

The Foreign Affairs Committee of the Swedish Government reported to this motion saying that Sweden independently and together with the EU had done several clear markings against violation of human rights in Belarus. The Swedish foreign ministry had already urged the Belarusian regime to initiate a dialogue with the opposition, to immediately release imprisoned opposition and initiate investigations of missing opposition politicians. Moreover, Swedish Institute via UNDP in Minsk supported two projects connected to human rights. The first project resulted in the publication of school textbooks about human rights for distribution in Belarusian schools. The second project’s outcome was printing and dissemination of basic documents on human rights from the UN, OSCE and Council of Europe. It was also reported that the travel sanctions might be introduced, however, they must not lead to the isolation of Belarusian people.

Swedish Foreign Minister Anna Lindh reported back to the parliament about the Swedish policy towards Belarus. She pointed out that Sweden and the EU had continuously raised and criticized the disappearances and other crimes against human rights in Belarus. It was also mentioned that Swedish aid partly went to Belarusian human rights organizations, and about 40 Swedish organizations worked together with Belarusian partners from independent and opposition organizations and that hundreds of Belarusian journalists were educated in Sweden. Anna Lindh said that Sweden developed a long-lasting strategy to support development of democracy and civil society.


Moreover, Sweden introduced three strategy plans toward Belarus for 2002–2004, 2007–2010, and 2010–2014 which mentioned the support for “Democracy, human rights and gender equality” as a major activity in Belarus. The main contemporary MFA document was the report “Human rights in Belarus”

10 Sanctions were not imposed until 2004.
11 Utrikesutskottets betänkande1999/2000:UU11, Mänskliga rättigheter m.m. – länder, områden och skilda folk, Sveriges Riksdag. www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CCkQFjAA&url=http%3A%2F%2Fdata.riksdagen.se%2F8%2F8CA021.7979.48108A04.662604988BD5e9r-XGdrU64-DaFzgoOUz4CdQg&usg=AFQjCNH0qAIj8j9xUpeUNOP8HJUauka8w&sig2=rQFX1Q6iZyewQnfmtzZjAc8vm-=by.6631000d.lGQ-, visited on 10 January 2014.
13 More precisely, the mentioned documented concerned the development of democracy and human rights in Belarus, providing assistant to the Belarusian opposition and supporting the freedom of speech.
14 Regeringdansliet, supra note 1.
(2011). It was the first comprehensive report from Sweden which gave a summary of how human rights were respected in Belarus, based on the assessments of the Swedish diplomatic mission. Most likely, it was possible to develop the report after opening the Swedish embassy in Minsk in the end of 2008.

According to the report, the situation had not changed during past years. Moreover, it was reported that repressions of dissidents, including human rights organizations, had increased and even partially taken new forms. This report gave a very precise picture and well organized structure of different types of human rights violations. It was the first Swedish documents where the violations of human rights in Belarus were divided into different categories with a detailed description of the reported problems.

In fact, the report 2011 has become the latest contemporary report from the Swedish side on the problem of human rights in Belarus. Probably, it was the reflection of the Swedish position toward the presidential elections in Belarus in 2010. It may also be that due to the constancy of the political situation in Belarus, the 2012 diplomatic crisis and the closing of the Swedish embassy in Minsk, the report by Swedish Foreign Ministry “Human rights in Belarus 2011” would have been the last document of this kind.

For Belarus, it took thirteen years to react and reflect on the human rights problem. The first document produced by the Belarusian foreign ministry was the report “Human rights violations in certain countries in 2012”. In the foreword to it V.Makei, Minister of Foreign Affairs of the Republic of Belarus, stated that the idea behind this report was to draw attention to human rights violations in those countries that traditionally represent themselves as ‘developed democracies’, to illustrate by concrete facts their failure to comply with international legal obligations and, no less importantly, spotlight the victims that were traditionally given a blind eye by violating states as well as by international organizations operating in the area of human rights. The report by the Belarusian foreign ministry was based upon the information from the Belarusian diplomatic missions, the foreign media as well as other reliable open sources. The human rights violations in 2012 were shown in 25 countries, primarily European, and also the U.S. Sweden also appeared on a list. It was reported that Sweden violates right to peaceful assembly, freedom of expression, right to fair hearing. Oddly, the Belarusian side found violations in the fact of that Sweden claimed the extradition of the WikiLeaks’ founder Julian Assange, accusing Sweden of ‘criminal prosecution of journalist’. Moreover, it was reported about the existing in Sweden discrimination of men (males) on the ground on gender.

The foreign ministry of Belarus continued to review cases of human rights violations. As a result, a new report was presented titled “The Most Resonant Human Rights Violations in Certain Countries – 2013”. Sweden was mentioned

17 Ministry of Foreign Affairs of the Republic of Belarus, The Most Resonant Human Rights Violations
again. This time the volume of accusations was twice bigger, and the content corresponded mostly to the violation of minority and refugee rights and the right of everyone without any distinction to equality before the law. Countries recognized on the international arena as main violators of human rights such as China, Northern Korea, Russia were not included into the report. Partly, it was clarified in the introduction stating that “some countries, relying on their own political and economic clout, have come to assume the mantle of human rights «high moral» advocates. … the «high moralists», however, act in a selective manner and forget about their own principled stance wherever and whenever they find it necessary. What is worse, in an attempt to arrogate the right to spell out the only true recipe of successful development, they ignore the objective reality of historical experience, as well as mental and economic peculiar features inherent to other countries”.

Sweden’s Perspective on the Human Rights Problem in Belarus

Fifteen years have passed since Sweden introduced the first document about the situation on human rights in Belarus. The idea of this section is to describe the Swedish view on the major areas of concern in the field of human rights in Belarus. In fact, the majority of the Swedish accusations have been based upon concluding observations by the UN treaty bodies.

The first block of concerns is connected to “Right to Life, Liberty, Personal Security, Prohibition of Torture”. Problem of death penalty has been one of the central issues. According to the Constitution of Belarus, death penalty is allowed and can be imposed for crimes of treason, espionage, terrorism, murder and aggravated rape. The statistics on it is not public, which makes it difficult to obtain information on the number of executed. In the 1990s, according to the Swedish side, the number of persons condemned to death penalty was about 20-50 per year, but in recent years it has been used less frequently, primarily by serial murderer or serious robbery and murder. According to statistics published during the last decade, annually between two and nine death sentences were carried out in Belarus. Sweden has always argued against the use of death penalty worldwide and in Belarus in particular.

Furthermore, according to the concluding observations of the Committee against Torture (2011), the Committee is concerned by reports of the poor conditions of persons sentenced to death, and reports that the families of persons sentenced to the death penalty are only informed days or weeks after the execution has taken place, that they are not given the opportunity for a last visit to the

18 \textit{Ibid.}
19 Utrikesdepartementet, \textit{supra} note 15.
prisoner, that the body of the executed prisoner is not handed over to the family and the place of burial is not disclosed to them.  

Belarus replied to this issue noticing that she considers it premature to adhere to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The decision, however, depends on whether a majority of public opinion comes to favor abolition of the death penalty.  

Another concern is conditions in prisons and other closed institutions. According to Swedish reports, such institutions, which are often overcrowded, are about the same standard that prevailed in the Soviet times. There is information about persons being arrested for political reasons which have been placed in cells with violent convicts, as well as about individuals placed in the solitary confinement for extended periods. Belarus is among the countries with the absolute highest proportion of population who have been detained, arrested or in other way taken into custody. The official figure is 0.4 percent, but there are reasons to believe that it is higher (for Sweden, the figure is 0.08 percent). This concern was reported in the concluding observations of CAT.

Belarus answered to this issue in its report to CAT (2010), saying that the state has taken the comprehensive set of measures to improve conditions in prisons and pretrial detention centers. Efforts have been continuously under way to enhance the prison system.

Secondly, Freedom of Opinion and Expression is violated in Belarus according to Swedish sources. It was reported in the motion ‘Mänskliga rättigheter i Vitryssland’ (Human rights in Belarus) that complete state control was established over the broadcast media. For instance, television channel TV 8 and the Independent radio station Radio 101.2, opposition newspaper Narino were closed; the major independent newspapers in Belarus Bealaruskaya Delovaya Gazeta suffered tax raids. Regular inspections were used as an instrument to get access to all independent media as well as through economic pressure and special laws.

It was also reported that television in Belarus is state-controlled and sends only positive news about the president. The same works for newspapers. Independent and free press exists, but it has been increasingly difficult to operate. Distribution prevented and editions are seized if they are too critical. Many newspapers have been closed.
Independent domestic broadcast media with critical reviews does not exist in Belarus. State television has monopoly as Belarussian television medium. The three Russian channels are transmitted all over the country and are relatively popular, but there is rarely any openly critical reporting about Belarus. Independent FM radio broadcasts exclusively music and entertainment programs. It is possible to get connection to independent radio stations via medium wave broadcasting from radio stations in Lithuania and Poland. The polish-supported TV project Belsat began broadcasting via satellite in December 2007, but its journalists have not been given accreditations to work in Belarus and bear risks to be subjected to reprisals.26

Similar concerns regarding the freedom of expression and the media were expressed in the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus (2012). It was stated that "[j]ournalistic activities are controlled through various measures, such as television and radio censorship, surveillance of activities of independent journalists, and control over publishing houses. Journalists from independent and opposition media are repeatedly prosecuted and convicted for their professional activities."27

Belarusian answered to this issue that as of 1 June 2010, the State media register had accredited 1,300 printed media titles, of which 397 were State-owned and 903 were non-governmental. This, according to the Belarusian government, testifies to the favorable environment for media activities and freedom of expression in Belarus.28

The third block of concerns is connected to Right to Political Participation. The situation was described in report 2011. According to the report, Belarus declared independence in 1991. After a few quiet years, the political division increased while economic situation worsened. In the presidential election 1994 the populist A. Lukashenka won with an anti-corruption message, after which he has consistently expanded his authority. The Constitution of Belarus got its present form after a heavily criticized referendum in November 1996. Referendum had a consultative nature, but the results were used by the president against the authority of Parliament.29

The president is the head of state and is elected in direct elections for a term of five years. Following a referendum in 2004, the Belarusian Constitution no longer restricts the number of terms of office for the president. Almost all power is concentrated in the president, who controls the executive power by appointing and dismissing cabinet members and governors. A range of other appointments on the lower level must be also approved by the president.30

The Parliament (the National Assembly) has two chambers: the House of Rep-

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26 Utrikesdepartamentet, supra note 15.
28 A/HRC/15/16/Add.1, supra note 21.
29 Utrikesdepartamentet, supra note 15.
30 Ibid.
resentatives and the Council of the Republic. The House of Representatives has 110 members, who are elected in general elections. The Council of the Republic has 64 members, 8 of which are appointed by the president and other by regional instances. Legislative power is in the light of the president’s strong position is weak.

When in 2004 the MP Valery Frolov raised the issue of legislative changes to combat electoral fraud in the Parliament, his microphone was turned off. After that three parliamentarians Valery Frolov, Vladimir Parfenovitj and Sergei Skrebets from so-called “Respublika” group began a hunger strike in June 2004 requesting revision of the electoral law and the release of the arrested opposition politician Michail Marinitch. The international community appealed to politicians to save their lives, and the hunger strike was canceled after two and a half weeks without having achieved any result.\textsuperscript{30}

The elections held so far in Belarus have not met OSCE standards. The electoral law together with press censorship and restricted freedom of association allow the authorities to control the outcome. Moreover, political parties are prevented from registering; democratic, independent candidates are forced to withdraw their candidatures. \textsuperscript{31}

On December 19, 2010 the latest presidential elections were held in Belarus. The elections resulted in a significant setback in terms of respect for democratic rights and freedoms in the country. During the election night the peaceful demonstration was broken up with violence by police and Special Forces. Many demonstrators, including several presidential candidates and journalists, were subjected to brutal police violence. One opposition presidential candidate was beaten so badly that he had lost consciousness. About 600 people were arrested during and after the Election Day. Many of them were incriminated the participation in or planning of mass unrest which led to long prison terms. No systematic improvements were observed in terms of the electoral process itself, which under the OSCE observation mission did not fulfill democratic standards. The main problems were the non-representative composition of election commissions, lack of transparency in vote counting and irregularities surrounding the early voting.\textsuperscript{32}

According to the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus, restrictions to the right to freedom of assembly continued beyond the events of 19 December 2010. The Government systematically refused to authorize peaceful demonstrations and rallies throughout 2011, including peaceful silent protests whereby demonstrators merely stood together and clapped their hands. On 29 June 2011, the police arrested at least 100 participants in a silent protest in Minsk.\textsuperscript{33}

Belarus addressed the Note verbale to the secretariat of the Human Rights

\textsuperscript{31} Sveriges Riksdag, supra note 25.
\textsuperscript{32} Utrikesdepartamentet, supra note 15.
\textsuperscript{33} A/HRC/20/8, supra note 27.
Council (2011) explaining the events in Minsk on 19 December 2010 and the post-electoral period. For instance, it was stated that ‘[t]he Presidential elections 2010 in the Republic of Belarus were conducted in compliance with national legislation norms and international law acts to which Belarus is a party’ and that the storm of the House of Government and the development of the meeting into acts of violence forced the law enforcement agencies to take necessary measures to ensure ordre public in compliance with ICCPR norms.35

Belarus’ View on Human Rights Problem in Sweden

The issue of violating human rights in Sweden has not been raised in Belarus until 2012. The foreign ministry had not publicly reflected on Sweden’s accusations towards Belarus. However, the report was published exactly in the year of the diplomatic conflict between Belarus and Sweden after the teddy bear accident. Was the publishing of the report 2012 a direct reaction to accusations or did it mean that Belarus started the development of the issue of human rights in general trying to announce its own point of view on it? Both are likely. What concerns the latter, a new Minister of Foreign Affairs of the Republic of Belarus Vladimir Makei replaced in office Sergei Martynov in August 2012, and that was the year when first report was produced. Moreover, a new minister seems to be enthusiastic of the issue of human rights that can be concluded from his article titled ‘Human Rights: What and Who Made Them Divide the World?’ which was published by Russia in Global Affairs in June 2013.

So, what are the main problems of Sweden in the field of human rights? First of all, Belarusian side has been concerned about Racial Discrimination, Religious Intolerance, National Minorities’ rights”. The report 2012 quoted one of Sweden university’s studies (name of the study was not given), stating that “around 40% of Muslim communities and Muslim organizations’ activists face targeted criminal acts, including vandalism, threats, physical violence in Sweden”.36

The next human rights report (2013) continues the topic by giving examples of violations in this field. It was reported that in September 2013 in Malmö unknown persons attacked a man with an 18-month-old child, representatives of a national minority. According to the police, the unknown first attacked the man verbally on the basis of his ethnic origin and skin color, and then beat him, threatening to kill the child. There were several witnesses of the case, but the police detained no one.37

Additionally, in September 2013, it was found out that since 2005 the Swedish police had been illegally keeping the database with more than 4,000 people with Roma names and surnames in it. There were data about their personal numbers,

36 Ministry of Foreign Affairs of the Republic of Belarus, supra note 16.
37 Ministry of Foreign Affairs of the Republic of Belarus, supra note 17.
addresses and relatives. Within the framework of Reva project aimed at identifying illegal migrants the police have been checking documents of all people of non-Swedish appearance since 2010.38

The Committee on the Elimination of All Forms of Racial Discrimination criticized Sweden in respect of Roma discrimination for the third time in 15 years. In particular, in August 2013 the Committee noted with concern the discrepancy between increased reports to the police of hate crimes and the decrease in the number of preliminary investigations and convictions. The Committee also expressed its concern about the increase in reports of racially motivated hate speech against national minorities, including Muslims, Afro-Swedes, Roma and Jews, in particular by some far-right politicians, as well as about the reported increase of hate speech in the media and on the Internet, including by certain media professionals.39

Second concern of Belarusian diplomats was the violation of Right to Fair Hearing in Sweden. In the report 2012 it was mentioned that the General Secretary of the Swedish bar association named the following violations of the rights of persons imprisoned in Sweden: “the right to have unimpeded private meetings with lawyers; the possibility of free correspondence between lawyers and prisoners; the right to be convicted without unjustified delay”. Sweden has been criticized on a regular basis by UN treaty bodies and by international human rights organizations for having a high rate of suspects who had been detained for unjustifiably long periods of time prior to trial.40

The report 2013 had some statistics on this problem. Relating on the information from the Swedish newspaper Dagens Nyheter which refers to a professor in criminology Leif GW Persson the report showed that in 2011, there were more than 5,600 complaints against police officers, and only 1,6 percent of them led to criminal prosecution or punishment. In other cases absence of corpus delicti (legally defined crime) or lack of evidence was stated. Also from 2005 to 2012 Swedish courts considered 53 cases of violence committed by the police, in 50 percent of the cases the accused law enforcement officials were acquitted for lack of evidence. Experts say this is much less than in the cases involving people other than police officers (in more than 80 percent of cases suspects are found guilty).41

Thirdly, Belarus named Discrimination on the ground of Gender among the human rights violations in Sweden.

It was shortly noticed in the report 2012 that “according to the Swedish National Council for Crime Prevention (Brå), the number of males who reported having been victims of sexual violence has increased four-fold in 2011. Measures that the Government took in order to prevent such kind of crimes are not being reported”.42

The situation when men are subjected to violence is rather rare nowadays. That why we decided to find statistical data on this problem in Sweden. The Swedish

38 Ibid.
39 Ministry of Foreign Affairs of the Republic of Belarus, supra note 17.
40 Ministry of Foreign Affairs of the Republic of Belarus, supra note 16.
41 Ministry of Foreign Affairs of the Republic of Belarus, supra note 17.
42 Ministry of Foreign Affairs of the Republic of Belarus, supra note 16.
National Council for Crime Prevention issues annually the National Protection Survey (NTU) with detailed description of committed crimes. According to the Survey 2012, “[t]here are significantly more women than men who ... are victims of sexual offenses. It was 1.1 percent of women and 0.3 percent of men who were sexually forced, attacked or molested in 2011. Difference between men and women has remained relatively unchanged since 2005.” According to the report ‘Sexualbrott’ by Klara Hradilova Selin och David Shannon “The majority of the cases reported in NTU, about four-fifths, concerned a woman who was victims of a man. Just over one-tenth of the events were assault by a man against another man and 3-4 percent in cases where a woman assaulted a woman. Cases where a man stated that he was subjected to sexual misconduct by a woman have doubled from 3 percent during the first measurement period to 6 percent in the latest polls.” In absolute figures it is 11 men who were victims of a man during 2005-2007 and the same number in 2008-2011; tree men who were victims of women in 2005-2007 and six men in 2008-2011.

The reason why did the Belarusian part report about violation against men when violation against women is a more serious problem is intriguing. It can be connected, from the one hand, to the issue of same-sex relationships (articulated in the face of males) which are forbidden and condemned in Belarus. From the other hand, it may stem from the widely spread in the Belarusian society image of Sweden as a country with a strong feminist movement where women may violate the rights of men.

**Human Rights Violations through the Universal Periodic Review**

There is no evidence that Sweden and Belarus either communicated with each other directly on the problem of human rights violations or commented on the content of mutual accusations. Thus, we decided to resort to a common for both parties mechanism within the UN system – the Universal Periodic Review (UPR) which involves a periodic review of the human rights records of all UN member states. It provides an opportunity for all states to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights.

Both Sweden and Belarus presented their UPR in 2010. Thus, in this section we try to find whether the problematic fields of the human rights reported in the documents of both countries were addressed and discussed internationally.

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45 Ibid.
Belarus

As it was described above, Sweden was mostly concerned about situation with human rights in Belarus in the fields of 1) right to life, liberty, personal security, prohibition of torture; 2) freedom of opinion and expression; 3) right to political participation.

In the Belarusian National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1 (Belarus’ Report) it was stated about the right to life and particularly about the death penalty that “in matters of legislation to regulate and apply the death sentence, Belarus strictly follows the recommendations embodied in the relevant articles of the International Covenant on Civil and Political Rights. The necessity of abolishing the death sentence is, however, being actively discussed at all levels in the country”.

However, there was the following statement in the Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 (Belarus’ Compilation): “In 2000, the Committee against Torture (CAT) expressed concern about, inter alia, the continuing use of the death penalty and the inadequate procedures for appeals, lack of transparency about those being held on death row and the reported refusal to return the bodies of those executed to their relatives”.

The Belarusian side answer within the UPR procedure was that temporary and exceptional nature of the death penalty is explicitly laid down in the Constitution and that death sentences are very rarely carried out. Additionally, it was stated by the Government that ‘efforts are currently being made in Belarus to gradually resolve the problem. To this end, Parliament has established a working group... Public opinion is shifting towards the abolition of the death penalty: information on the topic is regularly provided by the State media, advocacy campaigns are being organized.

What concerns the ban on torture and implementation of the right to humane treatment and respect for the inherent dignity of human beings, Belarus stated that “[t]he principles and standards of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are reflected in the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code”. Belarusian implementing legislation and practice rest on strict observance of the guarantee of protection against torture and other cruel or degrading treatment. Legislation prohibits the use of force or of cruel or inhumane treatment on persons taking part in criminal proceedings or who are under arrest.

48 A/HRC/15/16/Add.1, supra note 21.
49 A/HRC/WG.6/8/BLR/1, supra note 46.
Nevertheless, the Belarus’ Compilation stated that “CAT was concerned over the absence of a definition of torture in the domestic legislation, the lack of a specific offence of torture and about the numerous continuing allegations of torture and other cruel, inhuman and degrading punishment or treatment, particularly affecting political opponents and peaceful demonstrators. The Working Group on arbitrary detention indicated that conditions of pretrial detention are much worse than those of convicted persons.”

The answer of Belarus was general saying that “[a]s a party to the Convention against Torture, Belarus has established, enshrined in legislation and brought into effect domestic remedies to protect individuals against torture, violence and other degrading treatment or punishment, and to guarantee the human rights of prisoners.”

The Belarus’ Report addressed also the issue of Freedom of Opinion and Expression. It was stated that “freedom of speech, free mass media and the prohibition of censure — fundamental values which are embodied in the Constitution— have become the norm in the country. Legislation lays down the categories of information whose dissemination by the mass media is prohibited. They include the advocacy of war and extremist activities, the use of drugs, violence or cruelty.”

However, it was stated in the Belarus’ Compilation that “despite the Belarusian Constitution guaranteeing the right to freedom of expression, the scope of this right is restricted by a number of defamation provisions of the Criminal Code, including articles on defamation, insult, defamation in relation to the President, insult to the President and insult to a government official. These articles foresee sentences of up to five years’ imprisonment.”

Belarus assured that Belarusian law contains no restrictions on the ability of the mass media to criticize government authority. Pluralism and diversity of views, opinions and assessments in the media are guaranteed. The opposition press enjoys unfettered access to the State printing and distribution system.

What concerned the Right to Political Participation Belarus mentioned in the Belarus Report in the ‘General description of the political structure and system of the State’ Chapter that “the President and the deputies of the House of Representatives are elected on the basis of universal, free, equal and direct franchise, by secret ballot. The Council of the Republic is formed by the election of eight members from each province and the municipality of Minsk. The eight members of the Council of the Republic appoint the President of the Republic.”

It was also mentioned that All-Belarusian People’s Assembly has been created in order to give effect to citizens’ constitutional right to participate in decisions on matters of State. It convenes once every five years. The Head of State reports to the Assembly which is competent to adopt five-year development plans and to take

50 A/HRC/WG.6/8/BLR/2, supra note 47.
51 A/HRC/15/16/Add.1, supra note 21.
52 A/HRC/WG.6/8/BLR/1, supra note 46.
53 A/HRC/WG.6/8/BLR/2, supra note 47.
54 A/HRC/15/16/Add.1, supra note 21.
decisions on the most important development issues. In point of fact, the Assembly
is a supplementary grass-roots check by citizens on the President’s action.55

At the same time, it was presented in the Belarus Compilation that “Belarus
again failed to meet its commitments to hold free and fair elections during the
2007 municipal elections. The 2008 annual report of the Resident Coordinator
indicated that during parliamentary elections held in September 2008, independ-
ent candidates had more opportunities to campaign than four years before.”66

Belarus answered that the most recent amendments to the Electoral Code,
drafted with reference to the recommendations of the OSCE Office for Demo-
cratic Institutions and Human Rights, were introduced in January 2010 to en-
hance the democratic nature and transparency of the electoral system and to
guarantee fair and democratic elections.57

According to the procedure, Sweden submitted five questions to Belarus: three
were devoted to the issue of death penalty, one concerned the right of political
participation and one more was about the conditions for NGO to operate in
the country. Because of the fact that these questions were submitted via troika
(groups of three states who serve as rapporteurs), Belarus commented on all the
issues in general without answering directly to Sweden.

The issue of abolishing death penalty was referred to the necessity of public
support. It was stated that ‘The decision to abolish, or introduce a moratorium
on, the death penalty cannot be taken without considering the results of the 1996
referendum on the issue in the country, which have supreme legal force.’58

The question about the freedom of association and registration of political par-
ties was answered by stating that legal standards regulating the establishment and
activities of voluntary associations conform to international standards, particularly
the International Covenant on Civil and Political Rights. It was added also that ‘[t]
here is a favorable environment in Belarus for the real development of civil society.
The country has more than 2,200 voluntary associations and 15 political parties.’59

Sweden

The most problematic areas of human rights in Sweden according to Belarusian
documents were 1) racial discrimination, religious intolerance, national minorities’
rights; 2) discrimination on the ground of gender; 3) right to fair hearing.

In its National report submitted in accordance with paragraph 15 (a) of the annex
to Human Rights Council resolution 5/1 (the Sweden’s Report) Sweden declared
that "the fight against all forms of discrimination, including multiple discrimina-
tion, is one of the key human rights objectives of the Government. The overarch-
ing, long-term objective is a society free from discrimination. Issues linked to this
area are measures to combat racism, homophobia and other forms of intolerance."60

55 A/HRC/WG.6/8/BLR/1, supra note 46.
56 A/HRC/WG.6/8/BLR/2, supra note 47.
57 A/HRC/15/16/Add.1, supra note 21.
58 Ibid.
59 A/HRC/15/16/Add.1, supra note 21.
60 A/HRC/WG.6/8/SWE/1, National report submitted in accordance with paragraph 15 (a) of
The most extensive Swedish initiative to achieve this goal in recent years was the new Anti-discrimination Act, which entered into force on 1 January 2009. The Act includes protection against discrimination on the five previously protected grounds; i.e. sex, ethnic origin, religion or other belief, disability and sexual orientation. It also adds two new grounds – age and transgender identity or expression.

In conjunction with the adoption of the new Anti-discrimination Act, a new agency was established by merging the four previous anti-discrimination ombudsmen into a new body: the Equality Ombudsman (DO). The Equality Ombudsman is mandated to supervise compliance with the Anti-discrimination Act and to combat discrimination and promote equal rights and opportunities for everyone.61

It was also stated that “[t]he Roma are particularly adversely affected by prejudice and discrimination in Sweden, which is a cause of concern for the Government. In 2007, the Government appointed a Delegation for Roma Issues with the task of playing a proactive role at the national level in the work to improve the situation of Roma in Sweden on the basis of Sweden’s international human rights obligations.” 62

However, the Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 (Sweden’s Compilation) stated that “Committee on the Elimination of Discrimination against Women (CEDAW) continued to be concerned by the fact that immigrant, refugee and minority women continued to suffer from multiple forms of discrimination. CEDAW was also concerned at the remaining forms of discrimination experienced by Saami and Roma women in various contexts.” 63

In 2008, Human Rights Committee expressed concern, as also highlighted by UNHCR about the persistent occurrence of discrimination on the basis of ethnicity, in particular against the Roma minority and “persons of foreign origin”, regarding access to employment and working life, education, access to public places, and in the criminal justice system, in spite of the measures taken by the State party to enhance its legal and institutional mechanisms aimed at combating discrimination.” 64

Sweden answered that the fight against discrimination was a priority. The most recent initiative was the new Discrimination Act, which reinforced monitoring and included two new grounds of discrimination, age and transgender identity or expression.65

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61 Ibid.
62 Ibid.
64 Ibid.
Interestingly, the problematic field *The Right to Fair Hearing* according to Belarusian sources was not discussed in the Sweden’s Report. However, the Sweden’s Compilation stated that “Committee against Torture (CAT) was concerned that a public defense counsel would be appointed only once the person was considered to be a suspect. They further regretted reports that notification of custody was not systematically delivered to family members and was frequently delayed.”

Committee on the Elimination of Racial Discrimination was concerned about discrimination in the judicial and law enforcement systems against persons of non-Swedish background. Sweden responded that interpreters were provided for persons who are in need of interpretation and detailed measures had been taken to counteract discrimination in both systems.66

Finally, the issue of Discrimination on the ground of Gender was discussed in the Sweden’s Report. It was stated that “there is broad political agreement on the need to give men’s violence against women high priority. Ultimately, it is a question of gender equality and women’s full enjoyment of all human rights. In November 2007, the Government adopted an action plan to combat men’s violence against women, violence and oppression in the name of honour and violence in same-sex relations.”67

Interestingly, the problem of violence against women was not directly stated as problematic in the Sweden Compilation. Moreover, the Special Rapporteur considered the penal law framework addressing violence against women was excellent in Sweden. It was mention though that ‘the Government, civil society and the media should strengthen existing efforts to prevent violence against women by addressing its root causes and working to expand the knowledge base of women at risk of violence.’68

Swedish answered within the UPR that violence against women, including sexual violence, was still a problem. In 2007, a national action plan was adopted to combat violence perpetrated by men against women, violence and oppression in the name of honour, and violence in same-sex relationships. A law prohibiting the purchase of sexual services was an important tool in preventing trafficking and sexual exploitation.69

During the interactive dialog (during which states take the floor to ask questions and make recommendations on the human rights situation in the country under review), Belarus made several recommendations regarding the right of all migrant children to the best possible medical services and adequate housing; urged to take appropriate measures to stop sex tourism involving children and to punish traffickers; tackled issue of strengthening the institution of the family, and developing traditional family values in society; prohibition of racist organizations, and taking all measures to ensure that racist propaganda cannot be disseminated and that people are appropriately punished for committing racist

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67 A/HRC/WG.6/8/SWE/1, supra note 60.
68 A/HRC/WG.6/8/SWE/2, supra note 63.
69 A/HRC/15/11, supra note 65.
crimes. All Belarusian recommendations have been examined by Sweden. The two recommendations regarding the right of migrant children enjoyed the Sweden’s support.

Conclusions

The objective of this paper has been to report on the issue of human rights in the bilateral relations between Belarus and Sweden. The paper has made an attempt to review human rights discourse between Belarus and Sweden. We have reviewed when countries first put attention to human rights situation and how the process of mutual accusation has been developed. Sweden officially reported on the situation with human rights in Belarus in 1999 in connection to a fact that “a new dictatorship has grown up in the Baltic Sea Region”. For the first time, Belarus reported on the situation with human rights in Sweden only in 2012 in order to demonstrate the selective behavior of “some democracies” which “forget about their own principled stance wherever and whenever they find it necessary.”

Based on the analysis of the selected documents, this paper identified the most problematic areas in the human rights in both countries. Thus, Sweden was mostly concerned about 1) right to life, liberty, personal security, prohibition of torture; 2) freedom of opinion and expression; 3) right to political participation in Belarus. While Belarus named 1) racial discrimination, religious intolerance, national minorities’ rights; 2) discrimination on the ground of gender; 3) right to fair hearing as major challenges for Sweden in the field of human rights. Then, we resorted to the UPR to recognize whether the violation of these human rights have been addressed and discussed internationally. All Swedish concerns were supported in the UPR while some Belarusian accusations towards Sweden remained unnoticed within the UPR.

All in all, human rights speculations were used by Belarus and Sweden as an instrument to uplift a state’s own credibility while undermining that of other states. In that respect, the two counties follow the offensive way of twisting human rights. States resorted to reviewing the violations of human rights in their own official documents without bringing up the issue to bilateral agenda. Thus, states followed indirect way of communication on the human rights issue. Nevertheless, the states have an experience of discussing the problem of human rights within international organization by submitting questions to each other.

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70 Ministry of Foreign Affairs of the Republic of Belarus, supra note 17.